

ANALYSIS OF LENDING IN SUMMIT COUNTY

A REPORT TO THE FORD FOUNDATION

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I. INTRODUCTION AND OVERVIEW

Discrimination in housing has been an issue for many years and resulted in government actions like the Fair Housing legislation, the Home Mortgage Disclosure Act (HMDA), and the Community Reinvestment Act (CRA). Over the past decade there has been an increased emphasis on lending discrimination against low- and moderate-income families living in central cities. New types of loan products, subprime loans, were developed to meet the lending needs of previously underserved populations who did not qualify for prime loans to buy or refinance a home. Unfortunately these subprime loans have a darker side. There are subprime lenders who recognized the profits to be made from this type of lending, use abusive lending practices, and who prey upon the elderly and low-income households. These predatory subprime lenders have a devastating effect on borrowers, whose loans include high interest, abusive loan terms, and other practices that often lead to default and foreclosure. It is not just individual households that are affected. Predatory lending has a negative impact upon neighborhoods and communities.

It was the concern about the impact of predatory lending that resulted in encouragement from Summit County nonprofit housing-related organizations and government officials for our involvement in analyzing lending in Summit County. They were seeing a sharp rise in the number of foreclosure filings in the county, had people requesting help with credit problems that could be traced to their mortgages, and had cases of illegal lending practices.

The focus of this research is to determine the extent to which particular neighborhoods are differentially affected by the activities of the mortgage market and the extent to which this is justified in regard to income and other characteristics. The initial research question was the relationship of foreclosures to types of loans, geographic concentrations, and loan amount to appraised value ratios. Over 3,500 foreclosure filings covering a 16 month period from October 2001, when Summit County foreclosure files were made available on-line, through January 2002 were the primary data for answering this research question. Unfortunately, only the filing dates, case number, plaintiffs and defendants appear on the initial list. To find out the details of the loan, such as the actual borrower, initial lender, property address, and loan details required opening each case file and examining the mortgage document.

Another research question explored the effects of lending on neighborhoods as a result of foreclosures. The concentrations of foreclosures were used to define the neighborhoods by census tracts and then census data was used to describe these tracts according to race, age, and sex. This made it possible to analyze which lenders targeted low- and moderate-income tracts and those tracts with a high percentage of minorities and elderly residents. The analysis was carried one step further by comparing foreclosures to public investments. Through the cooperation of local governments and nonprofit agencies, a data base was compiled containing the amount of money invested by address. This made

it possible to determine whether community development efforts are being undermined by lending activity resulting in foreclosures.

The results of the research are in three sections. The first section is an annotated bibliography that examines the literature on the growth of subprime and predatory lending, the characteristics of predatory lending, those engaged in predatory lending, the targets of predatory lending, the relationship of foreclosures to predatory lending, and the impact of predatory lending on communities. The second section is the results of the analysis of sixteen months of foreclosure data and other types of data relevant to establishing the geographic patterns of lending. The third section is the effect of foreclosures on Summit County neighborhoods. These three sections are followed by appendices containing a table of predatory lenders and legislation passed by the Summit County Council aimed at addressing the predatory lending problems in the county. As part of this research project, researchers were participants on the Summit County Predatory Lending Task Force and provided data and maps upon request. The Task Force met over a period of months to discuss the predatory lending problem in the county and how to address this problem. Following a recommendation by the Task Force, the Summit County Council created an office of consumer affairs supported primarily by County funds, with an expectation of obtaining annual contributions from area lenders.

II. PREDATORY LENDING: AN ANNOTATED BIBLIOGRAPHY

There is an extensive amount of literature about predatory lending from a variety of sources and about a variety of issues. Sources include academic journals, government agencies, trade publications, research organizations, advocacy organizations, and the news media. This annotated bibliography explores issues related to the following:

- why predatory lending has become such an important issue,
- the factors that contributed to the rise of predatory lending,
- the value of subprime lending and its relationship to predatory lending,
- the characteristics of predatory lending,
- who is engaged in predatory lending,
- who are the targets of predatory lending,
- the relationship of foreclosures to predatory lending, and
- the impact of predatory lending on communities.

The bibliography is divided into six sections. The first section contains literature about the growth of subprime and predatory lending and addresses the value of subprime lending, the differences between subprime and predatory lending, and the growth of the subprime industry. The second section contains literature about the characteristics or practices of predatory lending. In general these are variations on a theme, differing in the number of practices, how the various practices are categorized and how the practices are described. The third section contains a variety of articles that indicate the various groups engaged in predatory lending and specific lenders who have been accused of predatory lending. The fourth section concerns the targets of predatory lenders. There is consensus on the targets of this type of lending – minorities, the elderly, women, and low income borrowers in general. Some of the articles simply state the facts. Others go into greater detail about the reasons these groups are the targets of predatory lenders and some provide actual examples. The last two sections are specifically related to the research that has been carried out with funding from The Ford Foundation and looks at foreclosures and their relationship to predatory lending and the impact of this phenomenon on community development.

There are duplicate citations for many publications. While many cover only one topic and fit into one of the six sections, others are more extensive and cover many of the issues related to subprime and predatory lending. In this case the citation is repeated with the annotation relating to each section.

The Growth of Subprime and Predatory Lending

The subprime industry grew rapidly in the 1990s due to the deregulation of the banking industry and the need to provide credit to those previously denied access to credit. In theory this is good and has helped many borrowers meet their housing needs. But at the same time, some in the subprime industry turned the positives into negatives through abusive and fraudulent practices.

A Background on Predatory Lending. (2004). Social Investment Forum.
Available: www.shareholderaction.org

The Social Investment Forum, a nonprofit organization that provides research and educational programs on socially responsible investing, describes subprime lending as lending for consumers with less than perfect credit – B to D rather than A. The article indicates how necessary subprime is to many borrowers. Without it, many people would not have access to mortgages, second mortgages or home improvement loans. Subprime loans are beneficial if interest rates are actually based on risk, if the loans do not include high fees or abusive lending scenarios, and if the loans are legitimate. The view of this organization is that legitimate subprime lenders are not engaged in predatory conduct. According to an article in *Forbes Magazine*, consumer finance companies have returns six times those of the best run banks. This profitability is one reason why national banks purchased subprime lenders.

Bellamy, Paul. (2003). The Ohio Foreclosure Explosion, By County 1994-2002. Lorain, Ohio: Lorain County Reinvestment Coalition.

Using the Ohio Courts Summary Annual Reports, Bellamy created a table for all Ohio counties, listing the number of foreclosures for each year and the increase over the 1994-2000 period. Summit County data indicate a steady increase. There were 621 foreclosures in 1994; 745 in 1995; 987 in 1996; 1089 in 1997; 1362 in 1998; 1539 in 1999; 1851 in 2000; 2525 in 2001; and 3214 in 2002. Foreclosures for Summit County increased 5.2 times, while foreclosures for the entire state of Ohio increased only 3.2 times.

Bradley, Jeanette. (June 2000). The Community Guide to Predatory Lending Research. Durham, NC: Community Reinvestment Association of North Carolina.

Bradley writes about the good, the bad and the ugly of subprime lending and includes documents used in the organization's research. The good is that it makes credit available to borrowers with impaired credit at a cost related to the risk. This lending should be regulated by consumer protection laws, have rates based on rational models, and have the same terms and conditions as prime loans. The bad are the things prohibited in a number of federal and state laws, including: Federal Truth in Lending Act (TILA), The Real Estate Settlement Procedures Act (RESPA), Home Ownership and Equity Protection Act of 1994 (HOEPA), State Unfair and Deceptive Trade Practices Laws, and The Fair Housing Act. The ugly are the practices not specifically prohibited but should be outlawed. Bradley includes a list of fourteen of these practices.

Carr, James H. and Kolluri, Lopa. (August 2001). Predatory Lending: An Overview. Washington, DC: Fannie Mae Foundation.

The authors begin by pointing out the value and definition of subprime lending. They define the subprime market as the credit source of last resort for borrowers who have poor credit histories, insufficient documentation of financial resources, a lack of other loan application information, and other shortcomings. These problems limit borrowers from securing credit from prime lenders. Although lenders cite risk as the reason for higher rates of subprime loans, Carr and Kolluri say that some financial institutions have

indicated that lower-income status does not always mean higher credit risk. Many lower-income borrowers perform about the same as middle- and upper-income households receiving similar credit. Therefore, the level of subprime lending to lower-income households compared to higher-income households is not necessarily justified.

Carr, James H. and Schuetz, Jenny. (August 2001). *Financial Services in Distressed Communities: Framing the Issue*. Washington, DC: Fannie Mae Foundation.

The authors refer to subprime home mortgage lending as excessive, citing its tremendous growth. The dollar volume between 1993 and 1998 grew from \$20 billion to \$150 billion and the number of loans from 80,000 to 790,000. During this same period, prime lending for home purchases increased 40 percent and refinance loans increased 2.5 percent.

The Case Against Predatory Lending. (2003). Durham, NC: Center for Responsible Lending. Available: <http://predatorylending.org/research/case.cfm>

This article describes subprime loans as “B”, “C”, or “D” quality loans. This is in contrast to “A” quality mortgages that meet the secondary market standards for purchase by Fannie Mae and Freddie Mac. The Federal Reserve estimates that 90 percent of subprime loans are for debt consolidation. Thirty-eight percent are for home improvements.

Comments to the Office of Thrift Supervision. (July 5, 2000). Washington, DC: National Consumer Law Center and Consumer Federation of America.

The National Consumer Law Center says that marketplace and policy factors have contributed to the problems associated with subprime lending. Deregulation is cited as a major factor, since it opened the door for unscrupulous operators. Federal laws in 1980 and 1983 preempted state usury ceilings and limitations on risky creative financing. The free market theory did not work to take care of problems. The rise in real estate values created greater equity for elderly home owners, making them good targets, and led to asset-based lending. Reverse redlining filled the void left by mainstream banks’ abandonment of low income neighborhoods, especially minority ones. The rise of the secondary mortgage market in the 1980s made it possible for mortgage companies specializing in home equity lending, which is unregulated in many states, to operate much more profitably. These lenders could obtain a line of credit from a major bank, use this to originate predatory loans, take out the very high up-front fees, sell the loans onto the secondary market, and then repeat the process. The securitization of home equity loans in the 1990s resulted in phenomenal growth in the use of equity in a home to fund credit. This article states that securitization is the driving force behind the popularity of the subprime market. Tax reform was another contributing factor, since it left as deductible only interest on home-secured loans.

Curbing Predatory Home Mortgage Lending: A Joint Report. (June, 2000). Washington, DC: U.S. Department of Housing and Urban Development.

This extensive report on subprime and predatory lending begins by discussing the characteristics of subprime lending, its value and its negative outcomes. Both the characteristics of subprime lending and the populations served are indicative of the

positive and negative aspects of subprime lending. On the positive side, subprime lending is an important element of our financial system, providing credit to those who may not be able to obtain credit. On the negative side, the subprime market is more susceptible than the prime market to abusive lending practices. The joint report identifies the characteristics of subprime lending, discusses current measures to control abuses and explores remedial actions.

Economic Issues in Predatory Lending. (July 30, 2003). Washington, DC: Comptroller of the Currency.

This OCC working paper provides an overview of the predatory lending issue. The summary and analysis address the issues from identifying a predatory loan to the role of CRA in curbing abuses. Included is information on the trends in the subprime market, the economic issues involved in predatory lending, the role of the banks, the relationship between rates charged and risk, the impact of higher servicing and other costs on interest rates, evidence of excess profits, the geographic patterns and racial disparities of predatory lending, and the effects of anti-predatory laws.

Efforts to Combat Unfair and Deceptive Subprime Lending. (February 24, 2004). Prepared Statement for the Senate Special Committee on Aging. Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov>

This statement by the Federal Trade Commission provides more recent information about the dramatic rise in subprime lending. In 2003, the amount of subprime mortgage loans was \$332 billion compared to \$125 billion in 1997. The statement also points out that subprime lending provides an access to credit to previously underserved communities.

Engel, Kathleen C. and McCoy, Patricia A. (2002). Changes in the Financial Services Market, Predatory Lending, and the Community Reinvestment Act. in McCoy, Patricia (Ed.), *Financial Modernization After Gramm-Leach-Bliley* (pp. 273-284). New York, NY: Matthew Bender & Company, Inc.

Engel and McCoy describe the role of the transformation of the financial services market on the emergence of predatory lending. This transformation included federal laws that deregulated loan terms and the securitization of mortgages. These changes created more capital to lend, new unregulated lenders, and intricate mortgage products, which lead to the unintended consequence of predatory lending.

Ferguson, Anna Beth. (2000). Predatory Lending: Practices, Remedies and Lack of Adequate Protection for Ohio Consumers. *Cleveland State Law Review*, 48, 607-636.

The value of subprime loans is that these loans provide credit to people who could not qualify for a prime loan. In this respect the loans are ethical. The loans become predatory when lenders use unethical and/or illegal practices or offer subprime loans to borrowers who could qualify for prime loans.

FTC Testifies on Enforcement, Consumer Education Initiative to Combat Predatory Lending Practices. (February 26, 2001). Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov>

This press release describes the value of subprime lending to consumers, who would not be able to obtain loans otherwise, and the tremendous growth in the subprime industry. In 2000 there were over \$140 billion in home equity loans. Investment banks have helped make more funds available by securitizing about \$18.5 billion in subprime loans in 1995. The amount increased to nearly \$56 billion in 2000.

Goldstein, Deborah. (Winter 2000). Protecting Consumers from Predatory Lenders: Defining the Problem and Moving Toward Workable Solutions. *Harvard Civil Rights-Civil Liberties Law Review*, 35, 227-256.

Goldstein states that subprime lending has two extremes. At one extreme is lending that is clearly beneficial and justifiable. At the other extreme is lending that is clearly fraudulent. Between these two poles are a range of practices and combinations of practices that may be labeled predatory, depending on the circumstances in which they are used. At the “good” extreme, the higher interest rates offset higher risks and costs, including higher servicing costs, flawed credit, lower equity, and higher LTV ratios. A move to risk assessment models will help standardize practices in this market. These loans serve a socially beneficial purpose.

Havard, Cassandra Jones. (2002). Credit Democracy: What’s Sub-Prime Lending Got To Do With It? in McCoy, Patricia (Ed.), *Financial Modernization After Gramm-Leach-Bliley* (pp. 257-271). New York, NY: Matthew Bender & Company, Inc.

Subprime lenders view neighborhoods and specific groups, especially those previously denied access to credit, as an underdeveloped market with growth potential. The deregulation of the financial services industry has produced a less risk-adverse climate, which resulted in more loans to sub-prime borrowers. Havard states that sub-prime lending makes credit available to borrowers who do not qualify for credit at the prime rate. This subprime lending comes with higher interest rates to compensate for the greater risks associated with this type of loan. Subprime loans are primarily for refinance mortgages, rather than the purchase of a house. Havard also states the positive aspect of subprime lending is that this type of lending serves a social purpose by making credit available to communities where credit was not previously available.

Immergluck, Daniel, and Wiles, Marti. (November, 1999). Two Steps Back: The Dual Mortgage Market, Predatory Lending, and the Undoing of Community Development. Chicago, IL: Woodstock Institute.

Immergluck and Wiles describe predatory lending, discuss the rise of the subprime industry, and quantify the hypersegmentation of residential finance. They indicate from 1993 to 1998 loans in the U.S. by subprime lenders increased 760 percent for home purchase loans and 890 percent for refinance loans. Loans by prime lenders increased by only 38 and 2.5 percent during this same period. They used HMDA data from 1993 to 1998 for the Chicago metropolitan area to analyze the hypersegmentation of residential finance. One finding is that subprime lenders originated 58 percent of conventional refinance loans in predominantly African-American neighborhoods but less than 10 percent in predominantly white neighborhoods. A second finding is that subprime refinance loans increased almost 30 times in African-American neighborhoods compared to 2.5 times in white areas.

Litan, Robert E. (February 2001). A Prudent Approach to Preventing “Predatory” Lending. Washington, DC: The Brookings Institution.

Litan discusses the changes in lending since the 1980s and the impact this has had on borrowers. When deposit and lending rates were regulated or limited, credit was rationed. This meant that good or prime borrowers got credit and others did not. The subprime market has made it possible for borrowers, who would have been unable to get mortgages previously and do not qualify for prime loans, to obtain a mortgage. Subprime lending is primarily carried out by non-depository institutions, such as finance companies, that are not regulated by state or federal agencies. Depository institutions have incentives to make loans in LMI areas as a result of the Community Reinvestment Act. This has widened access to credit but has also led to predatory practices by some subprime lenders.

Mahoney, Lesley. (May 19, 2003). Subprime Lenders Bristle at Negative Industry Publicity. *Boston Business Journal*.

Mahoney reports the response of the subprime industry to the “glaring and unflattering spotlight” on subprime lending. This group sees subprime lending as necessary and legitimate and not synonymous with predatory lending. Option One Mortgage Corp., one of the large subprime lenders, counters the negativity by calling it nonprime lending instead of subprime.

Mortgage Trends 2002: What Lies Ahead? (February 2002). *Collections & Credit Risk* 7(2), 31.

This article refers to the forces altering the mortgage marketplace. These include a boom in subprime loans to marginal borrowers, higher loan-to-value loans, increasing home ownership by individuals rather than couples and families and more financially fragile borrowers.

Nagazumi, Toshiki, Rose, David et al. (September 21, 1999). Preying on Neighborhoods Subprime Mortgage Lending and Chicagoland Foreclosures. Chicago, IL: National Training and Information Center.

One part of this research about subprime mortgages and foreclosures in Chicago points out the need for new ways to serve potential homeowners who have less than perfect credit. The researchers also stress the need to develop mechanisms that protect these borrowers from the predatory practices that are found in the subprime market.

Obara, Patricia E. (June 2001). Predatory Lending, *Banking Law Journal*, 118, 6, 541-53.

Obara presents the view of federal banking regulators about subprime and predatory lending. These regulators, made up of the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, distinguish predatory from subprime lending as having one or more of the following:

1. Loans based on assets rather than ability to repay;
2. Refinancing/flipping in order to charge high points and fees again; and

3. Fraud or deception about the nature of the loan obligation

Predatory Lending: Recent Initiatives to Define and Eliminate Lending Abuse. (2001). New York, NY: LEXIS Publishing.

This article discusses the origins of subprime lending, stating that subprime lending is an outgrowth of efforts to correct the lack of credit to minorities and the poor. The Home Mortgage Disclosure Act (HMDA) and the Community Reinvestment Act (CRA) were enacted to monitor lending efforts and to ensure that lending institutions meet the credit needs of historically underserved markets and communities. Lenders also realized that it was a profitable business opportunity as long as they charged enough to cover the risk.

Regulating Subprime Lending Prevents Abuses and Would Not Cut Off the American Dream of Homeownership. NCRC Position Paper on Predatory Lending. Washington, DC: National Community Reinvestment Coalition.

This position paper on legislation to regulate subprime lending begins by distinguishing between subprime and predatory lending. Subprime loans are made to borrowers with less than perfect credit and have higher interest rates than prime loans to compensate for the added risk. Predatory lending is a subset of subprime lending and is an unsuitable loan designed to exploit the borrower.

Report of the Staff to Chairman Gramm. (August 23, 2000). Predatory Lending Practices: Staff Analysis of Regulators' Responses. Washington, DC: Committee on Banking, Housing and Urban Affairs.

This report is the response of nine regulators to the questions of their definition of predatory lending and what data each agency has. The regulators had no definition of predatory lending, only a laundry list of terms and practices. In addition, they had no shared understanding of the types of practices considered predatory. The regulators indicated they had no systematic, organized process for collecting data and they could not collect data until they had a definition of predatory lending. The regulators also blurred the distinction between subprime and predatory lending and did not indicate there was a lack of existing legal authority to penalize abuses.

Separate and Unequal: Predatory Lending in America. (November 2001). Chicago, IL: Association of Community Organizations for Reform Now (ACORN).

ACORN adopted the methodology used by the Coalition for Responsible Lending in North Carolina to calculate the annual cost of predatory practices state by state. For Ohio they calculated that the cost for excess up front fees was \$39,257,601. For prepayment penalties the cost was \$5,160,585. For inflated interest rates the cost was \$65,973,402. For Single premium credit insurance the cost was \$91,714,000. The total cost was \$202,105,589 for predatory practices in Ohio. Other findings confirmed that the targets for both subprime and prime refinance and home purchase mortgages are much more likely to be minorities, with higher concentrations among low-income minorities, and the growth of subprime lending was much greater than the rate of growth of prime lending. The report also contains a detailed list of predatory practices with examples and recommendations for action.

Stein, Eric. (2001). Quantifying the Economic Cost of Predatory Lending. Durham, NC: Coalition for Responsible Lending.

Stein presents the results of his research on the tremendous cost of predatory lending. He estimates that predatory lending costs borrowers in the U.S. \$9.1 billion annually. Most of these practices are currently legal and only changes to federal and state laws and regulations will significantly lower the annual cost. Based on the magnitude of the problem, Stein believes “that the most important lending issue today is no longer the denial of credit, but rather the terms of credit (p.2).” Equity stripping in the form of financed credit insurance, exorbitant up-front fees, and subprime prepayment penalties, accounts for \$6.3 billion of the \$9.1 billion cost, and rate-risk disparities in the form of excess interest charged accounts for \$2.9 billion.

Temkin, Kenneth. (Spring/Summer 2000). Subprime Lending: Current Trends and Policy Issues. *The Neighborworks Journal*, pp. 38-41

Subprime lenders serve those with poor credit histories – those with a FICO score below 620. These lenders also serve borrowers without low FICO scores who are good credit risks but cannot document everything on loan documents. But in general subprime mortgages are more risky and thus borrowers must pay more for these loans. The size of the subprime market is usually based on HMDA data. Temkin has concerns about this data, because HMDA data is self-reported information and does not represent all types of lenders. Also HMDA data does not contain rates and terms of loans. But the HMDA data does indicate the growth in the number of subprime lenders, based on those who do provide data. There were 21 subprime lenders listed in 1993 and 236 listed in 1998. These lenders provided 24,000 home purchase loans in 1993 and 207,000 in 1998, and 80,000 refinance loans in 1993 and 790,000 in 1998. According to Temkin, subprime lenders state that they serve a need by providing a cheaper alternative to unsecured credit, and the higher risks of subprime lending justify the higher costs. Others argue that the costs exceed the risk.

Twohig, Peggy. (September 7, 2000). Predatory Lending Practices in the Home-Equity Lending Market. Prepared Statement of the Federal Trade Commission before the Board of Governors of the Federal Reserve System. Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov>

In her presentation, Twohig indicates that the dramatic growth in subprime lending is a major reason for concern about subprime and predatory lending. In 1992 the subprime market share accounted for less than 5 percent and by 1999 it was 13 percent. Twohig also addresses the increasingly important roll of Wall Street investment banks in raising funds for subprime loans. In 1995, \$18.5 billion in subprime loans was securitized. By 1999, that figure reached almost \$60 billion.

Unequal Burden: Income & Racial Disparities in Subprime Lending in America. (2001). U.S. Department of Housing and Urban Development. Washington, DC: U.S. Department of Housing and Urban Development.

The summary of the findings of this report address not only the importance of subprime lending but also the concerns associated with this type of lending. The major findings include:

1. Subprime lending serves an important role in the economy by providing loans to borrowers who do not meet the credit standards of prime lenders.
2. Subprime lenders are often outside of the federal regulatory structure.
3. Subprime refinance loans increased 10 times from 1993 to 1998.
4. Subprime loans are 3 times as likely in low income neighborhoods as in high income ones.
5. Subprime loans are 5 times as likely in black than in white neighborhoods.
6. Borrowers in high income black neighborhoods are twice as likely then those in low-income white neighborhoods to have subprime loans.

The Characteristics of Predatory Lending

To date there is no accepted definition of predatory lending. Different researchers, agencies, and organizations will instead refer to the practices or characteristics of abusive subprime or predatory lending. There is much overlap in how these are listed and described. Some organize them into categories; others just list the practices. The following are the views of a variety of different groups and individuals about what constitutes predatory lending.

A Background on Predatory Lending. (2004). Social Investment Forum.
Available: www.shareholderaction.org

The Social Investment Forum, a nonprofit organization that provides research and educational programs on socially responsible investing, states that predatory lending transfers wealth from poor neighborhoods into large institutions outside of these poor neighborhoods. These predatory lenders engage in equity skimming or equity theft by using unreasonably high fees, charges, and other means. Based on information from the National Association of Consumer Advocates, the Social Investment Forum categorizes predatory lending into three categories with 31 abusive practices. The categories are the exorbitant price of the loan, abusive lending practices that enhance revenues for the lender, and targeting minorities and the elderly. An example of the extent of the problem is the estimate that subprime lending is a \$200 billion business in the United States, with half of that being predatory lending.

Bernstein, Leonard A. (May 5, 2001). Philadelphia's New "Predatory Lending" Law: What Every Lender Must Know. *Banking Law Journal*, 118, 5.

Bernstein describes predatory lending as it is used in Philadelphia's predatory lending law. According to the ordinance, a predatory loan that triggers prohibitions and penalties is a "high cost loan" or a "threshold loan." A high cost loan is a first lien that at any time exceeds by 6.5 percentage points or more the yield on Treasury securities of the same maturity. Other liens are high cost if they exceed 8 percentage points. Also, high cost is determined by points and fees – 4 percent of any loan over \$16,000. A threshold loan is if first lien loans' rate exceeds 4.5 up to 6.5 percentage points of yield of Treasury securities of comparable period and 6.5 to 8 percentage points for junior lien loans. If a loan meets these predatory standards, it must also have any of the following characteristics:

- Fraudulent or deceptive sales practices,

- Flipping,
- Balloon payment,
- Negative amortization,
- Financing instead of payment of points and fees,
- Increased interest after default,
- More than two advance payments,
- Modification or deferral of fees,
- Mandatory arbitration clauses,
- Prepayment penalties,
- Financing of credit insurance premiums,
- Lending without mandated home loan counseling, or
- Lending without regard to repayment.

Bradley, Jeanette. (June 2000). *The Community Guide to Predatory Lending Research*. Durham, NC: Community Reinvestment Association of North Carolina.

In this report Bradley includes a list of fourteen practices that are considered predatory but not necessarily illegal:

1. Adding insincere co-signers to a credit application
2. Paying off lower income mortgages
3. Shifting unsecured consumer debt into mortgages
4. Loans in excess of 100% LTV
5. Excessively high annual interest rates, points, and closing costs
6. Single-premium credit insurance
7. Balloon payments
8. Mandatory arbitration clauses
9. Flipping (repeated refinancing, often after high-pressure sales)
10. Daily interest when loan payments are late
11. Abusive collection practices
12. Prepayment penalties (currently illegal for certain HOEPA loans)
13. Failure to report good payment on borrowers' credit reports
14. Failure to provide accurate loan balance and payoff amount

Bush, Lawrence, and Jeffrey Dekro. (May/June 2001). *Predatory Lending and Your Portfolio*. *Tikkun Magazine*. Available: <http://www.tikkun.org/magazine>

Bush and Dekro refer to equity stripping as cash-out financing. Lenders convince homeowners with significant equity in their homes to refinance in excess of their existing mortgage balance. This results in a high monthly obligation that cannot be paid and often leads to default.

Carr, James H. and Kolluri, Lopa. (August 2001). *Predatory Lending: An Overview*. Washington, DC: Fannie Mae Foundation.

Predatory lending is a major policy issue facing the financial services industry and is of concern to every federal financial services regulatory agency. But efforts to halt predatory lending have been modest, with one of the reasons being the lack of consensus on what constitutes illegal predatory lending. Another reason is the lack of information

about loan terms by borrower and neighborhood. Carr and Kolluri say that a clear definition of predatory lending is difficult because of the complexity of the issue; instead they offer a definition of predatory lending practices. These practices fall into three categories. One is targeting potential borrowers by race, ethnicity, age, gender or other personal characteristics. Another is unreasonable and unjustifiable loan terms. The third is outright fraud that maximizes the destructive financial impact on consumers. Most predatory lenders use some combination of all three to maximize their profit. The abusive loan terms are designed to strip the equity from a home. Predatory lenders loan in excess of 100 percent of LTV, which precludes the owner from selling since the loan exceeds the fair market value of the property. When the loan includes negative amortization, the borrower ends up owing more than the original amount of the loan. Other abusive practices are inflated and padded costs, exorbitant prepayment penalties, balloon payments and single premium credit life insurance. Fraudulent lender behavior includes failure to explain the terms of the loan or obscuring information, high pressure sales tactics, not explaining about balloon payments or credit life insurance, and discouraging competitive shopping on the part of the borrower.

The Case Against Predatory Lending. (2003). Durham, NC: Center for Responsible Lending. Available: <http://predatorylending.org/research/case.cfm>

The Center for Responsible Lending, in a more recent publication, lists the following predatory lending practices: deceptive marketing, lending without regard to ability to repay, incomplete disclosure and fraud, excessive fees and insurance, broker yield-spread premiums, high interest rates and balloon payments, flipping, and prepayment penalties.

Center for Responsible Lending Warns “Avoid Predatory Mortgage Lenders.” (2001). Durham, NC: Center for Responsible Lending. Available: <http://www.responsiblelending.org>

The Center for Responsible Lending, a nonprofit, nonpartisan research and policy organization dedicated to stopping the finance industry from stripping wealth from communities, cites seven signs of predatory lending and explains how these seven hurt the borrower and profit the lender. These signs include: abusive fees and excessive fees, yield-spread premiums or kickbacks, prepayment penalties, flipping, steering, mandatory arbitration, and single premium insurance products.

Curbing Predatory Home Mortgage Lending: A Joint Report. (June, 2000). Washington, DC: U.S. Department of Housing and Urban Development.

In the forums held as part of this study, there was substantial evidence of abuse in the subprime market. The abusive practices described during this process fell into four categories: loan flipping, excessive fees and packing, lending without regard to ability to repay, and outright fraud.

Edelman, Daniel A. (2001). Defense of Mortgage Foreclosures. Chicago, IL: Edelman, Combs & Lattuner, LLC.

Edelman, a partner in a legal firm that focuses on consumer protection and class action law, describes one of the issues with adjustable rate mortgages based on some of his firm’s cases. Lawyers and especially borrowers do not know if the mortgage payments

are being properly computed and applied. In approximately 25 percent of the cases, adjustable rate mortgages are not properly adjusted.

Engel, Kathleen C. and McCoy, Patricia A. (May, 2002). A Tale of Three Markets: The Law and Economics of Predatory Lending. *Texas Law Review*, 80, 1255-1381.

The primary focus of this publication by Engel and McCoy is the legal aspects of predatory lending, including market incentives, current laws, legal remedies, and future action. The authors begin, however, with a discussion of predatory lending, describing it as “exploitative high-cost loans to naïve borrowers (p. 1257).” Predatory lending has been described as a catalog of abusive lending practices targeted at vulnerable populations with bankruptcy, poverty, and foreclosure as the outcomes. Engel and McCoy approach the description of predatory lending by examining the catalog of practices they refer to as the pathologies of predatory lending. They grouped the list into five problem areas and discussed each one. The first is that the loan results in harm to the borrower. The second is harmful rent seeking. The third is fraud or deceptive practices. The fourth is lack of transparency that is not actually fraud. The fifth is a loan that includes the borrower’s waiving of legal redress. They refer to their approach to describing predatory lending as a diagnostic tool for identifying problem loans rather than a definition that would meet statutory requirement.

E-Perspectives, 3, 2, 2003. Dallas, Texas: Federal Reserve Bank. Available: <http://www.dallasfed.org>

The web site of the Federal Reserve Bank of Dallas contains *e-perspectives*, which is published every other month. It contains articles related to predatory lending. One of the articles contains a list of predatory characteristics. In addition to the usual list of predatory characteristics, this article states that the loan product may not seem predatory unless it is used to trap or mislead borrowers.

Examples of Predatory Practices in Mortgage Lending. (Summer 2002). *FDIC Consumer News*. Washington, DC: Federal Deposit Insurance Corporation (FDIC).

This Federal agency lists six predatory lending practices and briefly describes each. The practices are bait-and-switch schemes, equity stripping, loan flipping, loan packing, home improvement scams, and mortgage servicing scams.

Ferguson, Anna Beth. (2000). Predatory Lending: Practices, Remedies and Lack of Adequate Protection for Ohio Consumers. *Cleveland State Law Review*, 48, 607-636.

Ferguson states that there is no working definition of predatory lending. Rather, the phrase is a catch-all to describe practices by lenders that range from unethical to illegal. The three most common predatory practices are stripping, flipping, and packing. She describes stripping as loans based on equity rather than ability to pay. Flipping strips equity by repeated refinancing. Packing is the inclusion of items profitable to the lender, such as life insurance or disability insurance, credit insurance, and/or the addition of unpaid bills such as credit card debt. Additional predatory practices include balloon payments, mandatory arbitration clauses, high interest rates, inflated home appraisals, and

yield spread premiums. Ferguson indicates the profitability of predatory lending, stating that the returns are six times better than those of the best banks.

Goldstein, Debbie, and Son, Stacy Strohauer. (April 2, 2003). Why Prepayment Penalties are Abusive in Subprime Home Loans. Durham, NC: Center for Responsible Lending.

Prepayment penalties trap borrowers in bad loans because of the cost of refinancing into a better loan. If a borrower refinances, it is a windfall for the lender. Prepayment penalties are prevalent in 80 percent of subprime loans but in only 2 percent of conventional loans. These prepayment penalties are used predominantly by unregulated finance companies. Subprime lenders claim borrowers choose prepayment penalties. But it is hard to explain why so many more African Americans choose them. Most borrowers do not know the loan contains a prepayment penalty and lenders do not tell borrowers about the penalty. This was one of the abuses against Household International that led to a \$484 million settlement.

Havard, Cassandra Jones. (2002). Credit Democracy: What's Sub-Prime Lending Got To Do With It? in McCoy, Patricia, (Ed.). *Financial Modernization After Gramm-Leach-Bliley*. New York, NY: Matthew Bender & Company, Inc. pp. 257-271.

Subprime lending becomes predatory when it is unfair or inappropriate and when lenders exploit the vulnerability of borrowers and take unconscionable profits. Predatory lending is almost exclusively based on the value of the asset being collateralized rather than the income or ability of the borrower to repay the loan. Predatory loans are characterized by far higher than warranted interest rates, prepayment penalties, balloon payments, excessive broker fees, and a lack of full disclosure.

Immergluck, Daniel. (April 5, 2000). The Predatory Lending Crisis in Chicago: The Dual Mortgage Market and Local Policy. Chicago, IL: Woodstock Institute.

In testimony to the Chicago City Council, Immergluck listed the key characteristics of predatory lenders. These lenders utilize high pressure sales tactics, target vulnerable borrowers by using credit card and hospital debt data bases, target minority neighborhoods where conventional lenders are not very active, offer only high-cost loans, charge fees and/or rates beyond that necessary to cover risks, and include terms designed to trap the borrower in the loan. Typically, predatory lenders are subject to little or no oversight by state or federal regulators. Immergluck's findings are substantiated by an examination of refinance applications by race in Chicago in 1998. This research indicated that 21 percent of the mortgages in white tracts and 74 percent of the mortgages in black tracks were loans by subprime lenders. Only two non-subprime lenders made loans in black neighborhoods, while only two subprime lenders were active in white neighborhoods.

Methvin, Thomas. Predatory Lenders: Flipping, Packing, Stripping, and Ballooning Their Way to Profits. Montgomery, AL: Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. Available: www.beasleyallen.com/articles/predatory

Methvin states that since the de-regulation of the banking industry, large Wall Street banks are in the predatory lending market. But predatory lending is handled through

subsidiaries. In his view it seems “as if they are ashamed of their own practices. If a low-income consumer enters the door of a major bank, he will be steered to its subsidiary to get a loan. There is one door for certain people, and other doors for others.” Methvin states that the four largest predatory lenders are Citigroup, AIG, Wells Fargo, and Household Finance Corporation.

A Perspective from Nationwide Advantage Mortgage Company. (October 2000). Available: <http://www.agmc.com>

The following is the description of predatory lending from the perspective of a lender. According to Nationwide Advantage Mortgage Company, a loan is predatory if the lender cannot reasonably expect to be repaid; if the loan would meet the underwriting guidelines for a conventional, lower cost loan; if the lender repeatedly refinances a loan in order to collect additional fees and strip the equity from the property; if borrowers are charged excessive fees without their knowledge; if fees are changed at or just prior to closing without justification; if the lenders’ actions make it difficult or impossible for a borrower to refinance at more preferable terms; and if the loan has fraudulent documentation.

Predatory Lending: Predatory Lending Practices. Washington, DC: Association of Community Organizations for Reform Now (ACORN). Available: <http://www.acorn.org>

This article by ACORN contains a detailed description of the characteristics of predatory lending and describes one of the methods used by predatory lenders to avoid detection. Some of the predatory practices are excessive fees, financing fees into the mortgage, lending based on equity rather than ability to repay the loan, prepayment penalties for up to five years and costing up to six months interest, loans over 100 percent of LTV, home improvement scams targeting lower income neighborhoods, single premium life insurance included in the cost of the loan, balloon payments, negative amortization, flipping, aggressive and deceptive marketing, and yield spread premiums that go to the broker who convinced a borrower to make the loan. Under HOEPA, the fee threshold is 8 percent. By charging just under that amount, predatory lenders do not have to make additional disclosures.

Predatory Lending: Recent Initiatives to Define and Eliminate Lending Abuse. (2001). New York: LEXIS Publishing.

The characteristics and practices that the banking agencies consider indicative of predatory lending include:

- Fraudulent, high-pressure and misleading marketing and sales efforts;
- Loan fees and interest rates higher than needed to assure profit and cover risk;
- Targeting vulnerable population, such as the elderly and low-to-moderate income families;
- Steering borrowers who could qualify for prime loans to high-cost loans;
- The packing and financing of excessive origination fees, single premium credit life insurance, and other fees;
- Prepayment penalties which make refinancing difficult and expensive;
- Balloon payments that can result in default and foreclosure;

- Abusive and aggressive collection and foreclosure procedures;
- Provisions requiring mandatory arbitration;
- Loans based on the value of the property rather than borrowers' ability to repay;
- Loan flipping or the frequent refinancing of loans with new fees added;
- Stripping equity from homes through refinancing and/or negative amortization of monthly payments;
- Rushed or incomplete disclosure of loan terms; and/or
- Not reporting complete loan payment experiences to credit reporting agencies.

Predatory Lending: Tricks of the Trade & How to Recognize Them. Office of Consumer Affairs. Columbus, Ohio: Ohio Department of Commerce, Division of Financial Institutions.

In a different approach to describing predatory lending, the Ohio Department of Commerce prepared a pamphlet that lists seven tricks that make a subprime loan predatory. These include:

1. Selling the monthly payment as the focus rather than interest rate and finance charges;
2. Flipping by convincing a borrower to refinance and then financing the new fees;
3. Growing the debt by the lender encouraging borrower to borrow more, consolidating loans, home improvement schemes, etc;
4. Equity stripping by basing the loan on equity rather than ability to repay;
5. Over-inflating the appraisal – this allows borrower to obtain a larger loan, which then gives the lender more in fees, which are a percent of the loaned amount;
6. Insurance packing where the insurance is built into the loan, with interest paid on it each month; and/or
7. Trapping the borrower, referred to as the mark, with prepayment penalties that prevent refinancing.

Predatory Lending Practices. Chicago, IL: National People's Action (NPA). Available: <http://www.npa-us.org>

National People's Action, a coalition of community organizations whose goal is to make communities safer and healthier, lists and describes eleven predatory lending practices. The practices include steering, lending based on equity, flipping, high fees, bait and switch tactics, home improvement scams, adjustable rate mortgages, balloon loans, not paying property taxes and insurance, packing, and prepayment penalties. The practice not mentioned by others is not paying property taxes and insurance, which NPA says reduces monthly payments but creates conditions for flipping.

Predatory Lending Practices. Chicago, IL: National Training and Information Center Available: <http://www.ntic-us.org/issues>

This is a brief list of ten predatory lending practices and terms, including steering, lending without ability to repay, packing, flipping, home improvement scams, bait and switch, high fees, prepayment penalties, balloon loan, and adjustable rate mortgages.

Sorohan, Mike. (June 25, 2001). *Predatory Lending Definition Challenges Enforcers, Too*. Washington, DC: Mortgage Bankers Association of America. Available: <http://www.mbaa.org/reft/stories>

Sorohan points to the lack of a clear definition of predatory lending, which confounds the real estate finance community and lawmakers. He indicates that federal regulators charged with curbing abusive lending are also frustrated. In this article Sorohan identifies three types of subprime lenders. The first is subprime but not predatory. These lenders comply with the law and do not have unreasonable terms and conditions. The second, the ones the FTC has sued for HOEPA violations, are smaller operations, and may not know what laws they violated. The third are the large companies that take advantage of people.

Sturdevant, Patricia and Brennan, William J. (November/December 1999). A Catalogue of Predatory Mortgage Lending Practices *The Consumer Advocate*, 5, 6.

This article is the result of a survey of members of the National Association of Consumer Advocates (NACA), whose members consist of public and private sector attorneys, legal services attorneys, and law professors and students involved with protection and representation of consumers. The results are 32 predatory practices categorized by origination, servicing, and collection of the loan.

The Predatory Lenders

This section of the bibliography is a result of efforts to determine who are the predatory lenders in the United States. This was a necessity for our research on predatory lending in Summit County, Ohio and the analysis of foreclosure filings over a 16 month period. The initial references do not name names but rather describe groups that engage in predatory lending practices. The second part contains articles that name the predatory lenders, either based on research or court cases. This is summarized in a table in Appendix A, which lists the predatory lender, the source of the information, and the basis for naming these lenders as predatory.

Groups Involved in Predatory Lending

Ackelsberg, Irv and Saunders, Margot. (July 27, 2001). *Increase in Predatory Lending, and Appropriate Remedial Actions*. Philadelphia, PA: Community Legal Services of Philadelphia.

In his discussion of the rise of predatory lending, Ackelsberg places part of the blame on brokers and home improvement contractors. About half of home mortgage loans are handled by mortgage brokers, who are often paid by lenders to bring them loans. These payments increase the price of the loan and give brokers an incentive to steer loans based on pay rather than the best terms. Home improvement contractors act as brokers and funnel borrowers to lenders.

Bradley, Jeanette, and Skillern, Peter. (January/February 2000). *Predatory Lending: Subprime Lenders Trick Homeowners into Expensive Loans*. *Shelterforce Online*. Available: <http://www.nhi.org/online>

Bradley and Skillern discuss the role of mortgage brokers in regard to predatory lending. These mortgage brokers operate on the unregulated fringes of the financial world, which they refer to as “the wild, wild west of capitalism.” In many states, brokers need only register with the state, do not need to take a licensing exam, and are not required to show any proof of training. The authors state that cosmetologists have higher licensing standards in North Carolina than mortgage brokers. A problem is that a mortgage broker who violates lending laws can simply close his or her office and re-open under a different name.

Curbing Predatory Home Mortgage Lending: A Joint Report. (June, 2000). Washington, DC: U.S. Department of Housing and Urban Development.

Another aspect of this report is the description of two groups who are significant sources of abusive lending practices. Home improvement contractors can be aggressive marketers and arrange for loans that have abusive terms. Mortgage brokers originate about 50 percent of subprime loans. They are paid by the borrowers and some are paid by the lenders through yield spread premiums. Since they are paid up front, they do not take any credit risk and are less concerned about the borrower’s ability to repay the loan. Their fees can be financed into the loan, making the loan more costly.

Gramlich, Edward. (2000). Federal Reserve Viewpoint. Atlanta, GA: Federal Reserve Bank of Atlanta. Available:

http://www.frbatlanta.org/comm_affairs/partners/v10n2/v10n2_4.htm

Gramlich states that subprime lending is done primarily by nondepository institutions. These finance or mortgage companies are not subject to routine compliance audits. Most of the subprime loans are for refinancing, second mortgages, or debt consolidation. The predatory lenders are difficult to track down and difficult to regulate, since they operate outside the main financial regulation network.

State Names 21 Defendants in Massive Predatory Lending Case. (May 2002). Newark, NJ: Division of Consumer Affairs, New Jersey Department of Law and Public Safety.

Named in this lawsuit were real estate agents, lawyers, loan officers and appraisers who steered low income consumers into ruin rather than home ownership. This was a major case of fraud.

Stolen Wealth Inequities in California’s Subprime Mortgage Market. (December 2001). San Francisco, CA: California Reinvestment Committee.

This organization refers to subprime industry participants as the cast of characters. They include the home improvement contractor who has an arrangement with a high priced lender and who does shoddy work; the mortgage broker who targets neighborhoods and uses aggressive sales tactics; mortgage and finance companies who lend in certain neighborhoods without regard to borrower’s credit risk or ability to repay; subprime bank affiliates that do not refer “A” credit borrowers to the prime affiliate; banks and thrifts with affiliates or subsidiaries that serve the communities unserved by the main bank; and Wall Street investment houses that underwrite and securitize pools of mortgages for sale to investors, making it easier for predatory lenders.

What is Predatory Lending. (2002). NTIC, Chicago, IL: National Training and Information Center (NTIC).

NTIC indicates that subprime mortgage lenders are responsible for the vast majority of predatory lending and that banks own seven of the top 15 of these sub prime lenders. In addition, sub prime lenders are funded less directly by financial institutions. Wall Street is also involved, as many banks and firms bundle loans into securities, which are then bought and sold on Wall Street.

Naming the Predatory Lenders

ACORN Urges State to Investigate. (August 6, 2003). Washington, DC: Association of Community Organizations for Reform Now (ACORN). Available: <http://www.acorn.org/campaigns/wellsfargo>

Homeowners from 15 states filed complaints with state regulators against various lending divisions of Wells Fargo, claiming high cost home loans were made by these divisions.

Against the Associates Record-Setting \$215 Million for Subprime Lending Victims. (September 19, 2002). Washington, DC: Federal Trade Commission.

The Federal Trade Commission filed the suit in the U.S. District Court for the Northern District of Georgia against Citigroup Inc. and its subsidiary, CitiFinancial Credit Company and Associates First Capital Corporation and its subsidiary Associates Corporation of North America (bought by Citigroup in November 2000) for deceptive practices and false and misleading representations. These lenders encouraged customers to take out high-cost credit insurance and charged high interest rates, costs, and fees. Citigroup agreed to pay \$215 million to end suit.

Associates Financial Services, First Family, Transouth Financial Services, and Kentucky Finance Company. Columbia, SC: Strom Law Firm, L.L.C.

In a brief comment about a class action lawsuit, the law firm states that Associates Financial Services does business as Associates, Associates First Capital, Associates First Family, Transouth Financial Services, and others.

Associates First Financial Predatory Lending Lawsuit. (2003). San Francisco, CA: Lieff Cabraser Heimann & Bernstein, LLP. Available: www.lieffcabraser.com

Lieff Cabraser filed a class action lawsuit against Associates First Financial and related companies on behalf of California companies, charging The Associates with packing mortgage loans and engaging in improper loan refinancing practices. The settlement amount was \$240 million plus attorneys' fees and costs incurred in the case.

Attorneys General Settle Multi-Jurisdictional Lawsuit. (March 2002). Washington, DC: National Association of Attorneys General. Available: <http://web.lexis-nexis.com>

Arizona, California, Florida, Illinois, Massachusetts, the Federal Trade Commission, New York State Banking Department, and the American Association of Retired Persons settled the case against Alliance Mortgage Company for \$60million. The charges against Alliance Mortgage included misleading sales presentations, fees as high as 25 percent of the loan, and telemarketing and mail offers of loans without regard to ability to repay. The company targeted elderly homeowners with equity in their homes.

Bergquist, Erick. (7/11/2003). Suits Show Holes in Predatory-Lending Settlements? *American Banker*, 168, 132, p. 12.

Wells Fargo Financial and Household International Inc.'s Beneficial were accused of cheating Mississippi borrowers out of money. Citigroup Inc. was on trial in Alabama for abusive lending practices. Cases were filed in Mississippi against Washington Mutual Inc.

Bergquist, Erick and Blackwell, Rob. (October 15, 2002). Household Pact May be National Blueprint. *American Banker*, 167, 197, p.1.

This article refers to Household International's \$484 million settlement with 20 states. The settlement may help define standards and accepted practices that could become part of a predatory lending law.

Bernstein, Jodie. (March 16, 1998). Home Equity Lending Abuses in the Subprime Mortgage Industry. Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov/os/1998>

The end notes to this prepared statement delivered to the Senate Special Committee on Aging contained references to cases of predatory lending against Inland Mortgage and Target Mortgage Corp under RESPA. There were also references to cases against Capital City Mortgage Corp., The Money Tree, Nationwide Mortgage Corp., and Tower Loan of Mississippi by Federal Trade Commission. Another reference was to a case against Long Beach Mortgage by Department of Justice.

Bush, Lawrence, and Jeffrey Dekro. (May/June 2001). Predatory Lending and Your Portfolio. *Tikkun Magazine*. Available: <http://www.tikkun.org/magazine>

Bush and Dekro state that predatory lenders skirt the Community Reinvestment Act. They cite Bank of America, the largest subprime lender, and Wells Fargo, which owns three subprime lenders, as escaping investigation for violating consumer laws. The real consumers of predatory loans are not just those taking out the mortgages but the mutual funds that invest in securities backed by subprime loans – even the socially responsible funds.

Chase Says Fraud; Advanta Stunned. (August 6, 2001). *Asset Securitization Report*.

Chase Manhattan Mortgage Corp.'s allegations against Advanta Corp. accuse the company of fraud. Chase sued Advanta for \$67 million in damages associated with Chase's acquisition of Advanta's mortgage business.

Citigroup Pays 215 million to settle Predatory Lending Charges. (October 11, 2002). *Consumer Financial Services Law Report*.

This article refers to the settlement of the case against Citigroup for \$215 million. The article also noted that Citigroup merged Associates into CitiFinancial Credit Co. after Citigroup acquired Associates.

Cohen Milstein Representing Plaintiff in Litigation Against Washington Mutual and Bank United Corp. for Predatory Practices in Mortgage Services. Washington, DC: Cohen, Milstein, Hausfeld & Toll.

The law firm filed suit against Washington Mutual, Inc., Bank United Corp., and Bank United of Texas, FSB for violations of the Washington Consumer Protection Act. Washington Mutual, Inc. purchased the other two lenders Feb 8, 2001.

Conseco Files for Bankruptcy. (December 18, 2002). *The Washington Times*. Available: www.washingtontimes.com

This newspaper article reported that Conseco Inc. sold Conseco Finance Corp to CFN Investment Holdings.

Court Finds Household's Arbitration Provisions Unconscionable. (July 31, 2002). *Consumer Financial Services Law Report*.

A ruling by the U.S. District Court, Northern District of California against Household Finance claimed that the arbitration provision was "unconscionable and unenforceable." The suit against Household International Inc. was brought by ACORN.

DeWitte, Dave. (8/15/2003). Iowans Soon to Get Predatory Lending Settlement. *The Gazette*

This newspaper article announced a \$585 million settlement of a lawsuit against Household Finance and Beneficial Finance. The companies were accused of misrepresenting the level of interest the consumer qualified for and engaged in flipping, which resulted in levying high fees for the refinanced loans.

DiStefano, Joseph N. and Ginsburg, Thomas. (March 5, 1998). Money Store is Bought by First Union The N.C. Bank Extends its Reach with the \$2.1 Billion Deal. It Will Lead the Field in Home Equity Loans. *Philadelphia Inquirer*

This newspaper article cites The Money Store as a predatory lender.

Eakes, Martin D. (July 25, 2003). Wells Fargo's Application to Acquire Pacific Northwest Bancorp: An Analysis of Its Implications for Consumers in Washington State. Durham, NC: Center for Responsible Lending.

In this report Eakes expresses concerns about Wells Fargo's application to acquire Pacific Northwest Bancorp. Wells Fargo has been known to mislead regulators, to deceive and abuse its most vulnerable customers, and to discriminate against disadvantaged communities and individuals. For these reasons, care should be taken prior to permitting the merger of Wells Fargo with the largest independent bank in the state, Pacific Northwest Bancorp. Another concern about Wells Fargo is that the company under reports to HMDA. It underrepresented its subprime unit by more than

500 percent. Eakes says that one explanation for the under-reporting is that the company is hiding discriminatory lending practices. Eighty-seven percent of the 2001 loans reported by Wells Fargo Financial and its subprime affiliates did not identify race; its prime units failed to report race in only 13 percent. California revoked Wells Fargo Home Mortgage's state mortgage lending license on May 1, 2003. Ninety-three percent of loans in Washington were subject to prepayment penalties. There is also evidence of racial discrimination in complaints filed with the Federal Reserve Board.

Fairbanks Capital Consumer Protection Class Action Lawsuit. (2003). San Francisco, CA: Lieff Cabraser Heimann & Bernstein, LLP. Available: www.lieffcabraser.com

They filed a class action lawsuit against Fairbanks Capital Corporation for unfair, unlawful and fraudulent practices.

Fairbank Capital Corp. Promises Improvements, But Customers Reserve Judgment. (June 17, 2003). *Santa Fe New Mexican Knight-Ridder Tribune Business News*.

The newspaper article reports that Fairbanks Capital Corp. is under investigation by the Federal Trade Commission and the federal Department of Housing and Urban Development. Fairbanks has numerous lawsuits filed against it.

Fairbanks Capital Holding Corp. Buying Subprime Servicing Operations from Bank of America Corp. (BAC). (December 7, 2001). *SNL Financial*. Available: <http://www.snl.com>

When Bank of America decided to get out of subprime residential lending, it sold its subprime mortgage servicing operations to Fairbanks Capital Corp. In 2000 Fairbanks bought the servicing platform and rights of ContiFinancial Corp.

Fed Called on to Stop Shirking Responsibility, Put a Halt to Predatory Lending: Poor and Elderly Lose Homes While Fed Belatedly Holds Hearings. (September 6, 2000). San Francisco, CA: California Reinvestment Committee.

The California Reinvestment Committee named large banks with subprime subsidiaries: Bank of America, which at the time owned EquiCredit; Wells Fargo and its Directors Acceptance; U.S. Bank and its New Century Mortgage; and Washington Mutual and its subsidiaries, Long Beach Mortgage and Washington Mutual.

FindLaw. No. 02-634 in the Supreme Court of the United States. Available: www.findlaw.com

FindLaw reported a case against Green Tree Financial Corp. and included the following names for the company: Green Tree Acceptance Corp. and Green Tree/Financial Services Corp. This is now known as Conseco Finance Corp. The charges include deceptive and abusive lending practices and aggressive and deceptive sales and marketing.

Florida AG sues Lender's Financier. (July 2, 2003). *Consumer Financial Services Law Report*.

The Florida Attorney General filed a complaint against Lehman Commercial Paper Inc. for providing First Alliance Mortgage Co with financing that enabled First Alliance to continue predatory practices. The complaint claimed that Lehman knew about First Alliance's questionable business practices.

FTC Charges One of Nation's Largest Subprime Lenders with Abusive Lending Practices. (March 6, 2001). Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov/opa/2001>

The Federal Trade Commission filed a complaint against Associates First Capital Corporation and Associates Corporation of North America for abusive lending practices. Since Associates was purchased by Citigroup Inc., Citigroup Inc. and CitiFinancial Credit Company were also named.

FTC Charges that Sub-Prime Lenders Misrepresented Loan Terms to Consumers. (October 4, 2000). Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov/opa/2000>

This case for misrepresenting loan terms was against First Alliance Mortgage Company and two of its affiliates.

FTC, DOJ and HUD Announce Action to Combat Abusive Lending Practices. (March 30, 2000). Washington, DC: Federal Trade Commission

This case was against Delta Funding Corporation, charging the company with violating consumer protection and fair lending laws. Delta approved and funded loans without regard to ability to repay; approved and funded home mortgage loans to African American females with higher mortgage broker fees than similarly situated white males; and paid kickbacks and unearned fees to brokers referring loan applicants to Delta. The recommendation was to create a \$7,250,000 remediation fund and a \$5 million amelioration fund.

FTC Halts the Illegal Lending Practice of Stewart Finance Company Barred from Packing Additional Products into Consumer Loans. (October 28, 2003). Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov/opa/2003>

The Federal Trade Commission filed the complaint for illegal lending practices against Stewart Finance Company on September 4, 2003.

FTC, States Join HUD in Fairbanks Investigation. (April 21, 2003). *National Mortgage News*.

The *National Mortgage News* reported that Fairbanks Capital Corp. was being investigated for its subprime servicing activities. The article also listed other subprime lenders and their owners:

- Household – HSBC Holdings
- CitiFinancial – Citigroup
- WaMu/Long Beach – Washington Mutual
- New Century - New Century
- Ameriquest – Ameriquest
- Option One – H & R Block

- Homecomings/GMAC – General Motors
- First Franklin – National City
- Countrywide Home Lns – Countrywide Fin.
- Wells Fargo Home Lns – Wells Fargo & Co.

FTC Subprime Lending Cases (since 1998). Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov/opa/2002>

The Federal Trade Commission's web site provides the following list of subprime lenders with cases against them: Fairbanks Capital Corp, Stewart Finance Company, Mercantile Mortgage Company, Mark Diamond, Associates First Capital Corp., First Alliance Mortgage Company, Action Loan Company, First Plus Financial Group, Inc. NuWest, Inc., Delta Funding Corp, CLS Financial Services, Inc., Interstate Resource Corp., Capitol Mortgage Corporation, Granite Mortgage, LLC, Lap Financial Services, Wasatch Credit Corp., Fleet Finance and Home Equity U.S.A., Capital City Mortgage Corp.

Goldstein, Deborah. (Winter 2000). Protecting Consumers from Predatory Lenders: Defining the Problem and Moving Toward Workable Solutions. *Harvard Civil Rights-Civil Liberties Law Review*, 35 pp. 227-256.

In this article, Goldstein provides the names of lenders charged with predatory lending practices. Cases against Capital City Mortgage and Delta Funding Corporation were for violations of the Equal Credit Opportunity Act (ECOA). The Fair Housing Council of Greater Washington filed against Capital City under the Racketeer Influenced and Corrupt Organizations Act (RICO). The case in New York was against Delta Funding Corporation for targeting minority neighborhoods for high interest loans and basing loans on equity rather than ability to pay.

Gregory, Michael. (June 26, 2000). The Predatory Lending Fracas: Wall Street Comes Under Scrutiny in the Subprime Market as Liquidity Suffers and Regulation Looms. *Investment Dealers' Digest*.

Gregory discusses the role of Wall Street in predatory lending as underwriters in subprime residential asset-backed securities. The three top underwriters in 1999 were Lehman Brothers, Merrill Lynch & Co., and Salomon Smith Barney. Salomon was the underwriter for Ameriquest Mortgage Co. Lehman was named as a co-defendant in a civil class-action suit against First Alliance Corp.

Gruver, Deb. (7/26/2003). Household Mortgage Lender Owes Refunds to 10,000 Kansas Homeowners. *The Wichita Eagle*.

Household settled with Kansas for \$6 million. Included in the charges against Household were high fees and expensive credit and life insurance policies.

Harney, Kenneth R. (March 22, 2002). First Alliance Mortgage Settles "Predatory Lending" Charges For Up To \$60 Million. *Real Estate News and Advice*.

The Federal Trade Commission and six states reached an agreement with Alliance Mortgage Company. As part of the settlement, up to \$60 million is designated for borrowers who were charged excessive fees and interest rates between 1992 and 2000.

First Alliance specialized in loans to borrowers with poor credit and modest incomes. In the 1990s, the company was one of the largest subprime lenders in the U.S. The complaint against First Alliance was the company used sophisticated marketing techniques designed to mislead borrowers.

Home Mortgage Lender Settles “Predatory Lending” Charges. (March 21, 2002). Washington, DC: Federal Trade Commission.

First Alliance Mortgage Company settled a class action case brought by the Federal Trade Commission; the states of Arizona, California, Florida, Illinois, Massachusetts and New York; AARP; and private attorneys for as much as \$60 million. First Alliance was in bankruptcy and its assets went into a fund to redress consumers. Its founder also had to pay \$20 million as part of the settlement.

Household International Inc. (HI) Buying Banc One Financial Services from Bank One Corp. (ONE). (March 20, 2000). *SNL Financial*. Available: <http://www.snl.com>

SNL Financial reported that Bank One sold Banc One Financial Services to Household International.

Household Pays 484 Million to Settle Predatory Lending Charges. (October 23, 2002). *Consumer Financial Services Law Report*.

The settlement with Household’s Household Finance Corp. and Beneficial Finance Corp. was for more than money. The companies agreed to reduce prepayment fee provisions from three years to two years and to give borrowers clearer disclosures earlier in the loan process.

Isaac, Ronald G. (February 21, 2001). Predatory Lending Practices in the Home-Equity Lending Market. Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov/>

In the notes to this prepared statement to the California State Assembly Committee on Banking and Finance, the Assistant to the Director of the Bureau of Consumer Protection cites cases to support his comments. Those not included in an earlier statement by Bernstein include: U.S.A. v. Delta Funding Corporation and Delta Financial Corporation for violation of HOEPA; FTC v. First Alliance Mortgage Co.; and F.T.C. v. Fleet Financial Inc.

Koch, Richard. (8/2/2002). Servicer Evaluation: Ameriquest Mortgage Co. Standard & Poors.

In a rating of Ameriquest, it was announced that ACORN dropped its complaint against Ameriquest. This complaint had alleged that the company engaged in predatory lending.

Lawsuits by Others. (2004). Tennessee: Southeast Tennessee Legal Services. Southeast Tennessee Legal Services reported some large settlements of predatory cases. The case against GMAC-Residential Funding Corp. was settled in December, 2003 for \$41.1 million. The case against Fairbanks was settled for \$40 million, with this

designated to establish a fund to compensate victims of Fairbanks' loan servicing practices. HUD and the FTC said Fairbanks had violated RESPA, FTCA, FCRA, and FDCPA. The case against Household was settled in October 2002 for \$484 million. CitiFinancial settled for \$240 million in September 2002 and First Alliance Mortgage settled for \$60 million in March 2002.

Lewis, Jake. (April 2002). Predatory Associates Citigroup, Predatory Lending and the Credit Crunch for the Poor and Working Class". *Multinational Monitor*, 15-18.

Citigroup purchased Associates First Capital Corporation in September 2002, merged it with CitiFinancial Credit, and became the largest predatory lender in the U.S. This was a costly acquisition because of all the lawsuits against Associates.

Linberry, Anne. (6/19/03). Lehman Liable in Predatory Lending Case Reports Say Company Liable for 10% of First Alliance, FTC Settlement. Washington, DC: Mortgage Bankers Association of America.

Lehman Bros. Holdings, Inc., the investment banker for First Alliance was held partially responsible for actions of the lender, saying they assisted in perpetrating the fraud.

Litigation Docket as of 1/6/03. (1/6/03). Columbus Ohio: Equal Justice Foundation. Available: <http://equaljusticefoundation.com>

The Equal Justice Foundation, a nonprofit organization providing legal representation to disadvantaged individuals and groups, provides information about predatory lending cases. The Litigation Docket included cases against the following lenders: Fairbanks, Dollar Mortgage Corp., Bank One, A.G. Financial, Bank One, Fairbanks, Equicredit, Beneficial, Randall Mortgage Services, Countrywide Home Loans, Central Mortgage, and Fairbanks Credit Corp. A more recent list of cases includes Homecomings Financial Network, Fairbanks Capital Corp, Dollar Mortgage Corp, A.G. Financial, Fairbanks, Fairbanks, Bank One, and Beneficial.

Local Organizing. Chicago IL: National Training and Information Center (NTIC). Available: <http://www.ntic-us.org>

NTIC lists community organizations that have acted against predatory lending and targets of their actions. These include:

- Sunflower Community Action in Wichita KS. Acted against Conseco Finance/Greentree Financial. This ended in a \$7 million settlement for Kansas;
- East Side Organizing Project in Cleveland developed a partnership with Charter One. After this occurred, Charter One closed its subprime unit, Charter One Financial, which had a predatory reputation; and
- Others acted against Conseco Finance/Greentree Financial (Des Moines IA), and Provident Bank to cease several predatory practices

Mariano, Joseph W. et al (2001). *Slash and Burn Financing A Study of CitiFinancial's Recent Lending in Chicago*. Chicago, IL: National Training and Information Center.

After Citigroup purchased The Associates in 2000 and merged it with CitiFinancial, the company pledged to reform the abusive lending practices. However, CitiFinancial employees said in June 2001 that the company was still engaging in predatory practices. Therefore, NTIS decided to interview 23 CitiFinancial borrowers who obtained mortgages in the first half of 2001. What they found supported claims that predatory practices were continuing. For example the average interest rate was 15.6 percent and over a third of the borrowers were steered into a higher interest rate than warranted.

Methvin, Thomas J. (2003). *Predatory Lending . . . Who, What, & Where Do We Go From Here?* Montgomery, AL: Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. Available: www.beasleyallen.com/articles/predatory

The author states that predatory lending is a big, profitable business. He lists the five largest predatory lenders: Citigroup and its predatory lending unit Citifinancial, Inc.; Household International, Inc. and its subsidiaries Household Finance Company and Beneficial Finance Company; Wells Fargo Financial and the predatory lender Norwest Financial which it purchased; Washington Mutual Financial which purchased predatory lender City Finance; and AGI, Inc., which lends through American General Finance, Inc. Then he mentions actions against predatory lenders: the 2001 FTC case against Citigroup, Inc. and The Associates; Insurance Commissioner of State of Georgia against The Associate Financial Life Insurance Company; settlement in 2002 against Household International, Inc.; the 2003 state of California case against Wells-Fargo which had been fined in 2001 and 2002 for predatory actions; the 2001 lawsuit against Washington Mutual Financial for flipping and packing; and the 1999 case against American General Finance for predatory practices in a door-to door financing scheme.

Midwest Mortgage Lender Agrees to Settle Illegal Lending Charges Brought by FTC, HUD, and State of Illinois. (July 18, 2002) Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov/opa/2002>

A complaint was filed against Mercantile Mortgage Company of Westerville, Ohio and one of its brokers, Mark Diamond. This was the first time the FTC charged the mortgage lender for the actions of a third-party broker.

Mokhiber, Russell. (October/November 2002). Household's Predatory Plea. *Multinational Monitor*, pp. 6-7.

Mokhiber discusses the outcome of settlement in October 2002 with Household International, which is the parent company of Household Finance Corporation and Beneficial Finance Corporation. The amount of the settlement was \$484 million plus requirements for future lending.

New Assault on Your Credit Rating. (January 2001). *Consumer Reports Online*. Available: <http://www.Consumerreports.org>

Consumer Reports Online listed the following as the top subprime lenders: Household International, Associates, CitiFinancial, American General, and Norwest.

O'Malley, Chris. (8/6/2003). Indiana Residents to Start Getting Checks from Predatory Lending Settlement. *The Indianapolis Star*

Household International settled an Indiana case for \$11 million. This represented 26,000 home loans to 18,000 customers between January 1999 and September 2002. After that, Household attempted to get a license to make loans under a new name. The application was rejected.

Perkins, Broderick. (July 27, 2000). ACORN Pressures Crack Ameriquest. *Realty Times*

This leading subprime lender's settlement included dropping prepayment penalties, limiting loan fees to 3 percent, eliminating credit life insurance options, and offering interest rates 50 points below the average subprime rates. Perkins said this could become a model for subprime lending safeguards.

Predatory Lending Legal Resource. (2004). Montgomery, AL: Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. Available: www.beasleyallen.com/articles/predatory

The law firm lists the following predatory claims that they are reviewing: The Associates, Citifinancial, Commercial Credit, TranSouth Financial Corporation, American General Finance, Beneficial Financial Services, Household Bank, Norwest Financial, Wells Fargo Financial, City Finance, and Washington Mutual Finance.

Predatory Lending Settlement Yields \$37 Million for New Yorkers. (August 4, 2003). Albany, NY: Office of New York State Attorney General Eliot Spitzer, Department of Law.

A \$37 million settlement will provide refunds for approximately 25,000 New Yorkers who borrowed from Household or Beneficial between January 1999 and September 2002. The refunds ranged from \$42 to \$21,000. This amount was the New York share of a multi-state settlement with Household International Inc. for \$484 million.

Predatory Loan Practices Must Be Stopped- The Time for a City Ordinance is Now. (October 12, 2002). *PR Newswire*.

Michigan reached a settlement of nearly \$500,000,000 against Household International Inc., owners of Household Finance Corp, Household Realty Corp and Beneficial Financial Corp. Citigroup Incorporated settled with Federal Trade Commission over past practices of Associates First Capital Corp, which it purchased in 2000. The amount was \$215 million.

Rosenberg, Amy S. (January 8, 2004). Mortgage Nightmares Continue for Atlantic City, N.J.-Area Homeowners. *The Philadelphia Inquirer Knight Ridder/Tribune Business News*.

Fairbanks agreed to settle with the Federal Trade Commission for \$40 million to settle claims that the company had unscrupulously duped thousands of borrowers.

Rothacker, Rick. (Feb., 16, 2003). Money Store Changes Direction. *The Charlotte Observer*.

First Union Corp. shut down The Money Store Inc. in June 2000. Wachovia merged with First Union in 2001 and had to deal with lawsuits from The Money Store.

Some Fairbanks Critics Now Focusing on Ocwen Financial. (November 17, 2003). *American Banker*, 168(221). p.17.

This article indicated that Fairbanks settled with federal regulators. Then complaints were filed against Ocwen Financial Corp., the fifth-largest subprime service, in mid 2003.

Stock, Richard D. (2002). Study of Predatory Lending in Montgomery County, 1994-2000. Dayton, OH: Center for Business and Economic Research, University of Dayton.

As a result of his research on predatory lending in Montgomery County, Ohio, Stock prepared a list of predatory lenders who were either the originator of the predatory mortgage loan or the plaintiff in a foreclosure case. He also included subsidiaries. He determined whether a lender was predatory based on whether the mortgage rate was six percent or more above the U.S. Treasury bond of comparable maturity, which is the cutoff for HOEPA. Stock's list is included in the table of predatory lenders in Appendix A.

Stop the Stage Coach! ACORN's Campaign to Reform Wells Fargo's Predatory Lending. (May 2003). Washington, DC: Association of Community Organizations for Reform Now (ACORN). Available: <http://www.acorn.org/campaigns/wellsfargo/>

ACORN initiated a campaign against Wells Fargo Financial and Wells Fargo Funding, stating that they made abusive and unfair loans. Both are affiliates of Wells Fargo.

Stop the Stage Coach! An Overview of Wells Fargo's Predatory Lending Practices. Washington, DC: Association of Community Organizations for Reform Now (ACORN).

Affiliates of Wells Fargo, Wells Fargo Financial, and Wells Fargo Funding, both originate subprime loans. These two make Wells Fargo the tenth largest originator of subprime loans nationally. ACORN's research found patterns of predatory loan terms, and deceptive sales practices by these subprime lenders. In reviewing HMDA data, researchers found that the subprime lending affiliates had not been reporting, were under reporting, or had not included race.

Subprime Lender Agrees to Pay \$350,000 Civil Penalty to Settle Charges of Violating Federal Lending Laws. (August 24, 2000). Washington, DC: Federal Trade Commission.

The case against Action Loan Company, Inc. of Louisville, Kentucky resulted in a \$350,000 civil penalty, and the lender had to pay up to \$37,000 to customers.

Sub-prime Lender Agrees to Settle FTC Charges of Violating Federal Lending and Consumer Protection Laws. (July 18, 2000). Washington, DC: Federal Trade Commission.

Nu West, Inc. of Bellevue, Washington violated TILA, HOEPA, and the FTC Act. As a result, the company had to pay more than \$160,000 to consumers.

Subprime Lending. (2003). Inner City Press (ICP). Available:
<http://www.innercitypress.org>

Inner City Press (ICP), a non-profit community, consumers' and civil rights organization, stated subprime lending was increasing as more and more lenders saw how lucrative it could be. Wall Street investment banks became involved, funneling money back to the lenders. Major banks, such as NationsBank, First Union, Citigroup, KeyCorp, Bank One, Greenpoint, and Chase Manhattan became involved in subprime lending. When ICP investigated these banks and their affiliates, they found examples of referrals of customers to subprime units. NationsBank actually paid its bank staff a referral fee for sending customers to NationsCredit. ICP reported that Green Tree Financial, a nationwide subprime lender, had a \$2 million punitive damage finding against it in Texas and restraining order against foreclosures in South Carolina. In 2002, Conseco was ordered by the South Carolina Supreme Court to pay nearly \$27 million for consumer protection violations by its Green Tree unit. A case against Mercantile Mortgage Company, Inc. required the company to make a \$250,000 payment for consumer redress and to offer refinanced loans to certain borrowers with balloon loans.

Suits Show Holes in Predatory-Lending Settlements. (July 11, 2003). *American Banker*, 168(132) p. 12

The article states that juries in Mississippi were expected to hear cases in August against Wells Fargo Financial and Household International Inc.'s Beneficial unit.

Temkin, Kenneth. (Spring/Summer 2000). Subprime Lending: Current Trends and Policy Issues. *The Neighborworks Journal*, pp. 38-41

Temkin states that the major subprime lenders in 1998 were The Money Store WMC Mortgage, United Companies, Headlands Mortgage, Ameriquest, Equicredit, New Century, First Union Home Equity Bank, and Banc One Financial Services. These lenders accounted for one third of subprime loans in 1998.

The Targets /Victims of Predatory Lenders

There is general agreement about the targets or victims of predatory lending. Some of the literature makes statements based on these assumptions. Others provide or cite research evidence to substantiate that minorities, the poor, women, and the elderly are indeed the targets of predatory lenders.

Bradford, Calvin. (May 2002). Risk of Race? Racial Disparities and the Subprime Refinance Market. Washington, DC: Center for Community Change.

Bradford's study is a national analysis of 2000 HMDA data. The analysis focused on single-family conventional refinance loans and the locations where subprime lending was most concentrated. Bradford found significant racial disparities in subprime lending which actually increased with income, concentrations of subprime lending, and racial disparities in all part of the U.S. with high concentrations of subprime lending in metropolitan areas of all sizes.

The Case Against Predatory Lending. (2003). Durham, NC: Center for Responsible Lending. Available: <http://predatorylending.org/research/case.cfm>

The main target for predatory lending is the elderly. The Center estimates there are approximately 663,000 elderly homeowners in the United States who own their homes free and clear of debt, have incomes of less than \$30,000 per year, and have equity in their homes of \$100,000 or more. In North Carolina, those over 70 have one quarter of the total home equity, approximately \$24 billion. This makes a large number of elderly homeowners who are asset rich but cash poor. When an emergency arises, they must tap into their home equity to meet needs such as unexpected medical or home repair expenses. In the process of conducting this research, a former employee of a subprime lender stated that the perfect customer is an uneducated widow on a fixed income with a paid off house who has difficulty paying off credit cards and making a car payment.

Citigroup: Reinventing Redlining: New Study Reveals Citigroup Redlines Low-Income Borrowers Across the Nation. (6/03/02). Chicago, IL: National Training and Information Center (NTIC).

Across the country, low-income borrowers are almost 13 times more likely to receive a subprime loan from Citigroup. According to National People's Action (NPA), Citigroup bases a borrower's interest rate on three factors. The first is geographic location; the second is income; and a distant third is creditworthiness.

Curbing Predatory Home Mortgage Lending: A Joint Report. (June, 2000). Washington, DC: U.S. Department of Housing and Urban Development.

This report talks about location of borrowers with subprime loans, using 1998 HMDA refinance data as source. The report indicates these refinance subprime loans account for 80 percent of all subprime loans. Refinance subprime loans are three times more likely in low than high income neighborhoods. Forty-four percent of borrowers in the poorest neighborhoods had subprime loans. In terms of race by neighborhood, subprime refinance loans equaled fifty percent for blacks in 1998 but only nine percent for whites. The growth in this type of lending is apparent by comparing 1998 data with 1993 data. In 1993, subprime refinance loans accounted for only nine percent of the loans in black neighborhoods and one percent in white neighborhoods. When controlled for income, subprime refinance loans accounted for six percent in upper income white neighborhoods and 39 percent in upper income white neighborhoods. In low income neighborhoods, refinance loans for white borrowers equaled 18 percent compared to 39 percent for black borrowers.

Fed Called on to Stop Shirking Responsibility, Put a Halt to Predatory Lending: Poor and Elderly Lose Homes While Fed Belatedly Holds Hearings. (September 6, 2000). San Francisco, CA: California Reinvestment Committee.

The California Reinvestment Committee's article states that conventional banks loan in greater percentages in white and higher-income communities. Their subprime units focus their more expensive loans on minority and low income communities.

Ferguson, Anna Beth. (2000). Predatory Lending: Practices, Remedies and Lack of Adequate Protection for Ohio Consumers. *Cleveland State Law Review*, 48, pp. 607-636

Part of Ferguson's article focuses on the victims of predatory lending. These tend to be elderly, minorities, and urban homeowners. The elderly often own or have substantial equity in their homes, may need extensive repairs they cannot afford, and may have medical debts, making them prime targets for predatory lenders. Fifty-eight percent of these older Americans who are below the federal poverty guidelines own their own home. The subprime industry disproportionately targets minority groups, because this group had less access to prime rate loans and other services.

Goldstein, Debbie, and Son, Stacy Strohauser. (April 2, 2003). Why Prepayment Penalties are Abusive in Subprime Home Loans. Durham, NC: Center for Responsible Lending.

In their discussion of prepayment penalties, Goldstein and Son indicate borrowers in predominantly African-American neighborhoods are five times more likely to have wealth-stripping prepayment penalty clauses in their mortgages than borrowers in white neighborhoods. One of the marketing tactics used by predatory lenders is to hound borrowers, especially unsophisticated ones, and subject them to an onslaught of solicitation to entice them to refinance. Finally, the borrowers capitulate and refinance with mortgages having prepayment penalties.

Gruenstein, Debbie and Herbert, Christopher E. (February 2000) Analyzing Trends in Subprime Originations and Foreclosures: A Case Study of the Atlanta Metro Area. ABT Associates, Inc.

Using HMDA data and a list of subprime lenders prepared by HUD, the authors analyzed trends in home loan originations at the local level in the Atlanta metro area from 1994 to 1998. They addressed trends in originations of subprime loans, finding that originations increased 150 percent and were more significant in low-income and minority neighborhoods

Havard, Cassandra Jones. (2002). Credit Democracy: What's Sub-Prime Lending Got To Do With It? in McCoy, Patricia (Ed.). *Financial Modernization After Gramm-Leach-Bliley*. New York, NY: Matthew Bender & Company, Inc. pp. 257-271.

Havard, in her article about subprime lending, indicates that borrowers who lack financial literacy and are less sophisticated become the targets of predatory lenders.

Obermark, Jerome. (November 2, 2000). Bankers, Advocates Seek to Uproot Predatory Lending to Minorities. *The Commercial Appeal (Memphis)*

Obermark refers to the ACORN report that indicates black Americans are four times as likely to take out high cost loans as white borrowers and the percentage is higher than the national average in the Memphis metropolitan region.

Predatory Lending. (2003). New York, NY: The Advertising Council.
Available: http://www.adcouncil.org/research/wga/predatory_lending

Eighty percent of predatory loans go to homeowners who take out second mortgages or home equity loans for home repairs, personal or medical expenses or to consolidate their debts. Predatory lenders' targets for these loans are African Americans, Hispanics, women, and the elderly with equity in their homes. Desperation drives many of them to take out the loans. African Americans take out predatory loans because they think it is their only option. Hispanics tend to take out predatory loans because they are swindled based on financial naivety.

Separate and Unequal 2004: Predatory Lending in America. Washington, DC: Association of Community Organizations for Reform Now. Available: <http://www.acorn.org>

ACORN conducts an annual study of subprime lending for 117 metropolitan areas, including the Akron metropolitan area (Summit and Portage counties). In terms of targets for subprime loans, the study finds that a large portion of refinance loans are made to minority homeowners regardless of income. In fact, higher income African Americans were three times as likely to receive a subprime refinance loan as higher income white homeowners. The concentration of subprime loans is greater in minority neighborhoods than in white neighborhoods and is the greatest in lower-income minority neighborhoods. But subprime lenders also target lower-income white homeowners. In terms of home purchase loans, African-American homebuyers were much more likely to receive a subprime loan than white homebuyers. This racial disparity existed among borrowers of the same income level.

Walters, Neal, and Hermanson, Sharon, (July 2002). Older Subprime Refinance Mortgage Borrowers. Washington, DC: American Association of Retired People (AARP).

This report contains the results of a national study of 1,008 subprime and prime refinance mortgages by borrowers at least 65 years of age. The authors found that older borrowers had a significantly greater percentage of subprime loans if they were widowed, female, black, and less educated. These subprime borrowers reported the broker or lender was more likely to initiate the loan, they did not understand some of the loan terms, they borrowed to get cash or consolidate debts, and they were dissatisfied with their loans.

Walters, Neal and Hermanson, Sharon. (March 2001). Subprime Mortgage Lending and Older Borrowers. Washington, DC: American Association of Retired People (AARP).

The authors used data from a study of 4,342 borrowers to examine the differences between older prime and subprime borrowers. Although FICO and LTV were key factors in determining the type of loan, eleven percent of the older borrowers with high FICO scores had subprime mortgages. Demographic variables were analyzed as well, with older female and minority borrowers being more likely to have subprime mortgages.

Women in the Subprime Market, Minority Subprime Borrowers, and Elderly in the Subprime Market. (October 2002). Austin, Texas: Consumers Union Southwest Regional Office. Available: <http://www.consumersunion.org>

Consumers Union prepared three reports concerning lending patterns in Texas. All of these analyzed refinance loans in Texas from 1997 to 2000, using HMDA data and those HUD identified as subprime lenders. The findings for women indicated that almost 40 percent of the more than 10,000 women with no reported co-borrower took a refinance loan from a subprime lender. When comparing loans to men and women with incomes over \$60,000 the gender gap was less. Minority women received the greater share of subprime loans and this increased over the years in the study. For the over \$60,000 groups black women take subprime loans at two and a half times the rate for white men. This is considered a conservative estimate, since 8,375 loans in 2000 did not list gender and 57.4 percent of these loans were subprime. A finding reported that in 643 census tracts with over 54 percent subprime loans, residents tended to be older, had lower incomes, and were nearly 80 percent minorities. In the report on the elderly, the likelihood of getting a subprime loan increased with age. Census data was used to identify tracts with high concentrations of elderly.

Impact of Predatory Lending on Neighborhoods

Considerable public money and effort is expended to improve the lives of residents by improving neighborhoods. Involved in this effort are federal, state and local governments; foundations; nonprofit organizations; neighborhood groups; and religious organizations. This section looks at the effect of predatory lending on communities and will be related to the amount of money invested in Summit County neighborhoods by government and nonprofit organizations.

Baxter, Vern and Lauria, Mickey. (2000). Residential Mortgage Foreclosure and Neighborhood Change. *Housing Policy Debate*, 11, 2, 675-699.

Baxter and Lauria used structural equation modeling to explore residential mortgage foreclosures in New Orleans. They begin their analysis with an overview of theories of neighborhood change. Their hypothesis for this research is that foreclosures mediate the effects of economic market factors and racial variables on homeownership patterns, vacancy rates, and the racial composition of neighborhoods. In their conclusion they cite housing foreclosure as a factor in racial residential succession.

Boylan, Anthony B. (May 21, 2001). Predatory Practices: Chain Reaction. *Crain's Chicago Business*, 24, p.13

The author discusses the impact on neighborhoods as well as individuals. The foreclosures lead to disinvestment and lower property values. In one block in Chicago – in the South Fairfield neighborhood – five vacant homes contributed about \$7,000 in property taxes. With about 5,000 foreclosures on the books, the cost in local property taxes was as much as \$7 million in 1999. Realtors state that foreclosed properties impact property values for other houses in the neighborhood. With lots of boarded up houses, crime goes up. Chicago initiated a policy of tearing down boarded up houses that could become havens for crime. This could leave blocks with empty, worthless lots. The director of the Back of the Yards Neighborhood Housing Service said it is possible to graze cattle in parts of their neighborhood.

Bromley, Charles. (April 2002). *Foreclosures: Predatory Lending Hangover*. Cleveland, OH: The Metropolitan Strategy Group.

This issue of the organization's newsletter was devoted to predatory lending. One section briefly examined the costs to communities, stating that the foreclosures resulting from predatory lending threaten to negate efforts to revitalize city neighborhoods. There can be as many as 40 foreclosures in a four block area. These foreclosures impact the schools that are dependent on property taxes and real estate values. Public investments can be lost to predatory lenders.

Carr, James H. and Schuetz, Jenny. (August 2001). *Financial Services in Distressed Communities: Framing the Issue*. Washington, DC: Fannie Mae Foundation.

One section of this article discusses the role of financial markets in community reinvestment. Carr and Schuetz state it is necessary to have efficient markets in distressed communities for successful revitalization of those areas. Individual wealth is essential in order to build community wealth. Mainstream financial institutions in these neighborhoods are necessary to do this. The overpriced financial services available in these communities drain money from the community as well as individuals. They estimate that if 20 percent of the fees paid by borrowers to fringe financial institutions each year could be captured and directed to housing, there would be more than \$1 billion for home-buyer assistance or housing rehabilitation in many of the most distressed communities. An added benefit of such a plan is this funding stream would not require any additional taxpayer contributions. The more immediate impact of these overpriced financial services is the hundreds of millions of dollars unnecessarily paid each year when borrowers are steered into high-cost subprime loans. The authors claim that by better organizing the financial markets in distressed communities and connecting households to the engines of wealth creation there would be major benefits for the community revitalization process.

Curbing Predatory Home Mortgage Lending: A Joint Report. (June, 2000). Washington, DC: U.S. Department of Housing and Urban Development.

This report on predatory lending relates foreclosures to predatory lending and the impact this has on neighborhoods. Often the predatory lending's impact is concentrated in certain neighborhoods. Foreclosure is a common occurrence and these foreclosed homes can remain vacant for a long time. During the time they are vacant, they are poorly maintained and have a negative impact, especially if there are a number of them in the same neighborhood. They can contribute to neighborhood instability by depressing property values and increasing crime. Neighborhood development advocates testified they have difficulty in trying to encourage businesses to locate in neighborhoods with vacant foreclosed houses.

Goldstein, Deborah. (Winter, 2000). *Protecting Consumers from Predatory Lenders: Defining the Problem and Moving Toward Workable Solutions*. *Harvard Civil Rights-Civil Liberties Law Review*, 35

Goldstein describes the neighborhood problems resulting from predatory lending. With these high-cost loans concentrated in particular areas the entire neighborhood is

harmed. Property maintenance begins to deteriorate, neighboring properties are devalued, business and residents move away, and the sense of community declines.

Immergluck, Dan, and Smith, Geoff. (March, 2004). *Risky Business – An Econometric Analysis of the Relationship Between Subprime Lending and Neighborhood Foreclosures*. Chicago, IL: Woodstock Institute.

In their discussion about the relationship between subprime lending and neighborhood foreclosures, Immergluck and Smith point out the negative impacts of these foreclosures on neighborhoods as well as individuals. Their study of foreclosures in the Chicago metropolitan found that subprime loans resulted in foreclosure twenty or more times the rate of prime loans. The concentration of subprime lending in low- and moderate-income neighborhoods, the increase in subprime loans in these neighborhoods, and the resulting increase in foreclosures in these same neighborhoods results in abandoned properties and blight. This has a destabilizing effect on entire neighborhoods. With the surge in the number of foreclosures and property abandonment, years of efforts to stabilize and improve neighborhoods have been undone. It is this outcome of subprime lending that led to the involvement of community development and reinvestment groups in consumer lending regulations. Some of the costs of subprime lending and foreclosures are the reduction in tax revenues for cities, counties and school districts; the public safety costs of abandoned properties; the cost of dealing with abandoned properties; and negative impacts on property values and tax receipts for other properties in the neighborhood.

Kucinich, Dennis. (September 5, 2003). No Help from the White House in Fighting Predatory Lending. *American Banker* 168 (171), p. 18

In a campaign release, he talked about the impact on the inner city of Cleveland. As a resident of the inner city, Kucinich has seen the damage done by redlining and reverse redlining. He states that the performance of banks in these neighborhoods is critical. As long as the lending industry is after short-term profits, the lenders end up stripping homeowners of their equity and forcing them into foreclosure. The outcome of this to inner city neighborhoods, is that efforts to develop and improve these communities fall apart.

Pennington-Cross, Anthony. (2002). Subprime Lending in the Primary and Secondary Markets. *Journal of Housing Research*, 13, 1, pp. 31-50.

The author conducted an exploratory analysis of the role of subprime lending through the spatial examination of FHA-eligible home purchase loans. Loans were aggregated to the metropolitan statistical area to determine the proportion of the market served by FHA, prime and subprime lenders. One of the results was that subprime lenders originated more loans in cities with the worst economic risk characteristics.

Predatory Lending Overview. San Francisco: California Reinvestment Committee. Available: <http://www.calreinvest.org/campaigns/predatory.html>

The California Reinvestment Committee states that predatory lending is a CRA issue because it undermines community development activities. The default and foreclosure that often occur result in lost equity for residents of a community.

Putney, Abraham. (2003). Rules, Standards, and Suitability: Finding the Correct Approach to Predatory Lending. *Fordham Law Review*, 71, pp. 2101-2139.

Putney discusses the negative social and economic effects of predatory lending that go beyond borrowers' overpayment and loss of their homes. Community development efforts are hampered if area residents cannot obtain reasonably priced, fair loans and are losing their homes due to foreclosures because loans were made without regard to the borrower's ability to repay. Beyond community development efforts are the social costs of providing housing to individuals who lost their homes because of predatory loans. Thus predatory lending affects more than the individuals and communities that are directly affected.

Stein, Eric. (2001). Quantifying the Economic Cost of Predatory Lending. Durham, NC: Coalition for Responsible Lending.

Stein points out the community costs of predatory lending that go beyond the direct costs of a single foreclosure. These foreclosures affect entire neighborhoods and the families that live there. Boarded-up homes result in the decrease in value of surrounding homes, which means the equity held by these homeowners declines as well. Where there is a high vacancy rate, crime increases and this also has economic costs. Another among the host of costs resulting from high foreclosure rates are the revenues lost because of the difficulty of attracting investment in these neighborhoods.

Stein, Eric. (March 30, 2004). Subcommittee on Financial Institutions and Consumer Credit Subcommittee on Housing and Community Opportunity Joint Hearing Entitled "Subprime Lending: Defining the Market and Its Customers."

In his testimony on behalf of the Center for Responsible Lending, Stein pointed out the negative impacts of predatory subprime lending and the benefits of North Carolina's legislation to regulated subprime lending. He cites an actual case to point out how predatory lending affected one borrower and how his organization attempted to help. Stein notes the positive aspects of subprime lending, which provides opportunities for loans which would not be available otherwise. But the abusive terms in some of these loans strip borrowers of their equity and lead to foreclosures. The increase in foreclosures from these abusive loans harm entire communities, not just the individual borrowers. Immergluck, Dan, and Smith, Geoff. (March, 2004). Risky Business – An Econometric Analysis of the Relationship Between Subprime Lending and Neighborhood Foreclosures. Chicago, IL: Woodstock Institute.

Trivedi-St. Clair, Riddhi. (January 3, 2004). Foreclosures: The Other Side of Refinance Boom. *Home Bound Mortgage*. Available: <http://www.homeboundmortgage.com>

The author writes that the number of first and second mortgages is rising as had the number of foreclosures. The number of foreclosures went from 1,895 in 1999 to 2,617 in 2002 in one Florida county. These foreclosures have an impact on more than just the property owner. The financial institution that takes over the property wants to sell it quickly so it gets sold cheaply. This affects appraisal values for other homes in the area. If there are four foreclosures in a neighborhood, someone trying to sell a house will have

difficulty getting their asking price. In addition, lenders will be less willing to loan in a neighborhood containing foreclosed properties.

Wyly, Elvin K., Cooke, Thomas J., Hammel, Daniel J., Holloway, Steven R. and Hudson, Margaret. (2001). *Housing Policy Debate*, 12, 87-127.

This article is a progress report on the effects of homeownership policy on neighborhoods. Policies of the 1990, increased mortgage originations in minority and low-income neighborhoods and created unprecedented opportunities for homeownership for those previously unable to obtain mortgages. The intent of these policies was positive, but it had unanticipated negative outcomes, including increases in delinquency and default and an increase in subprime and predatory lending.

Foreclosures as a Product of Predatory Lending

One source of data that can be used to study predatory lending is foreclosure records. In Summit County, Ohio the actual mortgage documents for foreclosure filings were examined for predatory practices and the geographic location of these loans, making it possible to identify the lenders and the characteristics of neighborhoods in which the foreclosures were occurring. The following literature indicates a close relationship between these subprime/predatory mortgages and foreclosures.

Ackelsberg, Irv and Saunders, Margot. (July 27, 2001). Increase in Predatory Lending, and Appropriate Remedial Actions. Philadelphia, PA: Community Legal Services of Philadelphia.

In testimony before a committee of Congress, Ackelsberg discussed the nature of predatory lending, who it affects, and remedial actions suggested by his and other organizations. He stated that the home foreclosure rate in the United States had skyrocketed, even during this period of economic prosperity. This rise in foreclosures cannot be traced to a rise in home ownership, because home ownership rose only two percent while the rate of foreclosures rose 120 percent. Ackelsberg blames the quality of loans for part of the problem.

Another Delinquency Drop Offset by Foreclosure Data. (June 15, 2004). *American Banker*, 169(114), p.9.

The American Banker reported on the seasonally adjusted percentage for loans entering the foreclosure process during the past quarter. For prime it was 0.20 percent, which was the same as the previous quarter. Subprime loans decreased 14 basis points to 1.99 percent.

Bellamy, Paul. (2003). The Expanding Role of Subprime Lending in Ohio's Burgeoning Foreclosure Problem. Ohio Community Reinvestment Project

In his study of foreclosures in Ohio, Bellamy used data from Lorain, Montgomery and Summit counties to determine the size of the foreclosure problem and the relationship of these foreclosures to subprime lending. He found that subprime lending generated more foreclosures than prime loans and there is a relationship between the growing market share of subprime lending and home foreclosures.

Boylan, Anthony B. (May 21, 2001). Predatory Practices: Chain Reaction. *Crain's Chicago Business*, 24, p.13

In this article Boylan includes data from the National Training and Information Center, a Chicago activist group. Foreclosures on subprime loans increased from 130 in 1993 to 4,958 in 1999. The percent of subprime to all foreclosures was three percent in 1993 and 38 percent in 1999. Community watchdogs blame this increase on predatory lending.

Bunce, Harold L., Gruenstein, Debbie, Herbert, Christopher E. and Scheessele, Randall M. (2001). Subprime Foreclosures: The Smoking Gun of Predatory Lending? in Susan M. Wachter and R. Leo Penne (Eds.). *Housing Policy in the New Millennium: Conference Proceedings*, Washington, DC: U.S. Department of Housing and Urban Development.

The authors of this study point out the difficulty of conducting research on foreclosures. The foreclosure documents contain the name of the lender initiating the foreclosure, not the lender originating the loan. This means that the foreclosing mortgagee is not necessarily the originating mortgagee. The result is that some loans will be misclassified as subprime or not-subprime. If non-subprime lenders service loans originated by subprime lenders, the share of subprime foreclosures may actually be greater than reported. For Chicago, the increase in foreclosures by subprime lenders was over 3000 percent, while foreclosure by other lenders increased by only 25 percent. In Chicago, Atlanta, and Boston, most subprime loans reached foreclosure in two years or less, suggesting that the loans were not affordable at the time of origination. The research also found a disproportionate share of foreclosures by subprime lenders, suggesting that loans from subprime lenders are more likely to foreclose than loans from other lenders. Foreclosures by subprime lenders equaled 50 percent in Baltimore's low-income neighborhoods and 57 percent in the city's predominantly African-American neighborhoods. Subprime loans accounted for 36 percent of all of Atlanta's foreclosures in both low-income and predominantly African-American neighborhoods, but only 16 percent in the entire market area. The percent was much less in Boston. Only 12 percent of the foreclosures in low-income neighborhoods were subprime and it was 11 percent in the entire market.

Capozza, Dennis R., Kazarian, Dick, and Thomson, Thomas A. (1997). Mortgage Default in Local Markets. *Real Estate Economics*, 25, pp. 631-655.

The authors studied the probability of default in this empirical study. Variables included in the analysis were the age of the mortgage, the rent-to-price ratio, transaction costs, trigger events, and LTV.

Chakrabarty, Gargi. (3/17/03). Predatory Lending is on Rise in Indiana, Nation. *The Indianapolis Star*.

The basis for Chakrabarty's article is the fact that Indiana had the highest foreclosure rate in the U.S. for the third quarter of 2002. The subprime foreclosure rate in Indiana was 14.71 percent. This was second only to Ohio, which had a subprime foreclosure rate

of 14.76 percent. The executive director of a neighborhood group estimated that 70 percent of all foreclosures in their neighborhood were the result of predatory lending.

Comments to the Office of Thrift Supervision. (July 5, 2000). Washington, DC: National Consumer Law Center and Consumer Federation of America.

Abusive home equity lending exploded in the 1990s. The terms of these loans are so onerous they lead to default and foreclosure. The U.S. foreclosure rate increased more than 384 percent in 20 years. As a result, families are evicted, neighborhoods are adversely affected, and tax bases decline. The concern is that interest rates were twice as high in 1980, when foreclosure rates were lower. During the boom economy of the 1990s, when mortgage rates were lower, there were almost four times as many homes being foreclosed. What will happen to foreclosure numbers during a downturn in the economy?

Curbing Predatory Home Mortgage Lending: A Joint Report. (June, 2000). Washington, DC: U.S. Department of Housing and Urban Development.

In studies of foreclosures in Chicago, Baltimore, and Atlanta, research indicated the growth in foreclosures paralleled the growth in subprime lending. Subprime borrowers default on their loans more quickly than prime borrowers do, and these defaults lead to foreclosure by the lender. These foreclosures on subprime loans, like originations, are concentrated in low-income and minority neighborhoods. As part of this study, HUD examined foreclosure petitions filed for homes in Baltimore for the first three months of 2000. This revealed the mean time between the origination of mortgages and foreclosure petition dates for subprime loans was only 1.8 years. This compared to 3.2 years for prime and FHA loans.

Edelman, Daniel A. (2001). *Defense of Mortgage Foreclosures*. Chicago, IL: Edelman, Combs & Lattuner, LLC

Edelman goes against long-assumed thoughts of many lawyers and judges that a defendant owes the money and therefore has no defense against a mortgage company that seeks to foreclose. More recently this assumption has been proved incorrect. In many cases the homeowner does have a valid defense. Often the homeowner is not in default or owes less than claimed. In some cases the mortgage is subject to attack, most likely under the Truth in Lending Act.

Fishbein, Allen, and Bunce, Harold. (2001). *Subprime Market Growth and Predatory Lending in Housing Policy in the New Millennium: Conference Proceedings*, Washington, DC: U.S. Department of Housing and Urban Development

Fishbein and Bunce relate foreclosures to predatory lending which strips borrowers of the equity in their homes. When this occurs borrowers are at an increased risk of foreclosure. The high foreclosure rates for subprime loans are concrete evidence that many of these subprime borrowers simply cannot afford the loans. The authors report the following findings about subprime lending and foreclosures from other research:

- Foreclosures of subprime loans have increased substantially with the growth of subprime loan originations.

- Subprime loans account for a larger share of overall foreclosures than of total loan originations.
- Subprime lenders are quick to foreclosure.
- Subprime foreclosures are disproportionately concentrated in low-income and predominantly African-American neighborhoods.
- The estimated volume of subprime foreclosures is substantial (p. 277).

FTC Charges D.C. Mortgage Lender with Deception and Unfairness Against Borrowers. (January 30, 1998). Washington, DC: Federal Trade Commission. Available: <http://www.ftc.gov/opa/1998>

The Federal Trade Commission filed a complaint against Capital City Mortgage Corporation and its owner, Thomas K. Nash. The FTC stated that violations of federal law resulted in serious injury, which included the loss of the borrowers' homes.

Gruenstein, Debbie, and Herbert, Christopher E. (February 2000). *Analyzing Trends in Subprime Originations and Foreclosures: A Case Study of the Atlanta Metro Area*. Cambridge, MA: ABT Associates, Inc.

Gruenstein and Herbert used data from the *Atlanta Foreclosure Report* (AFR) to analyze foreclosures. This data include detailed address information, property description, tax information, location of deed record, and mortgage data. Their analysis points out that the median age of foreclosed subprime loans was two years compared to four years for other loans, subprime foreclosures increased by 232 percent between 1996 and 1999, and the greatest share were in very low income and minority neighborhoods. In their analysis, the authors used interest rates four percentage points or more above the Treasury bill rate as the guide for identifying high interest loans. For those loans that identified the rates of the loan, 44 percent of subprime loans had high interest rates and three depository institutions had the highest number of high interest rate foreclosures.

Hevesi, Dennis. (November 10, 2002). *New Curbs on Predatory Loans*. *New York Times*.

Hevesi obtained information about foreclosures from Dr. George McCarthy. McCarthy indicated foreclosures of prime loans had fallen since 1992. However, foreclosures had reached an all-time high due to a high number of subprime foreclosures. In 1993 there were 401,000 foreclosures nationally but the projections for 2002 were 677,000. This would be an increase of 68 percent. When Fannie Mae examined its portfolio in 1999, it found that half of its subprime borrowers qualified for the prime rate loans.

Home Foreclosures Hitting Record Highs Across the United States, Poor Economy to Blame. (2003). *Real Voices Newsletter*. National Association of Hispanic Real Estate Professionals. Available: http://www.nahrep.org/Real_Voices

This is another article relating the increase in foreclosures to the increase in subprime loans. The article states some of these subprime loans contain predatory practices, such as high interest rates, additional fees, and prepayment penalties that make it virtually impossible for the borrower to escape from debt. In addition to the increase in the number of foreclosures, the speed of these foreclosures is increasing.

Immergluck, Dan, and Smith, Geoff. (March, 2004). *Risky Business – An Econometric Analysis of the Relationship Between Subprime Lending and Neighborhood Foreclosures*. Chicago, IL: Woodstock Institute.

Immergluck and Smith measured the quantitative relationship between subprime lending in the Chicago metropolitan area and foreclosures during the 1996-2002 period. They found that subprime loans resulted in foreclosure twenty or more times that prime loans. In fact, prime refinance loans actually resulted in a decrease in foreclosures. The data they used were foreclosure starts rather than completed foreclosures, which they say is a better indicator of homeowner distress.

Nagazumi, Toshiki, Rose, David et al. (September 21, 1999). *Preying on Neighborhoods Subprime Mortgage Lending and Chicagoland Foreclosures*. Chicago, IL: National Training and Information Center.

In this study of foreclosures in Chicago, Nagazumi and Rose found the increase in the number of foreclosures corresponded to the increase in subprime mortgage originations. There were only 30 foreclosures by subprime lenders and servicers in 1993. By 1998, the number was 1,417, an increase of 4,623 percent. The authors of this report state there is a link between subprime lenders and servicers and high interest rates and fast foreclosures.

O’Sullivan, Orla. (November 2003). *New Foreclosure Phenomenon*. *ABA Banking Journal*.

O’Sullivan reports on the trends in foreclosures. According to the Mortgage Bankers Association, foreclosures have begun to decline. But this is only for the conventional mortgage loans covered by this organization. The foreclosure trend differs from the past, in that it is not synonymous with a troubled housing market. This is not the case now and the difference can be attributed to subprime lending.

Predatory Lending Fallout Spreads Rising Foreclosures in Chicago Leak Into Area Suburbs. (12/17/02). *Inman News Features*. Available: <http://www.mbaa.org/briefs>

Predatory lending is invading Chicago’s suburbs and is no longer just an inner city problem. Forty-three percent of the homes lost to foreclosure were in middle class suburbs.

Pyle, Michael. (May 2003). A “Flip” Look at Predatory Lending: Will the Fed’s Revised Regulation Z End Abusive Refinancing Practices. *Yale Law Journal*, 112, pp. 1919-1926.

The downside of the boom in subprime lending was a dramatic increase in home foreclosures. From 1993 to 2000, foreclosures increased by 68 percent. Pyle states there is little empirical evidence to indicate how many of these subprime foreclosures are the result of predatory lending. Anecdotal evidence suggests that predatory lending was a contributing factor in a high percentage.

Skertic, Mark. (November 26, 2003). *Lender Household International Settles Class-Action Suits for \$100 Million*. *Knight-Ridder Tribune Business News*.

Skertic reported on the outcome of the class-action suits against Household International. As part of the settlement, Household established a \$72 million foreclosure assistance program.

Stein, Eric. (2001). *Quantifying the Economic Cost of Predatory Lending*. Durham, NC: Coalition for Responsible Lending.

Stein includes a condemnation of the wealth-stripping and steering associated with predatory lending and the resulting foreclosures, which results in the loss of homes and the destruction of entire communities. He says that, as expected, predatory subprime loans are more likely to end in foreclosure than conventional loans. Higher than average foreclosure rates should be expected in subprime lending, given the higher credit risks of borrowers. Studies suggest that even with this assumption subprime foreclosure are a disproportionate share of foreclosures.

Subprime Lending, (May, 2003). Washington, DC: Mortgage Bankers Association of America.

Mark Schmidt, an Assistant Director in the FDIC's Supervision Division was quoted as saying that defaults were at substantial levels and foreclosure rates were at 30 percent at some financial institutions.

Time to Confine Predatory Lending. (February 6, 2003). *The Indianapolis Star*.

This article encourages the state of Indiana to study data for lenders having foreclosure rates disproportionate to the number of mortgages issued. This concern is based on the increase of foreclosed homes in Marion County from 1,100 in 1993 to 6,019 in 2002. Predatory lending may not be the culprit in all cases, but it may be a factor in some.

Walters, Neal, and Hermanson, Sharon. (July 2002). *Older Subprime Refinance Mortgage Borrowers*. Washington, DC: AARP.

In this report of research about older subprime borrowers, Walters and Hermanson say there is a concern about the increasing percentage of foreclosures associated with subprime mortgage lending. This is occurring in suburban as well as urban areas.

III. ANALYSIS OF PARCEL AND FORECLOSURE DATA

The mission of this research on predatory lending was to compile as much data as possible regarding the existence of predatory lending, using foreclosure activity within Summit County, Ohio as the primary method for comprehending the predatory lending phenomenon and its geographical basis. The following questions provided the guide for the research:

- Is there a correspondence between certain types of loans and the incidence of foreclosures? Are foreclosures concentrated within certain segments of the mortgage market? Do some neighborhoods depict unusually high loan to appraised value ratios or loan to income ratios?
- Is there a correspondence between the type of neighborhood (as measured at the block group level and characterized by race and income) and certain types of loans from certain types of lenders? Are some segments of the mortgage market targeting particular neighborhoods? Are some lenders? Is this a function of income or credit history, or is something else taking place?
- Is it possible to calculate the extent to which certain neighborhoods are assessed a premium in regard to higher interest rates, fees, or penalties?
- To what extent are particular neighborhoods differentially affected by the activities and subdivision of the mortgage market and is this justified in regard to income and other characteristics?

Most fundamentally the research focused on uncovering neighborhood variations in foreclosures, the additional costs (interest, penalties, points, and fees) associated with the foreclosed mortgages, the existence of subprime lending, and other measures of housing stress.

Data

To answer these questions required the assemblage of several different data sources. These were as follows:

- Auditor's file: Summit County provided a data set that contained a detailed description of the house and property, the appraisal and assessed value of both the house and the property, and the name, address and parcel number.
- Recorders file (from Recorder Image System): Summit County also provided this data set. It contained information about the lender, borrower, legal address, reception number and date.
- Homestead Exemption file: This is a subset of the information contained in the Auditor's file and identified low income elderly homeowners.
- Foreclosure file: This is a file created as part of this project through a search of Summit County Clerk of Courts civil cases. Sixteen months of individual foreclosure

filings were examined. After a number of steps, it was possible to obtain the complaint for foreclosure, which contained the original mortgage document. It was this document that made it possible to obtain information on the actual address of the property, the terms of the loan (interest rates, balloon payments, adjustable rates, etc.), and the lender.

- Ameristate file: This is a data set prepared by a private company from information provided by counties in a number of states. Summit is one of over fifty counties in Ohio that are included. The focus of the files is sales of property and does not include refinancing. The file contains sales by year, including the names of buyers, property addresses, sale prices, lenders, etc.
- Census Data Files: For comparison purposes, census data at the tract and block group level for the 2000 and 1990 census was used. Because of changes in boundaries, 1990 data in 2000 block group boundaries was used for analysis purposes.
- Loan Applicant Registry (LAR): This data is prepared by the Federal Reserve from Home Mortgage Disclosure Act (HMDA) forms filed by institutions with \$20 million or more in assets. Data includes the size of loan, the name of the lender, the census tract in which the property is located, characteristics of the borrower (income, race and sex), and whether the loan was accepted or denied. Data is for regulated lenders only.
- Map shape files. These files were provided by Summit County's Department of Economic Development and the City of Akron's Planning Department.

Some of these files proved to be more useful than others. The LAR file, for instance, was not detailed or geographically specific enough to yield much useful information. Other files, like the Ameristate and foreclosure files proved to be extremely useful.

Procedures

In order to conduct our analysis, it was necessary to prepare the files. This was a time consuming process that in some cases entailed the entry of records by hand.

- Foreclosure File. 16 months worth of foreclosure files (about 3500 records) from October 2001 through January 2003 were collected and assembled in a database. Information collected included dates of foreclosure filing, names of plaintiffs and defendants, addresses of properties, lenders, amount of loans, interest rates, and additional loan terms. Data were mapped to indicate location within Summit County. In addition, foreclosures were mapped according to Summit County Council districts upon request of the Predatory Lending Task Force.
- Property Files. Information from the combined property files was added. This included homestead exemptions, which identifies low income elderly home owners. In addition, this file made it possible to eliminate non residential properties from the list of foreclosures as well as identify low income elderly homeowners. Information from the Ameristate database file was added as well.

- **Comprehensive Database.** Using Microsoft Access, the databases were merged to create a comprehensive database that includes all loans in Summit County, by name of borrower, by lender (categorized as prime or subprime), by size of loan, by appraised value of property, and by parcel number. Detailed geographical information from the Ameristate is available for all new home purchases.
- **Geocoding.** Much of the analysis depended on the geocoding of individual data. In order to geocode, the addresses and/or parcel numbers of the loan records were geocoded using a geographic information system package such as ARC/GIS. This means that each address was given a locational attribute and then corresponded with a census block (the smallest census units of approximately 100 people). The geocoded records were be “cleaned” and ambiguous loans were removed from the analysis. The cleaning process required checking spelling and abbreviations for all records that did not geocode initially. When this was completed it was possible to analyze the information at the neighborhood level
- **Inclusion of Census Information.** Information from the 2000 census was extracted for Summit County. Three variables of interest were race, age (over 65), and sex. These were available at the block level of analysis. Other variables, such as income and employment status were available at the block group level (which includes several blocks). Housing information, including number of units and occupancy status, were available at the block level. Data from the 1990 census, modified to fit within 2000 block group boundaries, were added in order to provide data on changes to the neighborhoods. In most of the analysis, block groups data were used. Therefore, information on foreclosures and home purchases were aggregated to this level.
- **Subprime Lending.** A list of subprime lenders for the period 1998 through 2002 was acquired from HUD. This file was matched to the Ameristate and foreclosure databases and the designated subprime lenders were flagged for future analysis.
- **Predatory Lender List.** This list came from a variety of sources. The full list and the sources for identifying an institution as predatory appears in Appendix A.
- **Homestead Exemption Data.** A list of homestead exemptions was extracted from the Auditor’s file to see their distribution within the county, their relationship to foreclosures, and how this was related to subprime and predatory lenders.

Analysis

This section describes through text, tables, figures and maps the results of the analysis of lending in Summit County. This analysis begins by describing all the information gained from the assembled data.

Foreclosure Data

From the original documents, the foreclosure data was assembled in a database. Out of the approximately 3,500 original foreclosure filings, there remained a file of 2,969 usable records. These records included information on the address, the property owner, the lender, the date of the mortgage, date of foreclosure filing, and various mortgage terms.

The first point of interest was the geography of these foreclosure filings. The following table presents this according to municipality.

Table 3.1 Foreclosures by Municipality

CITY	Number of Foreclosures	Percent of Total
Akron	1896	63.9
Barberton	161	5.4
Cuyahoga Falls	159	5.4
Stow	76	2.6
Springfield	70	2.4
Franklin	68	2.3
Green	67	2.3
Twinsburg	65	2.2
Coventry	55	1.9
Tallmadge	46	1.5
Northfield	40	1.3
Norton	33	1.1
Copley	32	1.1
Sagamore Hills	32	1.1
Macedonia	31	1.0
Hudson	28	0.9
Lakemore	27	0.9
Bath	16	0.5
Munroe Falls	13	0.4
Richfield	13	0.4
Mogadore	11	0.4
Fairlawn	9	0.3
Reminderville	9	0.3
Aurora	6	0.2
Boston Heights	2	0.1
Silver Lake	2	0.1
Total	2969	100.0

Akron clearly contains the majority of foreclosures, about 64 percent, compared to the other communities. Barberton and Cuyahoga Falls, the two other large and older cities with large working class neighborhoods, are second and third. Akron contains about 40 percent of the County population, 42 percent of the housing units, and 35 percent of owner occupied units.

So the foreclosure rates exceed expectations.

The concentration of foreclosures within Akron is evidenced by the following two maps. Figure 3.1 of Summit County shows the high concentration within Akron, as indicated in

the previous table. Figure 3.2 indicates that certain areas account for most of the foreclosure activity.

Figure 3.1: Foreclosures in Summit County

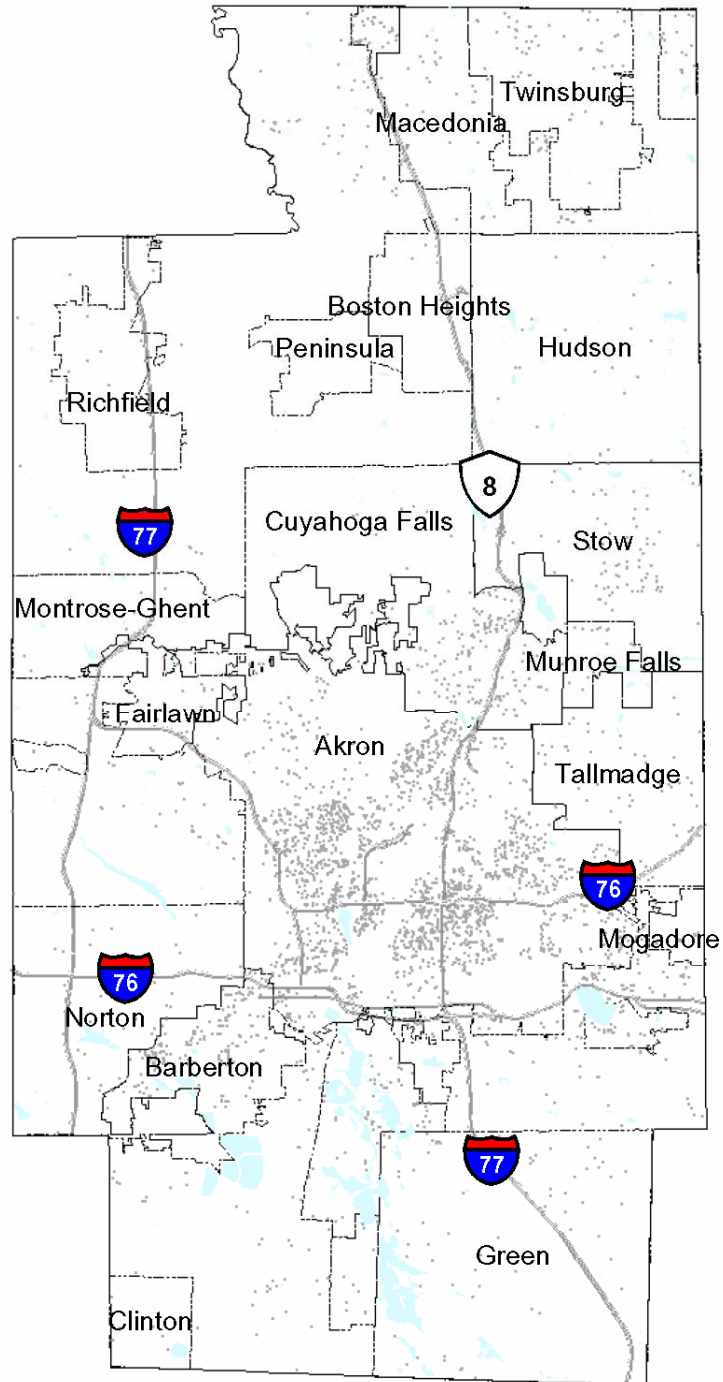
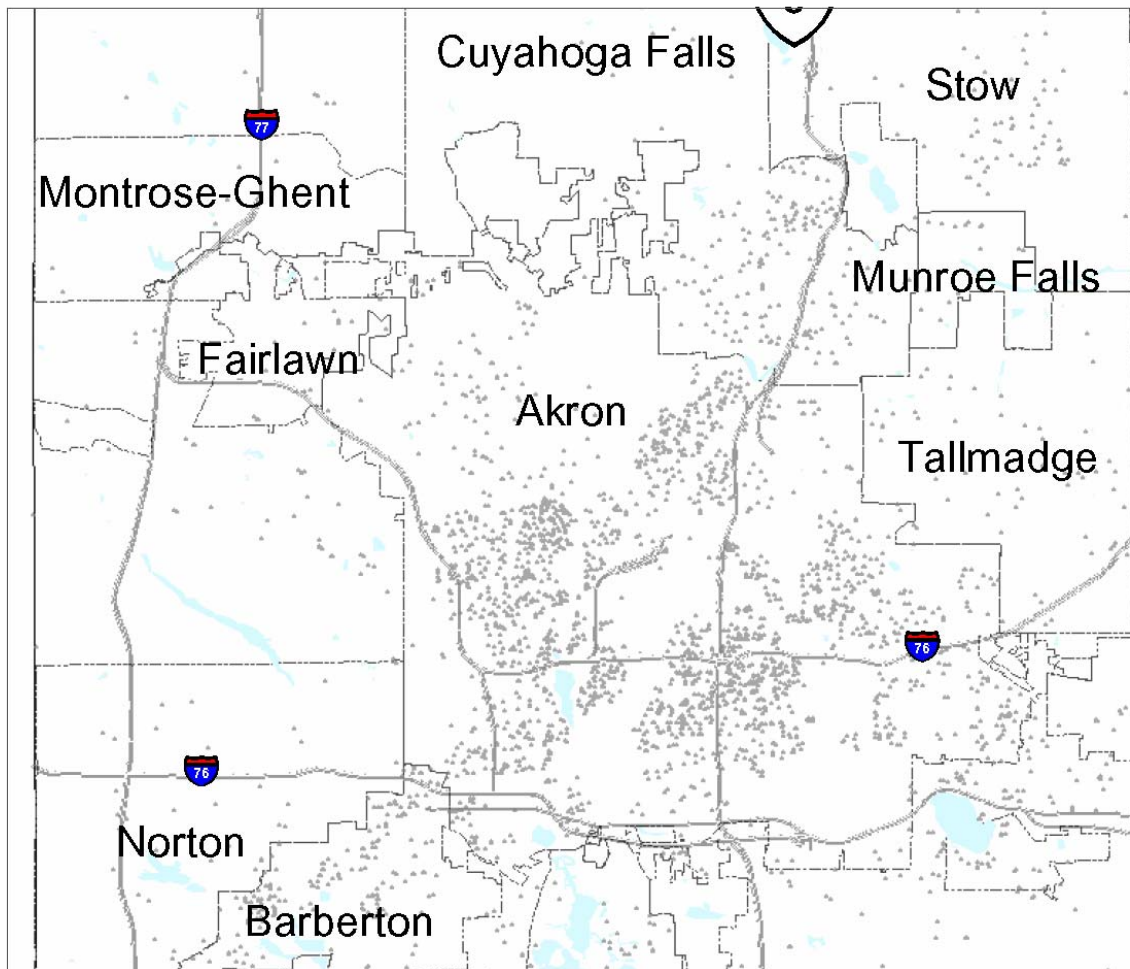
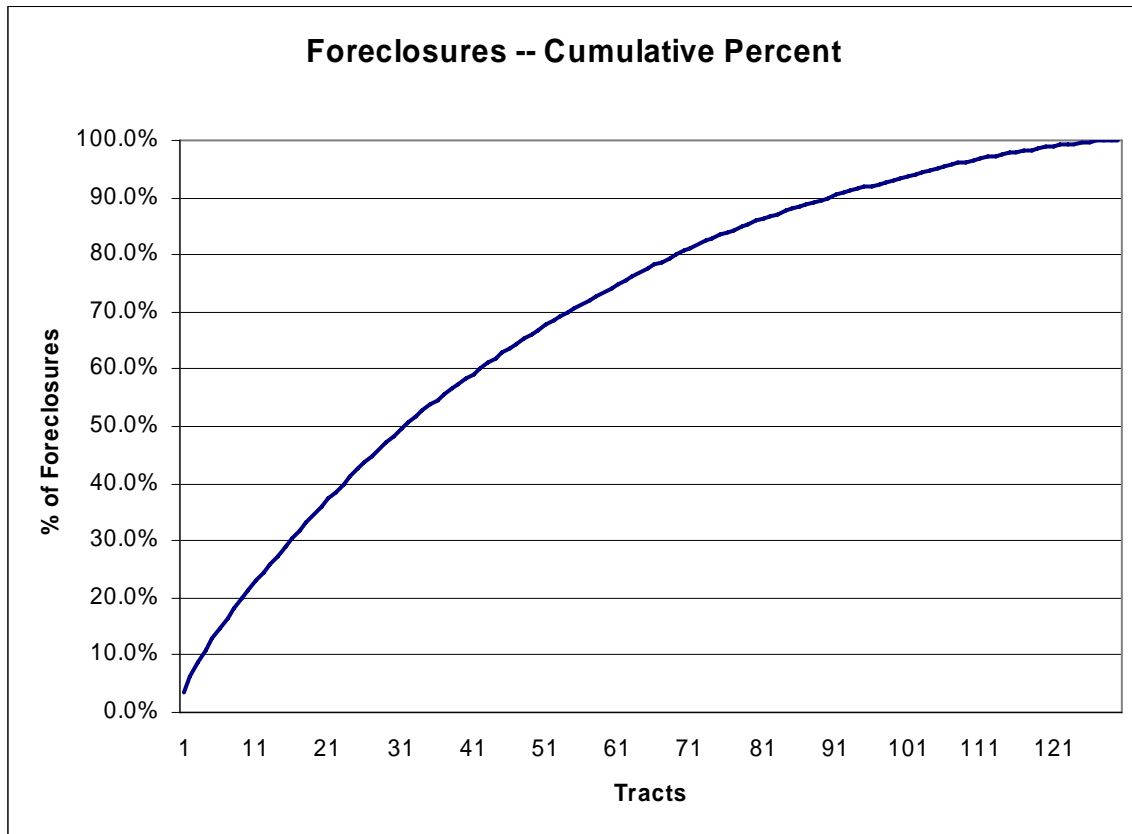


Figure 3.2: Foreclosures in Akron



This concentration of foreclosures can also be seen in the Figure 3.3. About 25 percent of all census tracts account for 50 percent of the foreclosures; half of the tracts account for approximately 75 percent of the foreclosures. There is evidently a geographic concentration.

Figure 3.3 Foreclosures by Census Tract, Cumulative Percent



The Foreclosure Index

All foreclosures were assigned to a block group, a geographic unit that is nested within the more commonly used census tract, and averages around 1000 people. Within Summit County, there are 477 block groups. Most information about population and housing is available at this level of geography. Because of the variation in the size, population, and housing units within each block group, the foreclosures were standardized for analysis purposes by dividing the number of foreclosures by the number of housing units within the block group. This measure was termed the foreclosure index. Countywide, there were 12 foreclosures during the period of analysis for every 1000 block groups. This varied from a low of zero for 29 block groups to a high of 77 foreclosures per 1000 units for one block group.

The Foreclosure Index and Census Data

There are several ways to analyze variations in the foreclosure index. It is clear that foreclosures are located within particular neighborhoods, primarily African American and lower income neighborhoods. There are other variables as well that seem to be involved. An examination of some correlations shows how some of these variables are related to the index. These are ecological correlations, showing characteristics of the neighborhood as a whole. What they do show is that the foreclosure index is highly correlated with the percentage of African Americans in each block group, and also with the percentage of

“minorities” that includes all but non-Hispanic whites. This latter category will become increasingly useful as Summit County attracts more Latino and Asian population. Minorities in the county now are mostly African Americans. This correlation with racial change was not significant for black percentage but was significant, albeit modest, for the minority percentage.

Table 3.2. Correlation of Foreclosure Index with Neighborhood Variables

	Foreclosure Index
Women 65+ Percent	-0.19
Black Pct 2000	0.58
Black Pct Change 1990-2000	0.01
Minority Pct 2000	0.59
Minority Pct Change 1990-2000	0.15
Unemployment Pct 2000	0.35
Median HH Income 2000	-0.42
Vacant Pct 2000	0.33
Vacant Change 1990 - 2000%	0.01
Mortgage Payment over 30%	0.33
Mover Percent	0.00
Poverty Percent 2000	0.36
Poverty % Change 1990-2000	-0.23

Bold Indicates Significant at 5% level

Socioeconomic variables are also important, showing a strong negative correlation with household income and a correspondingly significant positive correlation with poverty incidence and the unemployment rate. Foreclosures can occur among all income groups, but there is a higher likelihood that poorer populations – and poorer neighborhoods – will experience the financial distress that precedes foreclosures. Unexpectedly, increasing poverty rates in the period between 1990 and 2000 are negatively related to the foreclosure index, suggesting that other factors were influencing the increased rate of foreclosures.

The literature suggests that there is a relationship between predatory lending and elderly female homeowners. Thus this analysis examined whether a predominance of elderly females led to more foreclosures in a neighborhood. While elderly females may be the target of predatory lenders, the relationship at the block group level between foreclosure incidence and elderly female percentage is negative. There is no relationship between transience – how many people have changed residences within the 1995-2000 period – and the index.

The proportion of vacant units – one very visible indicator of urban blight – has been posited as related to foreclosures. The Summit County data demonstrate that there is a relationship between vacancy and foreclosure rates. There is no relationship between the change in vacancy rates and foreclosures.

In order to more consistently examine differences, block groups were divided into categories based on their foreclosure index. The columns in Table 3.3 indicate the percent of all units that went into foreclosure during the period of examination. The rows are variables that have been shown to be important correlates of foreclosures.

Most of the census and foreclosure index information in Table 3.3 reaffirms what was indicated in the correlations, with some additional insights. The population totals indicate that those neighborhoods with relatively low foreclosures were also the fastest growing; those with higher foreclosure rates declined slightly. This suggests that foreclosures are more of an inner city inner suburb phenomenon and less likely to be found in booming outer suburbs. The data showing the median age of the structures (taken by averaging the median year structures were built for all block groups in each category) shows a very clear relationship. Those neighborhoods with the highest foreclosure rates are over sixty years old on average, whereas low foreclosure neighborhoods are about 25 years newer.

Table 3.3 Neighborhood Characteristics by Foreclosure Index

Neighborhood Characteristics	Block Groups by Foreclosure Index (# of Foreclosures Recorded / Housing Units)						
	<i>Total</i>	<i>< 0.5%</i>	<i>0.5% - 1%</i>	<i>1% - 2%</i>	<i>2% - 3%</i>	<i>3% - 4%</i>	<i>4% +</i>
Foreclosures	474	118	103	120	71	29	33
<i>Pct of Total</i>		24.9	21.7	25.3	15.0	6.1	7.0
Pop 2000	542,899	162,730	134,246	129,764	63,037	25,010	28,112
Pop 1990	514,990	143,084	121,158	127,767	66,925	26,814	29,242
Median Year of Structure	1956	1965	1960	1954	1948	1945	1941
Pct Black 2000	13.1	6.5	5.8	8.7	20.8	47.7	58.3%
Pct. Minority 2000	17.0	10.9	9.2	11.6	25.4	52.9	64.
Pct. Poverty 2000	9.9	8.3	5.7	9.0	13.6	21.7	25.0
Pct. Unemployed 2000	5.0	4.0	3.6	5.2	6.1	9.9	11.8
Median HH Income 2000	\$40,368	\$48,696	\$47,052	\$40,552	\$33,970	\$27,941	\$26,993
Pct Older Women 2000	16.3	16.7	18.5	16.1	13.5	13.2	13.0
Pct. Mover 1995-2000	41.6	45.7	40.2	38.6	39.1	44.7	41.9
Pct. Vacant 2000	5.7	5.5	4.5	5.2	6.2	9.5	10.4
Pct 30%+ Income 2000	24.0	21.9	22.8	24.3	25.5	31.1	33.9

The other variables operate as expected. Black and minority percent increases as foreclosure incidence increases. Unemployment and poverty rise, while median income falls. The percentage of older women decreases slightly and the vacancy rate increases markedly. One slight twist to these summary data concerns the fact that the relationships, while often quite strong, are not monotonic. The very lowest foreclosure neighborhoods have slightly higher minority percentages and higher poverty, unemployment, and vacancy rates. A detailed analysis of these block groups indicates that, while most are quite affluent with a small proportion of minority residents, many are in fact quite destitute. Ten of the 118 block groups have poverty rates over 26 percent. Several also have high black and minority proportions.

One additional variable shown in the table indicates those households that spend more than 30 percent of their income on maintaining their mortgage. This exceeds the recommendation of most financial analysts. All else being equal, households that are overextended are at greater risk of not being able to keep up with payments. As expected, neighborhoods with higher foreclosure rates also show greater levels of mortgage stress.

Loan to Value Ratio

One of the best databases for determining lending activity within Summit County neighborhoods was the Ameristate file, which tracked all housing purchases between 1999 and 2001. This database includes some information on loan terms, such as interest rate, but its greater value lies in allowing for an identification of lender, the amount of the loan, and the sale price of the property. Combining the information in this Ameristate file with Auditor's data made it possible to determine the loan to value ratio (LTV), which measures the value of the loan against the value of the property.

The LTV ratio provides a good measure of fiscal stress. Most conventional mortgage lenders require the borrower to put down at least 20 percent of the price of the property. If the down payment is any less, borrowers are compelled to take out mortgage insurance. About one fifth of all the home purchases in the Ameristate database indicated no mortgage at all. Another 30 percent had a down payment of at least 20 percent. The other half had a down payment of less than 20 percent.

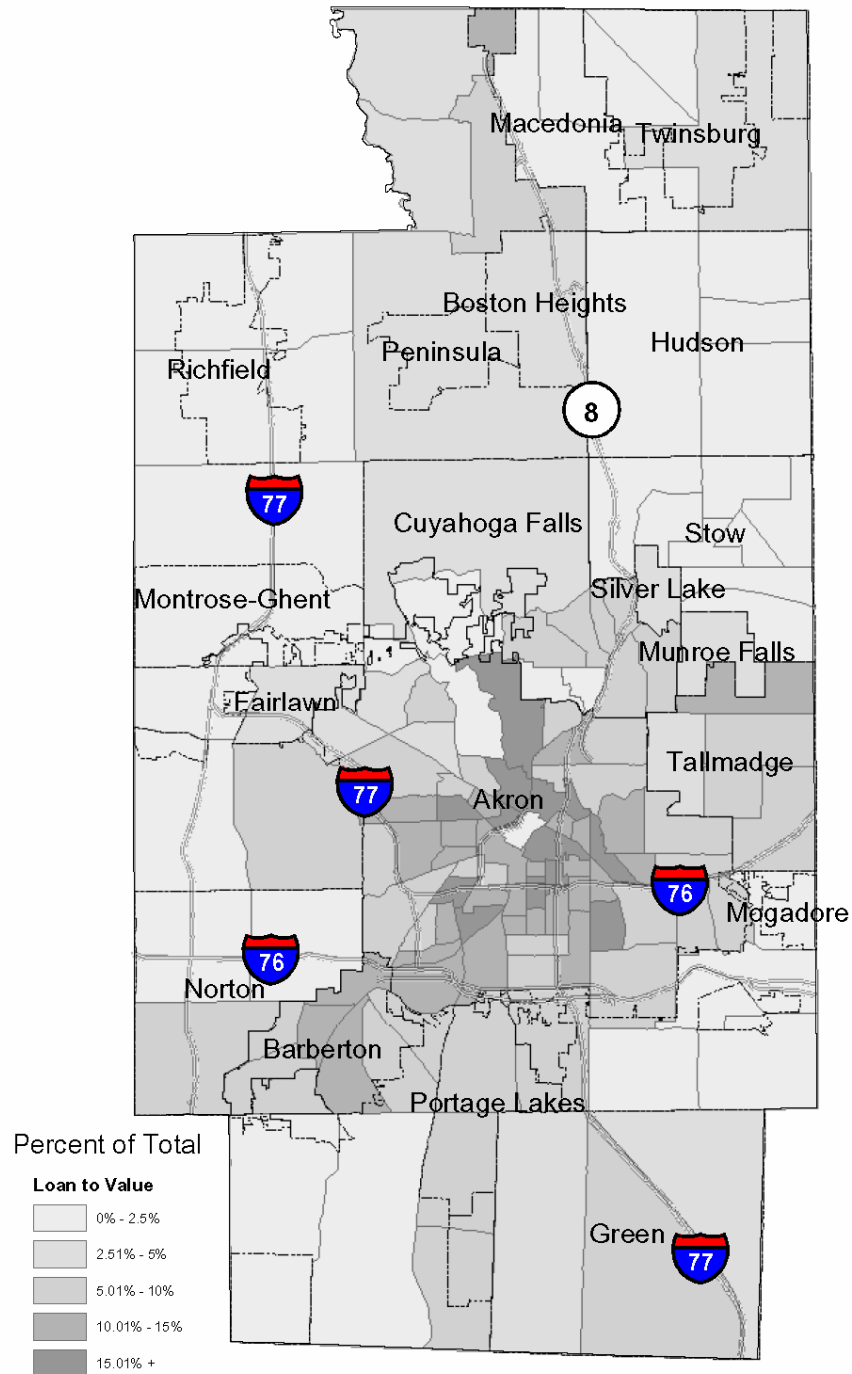
The real danger zone occurs when mortgages have LTV ratios over 100 percent. In such cases homeowners owe more than the value of the property and are at real financial risk. Unscrupulous lenders can encourage this type of ratio by offering loans far greater than the borrower can afford and by packing extra fees into the price of the loan. Table 3.4 indicates that in the Ameristate sample, about 9 percent of the home purchases came with loan to value ratios over 100 percent.

Table 3.4 Loan to Value (LTV) Ratios by Home Purchase

	Number	Percent
No mortgage indicated	7,597	21.9
Under 80%	10,403	30.0
80%-100%	13,672	39.4
100%-120%	1,412	4.1
Over 120%	1,575	4.5
Total	34,659	100.0

Figure 3.4 indicates the geography of such high LTVs and shows that such stressed properties are concentrated in a ring around inner city Akron, with far fewer such households in the outer suburbs.

Figure 3.4: Loan to Value Greater than 100%



An analysis of correlations indicated that the LTV ratio was related to the foreclosure index. Loan to value ratios over 100 percent indicated a stronger relationship ($r=0.41$) with the foreclosure index than LTV ratios over 80 percent. The following table demonstrates this relationship. The summary measures suggest that high foreclosure

neighborhoods have nearly triple the proportion of home purchases with a LTV ratio greater than 100 percent than do low foreclosure neighborhoods.

Table 3.5 Loan to Value Rates by Foreclosure Index

Median loan to value	Block Groups by Foreclosure Index (# of Foreclosures Recorded / Housing Units)						
	<i>Total</i>	<i>< 0.5%</i>	<i>0.5% - 1%</i>	<i>1% - 2%</i>	<i>2% - 3%</i>	<i>3% - 4%</i>	<i>4% +</i>
Loan To Value > 100%	11.4%	7.1%	9.1%	11.5%	13.5%	21.7%	20.0%
Loan To Value > 80%	69.2%	57.7%	63.8%	73.8%	80.0%	75.0%	70.4%

SubPrime Loans

A review of the literature and the findings of this research suggest a strong correspondence between subprime lending and predatory lending and between these forms of lending and the incidence of foreclosure. The designation of subprime comes from information obtained from the Department of Housing and Urban Development (HUD). Determining predatory lending is more difficult. The predatory lender list was compiled for the purposes of this research from other research and court cases naming predatory lenders (see Appendix A). The aggregate of subprime loans are shown in the following table.

Table 3.6 Loans by Lender Type

	<i>Total</i>	<i>Akron</i>	<i>Suburbs</i>
Prime	32,243	15,248	16,995
SubPrime	2,416	1,615	801
Percent SubPrime	7.0	9.6	4.5

According to the Ameristate data, the city of Akron has a higher proportion of subprime loans than Summit County as a whole. In all, Akron originated twice as many subprime loans as suburban Summit County but slightly fewer prime loans.

Many of the banks identified as subprime lenders by HUD make housing loans in Summit County. The following table shows those banks identified as sub prime that are involved in at least ten home purchase transactions.

Table 3.7 Sub Prime Loans by Lender (Ameristate Data)

<i>Sub Prime Lender</i>	<i>Loans</i>	<i>Sub Prime Lender</i>	<i>Loans</i>
Freedom Mtg Corp	688	BNC MTG Inc	24
First Franklin Fin'l Corp	160	NCS MTG Serv	22
Associates Home Equity Se	110	Greenpoint MTG Funding	21
Option One MTG Corp	108	Life Bank	21
Long Beach MTG Co	95	First Union Home Equity	19
Equicredit	93	Sebring Capital Corp	18
Equifirst Corp	69	Finance America	17
Accredited Home Lenders	68	USAA FSB	17
Decision One MTG Co	66	Household BK FSB	16
Delta Funding Corp	63	Aames Home Loans	14
Saxon MTG Inc	51	Title West Mortgage Inc	14
Charter One Credit Corp	47	Mortgage Lenders Network	13
Associates Fin Serv Corp	41	Residential Money Centers	13
First Union Natl Bank Del	41	Southstar Funding LTD	13
Fremont Invest & Loan	39	Keybank USA Na	12
Cit Group Consumer Fin In	37	Meritage MTG Corp	12
Full Spectrum Lending	37	Morequity Inc	12
Novastar MTG Inc	36	Aames Funding Corp	10
Centex Home Equity Corp	31	Associates HM Equity SVCS	10
Mortgage Express Inc	30	Mila Inc	10
New Century MTG Corp	29	Provident Bank	10
Citimortgage Inc	26		
Total SubPrime Loans	2,416		

The difference between a prime and a subprime loan often shows up in the interest rate. There are also generally higher fees for subprime loans, but these are not available in the Ameristate database. Only a small proportion, (about one-tenth) of the Ameristate records, indicates the interest rate. Assuming those with the interest rate to be a random sample, those records containing interest rates show the difference between the two types of loans.

The extent of subprime lending is shown on Figures 3.5 and 3.6. The first map shows the percentage of subprime loans throughout Summit County. It is clear that the proportion of subprime loans falls sharply with distance from the central city. The second map, indicating subprime lending in Akron, shows that some Akron neighborhoods have the greatest proportion of subprime loans. This map provides clear information that subprime loans are focused within a few neighborhoods. What this means is that particular neighborhoods bear the brunt of subprime lending – and these often those neighborhoods that have been underserved by the conventional mortgage process.

Figure 3.5: Sub Prime Lending in Summit County

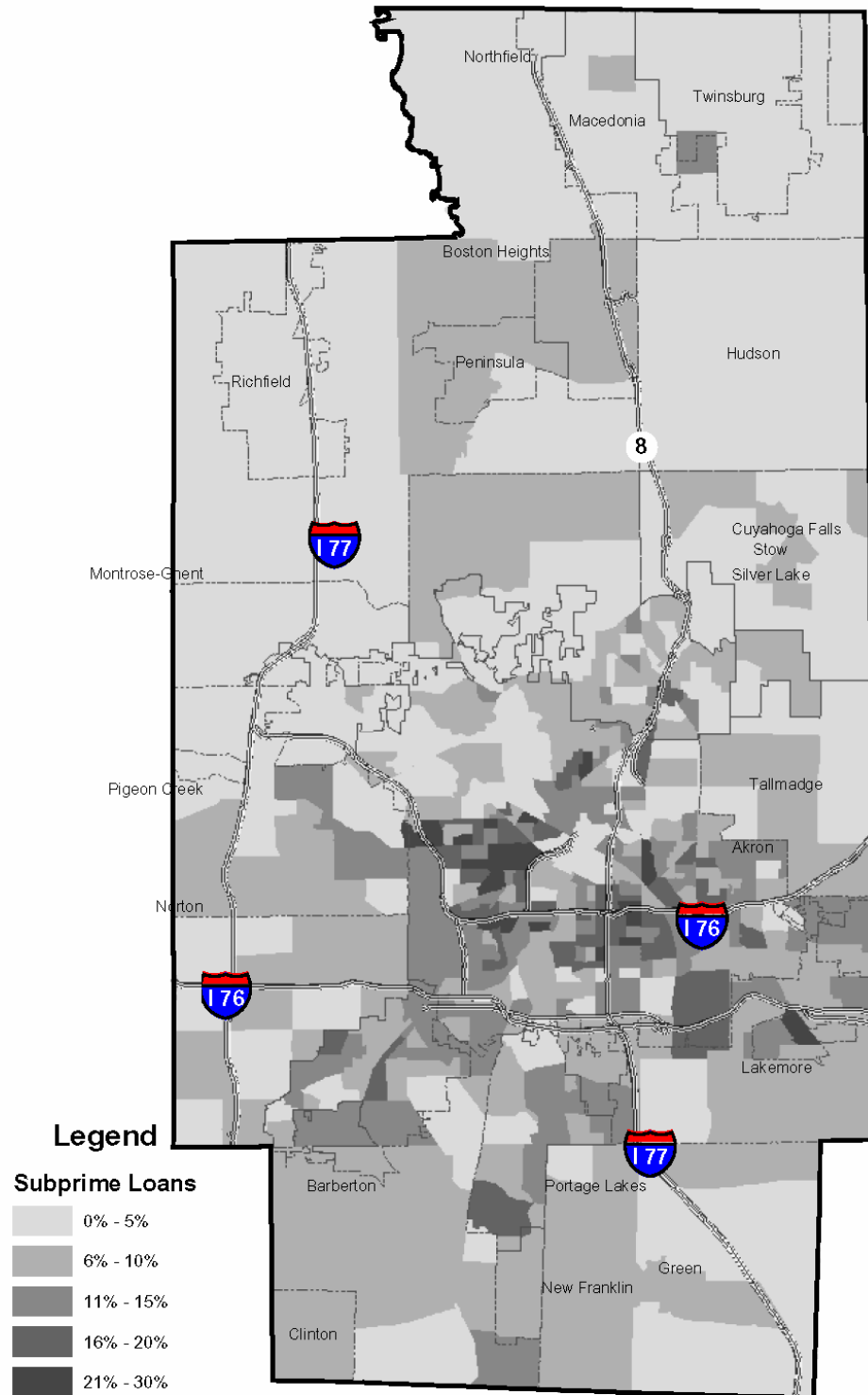
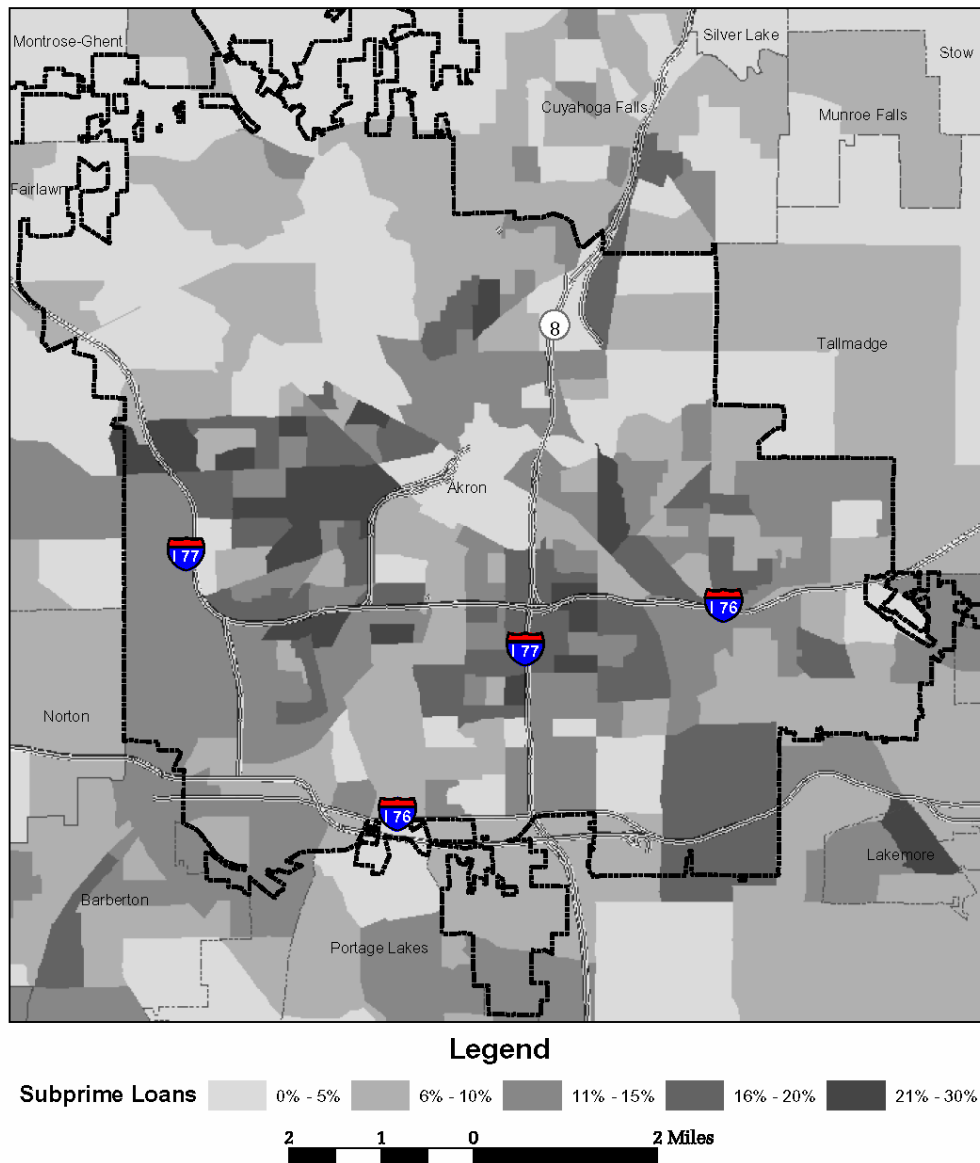


Figure 3.6: Sub Prime Lending in Akron



Both median and mean summaries indicate that subprime loans are approximately two percentage points greater than prime loans. The amount of the loan is also significantly lower, a little more than half as much, demonstrating that these are loans taken out by people in more modest circumstances.

Table 3.8 Properties of Mortgages (Ameristate Data)

	<i>Interest Rate</i>	<i>Mortgage Amount</i>
<i>Prime (2,812 loans)</i>		
Median	8.0	\$127,668
Mean	7.9	\$147,709
<i>Subprime (760 loans)</i>		
Median	10.0	\$ 65,700
Mean	10.3	\$ 84,133
<i>Total (3,572 loans)</i>		
Median	8.0	\$111,968
Mean	8.4	\$134,182

The proportion of subprime loans was calculated for all of the Ameristate data and geocoded to the block group level. An examination of correlations at the block group level, using the same variables examined previously with respect to foreclosures, shows that there is indeed a pronounced tendency for subprime loans to be found in neighborhoods with high percentages of minorities, lower socioeconomic status, greater vacancy rates, and higher levels of housing stress, as demonstrated by mortgage payments over 30 percent of income and loan to value ratios over 100 percent.

Table 3.9 Correlation of SubPrime Rate with Neighborhood Variables

<i>Variables</i>	<i>Correlation</i>
Women 65+ Percent	-0.15
Black Pct 2000	0.48
Black Pct Change 1990-2000	0.08
Minority Pct 2000	0.48
Minority Pct Change 1990-2000	0.12
Unemployment Pct 2000	0.34
Median HH Income 2000	-0.50
Vacant Pct 2000	0.27
Vacant Change 1990 - 2000%	0.02
Mortgage Payment over 30%	0.31
LTV > 100% Pct	0.36
LTV > 80% Pct	0.38
Mover Percent	0.06
Poverty Percent 2000	0.37
Poverty % Change 1990-2000	-0.19

Bold Indicates Significant at 5% level

The correlation between subprime percentage and the foreclosure index is likewise high ($r=0.59$). This is also apparent in the subprime percentages found within each of the foreclosure categories.

Table 3.10 Percent SubPrime by Foreclosure Index

	<i>Block Groups by Foreclosure Index</i> (# of Foreclosures Recorded / Housing Units)						
	<i>Total</i>	<i>< 0.5%</i>	<i>0.5% - 1%</i>	<i>1% - 2%</i>	<i>2% - 3%</i>	<i>3% - 4%</i>	<i>4% +</i>
Percent Sub Prime	7.2	3.7	5.1	8.0	11.1	15.4	16.1

One question is the extent to which the correlation between foreclosures and subprime lending explains much of the relationship with the other variables, particularly race. As the following table indicates, there is some indication of this, but certain variables exert an effect independent of the subprime percentage.

Table 3.11 Correlation of Foreclosure Index with Neighborhood Variables

	<i>FCLS Index</i>	<i>Control for Subprime</i>
Subprime Pct.	0.59	
Women 65+ Percent	-0.19	-0.13
Mover Percent	0.00	-0.04
Black Pct 2000	0.58	0.42
Black Pct Change 1990-2000	0.01	-0.04
Minority Pct 2000	0.59	0.43
Minority Pct Change 1990-2000	0.15	0.09
Poverty Percent 2000	0.36	0.19
Poverty % Change 1990-2000	-0.23	-0.14
Unemployment Pct 2000	0.35	0.20
Median HH Income 2000	-0.42	0.17
Vacant Pct 2000	0.33	0.22
Vacant Change 1990 - 2000%	0.01	0.00
Mortgage Payment over 30%	0.33	0.20
LTV > 100% Pct	0.41	0.26
LTV > 80% Pct	0.27	0.05

Bold Indicates Significant at 5% level

As can be seen in this table, the racial variables hold up even with the control. Most other variables have some, although generally a weaker effect. The one variable that is most affected is median household income. A simple bivariate correlation indicates that foreclosure incidence decreases with an increase in median household income. After controlling for subprime percentage, the effect is the opposite. Lower income neighborhoods are more likely to have a larger subprime presence, which in turn leads to higher foreclosure rates. But there is no independent effect.

The relationship between subprime lending and the loan to value ratio can be seen in the following table. In this case, all non-mortgage transactions are excluded in calculating the percentages. This is not an ecological analysis, but looks at the mortgage data for each transaction. Nearly 18 percent of subprime loans are originated with loan amounts

greater than the value of the property, compared to 11 percent of all loans. More subprime loans are built on a shaky financial foundation.

Table 3.12 Loan to Value Ratios for all Mortgages and Sub Prime Mortgages

<i>LTV Ratio</i>	<i>Total</i>		<i>SubPrime</i>	
Under 80%	10,403	38.4%	790	32.7%
80%-100%	13,672	50.5%	1,199	49.6%
100%-120%	1,412	5.2%	263	10.9%
Over 120%	1,575	5.8%	164	6.8%
Total	27,062	100.0%	2,416	100.0%

Subprime Lending and Foreclosures

An examination of the number of foreclosures that involve a subprime loan yields information about variations by geography. Figures 3.7 and 3.8 on the following pages show the percentage of foreclosures that involved a sub prime lender. While some possible patterns are discernible, there are not the clear geographic disparities found in maps showing subprime percentages as a whole or the foreclosure incidence.

The characteristics of subprime loans that lead to foreclosure are slightly different than that of prime loans. The following table indicates that subprime loans are actually less likely to have an adjustable rate and a balloon mortgage. There is no way to check on whether this applies to all loans, since this level of information is only available in the foreclosure files.

Table 3.13 Characteristics of Sub Prime Loans

	<i>Adjustable Rate</i>	<i>Balloon</i>
Prime	24.3%	10.5%
SubPrime	21.0%	6.3%
Total	23.2%	9.1%

Figure 3.7: Percent of Foreclosures that are Sub Prime, Summit County

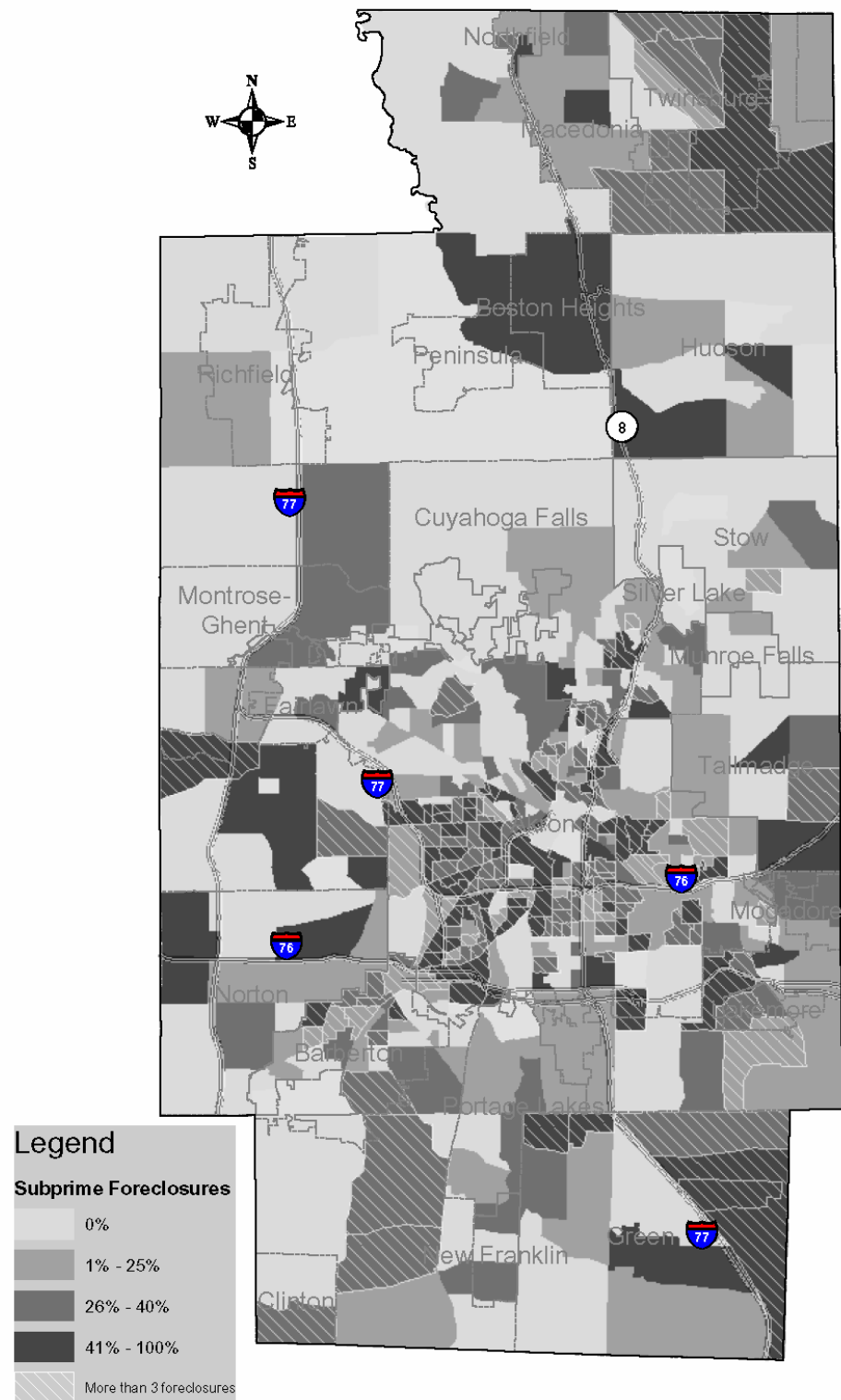
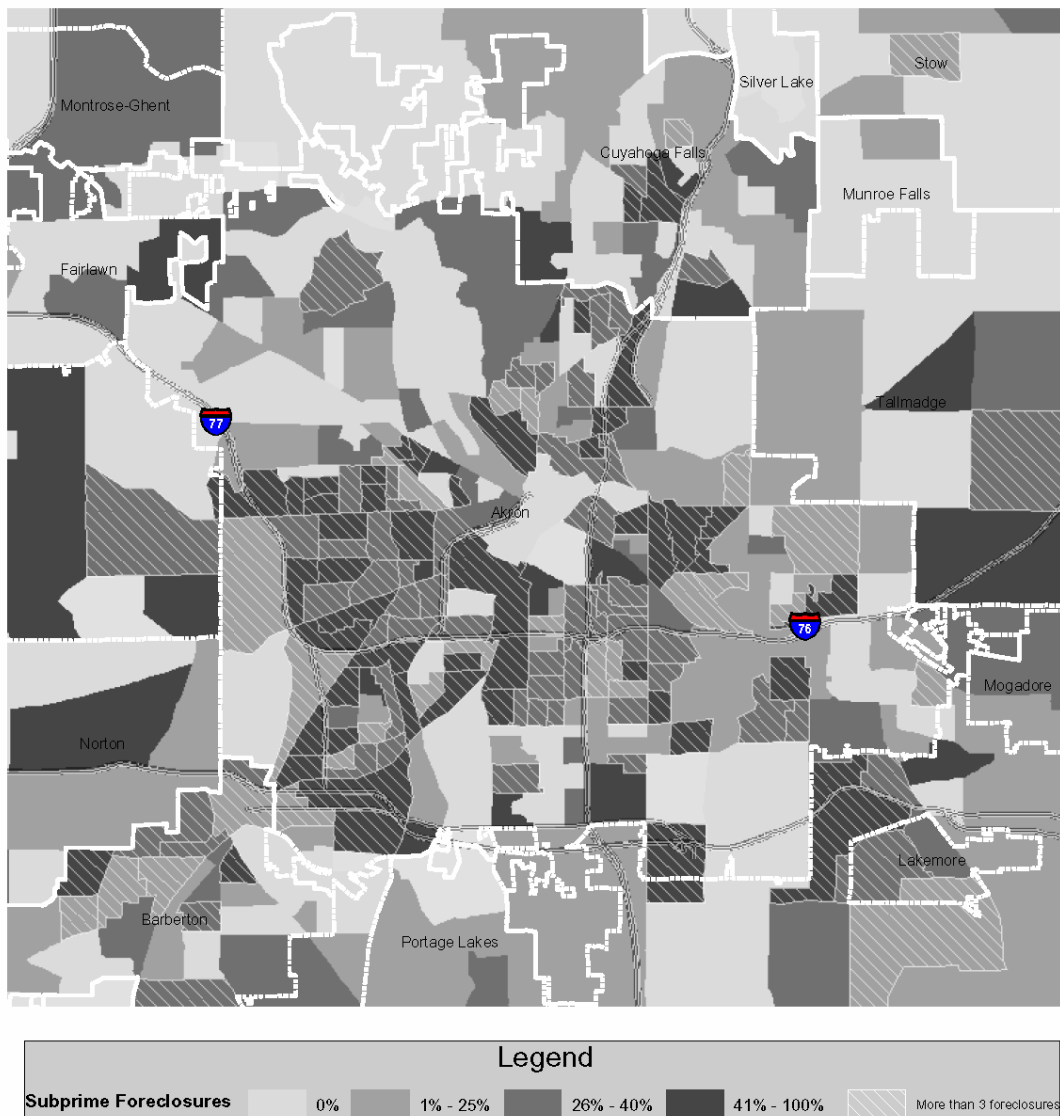


Figure 3.8: Percent of Foreclosures that are Sub Prime, Akron



Aspects of Predatory Lending

As the section of the annotated bibliography demonstrated, there are many practices that help determine a predatory loan or predatory lender. The variety of practices is too varied to allow for the choice of one or two indicators or the creation of an index. The determination of predatory lenders is based on the review of the literature, which indicated predatory lenders that other researchers noted, litigation activity and other sources. There is one caveat regarding the list of predatory lenders. It is not the intention of this research to say that these lenders engage only in predatory lending. For some lenders it may be a small proportion of their business, but they have been identified as engaging in predatory lending for at least some of their loans.

Table 3.14 Top Lenders in Foreclosure Files

<i>Bank</i>	<i>Pred</i>	<i>Bank</i>	<i>Pred</i>
Total	2069		
National City Bank	512	<u>Advanta National Bank</u>	9
GMAC Mtg Corp	191	Bank United Of Texas	7
<u>First Franklin Fin'l Corp</u>	160	<u>Associates First Capital</u>	6
Bank Of America	120	Conseco Bank	6
<u>Associates Home Equity Se</u>	110	<u>Equivantage Inc</u>	5
First Union Mtg Corp	99	Citigroup	5
<u>Long Beach MTG Co</u>	95	First Union Natl Bank	5
<u>Equicredit</u>	93	<u>Banc One Fin Serv Inc</u>	4
Bank One	73	Fairbank MTG Corp	4
<u>Decision One MTG Co</u>	66	GMAC Mtg Corp Of Pa	4
<u>Delta Funding Corp</u>	63	Lehman Brothers Bank	4
<u>Associates Fin Serv Corp</u>	41	<u>Beneficial Ohio Inc</u>	3
<u>First Union Natl Bank Del</u>	41	<u>Beneficial Mtg Co Of Oh</u>	2
<u>Cit Group Consumer Fin In</u>	37	<u>Contimortgage Corp</u>	2
<u>Mortgage Express Inc</u>	30	<u>Lenders MD Inc</u>	2
Washington Mutual Home Lo	26	<u>Ocwen Financial Services</u>	2
<u>BNC MTG Inc</u>	24	National Lending Center	2
Equitable MTG Corp	23	Star Bank	2
Ameresco Residential MTG	21	<u>Bay Financial Sav Bank</u>	1
Washington Mutual Bank	21	<u>Beneficial Mtg Co</u>	1
<u>First Union Home Equity</u>	19	<u>Citifinancial Corp</u>	1
GE Capital Mtg Serv Inc	16	American General Finance	1
<u>Aames Home Loans</u>	14	American MTG Solutions	1
<u>Mortgage Lenders Network</u>	13	Associates MTG Co	1
<u>Residential Money Centers</u>	13	Conseco Finance Serv Corp	1
Mercantile Mtg Co	11	Greentree Fin Serv Inc	1
Select Mortgage Service	11	Nationsbank	1
<u>Aames Funding Corp</u>	10	Norwest Financial Credit	1
<u>Associates HM Equity SVCS</u>	10	Star Bank & Trust Co	1
<u>Provident Bank</u>	10	Waterfield Mtg Co Inc	1
Nationwide Mtg Services	10		

Note: Underlined banks are classified as subprime.

In Table 3.14 based on foreclosure filings, underlining indicates that these lenders that HUD identified as subprime. While the two terms, subprime and predatory, are often conflated, they do not necessarily go together. According to the foreclosure data, about 50 percent of predatory lenders are subprime, whereas only one-third of all subprime lenders have been tagged as predatory.

Akron originates a larger number of loans from lenders identified as predatory lenders than do the suburbs, as seen in Table 3.15.

Table 3.15 Loans by Lender Type

	Total	Akron	Suburbs
Not Predatory	33,002	15,891	17,111
Predatory	1,657	972	685
Percent Predatory	4.8	5.8	3.8
Total	34,659	16,863	17,796

While predatory and subprime lenders overlap only somewhat, predatory lenders in the sample from Ameristate tend to originate higher interest rates and lower mortgage amounts. When averages are calculated, the difference is slighter.

Table 3.16 Characteristics of Loans from Predatory Lenders

<i>Lender</i>	<i>Interest Rate</i>	<i>Mortgage Amount</i>
Not Predatory		
Median	8.0	\$ 116,910
Mean	8.3	\$ 138,566
Predatory		
Median	10.0	\$ 76,800
Mean	9.4	\$ 103,057
Total		
Median	8.0	\$ 111,968
Mean	8.4	\$ 134,182

The foreclosure file contains data that allows for an examination of some of the terms of the loan and to make comparisons between loans originating from predatory and non-predatory lenders.

Table 3.17 Characteristics of Loans from Predatory Lenders

<i>Type of Loan</i>	<i>Adjustable Rate</i>	<i>Balloon</i>
Not Predatory	23.9%	10.2%
Predatory	21.3%	6.1%
Total	23.2%	9.1%

As with the data on subprime loans, loans from predatory lenders are actually less likely to have adjustable rates or balloon mortgages.

Taking the list of the top lenders based on the number of foreclosure filings, there is no clear pattern of subprime or predatory lenders having greater percentages of balloon or adjustable mortgages. There does not appear to be a trend where these larger foreclosure

lenders make more loans within Akron than elsewhere in the county; most foreclosures already occur within Akron. There is also clear evidence that among those lenders involved in many foreclosures, a much higher proportion tend to be subprime and predatory.

Table 3.18 contains information about mortgages for lenders with 20 or more foreclosure filings. Those lenders considered predatory appear in italics and those identified as subprime are underlined.

Table 3.18 Characteristics of Loans from Banks with More Than 20 Foreclosures

<i>Lender</i>	<i>Fore- closures</i>	<i>Percent Adjustable</i>	<i>Percent Balloon</i>	<i>Percent in Akron</i>	<i>Median Loan Amount</i>	<i>Median Interest Rate</i>
<u>Equicredit</u>	119	5.04	0.84	74.79	\$67,125	9.03
<i>Bank One</i>	107	23.36	7.48	56.07	\$67,803	8.88
Colony Mortgage Corp	69	2.90	13.04	73.91	\$58,500	9.95
<i>National City Bank</i>	64	9.38	9.38	54.69	\$47,200	9.25
<u>Decision One Mtg Co</u>	60	45.00	1.67	60.00	\$61,588	10.95
Alliance Funding	56	35.71	16.07	83.93	\$62,100	10.72
North American Mortgage Corp	51	13.73	3.92	94.12	\$62,800	8.13
<u>Delta Funding Corp</u>	48	6.25	2.08	81.25	\$69,373	10.38
ABN Amro Mortgage Grp	46	47.83	28.26	63.04	\$59,750	10.97
<i>Citigroup</i>	45	13.33	8.89	66.67	\$52,000	8.50
<u>Aegis Mortgage Corp</u>	44	15.91	6.82	77.27	\$62,000	9.95
America's Wholesale Lender	42	30.95	9.52	57.14	\$60,700	10.74
Freedom Mortgage Corp	42	61.90	0.00	69.05	\$58,910	10.45
<u>Option One Mortgage Corp</u>	41	2.44	19.51	70.73	\$61,600	10.15
Union Federal Bank Of Indianapolis	39	17.95	0.00	53.85	\$68,000	8.30
<u>Ameritrust Mortgage Co</u>	34	55.88	0.00	67.65	\$60,100	10.23
<u>First Franklin Financial Corp</u>	31	38.71	0.00	70.97	\$69,319	8.00
Norwest Mortgage Inc	31	32.26	9.68	64.52	\$64,500	9.75
<u>Associates Financial Services</u>	30	46.67	0.00	66.67	\$46,700	10.90
<i>First Union Home Equity Bank</i>	30	40.00	10.00	86.67	\$53,477	10.13
<u>Associates Home Equity Services</u>	29	31.03	20.69	75.86	\$52,700	11.35
<u>New Century Mortgage Corp</u>	29	6.90	3.45	65.52	\$63,995	7.57
Countrywide Home Loans	29	6.90	6.90	34.48	\$70,000	8.25
<u>Saxon Mortgage</u>	28	14.29	14.29	82.14	\$68,850	10.49
<u>Long Beach Mortgage Co</u>	27	48.15	0.00	77.78	\$55,760	9.98
Mortgage Now Inc	27	48.15	7.41	85.19	\$67,225	10.25
<u>Charter One Bank</u>	26	26.92	7.69	50.00	\$82,050	8.89
<u>Chase Manhattan Mortgage Corp</u>	26	30.77	0.00	61.54	\$72,500	8.63
Indy Mac Bank	26	69.23	15.38	92.31	\$61,500	10.77
<u>Advanta National Bank</u>	25	4.00	0.00	76.00	\$93,000	7.63
<u>Residential Money Centers Inc</u>	25	0.00	0.00	88.00	\$84,687	7.25
Union National Mortgage	24	12.50	0.00	66.67	\$54,806	10.45
<u>Mortgage Lenders Network USA</u>	22	18.18	9.0	81.82	\$74,100	9.90
First Ohio Mortgage Corp	22	4.55	4.55	59.09	\$38,400	9.00
First Merit Mortgage Corp	21	14.29	0.00	52.38	\$46,400	8.88
NVR Mortgage Finance	21	71.43	14.29	42.86	\$45,500	10.60
<u>Contimortgage Corp</u>	20	80.00	0.00	65.00	\$63,300	9.43
<u>Mortgage Express Inc</u>	20	20.00	0.00	65.00	\$65,453	10.66
Broadview Mortgage Co	20	55.00	10.00	65.00	\$53,450	10.01
Temple-Inland Mortgage Corp	20	10.00	20.00	45.00	\$65,782	8.00

Foreclosure Outcomes by Income and Race

The information so far has suggested that race plays an enormous role in structuring the geography of foreclosures and of subprime lending. Socioeconomic status – manifested through household income, poverty rates, and unemployment rates – also exerts a powerful effect. One way to gauge the extent of this effect is to look at the differences between neighborhoods categorized by income and racial characteristics.

Table 3.19 examines the differences between neighborhoods categorized by household income. What is clear is that wealthier neighborhoods have far fewer foreclosures, a low foreclosure index, fewer foreclosures that were originated by subprime lenders, and far fewer subprime loans in general. The only exception to that trend lies in those very poor neighborhoods, where the median household income is under \$20,000 a year. In these neighborhoods, fewer people can afford to enter into the mortgage market and about 80 percent of the occupied units are rental units. These facts account for the lower foreclosure rates. Subprime lending rates are also lower in these neighborhoods – a finding that is more surprising.

The Loan Applicant Registry (LAR) database, which contains loan application outcomes at the census tract level, was used to provide additional information. LAR data does not cover all lenders, only those with higher level of assets. But as Table 3.19 indicates, the data give a sense of the degree to which denial rates vary by neighborhood type. LAR data also points out the market for subprime lending, which has thrived largely in those areas underserved by prime lenders. Not surprisingly, denial rates are about double in poorer neighborhoods than they are in the wealthiest neighborhoods.

Table 3.19 Mortgage Types and Outcomes by Neighborhood Income Level

<i>Income</i>	<i>Number of Foreclosures</i>	<i>FCLS Index</i>	<i>Percent Subprime</i>	<i>Percent Subprime Foreclosures</i>	<i>HMDA Deny Rate</i>
Under \$20K	162	1.17%	11.86	34.57	37.7%
\$20K-\$30K	824	2.60%	14.26	40.90	39.3%
\$30K-\$40K	870	1.70%	9.99	34.94	33.8%
\$40K-\$50K	607	1.00%	6.52	27.68	27.2%
Over \$50K	479	0.65%	3.61	25.89	18.6%

Table 3.20 examines the differences between neighborhoods categorized by minority composition. The numbers show clearly a pattern of neighborhoods with at least 50 percent minorities having more than three times the foreclosure incidence as neighborhoods that are over 90 percent non-Hispanic white. Subprime rates are likewise much higher in minority neighborhoods, and more foreclosures occurred from loans made by subprime lenders. Denial rates for HMDA registered loans are greater in majority minority neighborhoods.

Table 3.20 Mortgage Types and Outcomes by Neighborhood Minority Composition

<i>Minority Composition</i>	<i>Number of Foreclosures</i>	<i>FCLS Index</i>	<i>Percent Subprime</i>	<i>Percent Subprime Foreclosures</i>	<i>HMDA Denial Rate</i>
Small Minority	1,301	0.94%	5.82	28.67	25.0%
Minority 1/10 to 1/4	470	1.05%	5.83	34.04	28.5%
Minority 1/4 to 1/2	360	1.74%	11.26	35.83	36.2%
Majority Minority	811	3.05%	15.33	40.32	43.0%

Putting together income and minority composition shows that both variables are important and operate somewhat independently. Within the \$20,000 to \$30,000 set of neighborhoods, majority minority neighborhoods have more than double the incidence of foreclosure and a far higher subprime presence than do small minority neighborhoods. Similarly, wealthier neighborhoods with a substantial minority presence have a lower foreclosure incidence and a slightly lower proportion of subprime loans than do poorer neighborhoods. In regard to the proportion of foreclosures that originated with a subprime lender, there are some similar trends here as well.

Table 3.21 Mortgage Types and Outcomes by Neighborhood Income Level and Minority Composition

<i>Median Household Income</i>	<i>Minority Composition</i>	<i>Fore-closures</i>	<i>Fore-closure Index</i>	<i>Percent Subprime</i>	<i>Percent Subprime Foreclosures</i>	<i>HMDA Denial Rate</i>
Under \$20K	Small Minority	0	0.00%	14.29	0.00	
Under \$20K	Minority 1/10 to 1/4	4	0.37%	12.50	25.00	29.1%
Under \$20K	Minority 1/4 to 1/2	23	0.50%	9.54	43.47	32.5%
Under \$20K	Majority Minority	135	1.79%	13.02	33.33	41.0%
\$20K-\$30K	Small Minority	66	1.72%	11.53	46.97	32.9%
\$20K-\$30K	Minority 1/10 to 1/4	108	1.68%	12.01	41.67	37.2%
\$20K-\$30K	Minority 1/4 to 1/2	230	2.11%	12.49	36.52	37.6%
\$20K-\$30K	Majority Minority	420	4.00%	17.39	42.14	43.8%
\$30K-\$40K	Small Minority	397	1.45%	9.02	33.00	29.9%
\$30K-\$40K	Minority 1/10 to 1/4	182	1.31%	9.67	30.77	30.9%
\$30K-\$40K	Minority 1/4 to 1/2	68	1.91%	12.01	36.77	38.1%
\$30K-\$40K	Majority Minority	223	3.55%	14.03	41.26	43.7%
\$40K-\$50K	Small Minority	468	0.96%	6.36	27.14	26.1%
\$40K-\$50K	Minority 1/10 to 1/4	84	0.96%	5.84	26.19	23.9%
\$40K-\$50K	Minority 1/4 to 1/2	22	2.15%	7.95	27.27	30.6%
\$40K-\$50K	Majority Minority	33	1.46%	12.09	39.39	41.2%
Over \$50K	Small Minority	370	0.64%	3.94	22.70	18.0%
Over \$50K	Minority 1/10 to 1/4	92	0.63%	2.57	39.13	21.2%
Over \$50K	Minority 1/4 to 1/2	17	2.55%	6.43	23.53	23.0%
Total		2,942	1.27%	7.16	33.62	30.0%

The percentage of application denials is clearly influenced by the racial composition of the neighborhoods within each income level. This appears to be far stronger than the variations by different income levels within neighborhoods of similar minority composition.

Regression Results

Putting together the information that is available by block group allows for some preliminary regression analyses. This information utilized ordinary least squares regression because the results are more interpretable. Variations in variable conditioning were tried, including quadratic and logarithmic formulae, but a simple linear regression seemed to work best. Many other variables were also attempted, including several variables that showed changes from 1990 to 2000, but the variables listed in Table 3.22 are those that made the most intuitive sense.

Table 3.22 is separated into Model 1, which includes a number of relevant demographic and socioeconomic variables, and Model 2, which also includes variables related to housing finance and vacancy rates. The results are essentially the same as in results presented previously. Racial composition plays a tremendous role in the geographical distribution of foreclosures. Increasing minority percentages between 1990 and 2000 is negatively related to the foreclosure index. Also significant is the location within the central city of Akron.

Table 3.22 Regression of Neighborhood Variables on Foreclosure Index

	<i>Model 1</i>		<i>Model 2</i>	
	<i>B</i>	<i>Beta</i>	<i>B</i>	<i>Beta</i>
(Constant)	0.0300		0.0124	
Women 65+ Percent	-0.0493	-0.181	-0.0306	-0.113
Minority Pct 2000	0.0247	0.466	0.0171	0.322
Minority Pct Change 1990-2000	<u>-0.0141</u>	<u>-0.079</u>	-0.0071	-0.040
City Code	0.0052	0.186	0.0042	0.149
Unemployment Pct 2000	0.0095	0.039	0.0054	0.022
Median HH Income 2000	0.0000	-0.265	0.0000	-0.098
Mover Percent	-0.0199	-0.193	-0.0173	-0.168
Poverty Percent 2000	<u>-0.0164</u>	<u>-0.150</u>	<u>-0.0155</u>	<u>-0.142</u>
Poverty % Change 1990-2000	-0.0111	-0.067	-0.0059	-0.035
Sub Prime Pct.			0.0007	0.279
Vacant Pct 2000			0.0293	0.098
Vacant Change 1990 - 2000%			-0.0213	-0.072
Mortgage Payment over 30%			0.0103	0.088
LTV > 100% Pct			<u>0.0152</u>	<u>0.099</u>
<i>R-Squared</i>	0.468		0.546	
<i>F</i>	45.3		39.4	

The underlined coefficients are significant at the 0.05 level. Those in bold and underlined are significant at the 0.01 level.

Various income variables appear in a counterintuitive manner. While median household income is negative, as expected, the percentage in poverty is also negative and the unemployment rate is not significant. The proportion of elderly women is negatively related to foreclosure rates, as are the percentage of movers.

When a set of housing and housing finance variables are introduced (Model 2), race and Akron location retain their importance. The percent in poverty, the percent mover, and the percent of elderly women are all negative, as with Model 1. Three of the new fiscal variables are also significant. The proportion of subprime loans exerts a powerful effect, second only to racial composition. Two measures of household budgetary stress – the proportion with mortgage payments over 30 percent of income and the proportion of mortgage loan amounts greater than the value of the property – are also significant. Vacancy rates and the change from 1990 to 2000 are not significant within this larger model.

These relationships could probably be teased out further, but the important aspects of these findings would likely not vary. The significant variables related to the rate of foreclosure are primarily racial, central city location, and variables related to financing and budgetary stress. This clearly shows which neighborhoods are most likely to be at risk. Further information is likely to be derived from discussions with individual borrowers, particularly in the neighborhoods shown to be at risk.

Homesteader

A variable in the Auditor's file indicated the properties granted homestead exemptions. Homestead laws are designed to help protect the home from creditors, provides the right of occupancy given to a surviving spouse, minor children, and unmarried children of a deceased owner and offer reduced property tax treatment. In Ohio, senior citizens and the permanently disabled are eligible to receive a reduction in real estate taxes provided their annual income is \$23,000 or less. Most of the holders of homestead exemptions are elderly women, and so this variable provides a good surrogate for that particular population – one that has been identified as particularly vulnerable to predatory lenders..

Data at the neighborhood level indicates that the proportion of elderly women is negatively related to foreclosures and subprime lending. The homestead variable allows for an examination of this relationship individually. Essentially, are homesteaders more likely to be involved in the subprime or predatory mortgage market? Are they more likely to be foreclosed on?

The best way to examine this is to look at two tables, the first which depicts the lending practices and location of homesteaders as a whole (at least in regard to the Ameristate database of home purchasers) and the second which indicates the lending practices of those foreclosed properties.

Figure 3.9: Homesteads and Predatory Foreclosures

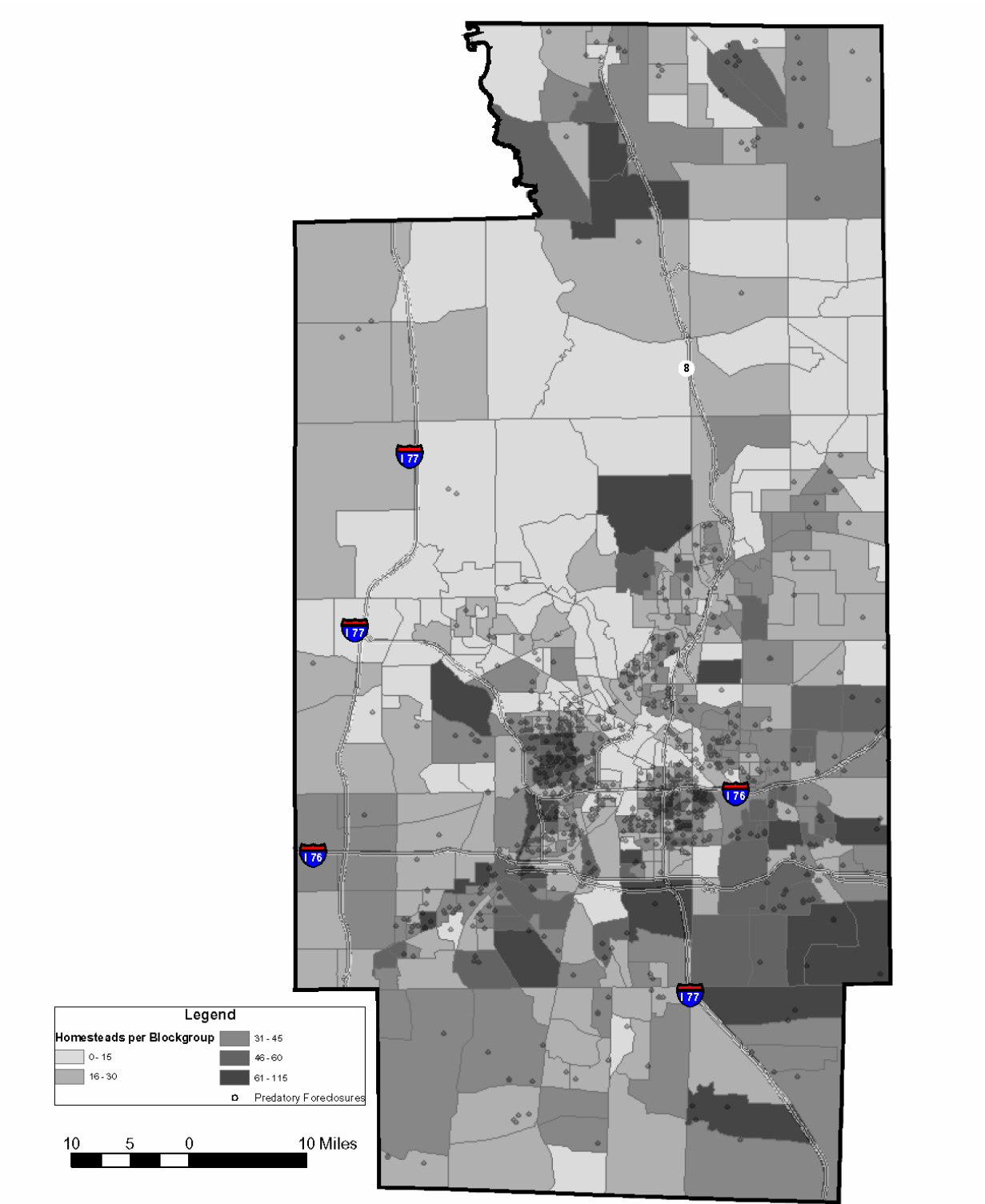


Table 3.23 Homesteader Data, All Mortgages (Ameristate Data)

Homesteader Mortgages	All Mortgages	Akron Mortgages	Subprime	Predatory
No	33,889	16,427	2,358	1,632
Yes	770	436	58	25
Percent Yes	2.27	2.65	2.46	1.53
Total	34,659	16,863	2,416	1,657

The Ameristate data indicates that the percentage of homesteaders overall is fairly similar to the percentage of homesteaders in the city of Akron and the percentage who have their mortgage with a sub prime lender. A far fewer proportion is involved with the predatory lenders identified in the annotated bibliography. A larger number may still be subject to predatory practices, but this is not apparent in this sample.

As for the second question, whether homesteaders are more likely to be foreclosed upon, the data appears to indicate that they are. The proportion of foreclosed properties involving homesteaders is more than double the proportion of homesteaders in the general mortgage holding population. Even higher percentages of homesteaders are found within Akron and within the sub prime and predatory lending markets.

Table 3.24 Homesteader Data, Foreclosures

Homesteader	All	Akron	Subprime	Predatory
No	2,826	1,790	940	750
Yes	143	106	68	56
Percent Yes	4.82	5.59	6.75	6.95
Total	2,969	1,896	1,008	806

There could be a number of reasonable explanations for this disproportion, including income levels, budgetary stress, and other financial characteristics related to a poorer population. It does bear securitizing, however, through a more focused examination of the individual experiences of homestead borrowers.

IV. PREDATORY LENDING AND NEIGHBORHOOD REINVESTMENT

Too often housing foreclosures are looked upon as a consequence of poor investment decisions by financial institutions or of individual consumers stretched by circumstances beyond their financial means. In such a guise, foreclosures are seen as a ‘mistake’ by either the lender or the consumer of the loan. The reality is that home foreclosures are not always mistakes, but rather that the loans themselves actually lead to foreclosures. The impact of these foreclosures goes beyond the boundary of the foreclosed properties and the effect on the homeowners or residents of the home. Foreclosures have a negative impact on entire neighborhoods, especially if there are a number of foreclosures in one neighborhood. According to a study of foreclosures in Chicago, foreclosures led to disinvestment and lower property values. In that study, the cost of foreclosures in 1999 was estimated at \$7 million in lost property taxes. That does not include the additional costs in policing as the boarded up properties then became havens for crime (Boylan 2001).

A national study pointed out that the spatial association of foreclosures often results in heightened impacts on certain neighborhoods. Foreclosed properties can remain vacant for a long time and are usually poorly maintained during this period. If a number of foreclosed, vacant properties are in the same neighborhood, the resulting depressed property values of other properties and increasing crime rates can contribute to neighborhood instability. This increases the difficulty of redevelopment in these neighborhoods (Curbing Predatory Home Mortgage Lending 2000). It is not just the foreclosures that negatively impact neighborhoods. Those with these high cost loans have little money left for property maintenance. With the number of high cost loans in certain neighborhoods and the resulting decline in property maintenance, entire neighborhoods can begin to deteriorate, nearby properties are devalued, and businesses and residents may abandon the neighborhood (Goldstein 2000). This effect of foreclosures, the recent surge in the number of foreclosures, and the resulting property abandonment and blight has a destabilizing effect on entire neighborhoods. The result for communities is that years of neighborhood development efforts can be undone (Immergluck and Smith 2004).

Foreclosures have and always will be part of the home mortgage business. But in recent years the term ‘predatory lending’ has entered the lexicon of many communities. It is a term that has been reserved for those lenders who venture beyond ‘sub-prime’ lending practices. Sub-prime lending provides loan products at rates above the prime rate that are geared to borrowers who present a higher level of default risk. Predatory loans and lenders are those which are geared toward the production of loan default and foreclosure. While predatory lenders may speak rationally and objectively in terms of mortgage risk and the marginal financial capabilities of their markets, their actions can be seen as much more sinister. By combining near usurious interest rates (often over 10% above prime) with balloon payments, extreme prepayment penalties, and exorbitant fee structures, predatory lenders create a financial environment that borrowers cannot afford. Predatory lenders tend to target low income and minority borrowers, who may not qualify for better

loans (or any loans) and who also lack the financial savvy to recognize the trap represented by the terms of the loan. As such, predatory lending can be seen as anything but accidental.

If the impact of foreclosures extends beyond individual properties, then planners and other community policy makers need to look at predatory lending more broadly. Predatory lending is a community and not just an individual problem. Research needs to start, however, by conceptualizing predatory lending as an attack on individual consumers, since most of the data, such as foreclosures, is at the individual level. This addresses the mechanisms and the immediate aftermath of such lending. But such a conceptualization fails to address the wider impacts of predatory lending on the redevelopment policies of a community. The effects of home foreclosures on the consciousness and condition of a neighborhood go well beyond the foreclosure itself. As such, foreclosures related to predatory lending work counter to the neighborhood reinvestment strategies of local governments and housing non-profits. To address the broader impacts, predatory lending can and should be conceptualized as an attack on the community at large.

Goals of Neighborhood Redevelopment and Reinvestment

When communities plan for neighborhood improvements and when they invest in those improvements, they are taking an active role in improving the lives of their residents. This also applies to private non-profits and to those organizations which inhabit the fringe area in between government and the non-profits.

While the source of neighborhood planning and investments in housing may vary, the goals of governments and organizations involved in these activities tend to be fairly common. Typically, the goals include:

- Creating a 'sense of community';
- Producing healthy neighborhoods;
- Neighborhood beautification;
- Reducing neighborhood decline;
- Increasing homeownership;
- Improving the quality of aging or poorly constructed housing; and
- Promoting development of land uses appropriate to the needs of the community.

By achieving the goals listed above, neighborhood and housing investment programs seek to bring about social changes in neighborhoods. In particular, these programs are designed to;

- Increase the involvement of residents in neighborhood-based decision making;
- Improve the financial situation of residents through homeownership;
- Improve the quality of life of residents;

- Make neighborhoods more desirable; and
- Improve the self-image of residents.

Many of the goals and desirable outcomes of neighborhood and housing-based planning are difficult to measure via conventional means as they relate to the residents' sense of themselves, their neighbors, and their environment. Achieving the goals is, however, a direct result of physical investments and social programs. These programs include but are not limited to:

- Investing in the rehabilitation of the housing stock and of infill housing;
- Investing in public infrastructure, including roads, parks, schools and other types of public facilities;
- Developing partnerships between government, private non-profits, business, and neighborhood-based organizations to facilitate the flow of information and to focus on issues of mutual concern; and
- Building neighborhood resources through outreach and education programs.

Through these mechanisms communities make active contributions to improving conditions in their neighborhoods.

Predatory Lending, Foreclosures, and Neighborhood Development

While foreclosures and predatory lending are commonly considered issues of loan provision and consumption, consideration of the neighborhood perspective changes the nature of the relationship. From a theoretical perspective, foreclosures and predatory lending run counter to the goals of neighborhood planning as well as planning for housing. Foreclosures and predatory lending produce less healthy neighborhoods, foster blight through temporary housing abandonment, increase filtering and neighborhood decline, reduce the quality of the housing stock, and decrease home ownership. Foreclosures and predatory lending also lead to a more transient population, hurt the financial capabilities of other residents, decrease the quality of life, and tarnish the self-image of residents.

Foreclosures and predatory lending can also limit the benefits of investments that communities make in their neighborhoods. The effectiveness of investments in housing rehabilitation and in infill housing will be negatively affected by the foreclosure process. The spatial impacts of public investments in infrastructure will also be reduced if the surrounding neighborhoods are in turmoil.

While it is currently just a case of conjecture, one could envision a situation wherein public investment in housing and infrastructure would be a lure to predatory lenders. For those lenders, the foreclosure process typically reduces the value of the housing stock. But if that housing was in an area of active public investment, the declines in the foreclosed units might be offset by improvements within the neighborhood. This would increase the profitability of such lending. Something similar happened in Akron. A

company distributed flyers promoting lending opportunities. These flyers were designed in such a way that unwary homeowners might think that they originated with the city or a housing agency.

Predatory Lending and Neighborhood Reinvestment in Summit County

From a theoretical perspective, foreclosures and predatory lending have a negative impact on the investments made by communities in improving their neighborhoods. But to what extent are foreclosures, predatory foreclosures, and public investment in neighborhoods actually linked? To begin to understand this relationship, data on public investments was collected and added to the foreclosure file. The information used in this part of the study included the foreclosure data discussed extensively in the previous chapter and information on investments in housing rehabilitation made by a number of organizations in Summit County.

While most of this investment data represents government investments in housing, there are some non-profits that have made substantial investments in housing rehabilitation and construction. The nonprofit agencies include the following:

- N.C.S. of Barberton, Inc.
- Summit County Housing Network
- East Akron Neighborhood Development Corporation (EANDC)
- Tri-County Independent Living Center, Inc.

Although the investments made by these agencies are important, the lion's share of the investments made in housing is by government and quasi-governmental agencies. These include:

- City of Akron
- Akron Metropolitan Housing Authority (AMHA)
- Summit County Housing Rehabilitation Program

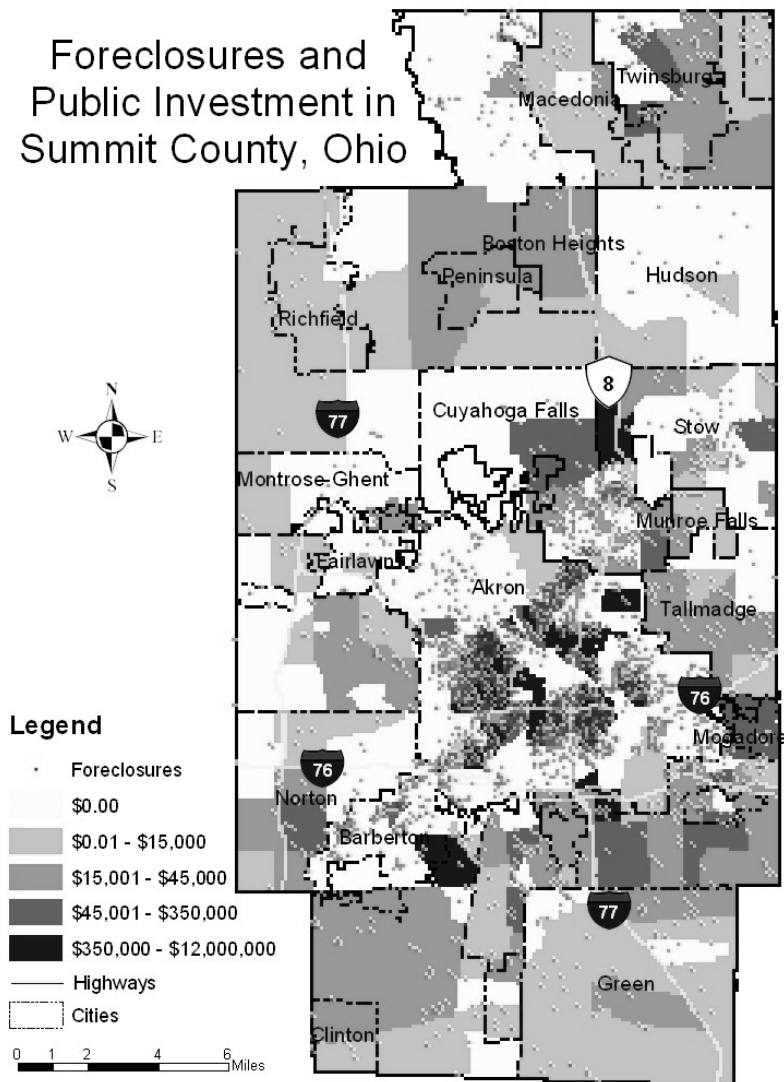
Housing investments from all of these sources are shown in Map 1 which superimposes these public investments on a dot map indicating foreclosures.

To answer the question concerning the relationship between foreclosures and public investments, data on housing investment, foreclosures, and predatory lending for the City of Akron was used. The following are some of the reasons for selecting Akron from among all of the Summit County communities for analyzing the relationship.

- Akron has the highest number of foreclosures in Summit County.
- Akron has the highest number of predatory foreclosures in Summit County.
- The City of Akron is actively involved in neighborhood development programs for which there is available data.

- Whether it is due to a lack of need or of resources, not all Summit County communities participate in programs of neighborhood and/or housing rehabilitation.

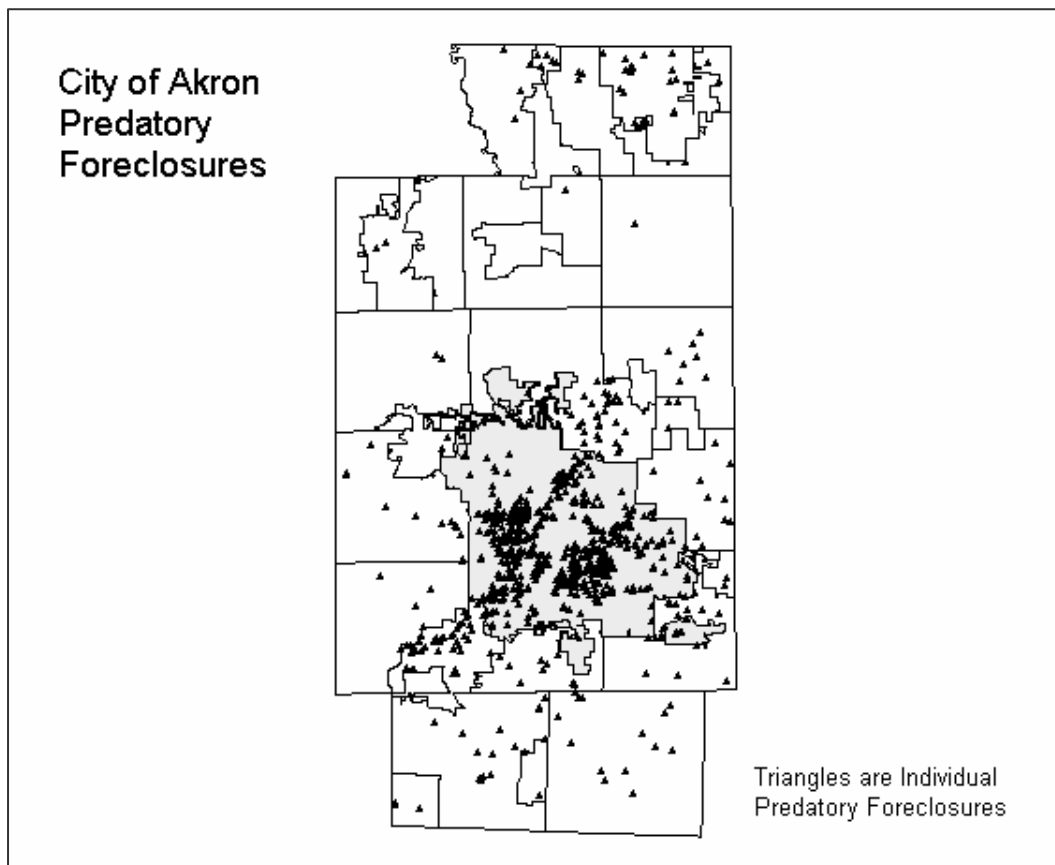
Figure 4.1 Foreclosures and Public Investment in Summit County, Ohio



This study of the relationship between public investment and foreclosures uses data on housing investments for 1999 through 2003 made by the City of Akron and the AMHA. Other sources were excluded as their investments stretched beyond the City of Akron. In addition, public investments made by the city in infrastructure improvements and in non-residential structures were also excluded. In future studies this information could be included as a basis for comparison. But its link to foreclosures is likely to be tenuous at best.

The map of predatory foreclosures (Figure 4.2) on the following page is indicative of a pattern both in predatory foreclosures and in the pattern of foreclosures in general. The last point is evident in the map of foreclosures and public investment on the preceding page (Figure 4.1). It reveals that, while foreclosures occur throughout the county, public investment in housing is strongly centralized within Akron. If one considers the cost of investment in housing, the lowest investment categories on the map may represent an investment in only a handful of structures. There are parts of other communities that fall within the highest investment category shown on the map (Cuyahoga Falls, Barberton, and Akron), but the areas at the top of that investment category are in Akron.

Figure 4.2 City of Akron Predatory Foreclosures



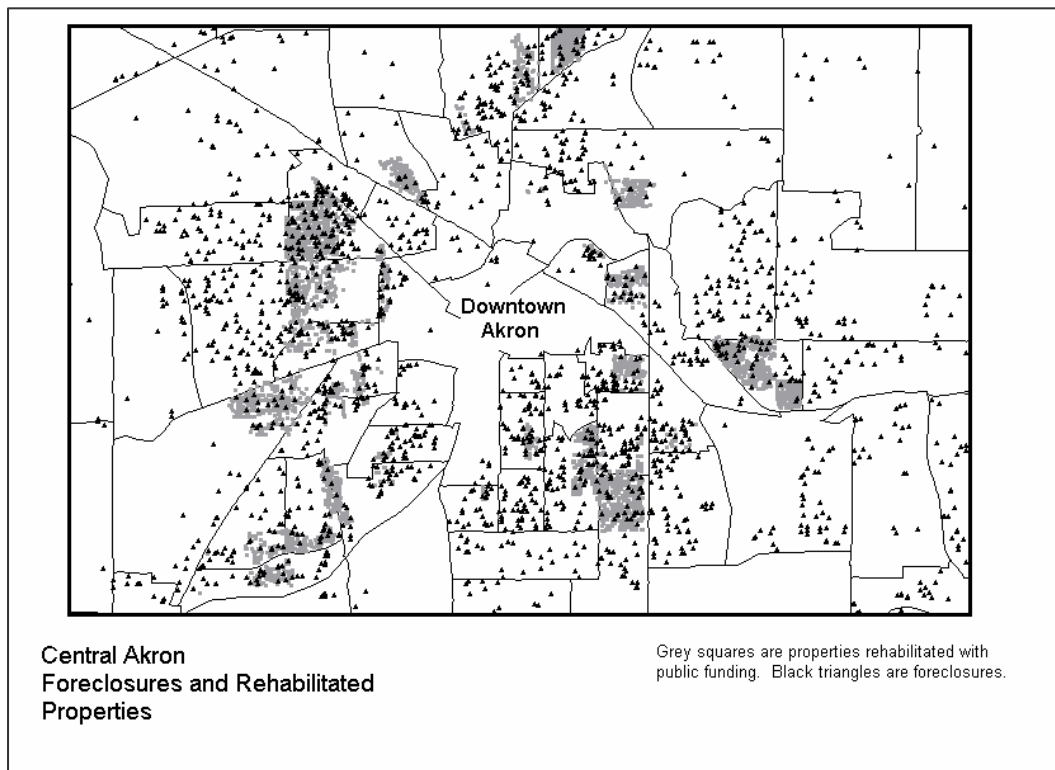
Using the city data, housing investment was mapped against the foreclosure data. This was done to ascertain if a pattern existed that would indicate a link between public investment in housing and the foreclosure data. Using the same data set, correlation coefficients would be calculated to determine the degree to which public investment, foreclosures, and predatory foreclosures were associated. And even though there is not necessarily a causative relationship between predatory lending and public investment, regressions were run to determine the extent to which variations in the predatory lending data were due to the presence of public investment in housing.

Using the Akron data, the next step is to identify the research questions to be addressed. These are:

- Is there a spatial link between foreclosures, predatory foreclosures, and public investment in housing and neighborhoods?
- Are foreclosures identified as predatory more strongly linked to public investment than foreclosures in general?
- Are financial institutions that are linked to predatory lending more or less likely to be associated with areas of public investment?

The assumption is that there is a link between foreclosures and public investment. This would be logical given theory and given our findings that foreclosures are inversely linked with income. If foreclosures are more likely in areas of low income, and if public housing investments target low income areas where such assistance is needed, then it would be surprising if they were not correlated. Figure 4.3 below would, at least visually, seem to substantiate that assumption.

Figure 4.3 Central Akron Foreclosures and Rehabilitated Properties



If we assume that predatory and/or sub-prime lending does not intentionally target people in poverty, then the answer to the second research question should be negative. This would be apparent in the data if correlation coefficients for foreclosures and predatory foreclosures are identical. If we assume that individual institutions associated with predatory lending do not target people in poverty, then the third question should be

negative as well. As with the second research question, this would be reflected in correlation coefficients that would be identical.

For the purposes of this study, data on foreclosures, predatory foreclosures and rehabilitated properties were assembled at the zip code-level. While finer levels of geography could have been used, the investments in housing rehabilitation do tend to fit nicely within zip code boundaries. Data on foreclosures, predatory foreclosures, and rehabilitated properties by zip code appears in Table 4.1.

In the future, it may be desirable to examine models that allow for spatial detail at the level of individual properties. This would be important in determining whether individual (as opposed to neighborhood-wide) public housing investments have an impact on foreclosures and predatory lending practices in surrounding properties.

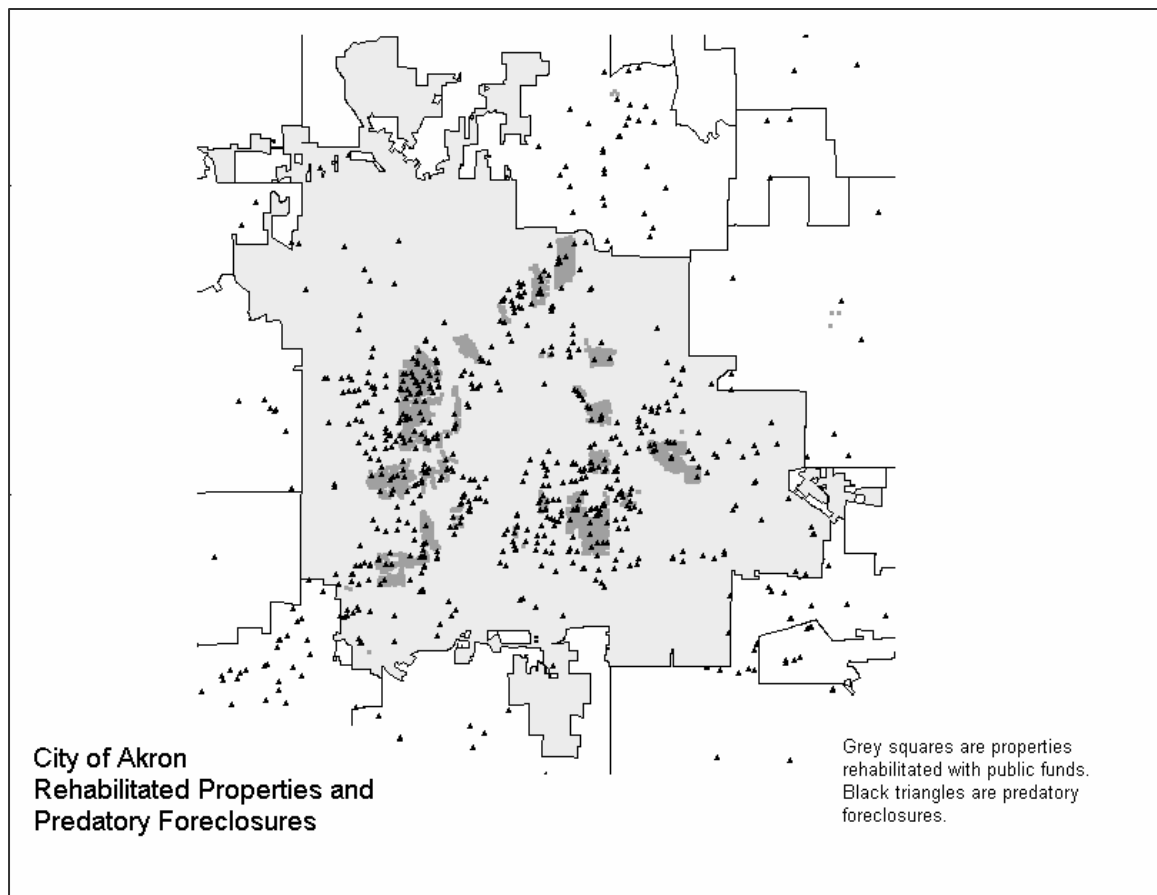
Table 4.1 Foreclosures, Predatory Foreclosures and Rehabilitated Properties in Akron

Akron Zip Codes	Total Foreclosures	Predatory Foreclosures	Rehabilitated Properties	Public Investment (in \$1,000)
44301	173	41	47	402
44302	63	18	43	509
44303	29	8	144	2,485
44304	24	7	34	322
44305	237	61	697	7,610
44306	323	97	753	7,494
44307	140	41	589	6,799
44308	4	1	0	0
44309	6	0	0	0
44310	231	61	884	8,668
44311	109	42	65	729
44312	207	42	3	44
44313	84	11	1	12
44314	207	80	485	5,973
44315	2	0	0	0
44319	124	22	0	0
44320	301	101	772	10,394
44321	12	4	0	0
44326	1	0	0	0
44333	8	0	0	0

The map of rehabilitated properties and predatory foreclosures in Akron (Figure 4.4 on the following page) shows a strong spatial relationship between areas of active public investment and predatory foreclosures. That being said, there are clusters of predatory foreclosures in Akron that are not associated with areas of active public investment. The

important consideration here is the term ‘active’. Public investment strategies as well as areas of public investment change over time. This allows governments to target neighborhoods over time in order to make the effects of their efforts more demonstrable. As such, the clusters of predatory foreclosures that are not associated with public investment during this study period may be associated with areas of public investment from earlier periods. They may also be preceding public investment. In either case, the predatory activity can be just as damaging. In areas of earlier investment the predatory activity can be seen to undo the positive impacts of reinvestment. In areas of future public investment, predatory activity can result in higher costs to government in order to achieve the desired degree of neighborhood revitalization.

Figure 4.4 City of Akron Rehabilitated Properties and Predatory Foreclosures



In order to determine whether the association between foreclosures, predatory foreclosures and public investment in housing rehabilitation is more than just visual, correlation coefficients were calculated for foreclosures and rehabilitated properties in order to determine the extent to which the two were correlated. Calculations were also made of correlation coefficients for predatory foreclosures and rehabilitated properties. This was done to see what the extent of the correlation was as well as to compare with the coefficient for foreclosures as a whole.

In addition to the above calculations, correlation coefficients were also calculated for the major foreclosure lenders and housing rehabilitation. The coefficient for the top 8 foreclosure lenders (those with over 40 foreclosures in the City of Akron during the study period) include lenders (in alphabetical order) Alliance Funding, America's Wholesale Lender, Bank One, Colony Mortgage Company, Decision One Mortgage Company, Delta Funding Corporation, Equicredit, and North American Mortgage Group. The coefficient for the top 4 foreclosure lenders (those with over 50 foreclosures in the City of Akron during the study period) include lenders (in alphabetical order) Bank One, Colony Mortgage Company, Delta Funding Corporation, and Equicredit. The basis for these calculations was to determine whether the pattern of foreclosures produced by these lenders were more strongly associated with areas of public investment in housing rehabilitation.

Table 4.2: Correlation Coefficients

Foreclosures and Rehabilitated Properties	
0.839613	Predatory Foreclosures and Rehabilitated Properties
0.852342	Top 8* Foreclosure Lenders and Rehabilitated Properties
0.845986	Top 4** Foreclosure Lenders and Rehabilitated Properties

Based on the maps and theory, it was expected that there would be a correlation between the locations in which the City of Akron has invested in property rehabilitation and the locations of foreclosures. This was apparent in the Central Akron map (Figure 4.3). Once again, this was not an unexpected finding given that there is an indirect relationship between foreclosures and income. There is also an indirect relationship between public expenditures on housing rehabilitation and income.

The correlation coefficients confirm the theory and the visual associations apparent from the mapping. Foreclosures are strongly correlated with the presence of housing rehabilitation. What is interesting is that predatory foreclosures are even more strongly correlated with the presence of housing rehabilitation. The correlation coefficients for the top foreclosure lenders are also slightly higher than for foreclosures in general.

IV. CONCLUSIONS AND RECOMMENDATIONS

This analysis determined the extent to which particular neighborhoods are differentially affected by the activities of the mortgage market and the extent to which this is related to the neighborhood characteristics. In conclusion, there is a strong spatial relationship between foreclosures, subprime lending, and particular neighborhood variables. There is also a relationship between predatory foreclosures and public investment in housing within the City of Akron.

There are a number of specific conclusions that stem from this study

- Foreclosures are found disproportionately within the city of Akron and among a few neighborhoods
- The foreclosure incidence by block group is related to a number of neighborhood attributes, among them poverty and income, minority composition, vacancy rates, and fiscal stress.
- Measurements of those properties where the loan amount exceeds the value, show that such properties are found disproportionately in a ring around inner city Akron. A high loan-to-value ratio is also highly related to foreclosure incidence.
- Sub prime loans are more prevalent within the City of Akron and among particular neighborhoods. The data available reflects that these loans do differ from prime loans in regard to the interest rate and the amount of the loan.
- Sub prime lending is related to a variety of neighborhood variables, especially those measuring race, prosperity and budgetary stress.
- When controlled for subprime activity, the minority composition of a neighborhood continues to be a powerful correlate of foreclosure incidence.
- The proportion of foreclosed properties involving homesteaders (owners of properties granted homestead exemptions) is more than double the proportion of homesteaders in the general mortgage holding population.
- Predatory foreclosures and foreclosures made by major foreclosure lenders are more strongly associated with the presence of public investments in housing.

Future Directions of Study

The results of this section of the study point to some questions for further analysis. These questions are;

- 1) How do the predatory lenders target consumers? How do they find consumers for their loans? Are there specific types of advertisement that they use? To what extent are public housing investments a part of this consideration?
- 2) Are there causative relationships between foreclosures and public investment in housing? The assumption is that they correlate due to their link to income. But does one actually influence the other? Are there instances where public investment targets areas of foreclosures in an attempt to prevent filtering and decline? Does public investment have an impact either positive or negative on foreclosure decisions by financial institutions or on the economic decision-making of consumers?

3) As in #2 above, there is a correlation between predatory foreclosures and public investment in housing. Once again, the assumption is that the correlation is based on the relationships between these activities and low income. Is that necessarily true? How does public investment in neighborhoods affect the predatory lenders? Do such lenders try to steer clear of areas of active investment as a means of ‘hiding’ from community government? Do they use public investment as a means of targeting consumers for their loan products? Do they actively seek out such areas because the investment will keep land values artificially elevated in spite of their predatory foreclosures?

4) What are the approaches taken by public agencies and private non-profits to deal with the problems of predatory lending? Are there success stories that can be emulated?

5) To what extent are consumers falling prey to the American Dream as well as the downsizing of government involvement in housing? Just because it is the dream of every American to own a house, does that mean that every one should? And are government efforts to work their way out of the housing market doing a disservice to those who are going into that market? (Are neo-classical economics really appropriate to a good like housing?)

The answers to these questions likely require a more micro-level research design. We think that the logical follow-up to this study would be a project that examined the loan experiences of individual households in those neighborhoods that show high rates of foreclosures and subprime loan activity. It would also be valuable to further understand, through discussions with loan officers, what are the incentives for making loans that are subprime and perhaps even predatory.

Specifically, a suggested research design should seek to:

1. Examine all loan terms – interest, fees, points, special conditions – for individual borrowers. These could then be compared with neighborhood and county norms
2. Match individual borrower characteristics, especially credit scores, and terms of the loan.
3. Uncover the lending experience of borrowers in order to assess the marketing of particular types of loan products.

This disaggregated approach to predatory lending will complement this aggregate level project and further knowledge regarding the dynamics of predatory lending.

Appendix A: Predatory Lender List And Sources Of Information

<i>Name of Lender</i>	<i>Source</i>	<i>Legal Cases, Named in Publications</i>
Aames Capital Corp	1	
Action Loan Company	6	FTC case
Advanta	4	Case brought by Chase Manhattan for fraud
Affinity Bank	1	
Alliance Mortgage Company	9	FTC, AARP % 6 states
Alternative Mortgage Source Inc	1	
American General	1, 3	1999 case for door-to-door financing scheme
American Mortgage Solutions	1	
Ameriquest Mortgage Company	1	
Amresco Residential Mortgage Corp	1	
Amresco Residential Mortgage Corp	1	
Approved Residential Mortgage Inc.	1	
The Associates (Associates First Capital, Associates Corp. Associates First Fin.)	3, 6, 15	Case filed by Georgia, FTC, HUD & Illinois, California
AXA Financial	1	
Banc One Financial Services (Household International bought from Bank One	7	
Bank of America	1	
Bank of New ?	1	
Bank One Corp.	1	
Bank United of Texas	14	Violation of Washington Consumer Protection Act
Bankers Residential Mortgage Corp	1	
Bankers Trust	1	
Beneficial (Owned by Household International)	5, 8	Case in Mississippi & Iowa
Bay Financial Savings Bank	1	
BNC Mortgage Inc.	1	
Capital City Mortgage	1, 2, 6	Cases filed under ECOA & RICO, FTC case
Capitol Mortgage Corporation	6	FTC case
Centex Corporation	1	
CitiFinancial Credit Company	6,11	FTC, Georgia, NTIS Survey Results
Citigroup Inc.	1, 3, 5, 6	FTC, Alabama, Georgia
City Finance (Owned by Washington Mutual Finance	3	
CLS Financial Services, Inc.	6	FTC case
Conseco Inc	1, 11, 12, 17	Case filed in S. Carolina, Kansas, Iowa, Supreme Court
Delta Funding Corporation (Delta Financial Corp.)	1, 2, 6	Case filed under ECOA & HOEPA, FTC case
Deutsch Financial Services	1	
Equitable Mortgage Corp	1	
Equivantage Inc	1	
Fairbanks Capital Corp	1, 5, 6 15	Case settled with FTC & HUD, class action lawsuit
First Alliance Mortgage Company	6	\$60 million settlement
First Plus Financial Group, Inc	6	FTC case
First Union Corp	1	
Fleet Finance and Home Equity U.S.A.	6	FTC case
General Electric Capital	1	

General Motors Acceptance	1	
Granite Mortgage, LLC	6	FTC case
Green Tree Financial (Green Tree Acceptance)	1, 11, 12	Cases in Texas, S. Carolina, Kansas, Iowa
H&R Block	1	
Household Finance	8, 10	Iowa Settlement, California case
Household International (Household Finance, Household Realty & Beneficial)	1, 5, 10	\$484 million settlement
IMC Mortgage	1	
Interstate Resource Corp.	6	FTC case
JP Morgan Chase	1	
Lap Financial Services	6	FTC case
Lehman Brothers Holding	1, 10	Financing for First Alliance
Lenders MD Inc	1	
Long Beach Mortgage	1, 6	Case filed 1996 - Department of Justice
Mercantile Mortgage Company, Inc.	1, 6	FTC case
The Money Tree	6	FTC case
Mortgage America Inc	1	
Mortgage Corporation of America	1	
Mortgage Lenders Network USA Inc.	1	
National City	1	
National Lending Center	1	
NationsBank (Nations Credit)	12	Paying employees a referral fee
Nationwide Mortgage Corp.	6	FTC case
Norwest Financial (Owned by Wells Fargo)	3	
NuWest Inc.	6	FTC case
Ocwen Financial Corp	1, 5	Complaints filed in 2003
Provident Bank	1, 11	Case in Iowa
Regions Bank	1	
Select Mortgage Group	1	
Star Bank	1	
Sterling Bank & Trust Company	1	
Sterling Financial Corporation	1	
Stewart Finance Company	6	FTC case
TCF Consumer Financial Services Inc.	1	
Thorp Consumer Discount	1	
Tower Loan of Mississippi	6	FTC case filed 1992
TransAmerica Insurance and Investment Group	1	
TranSouth Financial Corporation	18	Claim under review
United Companies Financial Corp	1	
Wasatch Credit Corp.	6	FTC case
Washington Mutual	1, 3, 5	2001 lawsuit for flipping and packing
Waterfield Group	1	
Wells Fargo (Wells Fargo Financial)	3, 4, 16	Case file in California, Mississippi

Sources of Information for Determining Predatory Lenders

- 1 Richard Stock, "Study of Predatory Lending in Montgomery County, 1994-2000"
- 2 Deborah Goldstein, "Protecting Consumers from Predatory Lenders: Defining the Problem and Moving Toward Workable Solutions"

3 Thomas Methvin "Predatory Lending . . . Who, What, & Where Do We Go From Here"
4 Asset Securitization Report
5 American Banker
6 Federal Trade Commission (FTC)
7 SNL Financial
8 The Gazette (Iowa
9 National Association of Attorneys General
10 Consumer Financial Services Law Report
11 National Training and Information Center (NTIS), "Slash and burn Financing A Study of
CitiFinancial's Recent Lending in Chicago
12 Inner City Press "Hot Issues"
13 Department of Justice (DOJ)
14 Cohen, Milstein, Housfeld & Toll
15 Lieff Cabraser Heimann & Bernstein, LLP
16 ACORN
17 FindLaw
18 Beasley Allen

Appendix B: Summit County Ordinance

The Summit County Predatory Lending Task Force recommended that the County create an Office of Consumer Affairs to help combat the predatory lending problem in Summit County. The Task Force may have preferred a more direct approach to the problem, but state legislation and cases against communities that took a more direct approach led the Task Force to address the problem through a consumer affairs office. The chair of the Task Force had legislation drafted and submitted to Summit County Council. The legislation that follows is the amended version of the original legislation.

ORDINANCE NO 2004-618

SPONSOR Mr. Teodosio

DATE _____

An Amended Ordinance amending Title 9 of the Codified Ordinances of the County of Summit, entitled “Consumer Affairs,” and Chapter 200, entitled “Consumer Affairs Board,” ~~of Part 1 of the Codified Ordinances of the County of Summit, entitled “Administrative Code,”~~ to clarify Chapter 200 and to further explain the purpose and authority of the Consumer Affairs Board and the Office of Consumer Affairs, for County Council, and declaring an emergency.

WHEREAS, this Council previously adopted Ordinance number 2004-386, establishing a Consumer Affairs Board and Office of Consumer Affairs to promote the enforcement of laws relating to unfair, deceptive, or unconscionable business practices and predatory lending practices in Summit County; and

WHEREAS, concern has been expressed regarding the definition of predatory lending contained in Part 1, Title 9, Chapter 200 of the Codified Ordinances of the County of Summit and the extent to which the County of Summit can prosecute predatory lending practices; and

WHEREAS, Ohio Revised Code Section 1.63 in conjunction with Ohio Revised Code Chapter 1349 preempts the regulation of loans and other forms of credit, and Ohio courts have held that the regulation of mortgage lending and predatory lending practices is not a matter of local self-government; and

WHEREAS, the intent of the Consumer Affairs Board and the Office of Consumer Affairs is not to prosecute claims of predatory lending but rather to educate consumers and businesses about predatory lending practices, to investigate complaints of predatory lending and to refer complaints of predatory lending to the appropriate state or federal agencies; and

WHEREAS, after reviewing all pertinent information, this Council has determined that it is in the best interest of the County to amend Title 9, Chapter 200 to clarify the purpose and extent of Chapter 200, the Consumer Affairs Board and the Office of Consumer Affairs;

NOW, THEREFORE, BE IT ORDAINED by the Council of the County of Summit, State of Ohio, that:

SECTION 1

Title 9, Chapter 200 of the Codified Ordinances of the County of Summit is hereby amended as follows:

200.01 DEFINITIONS

As used in this Chapter, certain terms are defined as follows:

- (1) "Board" means the eleven member Board that oversees the Office of Consumer Affairs and supervises the Director of the Office of Consumer Affairs and other personnel in effectively protecting the consumer public in the County.

ORDINANCE NO. 2004-618

PAGE TWO

- (2) "Consumer" means a person who seeks or acquires real or personal property, goods, or services, primarily for personal, family, or household purposes.
- (3) "Consumer Transaction" means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things. "Consumer Transaction" does not include transactions between persons defined in sections 4905.03 of the Ohio Revised Code and their customers; transactions between certified public accountants or public accountants; transactions between attorneys, physicians, or dentists, and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not ancillary services. "Consumer transaction" also does not include transactions between persons, defined in 5725.01 of the Ohio Revised Code, including FDIC insured depository institutions and their operating subsidiaries, and their customers unless otherwise provided by federal or state law, statute, or rule.
- (4) "Director" means the Director of the Office of Consumer Affairs wherever used in this Chapter, unless specifically defined otherwise.
- (5) "Office" means the Office of Consumer Affairs.
- (6) "Person" means any individual, partnership, partner, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, assigns, employees, or successors.
- (7) "Predatory lending" means ~~such questionable~~ **unlawful lending or lending-related practices by that are prohibited** ~~unlawful under by~~ Federal and/or State law, including but not limited to Ohio Revised Code Sections 1349.26 and 1349.27. home improvement contractors, mortgage brokers, mortgage lenders, and finance companies that result in foreclosure and/or stripping the home of equity. For the purpose of educating consumers and businesses about predatory lending practices,

~~indicators of predatory lending may include: including, but not limited to: failure to appropriately disclose required information, terms under which the outstanding principal balance will increase, financing excessive fees into loans, refinancing low interest mortgages at higher interest rates, loan flipping, charging higher interest rates than a borrower's credit warrants, loans made without regard to a borrower's ability to repay, prepayment penalties, falsely promising to provide additional financing in the future or to refinance at a lower rate, preying on the emotional needs of the borrower, property flipping, shifting unsecured debt into mortgages, balloon payments, and yield spread premiums.~~

- (8) "Services" means and includes, but is not limited to, work, labor, consumer transactions, privileges, and all other accommodations which are primarily for personal, family, or household purposes.
- (9) "Unconscionable consumer sales practices" means practices in connection with a consumer transaction which unfairly takes advantage of the lack of knowledge, ability, experience, or capacity, of a consumer, or results in a gross disparity between the value received by a consumer and the price paid to the consumer's

detriment. In determining whether an act or practice is unconscionable, the following circumstances shall be taken into consideration:

- (a) Whether the supplier has knowingly taken advantage of the inability of the consumer reasonably to protect his interests because of his physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of an agreement;
 - (b) Whether the supplier knew at the time the consumer transaction was entered into that the price was substantially in excess of the price at which similar property or services were readily obtainable in similar consumer transactions by like consumers;
 - (c) Whether the supplier knew at the time the consumer transaction was entered into of the inability of the consumer to receive a substantial benefit from the subject of the consumer transaction;
 - (d) Whether the supplier knew at the time the consumer transaction was entered into that there was no reasonable probability of payment of the obligation in full by the consumer;
 - (e) Whether the supplier required the consumer to enter into a consumer transaction on terms the supplier knew were substantially one-sided in favor of the supplier;
 - (f) Whether the supplier knowingly made a misleading statement of opinion on which the consumer was likely to rely to his detriment;
 - (g) Whether the supplier has, without justification, refused to make a refund in cash or by check for a returned item that was purchased with cash or by check, unless the supplier had conspicuously posted in the establishment at the time of the sale a sign stating the supplier's refund policy.
- (10) "Unfair or deceptive consumer sales practices" means and includes, but is not limited to,
- (a) Representing that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits that it does not have;
 - (b) Representing that the subject of a consumer transaction is of a particular standard, quality, grade, style, prescription, or model, if it is not;
 - (c) Representing that the subject of a consumer transaction is new, or unused, if it is not;
 - (d) Representing that the subject of a consumer transaction is available to the consumer for a reason that does not exist;
 - (e) Representing that the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not, except that the act of a supplier in furnishing similar merchandise of

equal or greater value as a good faith substitute does not violate this section;

- (f) Representing that the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;
- (g) Representing that replacement or repair is needed, if it is not;
- (h) Representing that a specific price advantage exists, if it does not;
- (i) Representing that the supplier has a sponsorship, approval, or affiliation that the supplier does not have;

- (j) Representing that a consumer transaction involves or does not involve a warranty, a disclaimer of warranties or other rights, remedies, or obligations if the representation is false.

~~SECTION 2~~

200.02 CONSUMER AFFAIRS BOARD

(1) MEMBERSHIP AND PURPOSE

A Consumer Affairs Board is hereby created to promote the enforcement of laws relating to unfair, deceptive, or unconscionable sales practices and predatory lending practices and to educate consumers and businesses about laws relating to such practices. The Board shall do any and all acts which may be necessary to assist the Director in the mediation of complaints filed in the Consumer Affairs Office. The Board shall consist of:

- (a) The County Executive or their designee
- (b) The President of County Council or their designee
- (c) Prosecuting Attorney or their designee
- (d) Eight other representatives appointed by the Executive subject to confirmation by County Council, hereinafter described:

Membership of the eight (8) representatives appointed by the County Executive and subject to confirmation by County Council shall reflect a cross-section of consumer and business or financial interests.

- (i) Three (3) members shall represent a business/financial interest group. One member shall serve a two (2) year term. One member shall serve a three (3) year term. One member shall serve a four (4) year term.
- (ii) Three (3) members shall represent a consumer interest group. One member shall serve a two (2) year term. One member shall serve a three (3) year term. One member shall serve a four (4) year term.
- (iii) Two (2) members shall represent an economically disadvantaged interest group. One member shall serve a two (2) year term. One member shall serve a three (3) year term.
- (iv) A member appointed to fill a vacancy serves the rest of the unexpired term.
- (v) The Board shall elect one member as Chair and another as vice chair, each to serve at the pleasure of the Board, and such other offices as it determines.

- (vi) The Director of the Office of Consumer Affairs or their designee shall attend all meetings.

(2)COMPENSATION

Members of the Board receive no compensation for their services.

(3) MEETINGS

The Board shall meet regularly.

(4) DUTIES AND RESPONSIBILITIES

- (1) Annually review the programs of the Office of Consumer Affairs and make recommendations to the Director prior to the submitting of the annual budget;
- (2) Prepare an annual budget and work program which shall be submitted to County Council;
- (3) Submit an annual report to the County Executive and to the County Council;
- (4) Direct the Office of Consumer Affairs in carrying out its duties;
- (5) At the direction of the County Executive or by legislation of the County Council, the Board shall review and make recommendations on any matter related to consumer protection.
- (6) The first Board meeting shall initially convene no later than October 15, 2004.

200.03 OFFICE OF CONSUMER AFFAIRS

There is hereby created an Office of Consumer Affairs, which shall serve under the direction of, and perform such functions on behalf of, the Consumer Affairs Board as the Board shall prescribe.

200.04 JURISDICTION

The Office of Consumer Affairs shall have jurisdiction over all consumer transactions which take place within the County of Summit, regardless of the residence of any of the persons directly or indirectly affected by such transaction.

~~SECTION 3~~

200.05 DIRECTOR OF OFFICE OF CONSUMER AFFAIRS

There shall be a Director of Consumer Affairs who shall be head of the Office of Consumer Affairs. The Director shall have thorough knowledge of county, state, and federal consumer protection laws. The Consumer Affairs Board shall recommend the hiring or dismissal of the Director of Consumer Affairs upon approval of the County Council. The Director shall have the following powers and duties which include but are not limited to:

- (1) Hiring personnel in the Office of Consumer Affairs to aid and assist the

Director in the proper discharge of his or her duties and powers. Such personnel shall include but is not limited to:

- (a) Outreach Specialist who shall work cooperatively with consumer agencies, schools, media, and community organizations to educate consumers and businesses about consumer issues and predatory lending and who shall provide consumers with information and referral services to appropriate

agencies for mortgage loan review and counseling services. For the purpose of educating consumers and businesses about predatory lending practices, indicators of predatory lending may include: failure to appropriately disclose required information, terms under which the outstanding principal balance will increase, financing excessive fees into loans, refinancing low interest mortgages at higher interest rates, loan flipping, charging higher interest rates than a borrower's credit warrants, loans made without regard to a borrower's ability to repay, prepayment penalties, falsely promising to provide additional financing in the future or to refinance at a lower rate, preying on the emotional needs of the borrower, property flipping, shifting unsecured debt into mortgages, balloon payments, and yield spread premiums.

- (b) An Investigator who shall investigate complaints to determine violations of consumer laws, conciliate matters between conflicting parties, and refer irreconcilable matters to the Director; and
 - (c) An Administrative Secretary who shall respond to complaints, perform complex secretarial functions, and relieve the Office of routine administrative tasks;
- (2) Promoting the enforcement of all laws, rules, and regulations pertaining to consumer affairs and predatory lending as provided in ~~this Code~~ the Codified Ordinances of the County of Summit, the Ohio Revised Code, and other applicable consumer law;
 - (3) Referring to appropriate governmental or regulatory agencies, either public or private, having jurisdiction over consumer protection matters, any information concerning an apparent or potential violation of any consumer protection laws.
 - (4) Undertaking activities to encourage local business and industry to maintain high standards of honesty, fair consumer sales practices and public responsibility in the production, promotion and sale of merchandise, goods and services and the extension of credit.
 - (5) Investigating and mediating complaints referred from the Investigator and referring to the Summit County Prosecutor, Ohio Attorney General, or other appropriate person for suitable action if necessary;
 - (6) Receiving moneys and issuing vouchers for the disbursement of moneys in accordance with the terms of any stipulated settlement agreement made pursuant to 200.07 (3) of these Codified Ordinances;
 - (7) Holding hearings, compelling the attendance of witnesses, administering oaths, taking the testimony of any person under oath and, in connection therewith, requiring the production of any evidence relating to any matter under investigation by the office. At any hearing, a witness has the right to be advised by counsel present during the hearing.

- (8) Issuing summons to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence;
- (9) Issuing cease and desist orders with respect to consumer violations which violate the consumer law in the Codified Ordinances of the County of Summit;
- (10) Conducting studies and tests and establishing programs to inform consumers of practices and problems and representing the interest of consumers before administrative and regulatory agencies;

- (11) Working with other city, county, state, and federal governmental agencies, professional associations and private consumer groups to insure the protection of consumers;
- (12) Contracting with other agencies for mediation if necessary;
- (13) Running quarterly reports of cases filed within Summit County under consumer

protection statutes for the development of a research database;

- (14) Making an annual report enumerating the activities and recommendations of the Office of Consumer Affairs to the public via presentation at a Regular Council Meeting;
- ~~(15)~~ ~~(14)~~ Partnering with other county-based agencies and non-profit agencies for swift resolution of consumer-related problems;
- ~~(16)~~ ~~(15)~~ Attending regular meetings of the Consumer Affairs Board.

~~SECTION 4~~

200.06 FILING OF COMPLAINTS

Any consumer who feels they have been subjected to an unfair, deceptive, or unconscionable consumer sales practice or predatory lending practice may file a complaint in writing with the Office of Consumer Affairs. The complaint should state enough details of the incident so as to allow the Office of Consumer Affairs to investigate the circumstances surrounding the incident, and at a minimum, the complaint should state the name and address of the person alleged to have committed the violation, the details of the violation, and any other information the Board deems necessary.

200.07 PROCEDURES AND ENFORCEMENT

- (1) After receiving a complaint under Section 200.06, the Office; shall investigate the facts and issues. If the Office finds reasonable grounds to believe an unfair, deceptive, or unconscionable consumer sales practice ~~or predatory lending practice~~ has occurred, the Office must attempt to mediate the matter with all interested parties and any representatives the parties choose to assist them. If the Office finds reasonable grounds has reason to believe an act of predatory lending has occurred, the Director may then refer the matter to the Ohio Attorney General's Office, the Ohio Department of Commerce, or the Federal Trade Commission or other appropriate person for suitable action if necessary.
- (2) If the Office is unable to reconcile the parties' differences concerning any complaint of unfair, deceptive, or unconscionable consumer sales practice, the Director may then mediate and use the authority granted in 200.05 and

assist the parties in coming to a settlement agreement. Whenever appropriate, the Director may refer a complaint to an appropriate person including but not limited to the following: the Consumer Protection Division of the Ohio Attorney General's Office, the Ohio Department of Commerce, the Federal Trade Commission, or the Summit County Prosecutor.

- (3) The terms of mediation agreed to by the parties must be reduced to writing and incorporated into a written assurance of discontinuance or settlement agreement

to be signed by the parties. A written assurance of discontinuance or settlement agreement must be signed by the Director of Consumer Affairs.

- (4) If the Director is unable to mediate a complaint, does not effect an assurance of discontinuance or settlement agreement, or finds that a complaint is not susceptible of mediation, the Director may transmit the matter to the County Prosecutor, or other appropriate person for suitable action. In addition to recovery of fines, as provided by ~~this Code~~ the Codified Ordinances of the County of Summit and the Ohio Revised Code, actions may be brought for injunctive relief in any court of competent jurisdiction to restrain a person from violating applicable law and to restrain a person from engaging in unfair, deceptive, or unconscionable consumer sales practices.
- (5) If the Director finds that a complaint lacks reasonable grounds upon which to base a violation, the Director may dismiss the complaint or order further investigation.
- (6) Nothing in this Section prevents any person from exercising any right or seeking any remedy to which the person might otherwise be entitled, or from filing any complaint with any other person, agency or court.

~~SECTION 5~~

200.08 PERSONNEL

All Office hiring, dismissals, promotion, reductions, classifications, reclassifications, disciplinary actions, and other personnel actions shall comply with the Codified Ordinances of the County of Summit and the rules of the County Human Resource Commission as each exist and as each may be amended in the future. The Office of Consumer Affairs shall be subject to the Summit County's Classification and Compensation Plan as it exists and may be amended in the future.

200.09 CODE OF REGULATIONS

The Board shall adopt rules and regulations for the Consumer Affairs Board and the Office of Consumer Affairs, and in conjunction with the Department of Human Resources, shall establish classifications and job descriptions for the Director of Consumer Affairs and any necessary staff by December 31, 2004. The Consumer Affairs Board shall submit a recommendation for the position of Director of Consumer Affairs to County Council by February 1, 2005.

SECTION ~~6~~2

This Ordinance is hereby declared an emergency in the interest of the health, safety and

welfare of the citizens of the County of Summit and for the further reason that it is necessary to protect the consumers in the County of Summit from unfair, deceptive, and unconscionable business practices and predatory lending practices, and it is necessary to resolve any confusion pertaining to the regulation of predatory lending practices within the County of Summit

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PAGE NINE

SECTION ~~7~~3

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ~~Resolution~~ Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION ~~8~~4

Provided this Ordinance receives the affirmative vote of eight members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided by law.

INTRODUCED November 8, 2004

ADOPTED _____

CLERK OF COUNCIL

PRESIDENT OF COUNCIL

APPROVED _____

EXECUTIVE

ENACTED EFFECTIVE