

## Fair Lending

### **Wells Fargo Loses Bid to Dismiss Fair Housing Act Lawsuit by Oakland**

**A** federal judge in California refused to dismiss most of the city of Oakland's claims against Wells Fargo Bank N.A. in a Fair Housing Act case (*Oakland v. Wells Fargo N.A.*, N.D. Cal., No. 15-cv-04321, 4/8/16).

The one-paragraph April 8 ruling by Judge Edward M. Chen of the U.S. District Court for the Northern District of California allows the city to press a series of claims against Wells Fargo, except for its unjust enrichment claim, which Chen dismissed.

Chen also said Oakland has statutory standing to sue — a question Bank of America and Wells Fargo have asked the U.S. Supreme Court to address in separate and unrelated Fair Housing Act cases.

In addition, said Chen, Oakland made “sufficient allegations of a continuing violation to satisfy the statute of limitations,” and of disparate impact and disparate treatment, and said the city sufficiently alleged an agency relationship between Wells Fargo & Co. and Wells Fargo Bank, N.A.

**Banks Battle Lawsuits.** Oakland filed its lawsuit in September, alleging Fair Housing Act violations that it says caused economic injury to the city. Wells Fargo asked the court to dismiss the case in November.

In an April 11 statement e-mailed to Bloomberg BNA, Wells Fargo spokesman Tom Goyda said the claims in the lawsuit do not reflect on how the bank does business. He said it's unfortunate that Oakland City Attorney Barbara Parker, who represents the city, “has chosen this course of action over a collaborative approach to helping borrowers and home owners in Oakland.”

“The court's decision to allow the lawsuit to proceed, while disappointing, in no way suggests that the claims ultimately will prevail and we are prepared to defend our record as a responsible lender,” Goyda said.

“This is clearly a victory and we're looking forward to proving that Wells Fargo treated minority borrowers inequitably compared to white borrowers,” Alex Katz, chief of staff for the city attorney's office in Oakland, April 11 told Bloomberg BNA.

**SCOTUS Action Sought.** The lawsuit is one of several by local governments that blame economic woes and declining tax revenue on lending practices by major financial institutions.

Among other recent moves in those cases, Bank of America and Wells Fargo last month asked the U.S. Supreme Court to review a ruling by the U.S. Court of Appeals for the Eleventh Circuit that gave new life to a lawsuit by the city of Miami (48 BBD, 3/11/16).

In separate but related petitions, Bank of America and Wells Fargo asked the justices to clarify standing under the Fair Housing Act, saying confusion about the court's own decisions is fueling lawsuits by local governments.

The U.S. Chamber of Commerce recently filed a brief urging the justices to grant the petitions.

In addition to Parker, Oakland is represented by Joel K. Liberson of Trial and Appellate Resources in El Segundo, Robert S. Peck of the Center for Constitutional Litigation in Washington, D.C., and Yosef Peretz and Sumy Kim of Peretz & Associates in San Francisco.

Wells Fargo is represented by Rio S. Pierce, Daniel P. Collins, Joshua Patashnik, Manuel F. Cachan, Miriam Kim and Terry E. Sanchez of Munger, Tolles and Olson in Los Angeles and San Francisco, and Bart H. Williams of Proskauer Rose in Los Angeles.

BY CHRIS BRUCE

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*The April 8 ruling is at [http://www.bloomberglaw.com/public/document/City\\_Of\\_Oakland\\_v\\_Wells\\_Fargo\\_Bank\\_NA\\_et\\_al\\_Docket\\_No\\_3150](http://www.bloomberglaw.com/public/document/City_Of_Oakland_v_Wells_Fargo_Bank_NA_et_al_Docket_No_3150)*