



Written by [Michael Tennant](#) on June 27, 2023

## Feds, With Assist From ACLU, Try to Punish Mortgage Company for Comments on Chicago Crime

The federal government is suing a small Chicago mortgage company over its employees' public remarks on the safety of certain areas of the city, effectively trying to censor disfavored opinions — and the American Civil Liberties Union (ACLU), self-styled defender of the First Amendment, is siding with the government.

The Consumer Financial Protection Bureau (CFPB), brainchild of Senator Elizabeth Warren (D-Mass.), began investigating Townstone Financial in 2017 over alleged civil-rights violations. Three years later, the agency sued Townstone.



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Chicago

According to the [Washington Free Beacon](#):

The Townstone litigation centers on the Equal Credit Opportunity Act, which makes it illegal to “discriminate against any applicant” for credit on the basis of race. The agency has interpreted that law to include “prospective applicants” in addition to actual ones — a potentially massive category. It relied on this inflated interpretation to go after Townstone, arguing that the lender could be guilty of discrimination even if it had not discriminated against anyone who had applied for credit.

How, exactly, did Townstone discriminate against “prospective applicants” in the CFPB’s eyes? By making accurate, if hyperbolic, comments on crime in some Chicago neighborhoods, which could “discourage prospective applicants living in majority- or high-African-American neighborhoods from applying for mortgage loans, or making or pursuing an application, including from Townstone.”

The CFPB’s evidence against Townstone consists of allegedly racist statements made on five episodes of the lender’s radio show over a three-year period. Referring to the South Side of Chicago as a “war zone” was deemed discriminatory — never mind the fact that former Chicago Mayor Lori Lightfoot, among others, had [made the same comparison](#). Saying one should “drive very fast through Markham,” a majority-black suburb with a crime rate [higher than 95.7 percent of American cities](#), or that the “rush” of skydiving was like “walking through the South Side at 3 a.m.,” was also considered discouraging to potential applicants. And calling a South Side Jewel-Osco grocery store “Jungle Jewel” because it was a “scary place” with customers “from all over the world” was unforgivable.

As ridiculous as those assertions are, the crown (jungle?) jewel of the CFPB’s absurdity has to be its claim that Townstone’s telling home sellers to “take down” their Confederate flags somehow discriminates against actual or potential black applicants. As the Free Beacon pointed out, this advice “reflects the official policy of the National Association of Realtors, which says displaying a Confederate flag may violate housing discrimination law.”



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“They twisted innocuous statements about crime into something nefarious and then tried to use it to ruin my reputation and destroy my business,” Townstone president Barry Sturner told the Free Beacon. “When a federal agency with an unlimited budget and army of lawyers comes after your business and smears you as a racist, you’re forced to give in and take it or choose an uphill fight.”

Townstone chose to fight. Even before the lawsuit was filed, the company hired a consumer-testing firm to find out whether or not its statements had offended blacks. To the surprise of no one except Washington bureaucrats, “not a single black Chicagoan interviewed by the firm found the radio segments offensive,” wrote the Free Beacon, adding that “some even said they were more inclined to use Townstone for mortgages after hearing its employees’ banter.”

This suggests that the CFPB, rather than responding to a consumer complaint, went on a fishing expedition to find some way to prove that Townstone was discriminating against blacks. Ted Frank, “a well-known conservative attorney who tackles regulatory overreach,” told the Free Beacon that “agency officials likely noticed that Townstone made fewer loans in black neighborhoods than others and began poking around.”

“If you don’t have proportional representation among loan recipients, agencies will look for disparate impact and go after you,” Frank said.

Moreover, reported the Free Beacon, “The [CFPB] said last year that it would sue lenders for disparate impact ‘regardless of whether it is intentional,’ something Congress never authorized it to do.”

Indeed, it was on the basis that the agency had exceeded its statutory authority that U.S. District Judge Franklin Valderrama dismissed the lawsuit against Townstone. The CFBP appealed to the Seventh Circuit Court of Appeals.

While Valderrama did not address the matter, there is little doubt that the CFBP’s attack on Townstone is an attempt to punish speech of which some in the government disapprove, a clear violation of the First Amendment.

One would think, therefore, that the ACLU, which trumpets its history of defending free speech, would be in Townstone’s corner. On the contrary, according to the [Washington Examiner](#), the ACLU filed a brief with the Seventh Circuit *in favor of the CFPB*.

“I grew up as a Jewish kid in Skokie, Illinois — the site of one of the most famous free speech battles in American history,” Sturner told the *Examiner*. “To this day, the ACLU boasts their defense of the Nazis who wanted to march through my hometown. And rightfully so; the First Amendment must protect unpopular speech if it’s going to mean anything at all.”

“I never imagined that when the government came after me for my speech, the ACLU would take the government’s side,” Sturner said. “It’s disheartening to see the ACLU abandon its free speech principles.”

Disheartening, perhaps, but not surprising. Any organization that would also [force](#) a Christian to bake a cake for a same-sex “wedding” or [make](#) crisis-pregnancy centers promote abortion plainly prizes progressivism far more than principle.



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