# HOMEOWNERS CAN SUE DEVELOPERS OVER SUB-PRIME CREDIT SCORE SALES

from The Privacy Times

A federal appeals panel in San Francisco has revived a lawsuit against developers who promoted homes sales in a stable neighborhood, but then sold houses to individuals with sub-prime credit scores.

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"The district court concluded that the 'housing bubble, or inflation of housing prices, was a nationwide phenomenon, traceable to variables independent of Defendants' alleged scheme, such as lax regulatory enforcement, rates of unemployment, credit market developments, and general economic growth.' Accordingly, it held that plaintiffs had not established a sufficient causal connection between defendants' actions and the allegedly inflated prices paid by plaintiffs," wrote Betty B. Fletcher, who was joined by Judges Sidney R. Thomas and Nancy Gertner.

"We disagree. Plaintiffs have sufficiently alleged that defendants, not third parties, inflated the 'bubble' in their particular neighborhoods, causing plaintiffs to overpay. Plaintiffs claim that defendants financed a substantial majority of buyers in plaintiffs' neighborhoods, and were thus able to dictate the terms of a large number [of] loans and plausibly create demand that would not otherwise have existed. Further, the neighborhoods were new developments, so there was no independent economic baseline against which to assess the neighborhoods' value. Under these circumstances, plaintiffs can plausibly claim that the 'artificial demand' created by defendants' marketing and financing practices had an identifiable effect on the price they paid for their homes."

The suit was brought by homeowners who purchased houses in new developments constructed by one of eight large national home-builders, who were the defendants, between 2004 and 2006. Plaintiffs want the option to rescind their home purchases due to defendants' alleged fraud, negligent misrepresentation, breach of implied covenant of good faith and fair dealing, and violations of California's Business and Professional Code (CBPC). They also seek damages, attorneys' fees and costs, and an injunction prohibiting defendants from continuing to engage in practices violating the CBPC.

"Plaintiffs claim that defendants represented that they were building 'stable, family neighborhoods occupied by owners of the homes' According to the plaintiffs, 'implicit in this marketing scheme was that defendants were making a good-faith effort to sell homes to buyers who they expected could afford to buy the houses and would be stable neighbors.'

Nevertheless, defendants marketed the houses to 'unqualified buyers who posed an abnormally high risk of foreclosure.'

In a footnote, the panel said that Plaintiffs did "not explicitly define what they mean by 'unqualified' buyers, but it appears their definition encompasses those with unverified income, poor credit history, or inability to pay." Sylvester Maya, et al. v. Centex Corp., et al.: CA-9 â€“ No. 10-55658; September 21.)

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