



MHANY Management Inc.  
(A Mutual Housing Organization)  
1 Metro Tech Center North  
11<sup>th</sup> Floor

July 10, 2017

**ATTN:**

Matt Douglas, *Duty to Serve Assistant Program Manager*  
Jim Gray, *Duty to Serve Program Manager*  
Shannon Maloney, *Duty to Serve Program Analyst*  
Mary Owens, *Duty to Serve Affordable Multifamily Specialist*  
Shiv Rawal, *Duty to Serve Affordable Rural Specialist*  
Geenae R. Rivera Soto, *Duty to Serve Affordable Single-Family Specialist*  
**Federal Housing Finance Agency**  
Constitution Center  
400 7th Street, SW  
Washington, D.C. 20219

**RE: Public Comment on FHFA's Proposed Evaluation Guidance for Duty to Serve Program, and Comments on Fannie Mae's and Freddie Mac's Proposed Underserved Markets Plans**

Dear Duty to Serve Program Experts:

MHANY Management Inc. is writing to provide comments on FHFA's Proposed Evaluation Guidance for Duty to Serve Program. MHANY (described in more detail below) is an experienced not-for profit developer that relies on several of the initiatives described in the FHFA Duty to Serve Program. MHANY is also the housing counseling partner with PCN and NCST and has bid on two FHFA pools; neither of which we were the selected bidder. We are pleased to see FHFA develop programs and protections to reach underserved markets, but given MHANY's history with the development of 1-4 family, small multi-family and scattered site rental and ownership developments, we believe the FHFA must be careful to protect the low and moderate income households that fall under its program guidelines.

With the understanding that both Enterprises offer pools structured to target smaller investors, specifically non-profits and neighborhood advocacy organizations, it is imperative that the sale of NPLs is done responsibly, in a way that maximizes outcomes for homeowners and increases neighborhood stabilization. We understand that as of April 14, 2016, FHFA announced additional enhancements to its requirements for NPL sales in an effort to improve homeowner outcomes, with specific enhancements targeting CIPs and EXPOs. The NPL sale enhancements include the following, as defined in FHFA's Non-Performing Loan Sales Report from December 2016:

- 1) **Bidder Qualifications:** Bidders will be required to identify their servicing partners at the time of qualification and must complete a servicing questionnaire to demonstrate a record of successful resolution of loans through alternatives to foreclosure.

- 2) **Modification Requirements:** Servicers are required to evaluate all pre-2009 borrowers who apply for assistance for the U.S. Department of the Treasury's Making Home Affordable programs, including the Home Affordable Modification Program ("HAMP"). All post-2009 borrowers who apply for assistance must be evaluated for a proprietary modification, which must either be fixed rate for the term of the modification or limit payment increases consistent with HAMP requirements.
- 3) **Loss Mitigation Waterfall Requirements:** Servicers must apply a waterfall of resolution tactics that includes evaluating borrower eligibility for a loan modification (HAMP and/or propriety modification), a short sale, and a deed-in-lieu of foreclosure. Foreclosure must be the last option in the waterfall.
- 4) **REO Sale Requirements:** Servicers are encouraged to sell properties that have gone through foreclosure and entered Real Estate Owned ("REO") status to individuals who will occupy the property as their primary residence or to non-profits. For the first 20 days after any note that becomes an REO property is marketed, the property may be sold only to buyers who intend to occupy the property as their primary residence or to non-profits.
- 5) **Reporting Requirements:** Subsequent servicers must assume all the responsibilities of the initial servicer.
- 6) **Bidding Transparency:** To facilitate transparency and encourage robust participation by all interested participants, each of the Enterprises has developed a process for announcing upcoming NPL sale offerings. This includes an NPL webpage on the Enterprise's website, email distribution to small, non-profit, and MWOB investors, and proactive outreach to potential bidders.
- 7) **Reporting Requirements:** NPL buyers and servicers are required to report loan resolution results and borrower outcomes to the Enterprises for four years after the NPL sale.

Enhancements of NPLs that are specific to CIPs and EXPOs include the following:

- 1) **Small Pools:** The Enterprises will offer small, geographically concentrated pools of NPLs, where feasible, to maximize opportunities for non-profit organizations and MWOBs to purchase NPLs. The Enterprises will actively market such offerings to non-profits and MWOBs and provide additional time for buyers to complete the transaction.

We appreciate these changes, but we ask that FHFA take further steps to not only reduce substantial inventories of NPLs but also insure sustainable homeowner and neighborhood stabilization outcomes. Clearly FHFA is reducing the substantial inventories of NPLs, but we strongly believe FHFA must take further steps to award geographically targeted pools of NPLs for sale through CIPs and EXPOs, to mission driven not-for-profit organizations and or local governments to insure outcomes that will substantially improve homeowner outcomes and stabilize neighborhoods.

By not limiting the bidders of CIPs and EXPOs to mission-driven non-profits and local governments, FHFA is prioritizing disposition of NPLs to private investors, thus putting the very homeowners you propose to help at risk. It is clear that FHFA can achieve its goals of (1) decreasing its NPL inventory, (2) increasing homeowner outcomes, and (3) improving neighborhood stabilization by further enhancing the program requirements by mirroring those adopted by HUD's DASP.

## Recommendations

Specifically, MHANY recommends:

- 1) **Bidder Qualifications:** In addition to requiring bidders to identify servicers who demonstrate a record of successful non-foreclosure resolutions, FHFA should also require that bidders of CIPs and EXPOs be exclusively non-profit organizations, local governments, or neighborhood advocacy organizations whose program goal is to optimize positive homeowner resolutions. Through this requirement, FHFA can further improve homeowner resolution outcomes and help stabilize communities.
- 2) **Targeted Pools:** To improve outcomes for homeowners and their communities, FHFA should increase access to smaller, geographically concentrated pools by non-profit organizations and local governments by restricting participation of for-profit entities in CIPs and EXPOs.
- 3) **Bidding Transparency:** To facilitate transparency of the NPL sales program and encourage robust participation by all interested participants, the Enterprises should establish a weighted bidding system whereby non-profit organizations, local governments, and neighborhood advocacy organizations that demonstrate (1) a connection to the community in which the NPLs for sale are located and (2) have the capacity and commitment to meet positive homeowner outcomes are given extra consideration. Furthermore, FHFA should establish a "First Look" process that gives these buyers the opportunity to be considered for pools before other bidders. Additionally, FHFA should establish a "Second Look" process that gives these same buyers the opportunity to match the highest bid on a pool or to bid to the upset price if the bid does not meet the Enterprises' reserve price.
- 4) **Direct Sales:** In an effort to prioritize non-profit participation and focus on home retention through mortgage modifications for long-term affordability, FHFA should establish direct sales of NPLs for competitive bids limited to non-profit organizations and local governments, as adopted by HUD's DASP.

MHANY Management, Inc. ("MHANY") is a 501(c)(3) non-profit organization committed to increasing affordable housing opportunities for low and moderate income residents of New York State. For over twenty five years, we have offered housing acquisition, development and management services as well as comprehensive housing counseling, equity building and economic and housing stability for thousands of families. MHANY is also a certified Community Housing Development Organization (CHDO). This status recognizes our effectiveness at developing affordable housing in the communities in which we serve.

MHANY holds a unique position in the not for profit community and housing development world. MHANY's specialty is scattered site, small-scale development of 1-4 family homes on non-contiguous sites. MHANY not only is adept at developing these scattered sites, but also at managing them through our unique scattered site management model. MHANY got its start with scattered site rental and homeownership projects and continues to operate in that model to this day.

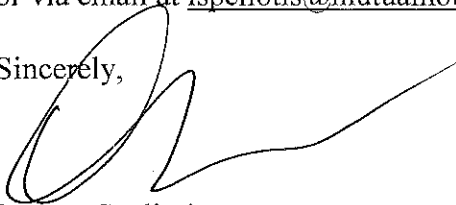
MHANY has a great deal of experience developing and managing small to moderate (1 to 30 units) sized rental properties. MHANY's current portfolio is predominantly scattered site small to moderate sized buildings. Despite the unique difficulties associated with scattered site

development and management, MHANY has made it an organizational goal to focus on this type of development.

MHANY is a HUD-approved First Time Homebuyer and Foreclosure Prevention counseling organization and has a 25-year homebuyer and foreclosure prevention counseling history. In 2016 MHANY counseled over 1,300 families looking to purchase their first home or seeking help to prevent foreclosure.

Thank you for your consideration of our comments. We are available at 718-246-8080 ext. 203 or via email at [ispeliotis@mutualhousingny.org](mailto:ispeliotis@mutualhousingny.org) for further conversations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ismene Speliotis', with a long horizontal flourish extending to the right.

Ismene Speliotis  
Executive Director