

Comments regarding “Reforming the Community Reinvestment Act Regulatory Framework”

RE: RIN 1557-AE34, Federal Register Number 2019-27940, Docket ID OCC-2018-0008

April 8, 2020

To Whom It May Concern:

I write to you as a community-based scholar focused on the practices of redlining and the resilience, creativity and faith of those who lived inside of it, fought against it, and continue to strive to dismantle its legacy. I worked for years along side those who fought for both the Home Mortgage Disclosure Act (HMDA) and the Community Reinvestment Act (CRA), and often consider myself a bridge between them and the younger generation who are fighting related though seemingly disconnected battles. What I know for sure is that the issues we face today around disinvestment, displacement and other disparities that are again rearing their ugly head in the time of the COVID-19 pandemic, are all deeply tied to our country’s history of racism that shifted from explicit to structural with the advent of government sanctioned redlining. The Community Reinvestment Act, in conjuncture with the Fair Housing Act, HMDA and a number of other civil rights laws, offers us the best hope for addressing these core issues. However, the Notice of Proposed Rulemaking (NPR) issued by the Office of the Comptroller of the Currency is misguided, harmful, represents bad faith and bad process, and will set us back decades.

My name is Gregory Jost and I am a Bronx-based scholar, facilitator, researcher, writer and organizer. I teach in the Sociology Department at Fordham University about redlining and the deep, systemic and entangled problems our cities face that stem from the type of racism that redlining transformed from explicit to structural. For 25 years I have worked closely with and for anti-redlining and community reinvestment groups including University Neighborhood Housing Program, New Economy Project, Designing the We, the Northwest Bronx Community and Clergy Coalition, and Banana Kelly Community Improvement Association. In my comments I will share with you a bit of my take on historic context of CRA and why Commissioner Otting’s misunderstanding of why CRA exists (based on a question I asked him during a tour of Jamaica, Queens in August of 2019) is at the root of the problems with the NPR.

Redlining, as it came to exist and be codified in the Residential Security Maps and Area Descriptions of the Home Owners Loan corporation in the 1930s, followed closely by the Federal Housing Administration’s *Underwriting Manual*, collapsed race and place. By allowing explicitly racist ideas to be embedded in maps, descriptions and other hidden government documents, redlining meant that places where black people – and others down the line of the racial caste system, including Poles, Italians, Jews, Puerto Ricans, Asians and Mexicans – lived were risky for investment (the exact language was “Detrimental Influences: Negro Infiltration”).¹ Predominately black neighborhoods, as well as racially integrated placed like the

¹ *Undesign the Redline*, Exhibition by Designing the WE.

South Bronx of the late 1930s to early 1960s, were deemed “slums” or “blighted” areas and slated for urban renewal with impacts like “root shock” that have lasted for generations.² Race was only mentioned in the hidden documents, not explicitly like in the Jim Crow South. This hidden racism which is nearly impossible to prove without the type of data that HMDA provided, was not only dangerous but also deadly, as we saw with the fires that ravaged the South Bronx in the 1970s.³

By the late 1960s and early 1970s, so many neighborhoods were crumbling under the weight of serial displacement, disinvestment, and what would become known as “benign neglect”, but the people organized and rose up. Beginning with the Contract Buyers League in Chicago, black homeowners who were unable to access quality loans came together and not only went on a payment strike against the contract sellers, but diligently researched mortgage and deed records that became the dataset that began to prove the systemic racism that was leading their neighborhood, investments and communities into ruin.⁴ People like Gale Cincotta and other leaders of National People Action realized this type of data on a city, state and national level would be needed to fight back and end the practice of redlining, and they fought and won passage of mortgage disclosure ordinances for Chicago,⁵ then for the state of Illinois.⁶ They built a national coalition with groups fighting disinvestment and redlining in places like Detroit, Cleveland, Pittsburgh and the Bronx, and together with the strategic leadership of Senator William Proxmire, won the passage of HMDA in 1975.⁷ This was the type of racism that Martin Luther King, Jr. and the Southern Christian Leadership Council wanted to root out but had difficulty because it required so much data and long term organizing to deal with structural racism,⁸ so the link between HMDA and the civil rights movement is clear, as is the direct connection to the Community Reinvestment Act of 1977, also championed by Senator Proxmire.

In this moment, with more than 40 years of hindsight to see how well CRA has worked as well as its shortcoming, we have an opportunity to adjust rulemaking in a way that gets to the heart of the matter of why CRA exists. CRA exists because people believed that racially integrated neighborhoods and communities of color deserved investment, and that this investment needed to directly benefit those people who had been shut out of opportunities to build wealth and

² Thompson Fullilove, Mindy, MD. *Root Shock: How Tearing Up City Neighborhoods Hurts America, and What We Can Do About It*. New York: New Village Press, 2004, 2016.

³ Wallace, Deborah and Rodrick. *A Plague on Your Houses: How New York Burned Down and National Public Health Crumbled*. New York: Verso, 1998.

⁴ Beryl Satter, *Family Properties: How the Struggle Over Race and Real Estate Transformed Chicago and Urban America* (New York: Picador, 2010).

⁵ Arthur J. Naporstek and Gale Cincotta, *Urban Disinvestment: New Implications for Community Organizations, Research and Public Policy* (Washington D.C. and Chicago: National Center for Urban Ethnic Affairs and National Training and Information Center, 1976), 25-26.

⁶ *Disclosure*, July 1975.

⁷ Michael Westgate and Ann-Vick Westgate, *Gale Force—Gale Cincotta: The Battles for Disclosure and Community Reinvestment* (Education & Resources Group, Incorporated, 2011).

⁸ Beryl Satter, *Family Properties*.

ownership and control the future of their neighborhoods. Metrics that focus on quantity over quality and reduce the importance of community input and control run counter to these fundamental ideals of the movement.

If the OCC were serious about community reinvestment, they would engage in a collaborative process with all of the regulators, community partners, and other interested parties (including the banks) that is grounded in this history. How can we create a viable path forward with integrity without grounding the process in this history? One likely outcome of such a process is the idea that CRA rulemaking should do what it can to address the historical collapsing of race and place, in both single family and multifamily lending. Since my expertise is in the latter, I offer my thoughts to you on what this would need to consider.

When we only consider place and not race, investment can flow into a low or moderate income (LMI) census tract (typically an area that was historically redlined) without regard to who it benefits. The new development may look good and maybe it will be a “higher use” for that piece of land according to the land owners, developers and lenders who will all profit from its development. But for those whose presence meant the neighborhood was redlined, meaning those further down the scale of the racial caste system that we have now labeled as “LMI” borrowers or individuals, it may just serve to push them out of the area. The real questions we might want to ask are: who does this investment and development create wealth for? Who controls what is built, who it is for, and who will own it?

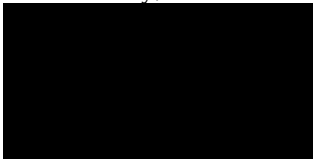
When we only consider race and not place, which is not likely but in theory possible, multifamily financing in neighborhoods that were historically redlined could be ignored. While ideally multifamily housing, especially larger apartment buildings, could be owned by local residents and people of color, they are often owned by outside investors who are white and wealthy. In these cases, it’s critical that quality loans with responsible underwriting standards are available, regardless of the race of the borrower. This means loans that are underwritten based on current rents, not projected rents post-displacement of existing tenants, to borrowers who ensure buildings are kept up in quality condition. In other words, banks should receive CRA credit for loans where housing is kept in decent condition and rents stay affordable for existing tenants. We know that banks co-regulated by the New York State Department of Financial Services are held to these standards, so there is no reason that we should not apply this to all multifamily bank lending across the country. Banks should also be penalized for lending to bad actors who spur on displacement or fail to keep buildings in good repair.

What we might see is that the true spirit of the Community Reinvestment Act, reimagined in the 21st Century on the shoulders of those who came before us, is to shift us from investments that exploit current disparities of power, profit and process and continue the extraction of wealth, control and ownership from historically redlined people, to a system and metrics that focus on the closing of the racial wealth gap and the flourishing of restorative economic

practices and models such as community land trusts, mutual housing associations, community development credit unions, worker owned cooperatives, and local food cooperatives instead.

While these ideas might seem distant from the current NPR, one very tangible first step the OCC can take is a fundamental shift in process. Decision-making that leaves out other federal bank regulators and dismisses the interests of those directly impacted by the historic practices of redlining that were the basis for CRA, is the fundamental sign that the current NPR process must desist. We can and should go back to the drawing board with a transparent, inclusive, equity minded process.

Sincerely,



Gregory Jost