

Housing Discrimination Complaint

Case Number:

1. Complainants:

Fair Housing Advocates of Northern California
1314 Lincoln Ave., Ste. A
San Rafael, CA 94901
Represented By: Julia Howard-Gibbon

2. Complainant Representatives:

Julia Howard-Gibbon
Fair Housing Advocates of Northern California
1314 Lincoln Ave., Ste. A
San Rafael, CA 94901
Representing: Fair Housing Advocates of Northern California

3. Other Aggrieved Parties:

4. The following is alleged to have occurred or is about to occur:

- Discriminatory financing (includes real estate transactions)

5. The alleged violation occurred because of:

- Race

6. Address and location of the property in question (or if no property is involved, the city and state where the discrimination occurred):

[REDACTED]
Oakland, CA 94609

7. Respondents:

Broker Solutions Inc. dba Kind Lending
c/o CSC Lawyers Incorporating Service - Registered Agent
2710 Gateway Oaks Dr., Ste. 150N
Sacramento, CA 95833

Thomas Kearney
8008 Kelok Way
Clayton, CA 94517

Class Valuation LLC
c/o Golden State Documents Inc. - Registered Agent
8229 W. Manchester Ave. #5
Playa Del Ray, CA 90293

Scott Reed
Broker Solutions Inc. dba Kind Lending
c/o CSC Lawyers Incorporating Service - Registered Agent
2710 Gateway Oaks Dr., Ste. 150N
Sacramento, CA 95833

8. The following is a brief and concise statement of the facts regarding the alleged violation:

Complainant is Fair Housing Advocates of Northern California (FHANC), a non-profit organization that works to ensure fair housing by providing a variety of services toward education and enforcement. Respondents are Thomas Kearney (Certified Residential Real Estate Appraiser, #AR027019), Class Valuation LLC (appraisal management company), Broker Solutions Inc. dba Kind Lending (lending company), and Scott Reed (lender's agent). The subject property is a duplex owned by Cora Robinson, who is African American. Complainant alleges Respondents discriminate on the basis of race.

In February 2021, Cora Robinson, a client of FHANC, alleged that in January 2021, she was denied a refinance loan based on the undervaluation reached in a discriminatory appraisal that indicated the house was of insufficient value to support the loan for the amount desired. Ms. Robinson determined that there were inappropriate comparable sales used, which were in areas with higher Black populations and lower values, and that these were selected because of her race. When FHANC learned of this, it conducted in depth research and investigation regarding the alleged housing discrimination. The investigation produced evidence that Respondents undervalued the subject property, subjecting Ms. Robinson to disparate treatment based on race, and that Respondents' policies have a disparate impact on Black homeowners.

In August 2020, prior to applying to refinance with Broker Solutions dba Kind Lending, Ms. Robinson applied to refinance with a different lender. The previous lender ordered an appraisal through Class Valuation LLC, which sent Respondent Thomas Kearney to conduct the appraisal. In the previous appraisal, Respondent Kearney personally met with both Ms. Robinson and the upper unit tenant and became aware that they are both Black. In this previous appraisal, Respondent Kearney undervalued the subject property and refused to change the appraisal value following a request for Reconsideration of Value (ROV).

On October 21, 2020, Ms. Robinson contacted Chris Freck, a loan broker with EStarMortgage, who assisted her in pursuing a refinance with Respondent Broker Solutions dba Kind Lending, which also ordered an appraisal from Respondent Class Valuation LLC. However, the appraiser failed to file an appraisal report or provide an explanation as to why no report was filed. Subsequently, Class Valuation LLC then assigned Respondent Kearney to appraise the subject property for a second time, three months after his first appraisal, despite the fact that Ms. Robinson requested an ROV following his first appraisal. On November 14, 2020, without contacting Ms. Robinson or re-inspecting the subject property, Respondent Kearney issued another appraisal report, valuing the subject property at \$825,000, which Ms. Robinson alleges undervalued the property.

On or around December 15, Ms. Robinson directly contacted the underwriter, Respondent Scott Reed, at Respondent Broker Solutions Inc. dba Kind Lending, expressing her belief that the low valuation and dissimilar comparators were due to racial bias. Ms. Robinson then provided Respondent Reed addresses of three comparable sales that she believed were more appropriate. #On December 31, 2020, Respondent Reed submitted a request for ROV to Respondent Class Valuation.

Subsequently, Respondents returned an ROV with no change in value on January 12, 2021. In response to the ROV, Respondent Kearney stated with regards to a proposed comparable property, "The property is almost in the Rockridge market area that historically demands higher value than the subject's immediate market area." Complainant alleges Respondents Reed and Broker Solutions dba Kind Lending ignored the issues with the appraisal and denied the refinance loan due to the low appraisal value. In this appraisal, Respondent Kearney used four of the six problematic comparable properties that he used in the first report. He replaced two of the comparable sales from the first report and added three additional comparable sales for a total of seven. However, rather than choosing similar properties that had recently sold within the blocks surrounding the subject property, all three of the new comparable sales were even further south than those they had replaced, which is an area that has a higher percentage of Black residents and has been historically undervalued. Some of the physical differences of the southern neighborhoods include an increase in homeless encampments, liquor stores, trash on the sidewalk, greater structural neglect, and other markers of poverty.

Ms. Robinson applied again for a refinance with an alternate bank. The appraisal ordered by that lender conducted in February 2021 appraised the subject property's value at \$1,239,000. The alternate appraiser included comparable sales from a radius around the subject property, including comparable sales from each cardinal direction. In particular, the alternate appraiser used an August 2020 comparable sale of a property located 0.25 miles northwest that was not included in Respondents' appraisal. Respondent Kearney did not include this property, which sold for \$1,600,000. Further, among other differences, the other appraiser correctly considered Ms. Robinson's property as having five bedrooms rather than the four that Respondent

Kearney put in his report. Based on the alternate lender's appraisal, Ms. Robinson was able to close a refinance loan.

At the time of the appraisal, Ms. Robinson had an adjustable mortgage under which the rate could vacillate between 6.75% and 13%. In October 2020, Ms. Robinson was quoted a rate of 2.87% for the prospective refinance loan, which was denied, forcing Ms. Robinson to continue paying a higher mortgage.

Complainant alleges Broker Solutions dba Kind Lending accepted an appraisal with clear errors and a low valuation as a means to deny a loan on the basis of race and is indicative of a pattern of engaging in discriminatory financing on the basis of race.

Additionally, Complainant alleges that Respondent Kearney employs a practice of refusing to consider comparative properties in neighborhoods that historically had higher home prices than the subject neighborhood, despite the current state of home values in either neighborhood, which Complainant alleges has a disparate impact on Black homeowners in neighborhoods that have been historically undervalued due to discriminatory housing practices, such as redlining. Further, Complainant also alleges that the lender's neutral practice of denying a loan application based on a low appraisal, when the appraisal contains errors that are known or should be known by the lender, disproportionately impacts Black people. The disparate impact occurs because appraisals of Black-owned homes tend to have a greater percent magnitude (ie: magnitude divided by the sales price) of inaccuracies than for comparable properties owned by white people. Therefore, because homes are valued significantly higher in white neighborhoods than Black neighborhoods, errors in appraisals of Black-owned homes tend to result in a greater magnitude of devaluation resulting in greater harm to Black homeowners.

Respondents' conduct frustrated Complainant's mission to promote equal housing opportunity and to eliminate unlawful housing discrimination. When FHANC became aware of the discriminatory lending and appraisal practices in February 2021, Complainant diverted its resources to address the frustration of mission by counseling Ms. Robinson and conducting additional research and investigatory activities. In addition, Complainant conducted education and outreach activities as recently as June 2021 regarding discrimination in housing appraisals as a result of Ms. Robinson's complaint.

9. The most recent date on which the alleged discrimination occurred:

June 15, 2021

10. Types of Federal Funding Identified:

11. **The acts alleged in this complaint, if proven, may constitute a violation of the following sections:**

805 of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

Please sign and date this form:

I declare under penalty of perjury that I have read this complaint (including any attachments) and that it is true and correct.

Cawelin Pratti

7/21/21

for Fair Housing Advocates of Northern California Date

N O T E : HUD WILL FURNISH A COPY OF THIS COMPLAINT TO THE PERSON OR ORGANIZATION AGAINST WHOM IT IS FILED.