

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

COUNTY OF COOK,)	
)	
Plaintiff,)	
)	
v.)	No. 14 C 2280
)	
BANK OF AMERICA)	
CORPORATION, et al.)	
)	
Defendants.)	

ORDER

Before me is Cook County's motion for reconsideration of my decision partially granting defendants' motion to dismiss its Second Amended Complaint. The County argues that the Eleventh Circuit's decision in *City of Miami v. Wells Fargo & Co.*, 923 F.3d 1260 (11th Cir. 2019) ("*City of Miami on Remand*"), is persuasive authority for allowing it to develop evidence to prove that it suffered damages in the form of a diminution in its "tax digest," i.e., "the value of real property subject to tax." Second Am. Compl., at ¶ 387. Unlike the City of Miami, however, the County does not allege that its tax revenues, i.e., the taxes it has actually collected over the relevant time period, have declined as a result of defendants' FHA violations. Indeed, defendants have argued—both in their motion to dismiss the Second Amended Complaint and in subsequent proceedings—that without such losses, the County has suffered no compensable tax

injury. See DN 183 at 20-22; Tr. of 08/05/2019 Hr'g at 42:23-44:14. The County's response to defendants' motion to dismiss did not meaningfully address this argument, which I did not reach because I concluded that the County's alleged tax injury was too remote to satisfy the proximate causation analysis of *Bank of America v. City of Miami*, 137 S. Ct. 1296, 1302 (2017) ("*City of Miami*").

At the hearing on its motion for reconsideration, the County did not dispute that its tax revenue has remained steady throughout the period relevant to its claims.¹ See Tr. Of 08/05/2019 Hr'g at 47:23-49:15. Accordingly, the County is directed to file, within fourteen days, a supplemental memorandum answering the following question: if the alleged injury to the County's "tax digest" had no impact on its tax revenues, what is the legal authority for awarding money damages

¹In addition, I am aware that in *County of Cook v. Wells Fargo & Co*, 14 C 9548 (N.D. Ill.), in which a similar motion for reconsideration is pending, the parties have filed supplemental materials directed to the impact of foreclosures on property values and/or tax revenues. In that connection, Wells Fargo filed the following admission the County made in response to a request to admit: "Plaintiff states that while there were fluctuations in the assessed value of real properties in Cook County and across different taxing districts and neighborhoods, the total amount of money Cook County billed such taxpayers in the aggregate for the years 2003 through 2018 remained stable at approximately \$720.4 million per year, and, therefore, Plaintiff ADMITS that the net property tax levy has been held constant at approximately \$720.4 million from 2003 through 2018." No. 14 C 9548, DN 256-2 at 2.

to compensate it for tax-related losses? Defendants may file a response within seven days of the County's filing.

ENTER ORDER:

A handwritten signature in black ink, reading "Elaine E. Bucklo", written over a horizontal line.

Elaine E. Bucklo

United States District Judge

Dated: November 19, 2019