

The Gazette

OF POLITICS AND BUSINESS

WWW.GAZETTE.NET • FRIDAY, DECEMBER 1, 2006 • 50 CENTS



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Montgomery's lending law tossed out

■ Lenders praise judge's decision; county has not decided if it will appeal

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STAFF WRITER

A Montgomery County judge has blocked the county's controversial predatory lending law, saying the

county exceeded its authority.

The law, sponsored by County Councilman Thomas E. Perez (D-Dist. 5) of Takoma Park and passed Nov. 29, 2005, was intended to prevent mortgage lenders from discriminating against minority homebuyers. Studies have shown that such practices had resulted in minorities paying unnecessary fees and higher interest rates than white homebuyers with similar credit histories.

Read the ruling at
www.gazette.net/housing06

Seven mortgage companies filed a suit on Feb. 10 to stop the law from going into effect, arguing that the county did not have the authority to regulate mortgage lending.

Judge Michael D. Mason agreed, saying the county erred because its

law could not be considered a local one because its effect would be so broad.

"To interpret this ordinance as somehow limited to acts occurring within Montgomery County would require the court to ignore the very nature of the mortgage loan industry," he wrote. "The court can and will take notice that the mortgage loan industry is a national, if not an international business. ... The days of a

borrower being limited to the local bank or local savings and loan as the source for such loans are long gone."

County officials have not decided if they will appeal.

"We're still reading [the order] and reviewing it," said Marc P. Hanson, chief attorney of the county's Division of General Counsel. "Obviously, we had hoped it would turn out



Perez
Says county should appeal

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differently. It's a very well-written opinion. It's obvious Judge Mason took the time to consider all the issues.

"Beyond that, though, we're not prepared to talk about specifics as, obviously, if we feel there's a basis to appeal, if we think an appeal will be in the best interest of the government, then we'll do so."

Critics said the judge's ruling limits the county too severely.

"I would hope the county decides to appeal it," said Eric Halperin, director of the Washington office of the Center for Responsible Lending, which had supported the county law. "This really goes to the power of the county to protect its citizens from discrimination."

Bobbie Walton, executive director of Common Cause Maryland, agreed. She said the lending discrimination law is still needed.

"The thread running through this from the mortgage companies was, 'Trust us,' she said. "Whenever the people in power say, 'Trust us,' and you expect them to do the right thing because they're nice people, then you're a fool. I don't think it's wrong for the county representing the public to require them to meet a certain standard of behavior."

Perez said the county should appeal, but added that with only two days left in office, he would not have a say in what the county does.

"I wasn't surprised," he said of the ruling. "The question raised by this is: Do local governments have the ability to protect their residents from lending discrimination? I think we do and I think local governments need to be aggressive, especially given the abdication of leadership at the federal level on this issue. The judge's decision is the first word, but certainly not the last one!"

Mortgage lenders, who had threat-

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Thomas E. Perez, Montgomery County councilman

ened to pull out of Montgomery County if the law was not stopped, hailed the ruling.

"The Circuit Court for Montgomery County's decision to strike down Montgomery County's mortgage lending bill

... is good news for the county's current and prospective homeowners," said Lynn Strang, vice president of communications for the American Financial Services Association, one of the parties that sued the county. "It resolves uncertainty that has surrounded Montgomery County's mortgage market since last year and preserves borrowers' access to mortgage credit."

Courts have consistently ruled that the regulatory authority on mortgage lending belongs at the state level, she said.

"In each of these cases, we did not seek to defend or allow abusive lending, a practice condemned by AFSA and its members," Strang said. "Our objective has been, and continues to be, a logical regulatory structure for mortgage lending."

Thomas C. Shaner, executive director of the Maryland Association of Mortgage Lenders, concurred.

"Our concern all along this was inap-

propriate for local law," he said. "We remain eager to work with the county to resolve any true problems. We've never seen a true problem brought to the table. We've only seen this concept brought to the table that this would one day be a problem."

Councilman Michael J. Knapp (D-Dist. 2) of Germantown, one of two councilmen who had voted against the law, said he is convinced that there are problems with lending discrimination, but worried the law would be overturned in court because parts of it "went too far."

Knapp said it is too early to say whether the county should appeal the decision.

"We should bring people back together," he said. "Some of the issues raised are fair and legitimate issues that need addressed. We might get further doing that than spending time attempting to appeal something that was pretty firmly decided by the judge."