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Federal Housing Finance Agency
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Electronic Submission:
https://www.fhfa.gov/PolicyProgramsResearch/Programs/Pages/DTSChattelInputForm.aspx

Re: Duty To Serve Input On Potential Manufactured Homes
Chattel Pilot On Behalf of Our Client
Manufactured Housing Communities of Arizona (MHCA)

Ladies and Gentlemen::

FHFA has asked for public input on considerations that Fannie Mae and Freddie Mac (the Enterprises) should include in their determinations of whether to include manufactured homes chattel loans pilots in their Duty to Serve Underserved Markets Plans, and if so, how such pilots could be designed, taking into account policy and safety and soundness considerations.

Manufactured Housing Communities of Arizona (MHCA) is an Arizona association composed and representing the interests of operators of mobile home parks and manufactured home communities statewide. It has previously commented on several aspects of this subject on the Proposed Rule Re Duty to Serve Credit as published at 80 FR 79190.

FHFA now requests input from interested parties on current manufactured homes chattel financing practices and on possible opportunities for the Enterprises—in a safe and sound manner—to improve chattel financing terms and conditions for very low, low, and moderate income families through the Enterprises' purchases of chattel loans.

Pre-HUD Homes

If a primary focus is serving very low income families, we believe Duty to Serve credit should be available for both new and used manufactured homes, and also for pre-HUD mobile homes that have been upgraded to meet state standards comparable to HUD standards in those states where programs exist covering such upgrades. Depending on the definition of "very low", our members' experience as operators of manufactured home communities is that this demographic cannot afford most new or even recent vintage manufactured and mobile homes.

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Of course pre-HUD homes by definition ware manufactured prior to June 15, 1976. Since that makes them all over 40 years old, many are obsolete, obsolescent or irredeemably deteriorated. But not all are. Some states including Arizona have programs enabling owners of pre-HUD homes to upgrade them to more modern standards with state provided subsidies.

Rule R-4-34-306 of the Arizona Department of Housing (the agency that regulates mobile and manufactured homes at the state level) prescribes standards for pre-HUD mobile homes to meet in order to be certified by the state. These standards are mandatory for all such homes being brought into the state and can also be met with a certification issued for homes within the state. There are commonly met by people wanting certifications who plan on relocating homes within the state. The declared purpose of this regulation is as follows:

> The purpose of this program is to provide minimum safety standards for homes manufactured before the implementation of the HUD Manufactured Home Construction and Safety Standards. This applies to homes manufactured before June 15, 1976. Arizona law requires that "A person shall not occupy or otherwise use a mobile home which has been brought into this state or move a mobile home from one mobile home park in this state to another mobile home park in this state unless it meets the standards pursuant to this chapter and displays the proper state insignia."

Arizona law provides for certain subsidies from the Arizona Mobile Home Relocation Fund when a pre-HUD mobile home needs to be upgraded in order to be relocated within the state. The statute, ARS §41-2157 provides in pertinent part:

> 41-2157. <u>Costs of complying with standards; reimbursement from relocation fund; definition</u>
>
> A. The costs of bringing a mobile home into compliance with the requirements of this article may be reimbursed to the owner from the mobile home relocation fund established by section 33-1476.02 if all of the following are true:
> 1. The mobile home is moved from one mobile home park in this state to another mobile home park in this state.
> 2. The household income of the owner of the mobile home is at or below one hundred per cent of the current federal poverty level guidelines as published annually by the United States department of health and human services.
> 3. The mobile home is not being relocated as the result of a judgment in a forcible detainer or special detainer action requiring the owner to vacate the mobile home park in which the mobile home is located.

So if a home needs to be relocated or the owner simply wants to move, and the reason is not an eviction, if the owner's household income is below the federal poverty limit, the owner is eligible for a grant of up to $1,000.00 to help pay for the rehabilitation. The required upgrades to qualify for certification are largely involved with improving safety features of these homes and upgrading electrical and natural gas utility lines and connections.

We believe that for very low-income families, pre-HUD homes as upgraded will be affordable, and their condition in meeting the standards of the State of Arizona makes them suitable for Enterprise financing.

Financing in General

There is a significant demographic divide in the composition of manufactured/mobile home rental communities. We believe that about half the rental spaces are located in "age 55+ communities" populated by persons over that age. A significant portion consists of newer, larger manufactured homes occupied by relatively affluent senior citizens (though many may well meet the definition of moderate income households). By and large this population either owns their homes outright or has been able to secure financing from the limited finance sources that exist. But many "age 55+ communities" are the homes of lower, fixed income seniors struggling to make ends meet. If it is necessary to finance a home, these people generally have no source of funding.

The remaining half of the population occupies rental spaces in "all age communities" otherwise known as family communities. A great many of these residents occupy older pre-HUD mobile homes. For the most part this population is low income, either working blue-collar jobs or dependent on government assistance. A majority of these households include minor children. And in Arizona, a significant percentage, possibly a majority of the residents are members of ethnic minority groups. Because of their limited incomes and the fact that many of their homes are pre-HUD mobile homes, there is virtually no institutional financing available to this group.

Many people who wish to own their own home and are attracted to manufactured housing because of its affordability, quality, value and, for manufactured homes, their federal certification, are unable to purchase a mobile or manufactured home.

In the past, rental community operators, to avoid problems arising from limited or no institutional financing alternatives, often acquired homes and sold them to residents, engaging in seller financing. Typically the seller/community operator would enter into an installment sale agreement with the buyer/resident under which payments would be made on the home. When the scheduled payments were completed the lien on the title would be released and the buyer/resident would own the home free and clear.

However the enactment of the SAFE Act and provisions of Dodd-Frank legislation have redefined sellers under these circumstances as "loan originators" subject to regulatory and licensing requirements that are as a practical matter impossible for community operators to satisfy. Having their loans originated by third party professional loan originators adds so much to the cost of financing as to make it impossible to finance and thus sell a smaller older home in such a community.

To reverse this decline we believe it is essential that all types of new and used mobile/manufactured homes, chattels as well as those legally affixed to the land, be eligible for GSE mortgage financing.

Chattel Loans in General

We believe the Enterprises should receive credit for purchasing chattel loans, on an ongoing or pilot basis. Not only do we believe chattel loan financing on manufactured homes should be credited, but it should also extend to both new and used manufactured homes, and certain older, pre-HUD mobile homes should be credited as well.

Two elements come into play in deciding to make a secured loan. The value of the collateral is one and that is extensively considered below. But perhaps of greater importance is the creditworthiness of the borrower. It stands to reason that a lender making a chattel loan on a manufactured/mobile home will evaluate the creditworthiness of the proposed borrower using whatever criteria it adopts.

But in the case of a home in a manufactured home community/mobile home park, that borrower will also need to satisfy the landlord's standards for residency in order to become a tenant. This second level of scrutiny provides additional assurance that the borrower is likely to perform as required in making payments on the loan and preserving the collateral.

Manufactured homes are built to national standards in force since 1976. The rigorous standards to which these homes are built ensure that they retain value sufficient to provide good security for chattel loans.

The tens of thousands of pre-HUD mobile homes occupied in Arizona rental communities were not built to national standards. As older homes, they also have suffered the ravages of time. Many are obsolescent and worn out and in that condition would not by any standard be suitable collateral for any kind of loan.

However the Arizona program for upgrading, inspecting and certifying pre-HUD mobile homes as meeting state standards that in many respects are comparable to HUD standards counteracts that condition. We believe other states have comparable programs and further that older pre-HUD homes certified as in compliance with such state standards should be credited.

Although pre-HUD mobile homes cannot be expected to have the useful life of newer manufactured homes, their costs are far lower and the amount of financing per home is likewise much less. This may perhaps be reflected in shorter amortization periods for loans on such homes.

Older homes represent affordable housing to families and minorities and are unique since in addition to their low cost, they represent an opportunity to achieve home ownership. With the recent advent of the myriad of federal financial reform legislation, these opportunities have largely vanished for this demographic. Allowing credit not only for new and used manufactured homes but also upgraded and certified pre-HUD mobile homes will greatly expand home ownership opportunities for a population largely deprived of them at present.

If a pilot program is contemplated, we would be happy to co-sponsor it in Arizona. Our abundance of these communities serving all demographics and our legal climate would seem to make Arizona an ideal location for a pilot program.

Chattel Loans in Enterprise Financed Rental Communities

A number of Arizona manufactured home communities are financed by Fannie Mae loans and Fannie Mae financing is one of the leading sources of such loans. Recently Freddie Mac has begun making manufactured home community loans in Arizona. In fact the first Freddie Mac manufactured home community loan was on an Arizona community (Longhaven Estates in Phoenix).

These GSE's already have an investment and interest in the quality of manufactured/mobile homes in the communities they have financed since the value of the communities that collateralize the loans are largely dependent on the quality, maintenance and appearance of the homes in them. Additionally many of these communities have a percentage of pre-HUD mobile homes in them.

Providing financing for the homes themselves would clearly enhance the value of the communities and thus the value of the existing and future loans made to community operators.

Chattel Loans--Buyer/Tenant Protections in Rental Communities

We previously commented at length about providing protections for buyers of homes in rental communities both under state law and when necessary in community rental documentation.

Compliance with borrower and tenant protections is already provided for by Arizona law by a combination of statutory requirements on landlords (e.g., duty to enforce community rules and regulations and to maintain community facilities) and enforcement mechanisms (e.g., existence of dedicated administrative law judge procedure for tenants to quickly and inexpensively have complaints against landlords adjudicated).

We believe more than adequate protections can be provided in any pilot program in Arizona since most that FHFA has discussed already exist under state law. Moreover community operators are willing to consider additional protections in their rental documentation. We believe that sufficient protections can be built into an Arizona pilot program to ensure safety to Enterprise investors.

Brief Pilot Program Proposal

We propose creation of a secondary market where an Enterprise GSE will purchase and guarantee manufactured home chattel loans enabling people to buy homes or refinance existing mortgages. Loans will be packaged into Residential MBS, which global investors can purchase.

We envision a series of chattel loan programs to come with no pre-payment penalties or application fees, minimum amounts of $10,000.00, and loan terms not exceeding 15 years, decreasing for lower value loans. We propose that the GSE develop standard criteria for lenders making such loans so that they are eligible for inclusion in MBS secondary market pools and that it publish this so lenders making manufactured home loans can promptly document and process chattel loan applications.

We recognize that manufactured home chattel loans are unique, and suggest several different kinds of MBS loan pools, such as low risk, medium risk and higher risk loans. Lending criteria would be different for each level of risk. The levels of risk would also be reflected in loan interest rates. Both used and new manufactured homes will be eligible for financing. The type of loan would depend on several factors, *e.g.*, the year and current value of the home; applicant's creditworthiness; and monthly Income.

The program would be structured so that closing would occur shortly after the purchase contract is signed and loan documentation requirements have been satisfied. The down payment would influence the interest. For example 10% or 20% down would get a better rate than 5%. We suggest loan terms from seven to 15 years, depending on the risk program chosen.

For refinancing, savings could result from adjusting the current interest rate and number of remaining loan payments. Reduced monthly payments and thousands of dollars of savings are a few of the possible benefits.

GSE's will likely require good to excellent credit. Minimum FICO or comparable scores will vary depending on the loan risk. Every applicant should be required to meet the creditworthiness criteria, and co-signers should not be considered in place of applicants with low credit scores. Most well managed manufactured home communities will not approve prospective tenants with a poor credit history. Normally, all occupants over the age of 18 that will live in the home must pass both a credit and criminal background check.

It is assumed that the GSE's will create a new program to pool these loans and securitize them for sale to investors as a type of residential MBS. The goal should be to qualify them as prime mortgages with prime borrowers. Since these are chattel mortgages however there will be differences from the typical residential MBS programs:

1. Governing laws. Landlord tenant law will be looked at to establish protections for the borrower and lender. Chattel finance laws (Article 9 of the UCC) will govern creation and enforcement of chattel security interests.

2. Documentation. Loans will need to be documented with installment sale or similar security agreements. They will need to provide necessary protections for both borrower and lender. Security interests will need to be perfected as chattel mortgages by filing with the Arizona Motor Vehicle Division and notation of a lien on the Arizona Certificate of Title.

3. Creditworthiness. In addition to being approved by the lender under its criteria, creditworthiness will be validated by a separate landlord credit check using standards at least as rigorous as the lender's standards.

4. Since only the home will be financed, not the lot, the lender will have no direct control over the quality of maintenance of the lot or the landlord's common elements. GSE's should develop minimum criteria covering quality of community maintenance and landlord enforcement

policies and obtain enforceable commitments from landlords concerning them. MHCA will assist in this for the pilot program.

5. GSE's would tailor additional criteria that the manufactured home community (the landlord) should be required to meet to be eligible for the program.

More Detail

The Request for Input asked for a lot of detailed information on 22 specific aspects of a chattel-lending program. We have such data and if Arizona is selected as a potential pilot site we would be happy to invest the substantial resources necessary to pull all of this together for an interested GSE. In fact it would be critical to do so in order to make a pilot program work.

But for now we hope this seven page letter suffices to demonstrate our knowledge, willingness to work with a GSE to implement it, and our understanding of what is involved and just how important those points are.

Closing Summary

The manufactured housing community/mobile home park industry has been hard hit by the lack of financing available on homes titled as chattels since the enactment of regulatory reform legislation starting nearly a decade ago. As that industry has suffered, so too have retailers, installers and manufacturers of manufactured/mobile homes.

Since the communities have historically provided affordable housing and home ownership to lower income and minority households, they have been the ultimate victims, deprived of the opportunity to buy their own homes at the very low prices formerly available. Moreover as those who owned their homes before all this took place go to sell them, they find virtually no buyers since the only way to buy, generally is for cash.

We believe allowing GSE sponsored loans on homes titled as chattels as described above can largely mitigate these problems.

Sincerely,

Michael A. Parham