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ONE HUNDRED TENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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<http://www.house.gov/judiciary>

September 18, 2008

The Honorable John McCain  
P.O. Box 16118  
Arlington, VA 22215

Dear Senator McCain:

As Chairman of the U.S. House of Representatives Judiciary Committee (HJC), I am extremely concerned by recent media reports that the Chairman of the Republican Party in Macomb County, James Carabelli, is planning to use a list of foreclosed homes as a basis to challenge voters and block them from participating in the November 2008 election.<sup>1</sup> I am writing to request that you denounce any efforts by the Republican Party, most notably in Michigan and Ohio, to engage in voter suppression, including challenges based on a voter's home foreclosure status, and that you direct your supporters to refrain from engaging in such behavior. At a time when Americans are losing their homes at record numbers, it is difficult to imagine that anyone would attempt to capitalize on such misfortune for political gain. Furthermore, a rejection of this strategy would be consistent with your recent commitment to "a fair and transparent election."<sup>2</sup>

The subprime mortgage crisis has affected a significant number of Americans, and as such, a significant number of voters could be disenfranchised with this Republican strategy to challenge voters based on home foreclosure status. More than 700,000, or one in every 171, of our nation's households received at least one foreclosure-related notice from April to June of this year.<sup>3</sup> It is estimated that 2.5 million homes will face foreclosure this year, an increase from

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<sup>1</sup> Eartha Jane Mezler, *Lose Your House, Lose Your Vote*, Michigan Messenger, Sept. 10, 2008. Although Carabelli later recanted his statement, another Republican official was quoted in the article making consistent representations about the party's intent to block voters based on home foreclosures.

<sup>2</sup> Press Release, JohnMcCain.com, McCain-Palin 2008 Launches Honest and Open Election Committee (Sept. 15, 2008).

<sup>3</sup> *Home Foreclosures Double in 2nd Quarter*, NPR, July 25, 2008.

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1.5 million in 2007.<sup>4</sup> A Center for Responsible Lending report estimates that the highest default rates are expected to be in cities in California, Nevada, Michigan, New Jersey and Washington, D.C.

A disproportionate number of those homeowners affected by the subprime mortgage crisis are minorities. The Center for Responsible Lending projects that 10 percent of African-American borrowers and 8 percent of Hispanic borrowers will be affected by foreclosure. In contrast, only 4 percent of white borrowers are expected to be affected. The Macomb County party's plan to challenge voters who have defaulted on their home loans would disproportionately affect African Americans who are overwhelmingly Democratic voters. The plan could be a violation of the Voting Rights Act.

With the 2006 reauthorization of the Voting Rights Act, Democrats and Republicans alike agreed that discriminatory voter suppression tactics had not been completely eradicated and protections against such tactics were still necessary. Members of Congress, like you, voted in support of reauthorizing this Act because they recognized that fair and equal access to the ballot box has not yet been achieved for all Americans. Certainly there must be no denying the kind of negative impact that challenges based on home foreclosure status can have on historically disenfranchised voting populations who have traditionally been targeted by predatory practices. A person's ability to exercise his or her right to vote should not be contingent upon financial circumstances.

Notably, in 1981 a federal court condemned the Republican National Committee (RNC) for using vote caging tactics similar to the foreclosure list plan. Since the federal court's decision in 1981 in New Jersey, the RNC has been under a federal consent decree to refrain from engaging in this practice.<sup>5</sup> It is important to note that the Department, under President George H.W. Bush filed suit in 1990 to stop a vote caging effort by those associated with Senator Jesse Helms's re-election campaign.

As Chairman of the House Judiciary Committee, I ask that you repudiate any efforts by the Republican Party and any of its state affiliates to engage in voter suppression and intimidation tactics, and that you direct your supporters across the country to refrain from engaging in such behavior. I would appreciate hearing from you directly on whatever actions you take in response to this request.

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<sup>4</sup> *Id.*

<sup>5</sup> Democratic National Committee v. Republican National Committee, CA No.81-3876 (D.N.J., entered Nov. 1, 1982).

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Responses should be directed to the Judiciary Committee office, 2138 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-3951; fax: 202-225-7680). Thank you in advance for your cooperation in this important matter.

Sincerely,

  
John Conyers, Jr.  
Chairman

CC: The Honorable Lamar S. Smith