



The
Legal Aid Society
of Cleveland
Since 1905

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Legal Aid Attorneys Respond to Predatory Lending Arguments

Today, the Ohio Supreme Court held oral arguments in the case of *American Financial Services Assoc. v. City of Cleveland*, a case challenging Cleveland's anti-predatory lending ordinances, enacted in 2002. The Legal Aid Society of Cleveland filed an *amicus curiae* brief in the case on August 16, 2005, in support of the City of Cleveland. Legal Aid's brief argued that Cleveland's anti-predatory lending ordinances should be upheld.

During today's oral arguments, the American Financial Services Association (AFSA) asked the Supreme Court to strike down Cleveland's ordinances, on the grounds that they conflict with a state of Ohio mortgage loan statute (H.B. 386 and R.C. 1.63). The office of the Ohio Attorney General supported AFSA's position, arguing that the state alone should regulate mortgage loans. AFSA and the Attorney General also told the Court that Cleveland's ordinances will cause lenders to stop making loans in Cleveland.

The City of Cleveland countered these arguments, explaining that Cleveland's ordinances are not in conflict with the state statute merely because they are more restrictive. Rather, the state has been silent on certain predatory loans, so the city can use its home rule powers to prohibit those predatory loans in Cleveland. The City argued that no conflict exists unless the state expressly permits predatory loans.

Legal Aid's consumer attorneys were encouraged to hear the Court question both the constitutionality of the state's attempt to preempt municipal regulation, and the validity of AFSA's practical concerns. The Court's questions highlighted the fact that the legislature's sole intent in enacting R.C. 1.63 was to preempt all municipal regulation of predatory lending. The Court asked the parties about the "real world" effects of the Cleveland ordinances, and the City of Cleveland debunked the myth that the ordinances have caused lenders to leave Cleveland. The City pointed out that AFSA's expert witness in the case was not able to show whether any lenders have left the Cleveland market since the ordinances were enacted in 2002.

The Legal Aid Society of Cleveland provides high-quality free legal assistance to low income clients in Northeast Ohio. Legal Aid's consumer law practice unit promotes the economic stability of low-income and elderly consumers. Led by Mr. Harold Williams, the consumer practice focuses on the preservation of home ownership, the remediation of abusive and predatory commercial and creditor practices, and the discharge/cancellation of student loan obligations ensuing from enrollment in fraudulent vocational and educational programs. For more information visit: www.laslev.org or call 216-687-1900.

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