November 15, 2019

Ms. Sandra Thompson
Deputy Director, Division of Housing Mission and Goals
Federal Housing Finance Agency
400 7th Street, S.W.
Washington, D.C. 20219

RE: Fannie Mae Duty to Serve Plan Modification RFI

Dear Ms. Thompson:

The National Community Stabilization Trust (NCST) is grateful for the opportunity to comment on Fannie Mae's proposed modifications to their Duty to Serve plan. NCST is a national, non-profit organization that works to restore vacant and abandoned properties to productive use, prevent blight, and support affordable homeownership. Established in 2008, NCST has enabled the rehabilitation of almost 27,000 REO properties, including approximately 6,500 properties acquired through the Neighborhood Stabilization Initiative partnership among FHFA, NCST, Fannie Mae, and Freddie Mac.

As we did last year, NCST focuses this comment on Fannie Mae's proposed modifications to the Affordable Housing Preservation regulatory activity of purchasing or rehabilitating distressed properties.

In its request for modification, Fannie Mae suggests changing the methodology by which it sets targets for purchasing loans that finance the rehabilitation of distressed properties. Fannie seeks to move from a count-based methodology to a percentage-based methodology. Specifically, they propose using a "percentage of the total number of distressed properties available in the market."

However, Fannie Mae does not specify what they are counting in the denominator, described as the "total number of distressed properties available in the market." If they are referring to current REO inventory, Fannie Mae will be significantly underestimating the need for renovation loans in underserved markets, which will result in insufficient efforts to meet the needs of the underserved communities as required by the Duty to Serve rule. (To be clear, this was also true in previous versions of the plan when they were using a count-based methodology, as NCST has noted previously, but they should not double down on bad methodology if they are now making a significant change in how they assess the market.)

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1. The number of vacant properties in communities is not the same as the number of new REO properties in those communities.

Eleven years after the foreclosure crisis, vacancies continue to plague numerous communities regardless of the rate of REO flow, especially communities of color, those in legacy cities, and those with low income families. As Alan Mallach notes in his report *The Empty House Next Door,* although vacancies have declined from the height of the crisis, they are still significantly elevated: there were 3.7 million vacant properties in 2005 yet 5.8 million in 2016. [1] Many of these vacancies are in areas suffering from what Mallach terms "hypervacancy," a phenomenon experienced by areas with vacancy rates over 20 percent, where housing markets are far less likely to recover without intervention.[2]

Back in 2008, the steep elevation in the vacancy rate was largely due to massive numbers of foreclosures and a correspondingly dramatic increase in new REO inventory. More than a decade later, much of the housing market has fully recovered and the flow of new REO properties is quite low. One reason for that is that delinquencies and foreclosure starts are low due to much tighter credit and a lengthy economic expansion plus historically low unemployment rates. Another reason is that investors are increasingly buying properties before they are taken into REO portfolios, either purchasing them at foreclosure auctions or acquiring them pre-foreclosure as nonperforming loans.

Consequently, vacant properties today are much less likely to be REO or "zombie" properties stuck in the mortgage foreclosure pipeline. Instead, most of these vacant homes are investor-owned. In some cases, the investor is simply waiting for the market to recover before flipping the property. Even if the owner has secured the property and is mowing the lawn on schedule, unoccupied homes (especially those in colder or damper geographies) invariably deteriorate due to weather and lack of maintenance. In other cases, the owners have walked away from the property entirely and written it off, leaving it to the municipality to secure. Many of these properties have cycled through the tax lien/foreclosure/auction cycle multiple times. Still other properties are vacant or abandoned after a natural disaster such as a hurricane or fire.

Vacant homes without a mortgage come back on the market for a variety of reasons, including but not limited to the following:

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[1] Alan Mallach, *The Empty House Next Door*, Lincoln Institute of Land Policy and Center for Community Progress (May 2018), p. 4, *available at* https://www.lincolninst.edu/sites/default/files/pubfiles/empty-house-next-door-full.pdf.

[2] Id., p. 5.

- Tax delinquency and subsequent foreclosure by the local taxing authority or by the owner of a tax lien.
- Being put into receivership due to the owner's failure to remediate code violations.
- Being sold after a lawsuit for nuisance abatement.
- Acquisition due to asset forfeiture in criminal justice situations.

And of course, many vacant homes are sold simply because the market has changed (or appears that it will never change) and the investor is ready to sell.

Regardless of the reason for the vacancy or the sale, these homes are virtually all going to require some level of repair or rehab before they are ready for occupancy. A home that sits vacant for more than six months in most parts of the United States will almost invariably suffer from water intrusion, mold, and/or damage by squatters or thieves.

2. *The number of vacant properties is not the same as the number of distressed properties requiring significant renovation or rehabilitation*

In estimating how many homes require rehabilitation, Fannie Mae should include not just the number of vacant homes, but also the number of homes that will require rehab upon resale even when they were not vacant prior to that sale.

According to the Joint Center for Housing Studies, 40% of the US housing stock is at least 50 years old. [3] In neighborhoods with lower income or more elderly residents, the homes have often experienced years or even decades of deferred maintenance. Many of these homes were rented out by slumlord investors who failed to make repairs even while tenants were in place.

Additionally, climate change appears to be elevating the risk of storms, tornadoes, floods, and fires that damage single-family properties. A property that transacts after a disaster of this nature requires significant rehabilitation or it almost immediately begins to blight the neighborhood.

3. *Any definition of distress used in Fannie Mae's Duty to Serve activities should reflect this much broader view of how distressed properties transact in the marketplace.*

In the past, NCST has been told that part a reason for Fannie Mae's limited view of what constitutes a distressed property is due to a definition of distress

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[3] *Improving America's Housing 2019,* Joint Center for Housing Studies at Harvard University, *available at* https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_Improving_Americas_Housing_2019.pdf.

established by FHFA, rather than by Fannie Mae itself. If that is indeed accurate, we strongly recommend that FHFA expand its definition of distress based on the factors described above.

4. ***FHFA should deny Fannie Mae's request to change the methodology if new REO properties are used as the denominator.***

NCST recommends that FHFA deny Fannie Mae's request to change its methodology if the percentage approach they have proposed would only be applied to new REO properties. On the other hand, if Fannie Mae is suggesting a methodology for calculating the number of distressed properties on the market that they can demonstrate takes all the factors above into account, NCST would not object, although we would like to understand what their plan is for calculating the denominator. Although we believe that a count-based approach is significantly easier than a percentage-based approach to develop, administer, and evaluate, we would welcome a change in approach if it meant that Fannie Mae was appropriately sizing the renovation and rehabilitation market.

Thank you again for the opportunity to comment. Throughout its implementation of Duty to Serve, FHFA has run a remarkably open and accessible process, enabling external stakeholders to provide input into activities of the utmost importance to individuals and markets currently underserved by the Enterprises. We greatly appreciate this level of engagement.

Finally, NCST commends Fannie Mae for including this regulatory activity in their Duty to Serve Plan, and we remain extremely committed to helping in any way that we can to ensure success in this area. Effective and accessible products should result in a significant increase in purchases regardless of specific plan metrics.

Please contact us if you have any questions or wish to discuss further.

Sincerely yours,

Julia Gordon
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