



Council for Affordable and Rural Housing

Serving the Affordable Housing Needs of Rural America

September 17, 2009

Alfred M. Pollard, Esq.
General Counsel
ATTN: Comments/RIN 2590-AA27
Federal Housing Finance Agency
Fourth Floor
1700 G Street, NW
Washington, DC 20552

Re: Duty to Serve Underserved Markets for Enterprises
Advance Notice of Proposed Rulemaking, RIN-2590-AA27

Dear Mr. Pollard:

Thank you for the opportunity to respond to the Advance Notice of Proposed Rulemaking concerning Fannie Mae's and Freddie Mac's duty to serve underserved markets. The Council for Affordable and Rural Housing (CARH) represents providers of rental housing in rural America, which is the epitome of an underserved area. CARH owners and managers are on the front line of operating and preserving much of the nation's affordable, rural rental housing. CARH members include private for-profit and non profit developers, owners and managers.

RURAL RENTAL HOUSING FINANCING IS NEEDED

Past studies concluded that there are nearly 14 million families and elderly persons with critical housing needs, which includes a significant proportion of rural residents. See, for example, Stegman, Quercia, McCarthy "Housing America's Working Families," New Century Housing (June, 2000). This need falls disproportionately on nonmetropolitan areas, as concluded by the General Accounting Office's September 2000 report entitled "Rural Housing Options for Optimizing the Federal Role in Rural Housing Development." As such, federal programs addressing housing needs also need to confront rural housing needs if we are going to include all Americans in our national economy. There is an overall shrinking of the rental housing supply, as detailed by the Millennial Housing Commission, Meeting Our Nation's Housing Challenges, May 30, 2002, pp. 16-19 ("MHC Report").

Rural areas require a different analysis toward valuation than urbanized areas. Appraisals based on project comparables are often difficult because rural developments are, in fact, rural, with few other similar properties in the market area. Underwriting should concentrate more on the value of the construction components and the rental income stream, even if the rent consists of government subsidy.

The federal government has been and remains vitally important to the development of rural rental housing, and one program focused on rural rental housing is the USDA Section 538 loan guarantee program. Fannie Mae has a memoranda of understanding with USDA for investment in that program but has not historically participated in the program. We urge these enterprises to implement programs to work with the 538 loan guarantee.

RURAL PRESERVATION TRANSACTIONS

One central CARH focus is the USDA Section 515 rural rental housing portfolio, which is both a preservation program (as identified in the Notice) and a rural housing program in need of supplemental loans. USDA often permits new, supplemental loans to assume a first position, providing adequate security. This portfolio is very productive but consists largely of aging properties facing rising operating costs and deferred maintenance. While Section 515 is a low and moderate income program by design, in practice the 450,000 households have an average income of \$9,055, which is extremely low income. See GAO Report "Multifamily Rural Housing, Prepayment Potential And Long-Term Rehabilitation Needs For Section 515 Properties," May 10, 2002 ("2002 GAO Report") and the May 28, 2008 unnumbered letter from Russell T. Davis, Administrator, Housing and Community Facilities Program, USDA. Section 515 housing comprises 50% of subsidized properties outside of metropolitan counties and 9% inside metropolitan areas. Correcting The Data: A Location Analysis of USDA's Section 515 Rental Housing and other Federally Subsidized Rental Properties in Rural Areas, May 2008 ("May 2008 Letter").

While the 515 portfolio represents a major, ongoing focus of affordable rental housing, the need for new loan product is acute at present. Financing at a reasonable loan-to-value or debt service coverage is largely unavailable. At the same time, the need for a vibrant 515 program is acute. The current recession has created turmoil among residents and applicants. CARH members report a material change where residents are moving to find work or moving into Section 515 properties as a last resort after losing jobs. We are greatly concerned that some current or former residents are at a tipping post towards homelessness.

DEFINITION OF RURAL AREAS

The Notice discusses possible, alternative definitions for rural areas. Each alternative has merit, but we are concerned that differing definitions will create new complexity without any material benefit. The Housing and Economic Recovery Act ("HERA"), which created the Federal Housing Finance Agency, also provided in a different provision guidance about rural areas that is instructive here. Section 3004(f) provides for certain treatment of rural properties. This provision was intended to facilitate the use of the Low Income Housing Tax Credit in rural areas, and adopts the standard articulated in Section 520 of the Housing Act of 1949. USDA has in turn reduced the application of Section 520 to a web-based portal that allows users to easily see if they are in a qualified area. While different, and meritorious, definitions could be used, since Section 520 guides so much of the housing in rural areas, for the sake of consistency we believe that utilizing that standard is reasonable, at least until a different clearly superior standard is identified.

We appreciate the opportunity to submit our comments to the Notice.

Sincerely,



Colleen M. Fisher
Executive Director