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Federal Court Greenlights Fair Housing Discrimination Claims Against Major Financial Services Companies

In a victory for Black and Latino neighborhoods in 30 cities, Court allows disparate impact and intentional discrimination challenges against Deutsche Bank Trust companies, Altisource and Ocwen to move forward

INDIANAPOLIS, IN - In a victory for fair housing advocates, a federal judge has largely denied Deutsche Bank Trust companies', Altisource's, and Ocwen's motion to dismiss a lawsuit concerning discrimination against communities of color. The court allowed the National Fair Housing Alliance (NFHA) and 19 other fair housing organizations, including the Fair Housing Center of Central Indiana, to proceed with their [disparate impact](#) and intentional discrimination claims against the financial giants. The fair housing groups allege in their lawsuit that the financial companies failed to maintain foreclosed bank-owned (also known as Real Estate Owned or "REO") properties in Black and Latino neighborhoods in [30 metropolitan areas](#) throughout the country.



Property of the National Fair Housing Alliance

In allowing the cases to go forward, the Court noted that "there

is a 'clear, direct and immediate' path between Defendants' alleged discriminatory lack of maintenance and Plaintiffs' response to that lack of maintenance through investigations, reporting, and advocacy." The Court also recognized the plaintiffs had to "incur more costs responding to this problem than they otherwise would have" due to Deutsche Bank Trust companies', Altisource's, and Ocwen's allegedly discriminatory conduct which "left more REO properties in minority neighborhoods in disrepair."

"This is an important victory for the residents of Black and Latino neighborhoods in cities across the country. The investigation we conducted clearly shows that Deutsche Bank Trust companies and other financial giants have policies that result in disparate outcomes based on the racial composition of the neighborhood. It also demonstrates a pattern of intentional discrimination because of the willful neglect of bank-owned houses in communities of color. We're pleased the Court has allowed the case to proceed and look forward to making our case in court" said Lisa Rice, President, and CEO, National Fair Housing Alliance. "It's also important to note that the Trump administration is trying to make it much harder to bring disparate impact challenges through HUD's administrative complaint process. This long-standing bedrock legal principle has been sanctioned by the Supreme Court and is one of our most powerful weapons to challenge insidious discrimination, and we cannot lose it."

NFHA and its partners collected evidence at each inspected Deutsche Trust REO property using over 35 data points related to maintaining and securing the homes. The lawsuit asserts that Deutsche Trust-owned homes in predominantly white working- and middle-class neighborhoods are far more likely to have the lawns mowed and edged regularly, invasive weeds and vines removed, windows and doors secured or repaired, litter, debris and trash removed, and leaves raked. Based on evidence involving nearly 30,000 photographs of Deutsche Trust properties, it is alleged that the bank-owned homes in communities of color were much more likely to have overgrown or dead shrubbery, overgrown lawns, broken mailboxes, damaged steps or handrails, open holes in the structure, and broken windows among other eyesores.

In this case, the Plaintiffs allege that the financial institutions' policy of "abdication" — whereby the Deutsche Bank Trust Companies relinquished and outsourced the responsibility for maintaining the REO properties to servicers without sufficient oversight — caused a disparate impact. The Plaintiffs also asserted that the Defendants adopted a low/high property value policy in which properties located in communities that the defendants deemed to be higher valued received better maintenance and care. Neighborhoods the Defendants designated as higher value were more often predominately white neighborhoods. The fair housing groups alleged that communities of color were called "hot zones" meaning they were deemed to be more undesirable neighborhoods. With regard to claims of intentional discrimination, the Court stated that "[r]acially charged codewords may provide evidence of discriminatory intent by sending a clear message and carrying the distinct tone of racial motivations and implications" and that the low/high property value policy, if found to be true, maybe problematic. This type of policy could constitute disparate impact and the judge found that the fair housing groups had properly pled a case of disparate impact against all of the named financial institutions.

The Court also noted that the “Plaintiffs have plausibly alleged that the effect of Defendants’ poor maintenance of REO properties in minority communities had the effect of perpetuating segregation.”

This decision by Judge Harry Leinenweber of the Northern District of Illinois Eastern Division makes the third time in recent months a U.S. district court has acknowledged the viability of both disparate impact and differing treatment (intentional discrimination) claims regarding the use of fair housing laws to address disparities in the maintenance of REOs. In July 2019, a Maryland federal court upheld the plaintiffs’ ability to bring these types of [claims against Bank of America](#) and in August 2019 a California federal court upheld the plaintiffs’ ability to bring similar [claims against Fannie Mae](#). The plaintiffs are represented by noted civil rights firms [Soule, Bradtke & Lambert](#) and [Relman, Dane and Colfax, PLLC](#).

[Click here to read the judge’s decision](#)

[Click here to read the press release announcing the lawsuit](#)

[Click here to read the Federal Complaint](#)

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[National Fair Housing Alliance](#)

Founded in 1988, the National Fair Housing Alliance is a consortium of more than 220 private, non-profit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States. Headquartered in Washington, D.C., the National Fair Housing Alliance, through comprehensive education, advocacy, enforcement programs, and neighborhood-based community development programs provides equal access to apartments, houses, mortgage loans, and insurance policies for all residents in the nation.

[Fair Housing Center of Central Indiana](#)

The Fair Housing Center of Central Indiana (FHCCI) is a private, nonprofit fair housing organization founded in 2011 and based in Indianapolis, Indiana. Its mission is to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education and outreach. More information on the FHCCI at: www.fhcci.org

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