Palm Harbor Homes

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September 18, 2009

VIA COURIER & ELECTRONIC MAIL

Alfred M. Pollard, Esq.
General Counsel
Attention: Comments/RIN 2590-AA27
Federal Housing Finance Agency
Fourth Floor
1700 G Street, N.W.
Washington, D.C. 20552

Re: Advanced Notice of Proposed Rulemaking — RIN 2590-AA27
Duty to Serve Underserved Markets for Enterprises, 74 Federal Register 38,572 (August 4, 2009)

Dear Mr. Pollard:

The following comments are submitted on behalf of Palm Harbor Homes, Inc. (Palm Harbor) and its financing subsidiary, CountryPlace Mortgage (CountryPlace), in response to the Advanced Notice of Proposed Rulemaking (ANPR) concerning the *Duty to Serve Underserved Markets for Enterprises* published by the Federal Housing Finance Agency (FHFA) in the Federal Register on August 4, 2009.[1]

I. OVERVIEW OF PALM HARBOR HOMES AND COUNTRYPLACE MORTGAGE

Based in Texas, Palm Harbor is one of the nation's leading manufacturers and marketers of factory-built homes. The company markets nationwide through vertically integrated operations, encompassing manufactured and modular housing, finance, and insurance. Through CountryPlace, Palm Harbor offers conforming mortgages to purchasers of factory-built homes sold by company-owned retail sales centers and certain independent retail dealers, builders, and developers. The loans originated through CountryPlace are either held for Palm Harbor's investment portfolio or sold to investors. CountryPlace is a Fannie Mae "Seller/Servicer," a Federal Housing Administration (FHA) "Direct Endorser," and a servicer of private-label mortgage-backed securities. Prior to 2008, CountryPlace was also an issuer of private-label mortgage-backed securities.

The prevailing economic uncertainties and depressed housing market have continued to challenge the manufactured housing industry, including Palm Harbor. The economic crisis has

[1] Duty to Serve Underserved Markets for Enterprises, 74 Fed. Reg. 38,572 (Aug. 4, 2009) (to be codified at 12 C.F.R. pt. 1282).

materially impacted liquidity in the financial markets, making terms for certain financing less attractive and resulting in the unavailability of most types of financing. CountryPlace and similar manufactured housing specialty lenders have been effectively precluded from issuing private-label mortgage-backed securities for the past two years. Secondary markets for loan types traditionally used for the purchase of manufactured homes have severely contracted, making these loans illiquid. As a result, several major third-party lenders, which previously provided financing for Palm Harbor's customers, have exited the manufactured housing finance business. CountryPlace has been unable to raise sufficient capital to fill the void created by these lenders' departure from the industry. The reduced availability of such financing has had an adverse effect on manufactured home buyers, many of which are of low- or moderate-income and located in rural areas.

II. THE DUTY TO SERVE

The Housing and Economic Recovery Act of 2008 (HERA) directs the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises) to serve three underserved markets: (1) manufactured housing, (2) affordable housing preservation, and (3) rural areas.[2] Specifically, HERA establishes a duty "[t]o increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets . . . ."[3] Further, "each enterprise shall provide leadership to the market in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages for very low-, low-, and moderate-income families with respect to the [underserved markets]."[4]

In responding generally to the ANPR, Palm Harbor would like to emphasize the multiple ways in which manufactured housing provides the potential to assist the Enterprises in meeting their duty to serve the underserved markets. Manufactured housing offers one of the most affordable types of housing available. As further detailed below, by increasing the availability of manufactured housing, the Enterprises will not only meet the first directive of the duty to serve specifically related to manufactured housing, but, also, the third directive related to the provision of housing in rural areas.

III. RESPONSES TO SPECIFIC REQUESTS FOR COMMENT IDENTIFIED IN THE ANPR

The following provide responses to specific requests for comment identified by the FHFA in its ANPR. These responses are provided in the order of appearance in the ANPR.

A. MANUFACTURED HOUSING

With respect to manufactured housing, HERA directs the Enterprises to "develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low-, low-, and moderate-income families."[5] Specifically, in

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[2] *See* Housing and Economic Recovery Act of 2008 (HERA), Pub. L. No. 110-289, § 1129, 122 Stat. 2654 (2008).
[3] *Id.*
[4] *Id.*
[5] *Id.*

connection with the manufactured housing directive of the Enterprises' duty to serve, FHFA requests comment on "whether Enterprise purchases of manufactured housing loans secured by personal property should be considered for purposes of the duty to serve the manufactured housing market."[6]

As noted in the ANPR, HERA provides that, in determining whether an Enterprise has met the duty to serve the manufactured housing market, FHFA may take into consideration both loans secured by real property and loans secured by personal property.[7] Palm Harbor strongly encourages FHFA to consider the Enterprises' purchase of such personal property or "chattel" loans in making a determination of whether an Enterprise has met its duty to serve the manufactured housing market. Specifically, Palm Harbor believes that, for an Enterprise to meet its duty to serve the manufactured housing market, the FHFA should require the Enterprises to purchase manufactured housing chattel loans on a sustainable, flow basis for both new and pre-owned homes, using specialized underwriting and servicing. Based on the experience of CountryPlace in originating and servicing high-quality loans with an excellent portfolio performance record, we strongly recommend that any such chattel loan program require loans to have fully documented employment and assets, fully amortizing repayment schedules with fixed payments and interest rates, loan terms limited to 20 years, and minimum down payments of 10 percent. Additionally, the homes must be occupied by the borrower. Our experience is clear with respect to manufactured home buyers with low- and moderate-incomes: stated income, "buy-for" (non-borrower occupied), and adjustable rate loans represent unacceptable levels of risk to the borrowers, as well as loan investors.

Manufactured housing financed by chattel loans represents some of the most affordable housing in the market. In many states, manufactured homes are automatically classified as personal property for purposes of taxation and lien perfection, thereby making chattel financing the only option available to certain potential buyers. Yet, at present, the availability of chattel financing is almost nonexistent, especially for pre-owned homes. The Enterprises, in particular, have tightened standards relating to the manufactured housing loans they will buy and, to our knowledge, do not presently invest in manufactured home chattel loans. As a result, homeownership opportunities have been severely limited for many very low-, low-, and moderate-income families. In addition, the unavailability of financing products for pre-owned manufactured homes exacerbates home price depreciation and results in a lack of liquidity for home sellers.

Further, in the absence of the availability of chattel financing, very low-, low-, and moderate-income families may, instead, opt for FHA financing. However, many FHA loans require the borrower to incur points and fees in excess of those required of conventional mortgages and traditional manufactured home chattel loans. These additional points and fees usually must be financed because home buyers typically cannot afford to pay them at the time of purchase. In some instances, it may take over six years before these additional fees are amortized and a reduction in principal is realized by the home buyer. Chattel financing, with low fees and points, accelerates the building of equity for the home owner, thereby reducing the likelihood of loan default. By offering significantly lower fees, amortized over shorter periods of time, chattel

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[6] Duty to Serve Underserved Markets for Enterprises, 74 Fed. Reg. at 38,574.
[7] *See* HERA § 129.

financing presents an attractive and more economical alternative to FHA financing for manufactured home buyers.

While manufactured housing has always provided an affordable alternative to site-built homes, the treatment of manufactured homes as depreciating assets – as compared to site-built homes where appreciation has been presumed – has contributed to the limited availability of financing for manufactured homes. However, as is increasingly evident in the current housing market, site-built home values are also subject to depreciation. Moreover, historical price appreciation in site-built home values is primarily attributable to increasing scarcity of developable land, not the intrinsic value of the constructed home per se. In fact, excluding underlying land with appreciation potential, site-built homes themselves are wasting assets subject to the same wear and tear, deterioration from weather, and other factors that contribute to the depreciation of manufactured homes. Accordingly, manufactured homes should be treated the same as site-built homes in considering credit requirements for home loan borrowers. In addition, given recent land price depreciation and the risks inherent in real property speculation, it is appropriate to re-examine loan pricing models that favor site-built home mortgages over manufactured home loans on the basis of presumed site-built appreciation. We firmly believe that loan underwriting criteria for all home types, whether site-built or manufactured, should be based on credit quality factors rather than the expectation of positive house price appreciation.

B. Rural Areas

With respect to the duty to serve rural areas, HERA directs the Enterprises to "develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families in rural areas."[8] The ANPR seeks comments on "the types of transactions and activities that should receive consideration toward the duty to serve rural markets, and the types of flexibility the Enterprises could add to their underwriting guidelines to assist this market."[9]

The overwhelming majority of new manufactured homes are delivered to rural areas and, therefore, the growth of homeownership in rural areas is dependent on the availability of financing for manufactured housing. While site-built housing can obtain economies of scale through the development of tract housing and large subdivisions, such opportunities are not available in rural areas where homes are located on scattered lots. Instead, manufactured housing affords the prospective rural buyer a feasible, low-cost alternative for obtaining homeownership. Therefore, in determining whether an Enterprise has met its duty to serve rural areas, Palm Harbor urges FHFA to consider allowing the Enterprises credit for facilitating the availability of chattel financing for manufactured homes under both the manufactured housing and rural housing directives of the duty to serve.

IV. Conclusion

Rural and low- to moderate-income home buyers have suffered as a result of the lack of affordable financing alternatives for manufactured homes. To date, the role of the Enterprises in

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[8] HERA § 1129.
[9] Duty to Serve Underserved Markets for Enterprises, 74 Fed. Reg. at 38,575.

addressing this problem has been minimal. The manufactured housing industry's ability to serve low- and moderate-income home buyers will continue to deteriorate, if not evaporate entirely, unless the Enterprises take immediate steps to comply with the HERA duty to serve directives.

On behalf of Palm Harbor and CountryPlace, I would like to thank you for the opportunity to comment on the ANPR concerning the *Duty to Serve Underserved Markets for Enterprises*. If you need further information regarding any area discussed in this comment letter, please do not hesitate to contact me at lkeener@palmharbor.com or (972) 764-9320.

Sincerely,

Larry Keener

Larry H. Keener
Chairman, Chief Executive Officer and President
Palm Harbor Homes, Inc.