NOS. 15-1111, 15-1112

In the Supreme Court of the United States

BANK OF AMERICA CORPORATION, ET AL.,
Petitioners,

v.

CITY OF MIAMI, FLORIDA,
Respondent.

WELLS FARGO & CO. and WELLS FARGO BANK, N.A.,
Petitioners,

v.

CITY OF MIAMI, FLORIDA,
Respondent.

On Writs of Certiorari to the United States Court of Appeals for the Eleventh Circuit

BRIEF OF CURRENT AND FORMER MEMBERS OF CONGRESS AS AMICI CURIAE IN SUPPORT OF RESPONDENT

THOMAS J. HENDERSON
COUNSEL OF RECORD
SABA BIREDA
FELICIA GILBERT
JAMES E. RICHARDSON
SANFORD HEISLER, LLP
1666 CONNECTICUT AVE. NW, SUITE 300
WASHINGTON, DC 20009
(202) 499-5200
THENDERSON@SANFORDHEISLER.COM

OCTOBER 7, 2016 *COUNSEL FOR AMICI CURIAE*

SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

TABLE OF CONTENTS

Page

TABLE OF CONTENTS – Continued

Page

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES—Continued

STATUTES

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

Page

OTHER AUTHORITIES

STATEMENT OF AMICI CURIAE[1]

Amici are current and former Members of Congress, including some who participated in the debates leading up to the passage of the Fair Housing Act of 1968 ("FHA" or the "Act") or its 1988 amendments.[2] *Amici* include former Senator Walter F. Mondale, co-sponsor of the original Act. *Amici* support the goals of the Act to promote fair housing throughout the nation and recognize the pivotal role the Act has played in facilitating fair housing in America's cities. *Amici* agree that the Act's goals require the law to provide a strong enforcement scheme, including allowing a range of potential plaintiffs to bring suit. *Amici* contend, therefore, that the zone of interests under the Act is broad, and support the Eleventh Circuit's conclusion, that the zone of interests encompasses the City of Miami's ("the City") claims.

The interests of *Amici* are to communicate the intent of Congress in enacting the FHA. The legislative history of the Act, of which *Amici* are uniquely familiar, indicates that Congress intended the law to address a wide scope of activity and remedy

---

[1] This brief is filed with the written consent of all parties pursuant to this Court's Rule 37.2(a). Copies of the requisite consent letters have been filed with the Clerk. Pursuant to this Court's Rule 37.6, no counsel for a party authored this brief in whole or in part and no person other than the *Amici Curiae*, its members, or its counsel, made a monetary contribution to fund the preparation or submission of the brief.

[2] A complete list of Amici appears in an appendix to this brief.

a broad scope of conditions related to discrimination in housing through administrative enforcement and litigation by parties affected by discrimination. Consistent with Congress's intent, a diverse group of plaintiffs, including municipalities, has pursued relief for violations of the Act through private litigation. This case demonstrates the importance of this vital tool for plaintiffs to fight discrimination. *Amici* respectfully request that the Court affirm the Eleventh Circuit's decision and preserve the Act's broad zone of interests to ensure vigorous enforcement of the Act continues.

SUMMARY OF ARGUMENT

The legislative history of the Fair Housing Act demonstrates that Congress intended to confer broad standing to sue for a wide range of activities made unlawful. Congress enacted the Fair Housing Act with the intent to eradicate one of the most persistent forms of discrimination—discrimination related to housing. Congress understood that the Act's ambitious goals would require an equally ambitious enforcement scheme. The Act allowed anyone to bring a cause of action to enforce the law in the appropriate federal or state court. Congress intended for a wide range of litigants to be able bring suit regarding a wide range of interests. As this brief will demonstrate, the Act's zone of interests is extremely broad—a fact substantiated by the legislative history of the Act and noted by this Court.

Congress considered fair housing legislation against the backdrop of a country in tumult. Housing discrimination led to significant residential segregation, with an increasing number of African Americans forced to live in distressed inner cities with few employment and educational opportunities. The deplorable conditions in the country's urban centers sowed the seeds of unrest and America's cities experienced severe rioting over a two-year period from 1965 to 1967. Congress recognized that fair housing legislation was necessary to address the conditions that gave rise to the country's "urban crisis." Furthermore, Congress knew the legislation would require a robust enforcement scheme to ensure its effectiveness.

Congress included two pathways for private enforcement in the 1968 Act: section 810 allowed "[a]ny person" who claimed to be injured, or believed injury would occur in the future, by a discriminatory housing practice to file a complaint with the Department of Housing and Urban Development (HUD), while section 812 provided that the Act's provisions could "be enforced by civil actions" in appropriate federal, state, or local courts. This broad language regarding standing connotes Congress's intent to effectuate enforcement by expanding the scope of interests and potential plaintiffs covered by the Act. Such a broad zone of interests was necessary to carry out Congress's purposes in passing the Act: to eliminate housing discrimination and its attendant negative effects.

Congress's intent to allow for a broad zone of interests under the Act is further established by its enactment of the Fair Housing Amendments Act of

1988. In amending the 1968 Act to include a definition of "aggrieved person" for purposes of bringing private suit, Congress stated, several times, that it did so to reflect the Court's confirmation of the broad standing to enforce the original Act. *See Gladstone, Realtors v. Vill. of Bellwood*, 441 U.S. 91 (1979). Congress expressed no disagreement with the Court's interpretation and defined aggrieved person as broadly as in the original Act. Indeed, it rejected attempts to narrow the definition and strengthened its private enforcement provisions.

The Act's zone of interests clearly encompasses the City's claims and its ability to enforce the Act. This Court has "described the 'zone of interests' test as denying a right of review 'if the plaintiff's interests are so marginally related to or inconsistent with the purposes implicit in the statute that it cannot reasonably be assumed that Congress intended to permit the suit.'" *Thompson v. N. Am. Stainless, LP*, 562 U.S. 170, 178 (2011) (quoting *Clarke v. Sec. Indus. Ass'n*, 479 U.S. 388, 399-400 (1987)). The City's claims meet this standard. In past cases considering the FHA's zone of interests, this Court has recognized a range of causes of action from a variety of plaintiffs, including municipal plaintiffs, *see Bellwood*, 441 U.S. 91, and plaintiffs that were not direct objects of discriminatory conduct, *see Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205 (1972), demonstrating that the City's claims fall squarely within the scope of the statute intended by Congress. Indeed, the Court has specifically recognized the City's primary injury—diminished tax revenues stemming from decreased property values—as a theory of liability for municipalities under the Act.

See Bellwood, 441 U.S. at 110-11. Indeed, enforcement by municipal plaintiffs like the City is essential to realizing the broad remedial and deterrent purposes Congress intended the FHA to fulfill.

ARGUMENT

I. CONGRESS INTENDED THE FAIR HOUSING ACT TO ADDRESS A WIDE SCOPE OF ACTIVITY AND REMEDY A RANGE OF CONDITIONS RELATED TO DISCRIMINATION IN HOUSING

The purpose of the Fair Housing Act (Title VIII of the Civil Rights Act of 1968) is to "provide, within constitutional limitations, for fair housing throughout the United States." 42 U.S.C. § 3601 (2012). The law prohibits discrimination in virtually every aspect of residential real estate from advertisements of housing available for rent or sale to home mortgage lending. *Id.* §§ 3604-3606. The law's extensive reach reflects Congress's desire to provide every individual with the opportunity to choose his or her housing and to enjoy the benefits accruing from that choice, without regard to race, color, religion, sex, familial status, national origin, or disability. In passing the Act, Congress sought not only to eliminate housing discrimination but also to facilitate access to economic and social opportunities for racial minorities and stem the deterioration of America's urban areas.

Congress began considering fair housing legislation at a critical juncture in the nation's history. By

1966, when President Lyndon B. Johnson first proposed a federal fair housing bill, the United States was nearing the end of the nation's most active period of civil rights legislation and litigation. Twelve years earlier, the Court had issued its historic decision in *Brown v. Board of Education*, 347 U.S. 483 (1954). Congress had passed two major pieces of civil rights legislation: the Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241, prohibiting discrimination in public accommodations (Title II), discrimination in federally funded programs (Title VI), and discrimination in employment (Title VII), and the Voting Rights Act of 1965, Pub. L. 89-110, 79 Stat. 437, guaranteeing the right to vote for every American.

The push for fair housing legislation came in response to a growing sense of disillusionment regarding the country's progress in the arena of civil rights among racial minorities, and, in particular, among African Americans in the nation's urban centers. America's cities had experienced an explosive growth in their black populations in the years following World War II. *See* U.S. Comm'n on Civil Rights, *Housing*: *A Report of the Commission* (1961). Discrimination in the housing market severely limited the ability of racial minorities to rent or buy homes outside of increasingly crowded, blighted, and segregated neighborhoods, amounting to "the confinement of minority group Americans to 'ghetto jails'" in the words of Senator Walter F. Mondale, who sponsored Amendment 524 (S.1358) (the original version of the Fair Housing Act) to H.R. 2516, 114 Cong. Rec. 2274 (1968). Housing discrimination also had a "serious" and "adverse" effect on employment and educational opportunities in the inner cities. 114 Cong. Rec. 2276

(1968). The lack of desirable housing available to African Americans, paired with a dearth of employment and educational opportunities, created a palpable sense of anger in black neighborhoods across the country. Senator Mondale, in introducing Amendment 524, spoke of several witnesses who testified before Congress that the "insult of racially segregated housing patterns creat[ed] a sense of rage and frustration and a crisis which contribut[ed] enormously to the explosiveness" of urban communities. 114 Cong. Rec. 2275 (1968). The "explosiveness" manifested in multiple incidents of civil unrest from Watts to Newark between 1965 and 1967. *See Report of the National Advisory Commission on Civil Disorders* 20-61 (1968). The nation faced an "urban crisis" borne of the continued existence of racial discrimination in almost every facet of African Americans' lives.

Congress found that nonwhites not only had difficulty finding available housing outside of the inner cities, they also encountered discrimination in their attempts to secure financing to buy a home. Senator Edward W. Brooke, who co-sponsored Amendment 524 with Senator Mondale, quoted a 1961 U.S. Commission on Civil Rights report that "found evidence of racially discriminatory practices by mortgage lending institutions throughout the country." 114 Cong. Rec. 2526 (1968). The report detailed discrimination in the mortgage industry, such as banks' refusal to grant mortgages to minorities seeking to buy homes in certain neighborhoods and the inclusion of unfavorable terms in mortgages offered to minorities. *See* U.S. Comm'n on Civil Rights, *Housing*: *A Report of the Commission* (1961). "Mortgage credit, upon which homeownership so largely depends,"

the report concluded, "is often denied to members of minority groups for reasons unrelated to their individual characters or credit worthiness, but turning solely on race or color." *Id.* at 141.

In developing fair housing legislation, Congress sought to address both the tangible and psychological impact of discrimination on racial minorities. As Senator Mondale stated on the Senate floor: "The barriers of housing discrimination stifle hope and achievement, and promote rage and despair; they tell the Negro citizen trapped in an urban slum, there is no escape, that even were he able to get a decent education and a good job, he would still not have the freedom other Americans enjoy to choose where he and his family will live." 114 Cong. Rec. 2274 (1968). The knowledge of being barred from renting or buying housing based only on their race deprived minorities of a sense of dignity and agency intrinsic to full participation in American society.[3] It was this denial that fueled the urban crisis.

Only a comprehensive fair housing bill, aimed at undoing the negative effects of housing discrimination, could counteract the disillusionment felt by millions of Americans; as Senator Edward M. Kennedy stated, "[t]he fact that we act can lend immediate hope, can give instant proof of our dedication to the promise of

---

[3] *See, e.g.*, *Fair Housing Act of 1967*: *Hearings Before the S. Subcomm. on Hous. & Urban Affairs of the S. Comm. on Banking & Currency*, 90th Cong. 180 (1967) (statement of Algernon Black) ("Deprivation, despair, and desperation, are the result of being shut out. . . . Deeper than the material and physical deprivation is the humiliation and rejection and what this does to human beings.").

equality and fairness . . . what better antidote to riots can there be than hope and promise." *Civil Rights Act of 1967*: *Hearings Before the S. Subcomm. on Const. Rights of the S. Comm. on the Judiciary*, 90th Cong. 65 (1967). Representative William Ryan urged the House to ratify the Senate-passed H.R. 2516, stating, "[t]his bill means more than the opportunity for Negroes to acquire decent housing. It should mean a fundamental change in attitude which must underlie and support everything else we do to achieve the aim of an integrated society." 114 Cong. Rec. 9591 (1968).

Congress also knew that fair housing legislation was necessary to address the unrelenting challenges faced by overpopulated, and increasingly under-resourced, cities. *See* Br. of *Amici Curiae* the City and County of San Francisco, the City of Los Angeles, and Other Jurisdictions. Senator Brooke remarked that as a result of the exodus of whites from cities to the suburbs, "cities are breaking down behind them . . . great leadership, competition in schools, the tax base—all go down, as property devaluates in the urban ghettos." 114 Cong. Rec. 2283 (1968). Senator Mondale cited the "[d]eclining tax base," "poor sanitation," and "urban squalor" present in America's cities that would persist without fair housing legislation. 114 Cong. Rec. 2274 (1968). Senator Philip Hart emphasized the need for Congress to alleviate cities of the burden of segregation by reading into the record a letter from President Johnson stating that "[m]inorities have been artificially compressed into ghettoes where . . . city administrations are burdened with rising social costs and falling tax revenues." 114 Cong. Rec. 3358 (1968). The President's letter urged Congress to take action: "Fair housing practices . . .

are essential if we are to relieve the crisis in our cities." *Id.*

In the midst of the Senate's final deliberations on the fair housing bill, on February 29, 1968, the National Advisory Commission on Civil Disorders, commonly referred to as the "Kerner Commission," released its landmark report. The report confirmed Congress's findings regarding the impact of housing discrimination on urban communities. The Commission documented the dismal conditions in black neighborhoods in urban areas—including higher crime rates, poor health outcomes, unsanitary conditions, and blight. *See Report of the National Advisory Commission on Civil Disorders*, 133-141 (1968). Senator Mondale introduced the Commission's findings into the record, noting that the Commission's report was the "most searching, most profound study ever made of the problem of the American cities" and that the Commission "[came] out strongly for a fair housing measure." 114 Cong. Rec. 4834 (1968).

Congress had a broader and deeper purpose in passing the Act than to guarantee integration in every community in the country. As Senator Mondale acknowledged, "[d]ispersal and racial balance [was] not the primary goal and motivation" of the proposed legislation. 113 Cong. Rec. 22,841 (1967). Instead, the Act would "enable every American to buy a decent home wherever he wishes in a neighborhood of his choice in accordance with his income level and personal desires and needs." *Id.* Furthermore, Senator Mondale declared, "fair housing legislation is a basic keystone to any solution of our present urban crisis." 114 Cong. Rec. 2274 (1968). Representative Herbert

Tenzer said, in passing the Act, that Congress would commit to "mobilize our resources at every level to meet the challenge of the ghetto." 114 Cong. Rec. 9582 (1968). Throughout debate and eventual passage of the Act on April 10, 1968, Congress repeatedly acknowledged the breadth of the challenges, inextricably related but not isolated to individual acts of discrimination, it intended the Act to address.

II. CONGRESS INTENDED THE FAIR HOUSING ACT TO HAVE A BROAD ZONE OF INTERESTS IN ORDER TO EFFECTUATE ROBUST ENFORCEMENT

The legislative history of the Fair Housing Act indicates that Congress intended the Act to have far-reaching effects on the lives of racial minorities and to spur a progressive transformation of urban communities. In enacting the law in 1968, Congress developed a robust enforcement mechanism for the Act to ensure it would accomplish the goals of eradicating housing discrimination, increasing economic and social opportunities for racial minorities, and ameliorating the harsh conditions of the inner cities.[4] The Act allowed private litigants to seek enforcement in federal court and also provided an administrative process for those who suffered any injury under the Act.

---

[4] *See* Robert G. Schwemm, *Private Enforcement and the Fair Housing Act*, 6 Yale L. & Pol'y Rev. 375, 383 (1988) ("Housing was then and still is the last great frontier of civil rights and the area most resistant to legal change. . . . Congress could not have been so cynical as to put the burden of accomplishing this enormous task of the highest national priority entirely on the shoulders of the individual victims of discrimination.").

The FHA's enforcement provisions were broad both in the type of litigants who could bring suit or file a complaint and the scope of interests covered. Congress chose not to limit standing under the Act's enforcement provisions because it wanted to leave the door open for suits and complaints initiated by a variety of litigants, including residents of communities affected by discrimination,[5] fair housing organizations,[6] and municipalities.[7] Again, in 1988, following a series of decisions from the Supreme Court recognizing Congress's intent to provide broad standing to enforce the Act,[8] Congress reaffirmed its intent that the Act encompass a wide range of interests related to fair housing and allow a wide range of plaintiffs to bring suit.

A. Congress Intended to Extend Broad Standing Under the Fair Housing Act When It Was Enacted in 1968

1. Fair Housing Legislation Is Proposed

The hearings on the early fair housing proposals produced significant evidence demonstrating the

---

[5] *See Gladstone, Realtors v. Vill. Of Bellwood*, 441 U.S. 91 (1979); *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205 (1972).

[6] *See Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982).

[7] *See Bellwood*, 441 U.S. at 109-11; *see also* Robert G. Schwemm, *Standing to Sue in Fair Housing Cases*, 41 Ohio St. L.J. 1, 21 (1980) (". . . Title VIII's heavy reliance on private complainants for its enforcement reflects a congressional desire to give standing to sue to a wide range of potential plaintiffs.").

[8] *See Trafficante*, 409 U.S. at 209; *Bellwood*, 441 U.S. at 109; *Havens*, 455 U.S. at 372.

"importance," "necessity," and "workability" of the legislation that would eventually become the Fair Housing Act. 114 Cong. Rec. 2274 (1968). On February 6, 1968, Senators Mondale and Brooke proposed a fair housing amendment, Amendment No. 524, to the larger civil rights bill being debated by the Senate, H.R. 2516.

During the Congressional hearings on proposed fair housing legislation, several witnesses advocated for Congress to build a strong enforcement scheme into the Act. *See Fair Housing Act of 1967: Hearings Before the S. Subcomm. on Hous. & Urban Affairs of the S. Comm. on Banking & Currency*, 90th Cong. 1 (1967). Attorney General Ramsey Clark urged that "vigorous and effective enforcement" would bring "substantial progress in housing desegregation in our major metropolitan areas and elsewhere in the country." *Id.* at 15. Another witness warned that past experience with federal housing policies indicated that "adequate machinery to provide immediate relief is vital." *Id.* at 81 (statement of Frankie M. Freeman, Member, U.S. Commission on Civil Rights). In response, the Mondale-Brooke amendment vested significant enforcement power in HUD including the power to investigate complaints, hold evidentiary hearings, and issue cease-and-desist orders to any party that violated the Act.[9] The amendment allowed "any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter, 'person aggrieved')" to file a charge with

---

[9] *See* 114 Cong. Rec. 2270-71 (1968).

the HUD Secretary, and, ultimately, to file a private cause of action.[10] The amendment did not require potential plaintiffs to complain of a specific injury, nor did it specify that potential plaintiffs had to be bona fide home seekers. This broad definition of "person aggrieved" reflected Congress's interest in providing standing to anyone who could claim to be injured by housing discrimination, whether directly or indirectly. The definition also demonstrates Congress's intent that the Act protect the "whole community," not just racial minorities, from the harms resulting from housing discrimination. *See* 114 Cong. Rec. 2706 (1968) (statement of Sen. Jacob Javits). Accordingly, the Act could be enforced by members of the whole community.[11]

The Mondale-Brooke amendment was stymied by filibuster for 10 days. Hon. Charles McC. Mathias, Jr. & Marion Morris, *Fair Housing Legislation: Not an Easy Row to Hoe*, 4 Cityscape, no. 3, 1999, at 25. On February 28, 1968, Senator Everett Dirksen introduced an alternative fair housing proposal in the hopes of obtaining enough votes for cloture of debate.[12] The Dirksen amendment was substantively similar to the

---

[10] 114 Cong. Rec. 2271 (§11(a)) (1968).

[11] *See Trafficante*, 409 U.S. at 211 ("The person on the landlord's blacklist is not the only victim of discriminatory housing practices; it is, as Senator Javits said in supporting the bill, the 'whole community'. . . . We can give vitality to § 810(a) only by a generous construction which gives standing to sue to all in the same housing unit who are injured by racial discrimination. . . . ").

[12] 114 Cong. Rec. 4570 (1968).

Mondale-Brooke amendment except that it removed much of the enforcement power granted to HUD. *Id.*

The Dirksen proposal left in place the definition of "person aggrieved" from the Mondale-Brooke amendment for purposes of filing a complaint with HUD: "any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter, 'person aggrieved') may file a complaint with the Secretary."[13] The Dirksen amendment also authorized the Attorney General to initiate "pattern or practice" suits or suits regarding issues of "general public importance."[14] Finally, the proposal provided an alternative enforcement route, "Enforcement by Private Persons," by which any plaintiff could bring a private cause of action under the Act for violations of the FHA related to discrimination in the rental or sale of housing, discrimination in the financing of housing, and discrimination in the provision of brokerage services: "The rights granted by sections 203, 204, 205, and 206 may be enforced by civil actions in appropriate United States district courts . . . and in appropriate State or local courts of general jurisdiction."[15] That Congress intended broad enforcement is illustrated by the fact that this provision listed no restriction on who could bring suit.

---

[13] *Id.* at 4572 (§ 210(a)).

[14] *Id.* at 4573 (§ 213(a)).

[15] *Id.* at 4573 (§ 212(a)).

Proponents of the original bill supported the Dirksen proposal, suggesting that they viewed it as a comparable alternative. Senator Mondale, for example, spoke in favor of the compromise amendment, noting the proposal would "contribute enormously to the strength, unity, and compassion of this great country we represent." 114 Cong. Rec. 4575 (1968).

Following the release of the Kerner Commission report, the Dirksen amendment, with its clear mandate facilitating private enforcement of violations of the Act, gained the support of the Senate where previous bills had failed. *See* Jean Eberhart Dubofsky, *Fair Housing*: *A Legislative History and a Perspective*, 8 Washburn L.J. 149, 158 (1969). The Senate voted for cloture on March 4, 1968. The Senate then debated additional amendments to H.R. 2516, none of which removed or changed the enforcement provisions, and finally voted to pass H.R. 2516, including the Dirksen amendment, on March 11, 1968.

2. The Fair Housing Act Is Passed in the House

The House of Representatives began considering the Senate amendments to H.R. 2516 on March 28, 1968. The House raised concerns regarding the bill's coverage over the vast majority of American homes but no significant opposition to the enforcement scheme advanced. Only a few days later, on April 4, Dr. Martin Luther King, Jr. was assassinated and numerous incidents of civil unrest occurred throughout the country.[16] On April 9, the House Rules Committee, recognizing the urgency of the moment,

---

16 Ben A. Franklin, "Army Troops in Capital as Negroes Riot," *N.Y. Times*, April 6, 1968.

submitted a rule to the full House agreeing to the Senate amendments to H.R. 2516, including the Dirksen amendment, and prohibited any additional amendments. Dubofsky, *Fair Housing*, at 160. On April 10, the House debated the Civil Rights Act of 1968, including Title VIII (Fair Housing), for one hour and voted to pass the legislation. President Johnson signed the Civil Rights Act of 1968 into law on April 11.[17]

The broad standing provision in the 1968 Act invited plaintiffs to utilize private litigation to enforce the law—and they did so with vigor. In the years following the enactment of the law, fair housing commentators observed that "private efforts under the Act [were] more successful than government enforcement." Robert G. Schwemm, *Private Enforcement and the Fair Housing Act*, 6 Yale L. & Pol'y Rev. 375, 375 (1988). Indeed, the Court noted in *Trafficante*, 409 U.S. at 209, that "complaints by private persons are the primary method of obtaining compliance with the Act." Privately-initiated cases were responsible for many of the important decisions interpreting the provisions of the Fair Housing Act, including cases establishing, *inter alia*, that: (1) the Act prohibits racial steering, exclusionary zoning, and redlining; (2) homeowners are responsible for the discriminatory acts of their agents and employees; and (3) broad remedies may be available in private actions as well as in government "pattern or practice" suits. *See Schwemm*, *Private Enforcement*, at 378-79 (citations omitted).

---

[17] Civil Rights Act of 1968, Pub. L. 90-284, 82 Stat. 73.

B. Congress Intended to Continue Broad Standing in the Fair Housing Amendments Act of 1988

1. Congress Considers Amendments to the Act

While private litigants had successfully enforced provisions of the Act in federal court, by the late 1970s, many Members of Congress began to express concern that the Act did not provide sufficient enforcement by the federal government, specifically by HUD. The legislative record demonstrates that Congress was determined to amend the bill so that it would more adequately fulfill Congress's original intent to provide effective enforcement of the Act's provisions. Congress sought to address the gap between the anti-discriminatory intention of the Act and the reality of its implementation, as evidenced by a report submitted by the Committee on the Judiciary of the House of Representatives in April 1980. The report states:

> The result of [the passage of title VIII of the Civil Rights Act of 1968] was the establishment of a clear national policy against housing discrimination, but little attention was paid to the details of implementation, resulting in what this Committee, in light of experience, now views as shortcomings. The primary weakness in the existing law derives from the almost total dependence upon private efforts to enforce its provisions.

H.R. Rep. No. 96-865, at 3 (1980). This focus on the inadequacies of the enforcement measures of the Act demonstrates that Congress intended to strengthen the federal government's authority through amendments to the existing law. Furthermore, Congress sought to

expand the Act's protection to include people with disabilities and people discriminated against based on their familial status.

2. Congress Adopts a Definition of "Aggrieved Person" that Reflects Supreme Court Rulings Regarding Standing

While Congress's main focus in amending the Act was to strengthen the federal government's authority to enforce the Act, Congress also considered other changes affecting the Act's private enforcement provisions. These included defining the term "aggrieved person" and amending the private enforcement provision (§ 812) to include the new definition: "[a]n aggrieved person may commence a civil action. . . . " S. Rep. 96-919, at 52 (1980). Congress specifically intended to incorporate the zone of interests previously recognized by this Court into the Act's provisions. *See Bellwood*, 441 U.S. 91, 109 (1979) ("Standing under § 812, like that under § 810, is 'as [broad] as is permitted by Article III of the Constitution.") (quoting *Trafficante*, 409 U.S. at 209) (alteration in original)).

Congress's intent to incorporate the Court's interpretation of the FHA's broad zone of interests as coterminous with Article III standing is readily apparent in the legislative history. For example, the House Report on the precursor bill to the Fair Housing Amendments Act of 1988, H.R. 5200,[18] proposes the definition of aggrieved person as "any person who

---

[18] "H.R. 5200 was similar to H.R. 1158 [the 1988 bill] and provided for administrative enforcement and protection for handicapped persons." H.R. Rep. No. 100-711, at 14 (1988).

claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur." H.R. Rep. No. 96-865, at 33 (1980). The report states that the definition "retains the court's interpretation of standing under title VIII" and cites *Trafficante* and *Bellwood*. H.R. Report 96-865, at 11 (1980).

The Senate Report on another early version of amendments to the Act, S. 506, as amended, further elucidates Congress's intent in amending the definitions section of the Act. The Report states that it is the Judiciary Committee's understanding that "in 1968 the Congress intended that persons seeking redress for violations of title VIII would have standing to use any method provided by the Title to remedy such a violation." S. Rep. 96-919, at 12-13 (1980). The Report then notes that the "Supreme Court agreed" that this was Congress's intent and, therefore, that the Committee's action in adding a definition of aggrieved person to be applied throughout the Act simply "reaffirms this policy." *Id.*

Petitioner Wells Fargo focuses on the "relevant" House Report issued in 1988 in arguing that Congress intended to ratify only the "holdings" of *Bellwood* and *Havens*. Pet'r Wells Fargo's Br. 25. According to Petitioners, "the legislative history confirms that Congress meant to ratify the holdings, not the dicta, of those prior opinions." *Id.* at 25. Petitioners expend a great deal of effort arguing that Congress could not have intended to reaffirm the Court's conclusions in *Havens*, *Bellwood*, and *Trafficante* that the FHA's zone of interests is as broad as

permitted by Article III, despite Congress's clear statement that the 1988 amendments intended to "reaffirm [the] broad holdings of these cases" in defining the term "aggrieved person." Pet'r Wells Fargo's Br. 19-27.

However, Petitioners overlook the crucial fact that, at the time that Congress amended the Act in 1988, the Supreme Court regarded its interpretation of the FHA's zone of interests as coterminous with Article III standing *as a holding*. *See Havens*, 455 U.S. at 375-76 ("*Bellwood held* that the only requirement for standing to sue under § 812 is the Art. III requirement of injury in fact." (emphasis added)). That Congress had the same understanding of these cases is reflected in the legislative record. Whatever the Court may have concluded in later cases about its earlier statements about the zone of interests Congress intended for the FHA in ruling on a different statute,[19] there is no question that, in 1988, Congress intended to reaffirm the Court's self-described holdings in *Bellwood* and *Havens*. Any inquiry into the zone of interests Congress intended in the amended FHA begins and ends with those two decisions and the incorporation of what was understood to be their zone-of-interests holdings into the 1988 amendments.

---

[19] Petitioner's argument hinges on dicta in a much later Title VII case, *Thompson*, in which the Court declined to extend the definition of "aggrieved" from the FHA to Title VII, acknowledging that "[l]ater opinions . . . reiterate[d] that the term 'aggrieved' in Title VIII reaches as far as Article III permits," but noting that "it is Title VII rather than Title VIII that is before us here, and as to that we are surely not bound by the *Trafficante* dictum." *See Thompson*, 562 U.S. 170, 176-77 (2011).

The records of the Congressional hearings on the Fair Housing Amendments Act of 1988 include testimony and statements confirming the Court's decisions in *Trafficante*, *Bellwood*, and *Havens* finding broad standing under the Act. Robert G. Schwemm, an expert on the FHA and respondent's counsel in *Bellwood*, described the Court's holding in *Trafficante* as a "mandate by a unanimous Supreme Court to construe Title VIII broadly" that would serve as "the foundation for all subsequent interpretations of the Fair Housing Act." *Fair Housing Amendments Act of 1987*: *Hearings Before the S. Subcomm. on the Constitution of the S. Comm. on the Judiciary*, 100th Cong. 537 (1987) (statement of Robert G. Schwemm, Professor of Law, University of Kentucky College of Law). The legislative record included a statement from Mayor Richard Arrington of Birmingham, Alabama, on behalf of the National League of Cities regarding cities' interest in the bill. Mayor Arrington wrote that the Court, in *Bellwood*, recognized "[t]he interest of cities in protecting their residents from discriminatory housing practices." *Id.* at 990.

Congress's intent to maintain broad standing to bring suit was also made clear by its rejection of attempts to narrow standing. In March 1987, Senator Orrin Hatch introduced S. 867, the Equal Access to Housing Act of 1987. 134 Cong. Rec. 7176 (1987). Senator Hatch's bill would have transferred all enforcement responsibility from HUD to the Justice Department. In addition, S. 867 narrowed the definition of "aggrieved person" to any person whose "bona fide" attempts to secure housing or housing credit were denied because of discrimination. 134 Cong. Rec. 7178 (1987). In introducing the bill, Senator

Hatch noted his interest in curbing lawsuits by "so-called public interest groups" by making it more difficult for those not seeking home rental or purchase, such as testers, to bring private suit. *Id.* Congress rejected the Hatch Amendment and passed a final version of the Fair Housing Amendments Act, H.R. 1158, on August 8, 1988.[20]

3. Congress Reiterates Its Intent to Support Enforcement by Private Litigants

Congress's motivation to strengthen the federal government's enforcement powers is not an indication that Congress intended to "decrease its previous reliance on private attorneys general," as Petitioner Bank of America argues. Pet'r Bank of America's Br. 37. Nothing in the legislative history of the Fair Housing Amendments Act of 1988 supports this conclusion. Congress acted in order to strengthen the overall enforcement of Act, not to lessen the role of private litigants in enforcement.

In the course of amending the Act, Congress unambiguously expressed its intent to maintain a path for private plaintiffs to enforce the Act while strengthening administrative enforcement. One purpose of the proposed H.R. 1158, was to "remov[e] barriers to the use of court enforcement by private litigants and the Department of Justice." H. R. Rep. No. 100-711, at 13 (1988). In advocating for passage of the Fair Housing Amendments Act, Senator Kennedy stated that "[t]he provisions in existing law related to private fair housing enforcement actions [were] also strengthened."

---

[20] Fair Housing Amendments Act of 1988, Pub. L. No. 100-430, 102 Stat. 1619.

134 Cong. Rec. 19711 (1988). Rather than decreasing the role of private litigation in the final legislation, Congress extended the statute of limitations for bringing private suit, authorized courts to appoint attorneys for plaintiffs in need, and removed the cap on punitive damages. *See* 42 U.S.C. § 3613 (1988). If Congress was intent on decreasing private litigation, it would not have gone to such lengths to ensure plaintiffs continued to bring their grievances directly to the courthouse.

Congress debated amendments to the 1968 Act for almost a decade. At no point in this prolonged process did Congress state its intent to restrict standing under the Act even though it had multiple opportunities to do so.

C. To the Extent Comparisons to Title VII Are Helpful in Understanding the Scope of the FHA's Zone of Interests, They Require an Expansive Interpretation of the FHA's Zone of Interests

While Petitioners argue that the use of the term "aggrieved" in both the FHA and Title VII conclusively demonstrates that Congress intended both statutes to have the same zone of interests, the structure of each statute and their underlying legislative histories counsel otherwise. Moreover, insofar as case law interpreting Title VII's zone of interests is useful to defining the FHA's zone of interests, that case law unambiguously counsels that that zone is broad enough to encompass the City's claims.

As an initial matter, while Congress left the term "aggrieved" undefined in Title VII, in the FHA

it purposefully defined "person aggrieved" in sweeping terms. *See* § 810(a) (1968) (defining "person aggrieved" as "any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur"). Such a broad definition imposes no limit on who may bring an action under the Act other than that the conduct giving rise to the injury claimed be of the type proscribed by the Act. This definition is also consistent both with the expansive nature of the FHA's statement of policy and with the prudential standing holdings in *Havens*, *Bellwood*, and *Trafficante* that Congress purposefully reaffirmed in 1988, as discussed in *supra* Section II.B. Insofar as evaluating a statute's zone of interests is a matter of "traditional . . . statutory interpretation," *Lexmark Int'l, Inc. v. Static Control Components*, 134 S.Ct. 1377, 1387 (2014), it is difficult to overlook that the term "aggrieved" is defined only in the FHA, even after the FHA and Title VII were comprehensively amended in 1988 and 1991, respectively. *See also Yates v. United States*, 135 S.Ct. 1074, 1082 (2015) ("We have several times affirmed that identical language may convey varying content when used in different statutes, sometimes even in different provisions of the same statute.").

Moreover, Congress's intention of making redress under the FHA as broadly available as possible is echoed in the enforcement regime the statute instituted. The final version of the Act passed in 1968, with the private enforcement provision included in § 812, was notable for its accessibility to those with fair housing claims. Section 812 allowed for any plaintiff to bring suit in an appropriate federal or state court to enforce

the anti-discrimination provisions of the bill. While the conduct proscribed by Title VII is as broadly defined as that proscribed by the FHA, Congress drafted Title VII to limit the ability of parties to enforce the law through litigation. As Title VII was drafted in 1964, an aggrieved plaintiff's only recourse was to file a charge with the Equal Employment Opportunity Commission (EEOC) within 90 days of the discriminatory act (or 210 days if the plaintiff first filed with a state employment agency).[21] The plaintiff was then required to wait at least 30 days while the EEOC investigated the charge and could proceed to federal court only after the EEOC determined the charge was true and had failed to obtain compliance through informal methods.[22] The law required the plaintiff to then quickly file suit, within 30 days, or be barred by the statute of limitations;[23] any claims not raised with the EEOC are barred. *See Green v. L.A. Cty. Superintendent of Sch.*, 883 F.2d 1472, 1475-76 (9th Cir. 1989). By contrast, the FHA has consistently included no restrictions on enforcement through litigation, reflecting Congress's intention of making relief under the FHA as broadly available as possible,

---

[21] Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241 § 706(d). Congress subsequently revised the filing requirements to allow plaintiffs to file a charge within 180 days and 300 days, respectively. 42 U.S.C. 2000e-5(e)(1).

[22] *Id.* at §§ 706(a), (e). Congress subsequently revised the law to extend the period of EEOC consideration to 180 days. 42 U.S.C. § 2000e-5(f)(1).

[23] *Id.* § 706(e); *see also Bellwood*, 441 U.S. at 104 n.12 (comparing administrative remedies available under Title VII and the FHA). Congress subsequently revised the law to increase the time period to file suit to 90 days. 42 U.S.C. 2000e-5(f)(1).

even as Title VII's more restrictive regime demonstrates that Congress was fully capable of restricting access to enforcement of a civil rights statute through private lawsuits.

Regardless of whether the Court concludes that its past evaluations of Title VII's zone of interests are useful guideposts with respect to the FHA, it is clear that both statutes "protect a more-than-usually 'expan[sive]' range of interests." *Lexmark*, 134 S.Ct. at 1388 (quoting *Bennett v. Spear*, 520 U.S. 154, 163 (1997)) (alteration in original). While the Court has not yet had the opportunity to define the outer boundaries of Title VII's zone of interests, *see Thompson*, 562 U.S. at 177 ("conclud[ing] that the term 'aggrieved' must be construed more narrowly than the outer boundaries of Article III" but not defining them), it has indicated that those boundaries are at least sufficient to permit claims by municipalities and other parties that were not themselves the object of discriminatory practices. *See id.* at 176-77 (observing that Title VII's zone of interests limitation is "compatible with" the Court's holdings in *Trafficante* and *Bellwood*).

Such an expansive reading is supported by Title VII's legislative history. Just as Congress, in amending the FHA in 1988, explicitly sought to ratify the Supreme Court's holdings that the FHA's zone of interests was as broad as constitutionally possible, the 1991 amendments to Title VII were specifically intended to abrogate at least two decisions that had limited the availability of relief under the statute. *See* S. Rep. 101-315, 6-7 (1990) (rejecting the ruling in *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989), that employers would no longer need to prove that facially

neutral business practices with a discriminatory disparate impact are "significantly related to a legitimate business objective" and rejecting the ruling in *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), that an employment decision motivated in part by prejudice would not violate the statute if the employer could show after the fact that the same decision would have been made for nondiscriminatory reasons); *see also* 136 Cong. Rec. 1657 (1990) (statement of Sen. Howard Metzenbaum) (criticizing a series of 5-4 decisions from the 1988 term as "revers[ing] long-standing precedents" and "den[ying] protection to the victims of employment discrimination," and describing the then-proposed bill, S. 1745, that became the Civil Rights Act of 1991 as "a direct response to those decisions").

In sum, the Court need not decide how relevant its Title VII jurisprudence is in evaluating the FHA's zone of interests. Under the holdings in *Trafficante*, *Bellwood*, and *Havens*, the City's claims would clearly come within the broad-as-possible zone of interests identified in these cases. But its claims would also easily fall within a zone of interests similar to that of Title VII discussed in *Thompson*, which the Court stated is at least broad enough to encompass municipal plaintiffs and indirect injuries.

III. THE FHA'S ZONE OF INTERESTS IS SUFFICIENTLY EXPANSIVE TO ENCOMPASS THE CITY'S CLAIMS AND ITS ABILITY TO ENFORCE THE ACT

This Court has "described the 'zone of interests' test as denying a right of review 'if the plaintiff's interests are so marginally related to or inconsistent with the purposes implicit in the statute that it

cannot reasonably be assumed that Congress intended to permit the suit.'" *Thompson*, 562 U.S. at 178 (quoting *Clarke v. Sec. Indus. Ass'n*, 479 U.S. 388, 399-400 (1987)) (discussing the use of the term "person aggrieved" in Title VII and the Administrative Procedure Act). Petitioners suggest that the imposition of any test would doom the City's claims, but such confidence belies this Court's recent observation "that the test is not 'especially demanding.'" *See Lexmark*, 134 S.Ct. at 1389 (quoting *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak*, 132 S.Ct. 2199, 2210 (2012)). Indeed, the zone of interests test incorporates a strong presumption in favor of plaintiffs. *See id.* (observing that the Court has "often 'conspicuously included the word "arguably" in the test to indicate that the benefit of any doubt goes to the plaintiff.'") (quoting *Patchak*, 132 S.Ct. at 2210).

Consistent with this broad formulation, in those cases where this Court has found that a claim did not fall within a statute's zone of interests, it has often been because the Court found an extremely clear indication that it would not have been possible that Congress had intended to permit such a claim, such as a concrete logic in the statute that made the exclusion of such claims necessary. For example, in *Block v. Cmty. Nutrition Inst.*, 467 U.S. 340, 347, 348 (1984), which Petitioners cite, the Court concluded that consumers fell outside the zone of interests to challenge milk market orders issued pursuant to the Agricultural Marketing Agreement Act of 1937 because "[t]he structure of this Act indicate[d] that Congress intended only producers and handlers, and not consumers, to ensure that the statutory

objectives would be realized," such that "[a]llowing consumers to sue the Secretary would severely disrupt this complex and delicate administrative scheme." In another case cited by Petitioners, the Court concluded that plaintiffs' injuries were outside a statute's zone of interests only where the legislative history decisively showed that the interest of the plaintiffs could not have been contemplated by Congress as within the statute's zone of interests. *See Air Courier Conf. v. Am. Postal Workers Union*, 498 U.S. 517, 520, 526-28 (1991). Here, Petitioners have offered no argument that the City's cause of action would disrupt the statutory regime envisioned by Congress. Indeed, the deleterious effects of housing discrimination on local communities, including their tax bases, were front-and-center in Congress's debates leading to the passage of the FHA. *See* 114 Cong. Rec. 2706 (1968) (expressing concern for the effect of discriminatory practices on "whole communit[ies]"); 114 Cong. Rec. 2274 (1968) (identifying a "[d]eclining tax base" as one of the specific ills Congress sought to remedy with the FHA).

A. The Court's Precedent and the Legislative History of the FHA Demonstrate that the FHA Incorporates a Zone of Interests Sufficiently Wide to Encompass the City's Claims

As discussed *supra* Section I, the purposes underlying the FHA are remarkable in their breadth; indeed, this Court has characterized the Act's "central purpose" as the outright "eradicat[ion of] discriminatory practices within a sector of the Nation's economy."

Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmtys. Project, Inc., 135 S.Ct. 2507, 2511 (2015).

Consistent with the statute's far-reaching and lofty purposes, this Court has recognized a broad range of causes of action from a broad range of plaintiffs, as Petitioners acknowledge. For example, the Court has recognized the injury to residents of an apartment complex that engaged in discriminatory practices, even though they themselves had not been the direct targets of discrimination, *see Trafficante*, 409 U.S. at 210-211; the injury to "testers" who encountered discrimination in the provision of information by actively seeking it out, but who did not intend to enter into a transaction, *see Havens*, 455 U.S. at 373-374; and the injury to a municipality that alleged, among other injuries, that discriminatory practices would lower property values and damage its tax base, *see Bellwood*, 441 U.S. at 110-111.

In its complaints, the City alleges a wide range of injuries directly resulting from Petitioners' violations of the Act—as one might expect from a municipality, the livelihood of which is deeply intertwined with the wellbeing of its people and the property within its boundaries. These include both economic injuries related to reduced property taxes from properties that have been devalued as a result of Petitioners' discriminatory practices and the need to provide increased municipal services to foreclosed properties, Third Am. Compl. Against Wells Fargo ¶¶ 100-127, ECF. No. 80., and non-economic injuries related to "the City's longstanding and active interest in promoting fair housing and securing the benefits of living in an integrated society." Third Am. Compl. Against Wells

Fargo ¶ 99, ECF. No. 80. *See also* Resp't City of Miami's Br. Against Wells Fargo 22. Both types of injuries fall within the narrowest zone of interests one could reasonably argue Congress to have intended in providing for a private right of action under the FHA.

B. The City's Injuries Related to Its Diminished Revenues and Heightened Expenses Are Neither Marginally Related to Nor Inconsistent with the Purposes of the FHA

The City's clearly delineated, empirically verifiable economic injuries also fall squarely within the Act's zone of interests. This Court unequivocally recognized that damage to a municipality's tax base as a result of discriminatory housing practices is precisely the sort of injury that the FHA was intended to address; moreover, it recognized the essential link that exists between neighborhood stability and the development of increasingly integrated communities. *See Bellwood*, 441 U.S. at 110-11 ("A significant reduction in property values directly injures a municipality by diminishing its tax base, thus threatening its ability to bear the costs of local government and to provide services. Other harms flowing from the realities of a racially segregated community are not unlikely. As we have said before, '[there] can be no question about the importance' to a community of 'promoting stable, racially integrated housing.'" (quoting *Linmark Assocs. Inc. v. Willingboro*, 431 U.S. 85, 94 (1977)) (alteration in original). Here, the City has alleged that an increased incidence of foreclosures as a result of Petitioner's discriminatory lending practices resulted in the direct and immediate effects of

diminished property values and conditions requiring an increase in costly municipal services.

While Petitioners argue that the economic injuries alleged by the City are merely "financial" and so not within the FHA's zone of interests, their argument is inconsistent with the most basic, commonsense reading of the statute. The City alleges that Petitioners' racially discriminatory conduct directly caused a chain of events resulting in reduced tax revenues and heightened municipal expenses: foreclosed-on homes are sold at a deep discount, lowering the values of surrounding property and leaving the city with a tax revenue shortfall; and abandoned properties become hotbeds of crime and safety hazards, requiring the city to stretch its already-diminished resources to address these immediate dangers to the surrounding community. These injuries are cognizable under the FHA in the same way that a family's increased housing expenses resulting from its having received discriminatorily unfavorable lending terms would be cognizable. Whether or not the target of the alleged discrimination is also the party that suffers the injury is immaterial, as this Court has recognized. *See, e.g.*, *Trafficante*, 409 U.S. at 209-10. Like the plaintiffs in *Trafficante*, the City suffered an injury as a result of racially discriminatory conduct against victims that directly resulted in injuries to it—injuries that reduced its revenues and increased demands for expenditures that indisputably are within the Act's zone of interests.

Petitioners also miss the point in suggesting that the City's injuries do not fall within the FHA's zone of interests because the City would have suffered

a similar loss if Petitioners had irresponsibly lent to subprime borrowers without any race-based differentiation among borrowers. It is precisely the fact that the Petitioner's conduct was the race-based discrimination in lending activities specifically prohibited by the Act that makes that conduct actionable and the resulting injuries compensable. That some non-discriminatory conduct might have a similar effect is irrelevant to the inquiry here; that conduct would be outside the zone of interests of the Act because it was *non-discriminatory*, not because of the nature of the injury.

C. Injuries to the City's Ability to Foster Access to Fair Housing Are Neither Marginally Related to Nor Inconsistent with the Purposes of the FHA

The City's non-economic injuries fall squarely within the FHA zone of interests. Congress's stated policy of providing fair housing throughout the United States is deeply consonant with the policy interests that the City alleges have been damaged by Petitioners' discriminatory practices, namely, the City's efforts to "promot[e] fair housing," to "secur[e] the benefits of an integrated community," and to "affirmatively further fair housing objectives of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, as amended, and other relevant federal, state, and local housing laws." Third Am. Compl. Against Wells Fargo ¶ 99, ECF. No. 80 (internal citations and quotation marks omitted). Indeed, the City's interests in advancing fair housing incorporate and go far beyond the interests of the non-profit plaintiff in *Inclusive Communities*, which

Petitioners rely upon but do not challenge on zone of interests grounds.

D. Robust Enforcement by Municipalities Is Necessary to Realize the FHA's Purposes

The ambitious purpose of the FHA—to "eradicate discriminatory practices" in housing, *Inclusive Communities.*, 135 S.Ct. at 2511, to the full extent "within constitutional limitations," 42 U.S.C. § 3601—would be ill-served by prohibiting the City's claim. In enacting the FHA in 1968 and amending it in 1988, Congress clearly sought to provide for robust enforcement by a wide range of plaintiffs who had incurred a wide range of injuries, as this Court has recognized in *Inclusive Communities*, *Havens*, *Bellwood*, and *Trafficante*. Moreover, the types of injuries alleged by the City, clearly resulting from Petitioners' racially discriminatory practices, represent interests that are both central to the Act and which the City, as a municipality, is uniquely positioned to vindicate. The erosion of a property tax base, the burden of providing the additional municipal services made necessary by foreclosure, the racial disintegration of neighborhoods: these are the very types of problems that were central to Congress's intent and which are uniquely injurious to municipalities like Miami. *See* Br. of *Amici Curiae* the City and County of San Francisco, the City of Los Angeles, and Other Jurisdictions. To foreclose a municipality's ability to seek redress for its injuries would be to constrain the FHA from being used as Congress intended—broadly, to vindicate the full range of interests predicated on non-discriminatory housing practices.

CONCLUSION

For the foregoing reasons, the judgment of the Court of Appeals should be affirmed.

Respectfully submitted,

THOMAS J. HENDERSON
COUNSEL OF RECORD FOR AMICI CURIAE
SABA BIREDA
FELICIA GILBERT
JAMES E. RICHARDSON
SANFORD HEISLER, LLP
1666 CONNECTICUT AVE. NW, SUITE 300
WASHINGTON, DC 20009
(202) 499-5200
THENDERSON@SANFORDHEISLER.COM

OCTOBER 7, 2016

APPENDIX: LIST OF *AMICI CURIAE*

Amici curiae include the following current and former Members of Congress:

- Vice President **Walter Mondale**
  Co-Sponsor of the Fair Housing Act of 1968 (in office from 1964-1976 (Senate) and Vice President from 1977-1981)
- Senator **Harry Reid**
  Minority Leader, United States Senate (in office from 1983-1987 (House) and in office since 1987 (Senate))
- Representative **Michael Capuano**
  Co-Founder and Co-Chair, Congressional Former Mayors Caucus; House Financial Services Committee (in office since 1999)
- Representative **Keith Ellison**
  Co-Chair, Congressional Progressive Caucus (in office since 2007)
- Representative **Raul Grijalva**
  Co-Chair, Congressional Progressive Caucus (in office since 2003)
- Representative **Lois Frankel**
  Vice-Chair, Congressional Caucus on Women's Issues (in office since 2013)
- Representative **Al Green**
  Co-Chair, Economic Development and Wealth Creation Taskforce, Congressional Black Caucus; Ranking Member, Subcommittee on Oversight and Investigations, House Committee on Financial Services (in office since 2005)

- Representative **Maxine Waters**
  Ranking Member, House Committee on Financial Services (in office since 1991)
- Representative **John Conyers, Jr.**
  Ranking Member, House Committee on the Judiciary (in office since 1965)
- Senator **Sherrod Brown**
  Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs (in office from 1993-2007 (House) and in office since 2007 (Senate))
- Representative **Rubén Hinojosa**
  Ranking Member, Subcommittee on Higher Education and Workforce Training, House Committee on Education and the Workforce (in office since 1997)
- Representative **Frederica Wilson**
  Ranking Member, Subcommittee on Workforce Protections, House Committee on Education and the Workforce (in office since 2011)
- Representative **Carolyn Maloney**
  Ranking Member, Subcommittee on Capital Markets and Government Sponsored Enterprises, House Committee on Financial Services (in office since 1993)
- Representative **Emanuel Cleaver, II**
  Ranking Member, Subcommittee on Housing and Insurance, House Committee on Financial Services (in office since 2005)

- Representative **Steve Cohen**
  Ranking Member, Subcommittee on the Constitution and Civil Justice, House Committee on the Judiciary (in office since 2007)
- Representative **John Lewis**
  Ranking Member, Subcommittee on Oversight, House Committee on Ways and Means (in office since 1987)
- Senator **Jack Reed**
  Ranking Member, Subcommittee on Transportation, Housing and Urban Development and Related Agencies, Senate Committee on Appropriations (in office from 1991-1997 (House) and in office since 1997 (Senate))
- Senator **Robert Menendez**
  Ranking Member, Subcommittee on Housing, Transportation, and Community Development, Senate Committee on Banking, Housing, and Urban Affairs (in office from 1993-2006 (House) and in office since 2006 (Senate))
- Senator **Bernard Sanders**
  Ranking Member, Subcommittee on Primary Health and Retirement Security, Senate Committee on Health, Education, Labor, and Pensions (in office from 1991-2007 (House) and in office since 2007 (Senate))
- Representative **Barbara Lee**
  Senior Member, House Committee on Appropriations (in office since 1998)
- Representative **Dan Kildee**
  House Committee on Financial Services (in office since 2013)

- Representative **Stephen Lynch**
  Senior Member of the House Committee on Financial Services (in office since 2001)
- Representative **Patrick Murphy**
  House Committee on Financial Services (in office since 2013)
- Representative **Ted Deutch**
  Subcommittee on the Constitution and Civil Justice, House Committee on the Judiciary (in office since 2010)
- Representative **Luis V. Gutiérrez**
  House Committee on the Judiciary (in office since 2003)
- Senator **Patty Murray**
  Subcommittee on Transportation, Housing and Urban Development and Related Agencies, Senate Committee on Appropriations (in office since 1993)
- Senator **Jeff Merkley**
  Subcommittee on Housing, Transportation, and Community Development, Senate Committee on Banking, Housing, and Urban Affairs (in office since 2009)
- Senator **Al Franken**
  Subcommittee on the Constitution and Civil Justice, Senate Committee on the Judiciary (in office since 2009)
- Senator **Sheldon Whitehouse**
  Subcommittee on the Constitution, Senate Committee on the Judiciary (in office since 2007)

- Senator **Richard Blumenthal**
  Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts, Senate Committee on the Judiciary (in office since 2011)
- Representative **Alcee Hastings**
  United States House of Representatives (in office since 1993)
- Senator **Cory Booker**
  United States Senate (in office since 2013)
- Senator **Barbara Boxer**
  United States Senate (in office from 1983-1993 (House) and in office since 1993 (Senate))
- Senator **Mazie K. Hirono**
  United States Senate (in office from 2007-2013 (House) and in office since 2013 (Senate))
- Senator **Tim Kaine**
  United States Senate (in office since 2013)
- Senator **Edward J. Markey**
  United States Senate (in office from 1976-2013 (House) and in office since 2013 (Senate))
- Senator **Bill Nelson**
  United States Senate (in office from 1979-1983 (House) and in office since 2001 (Senate))
- Senator **Jeanne Shaheen**
  United States Senate (in office since 2009)
- Senator **Ron Wyden**
  United States Senate (in office from 1981-1996 (House) and in office since 1996 (Senate))