NATIONAL
HOUSING
TRUST

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

September 18, 2009

Dear Mr. Pollard:

The National Housing Trust is a national nonprofit organization that focuses specifically on the preservation of existing rental housing that is affordable to the nation's lowest-income households, including households that include elderly or disabled individuals. The Trust has directly developed or provided technical assistance or loans to preserve and improve over 22,000 affordable apartments. The Trust welcomes the opportunity to provide comments to the Federal Housing Finance Agency (FHFA) on the duty to serve provisions of the Housing and Economic Recovery Act of 2008 (HERA) as it applies to the Government Sponsored Enterprises (GSEs) Fannie Mae and Freddie Mac. Our comments are limited to the duty to serve affordable housing preservation, though we also endorse the GSEs duty to serve affordable housing through manufactured housing and in rural markets.

Impact

These comments are in response to FHFA decision to implement the Duty to Serve elements of HERA as they apply to Fannie Mae and Freddie Mac. Given the likelihood of future changes relating to Government Sponsored Enterprises, we believe these duties should apply to all entities that participate in the secondary mortgage market and/or that bundle, securitize, and sell mortgage backed securities.

Evaluation

In general, the Trust believes that previous attempts to encourage the GSEs to serve affordable housing have often focused on numerical targets rather than on qualitative impacts, and that often these efforts have had limited effectiveness in promoting affordability. As part of its responsibility to oversee the duty to serve affordable housing, we urge the FHFA to focus on the overall quality and effectiveness of the GSEs' ability to serve these markets, rather on fixed numerical targets.

In encouraging and evaluating the GSEs duty to serve affordable housing, we urge the FHFA to consider three categories of engagement that, taken together, will help to promote both innovation and broad application of effective practices to preserve and expand the supply of affordable housing.

The three categories for evaluation of the GSE duty to serve in the area of housing preservation are:

1. Project-specific efforts, where new products or processes limited to individual properties can be attempted and evaluated;

2. Prototypes, where new products or processes are applied to transactions with specific characteristics, such as properties owned by large mission-oriented owners, properties with expiring HUD-subsidized mortgages, or properties in a limited geographic area;

3. Market-wide coverage, which would include products or processes that are available to the broadest range of customers, geographic areas, and properties. While the project-specific areas are intended to encourage innovation and evaluation on a limited basis, the market-wide engagement will ultimately have the greatest impact on the GSEs service to affordable housing.

Market segment

The National Housing Trust is particularly concerned about the viability and continued affordability of HUD-assisted project-based section 8 portfolio and properties with HUD-assisted mortgages and rent restrictions (Section 221(d)(3) and Section 236). However, to the extent practicable, GSEs should also focus on ways to assist in the preservation of LIHTC properties and conventionally financed properties that are at risk of being converted to non-affordable uses, including those at risk of possible conversion as a result of default over the next 36 months. Preservation means that these properties will continue to be affordable to households at the same income levels are current households for a period at least as long as the full term of the mortgage products offered for their acquisition and/or rehabilitation. Participation in conventional financing for rental properties serving moderate income households is also important, but does not substitute for and should not be counted toward the need to provide products and services to preserve and expand the inventory of rental properties serving low-income, very low-income, and extremely low-income households.

The Trust supports GSEs’ attempts to stabilize residential housing markets as part of the Neighborhood Stabilization Program. However, since their work in this area extends across the range of affordability and tend to focus on single-family and owner-occupied housing, we do not believe that these activities should be considered as contributing to the GSEs duty to serve affordable housing preservation. However, to the extent the GSEs do engage in NSP activities that promote the preservation of affordable, multifamily housing, that engagement does contribute to the duty to serve.

Activities

GSEs should actively promote the preservation of rental properties that are affordable to low-income, very low-income, and extremely low-income properties, respectively, by providing products and services tailored to this purpose, including, but not limited to:

- Loan and bond guarantees at reasonable rates (guarantees provided by the GSEs over the past 18 months have experienced significant price increases);
- Program related investments and lines of credit available to strong for-profit and non-profit mission-oriented intermediary lenders and developers for bridge financing and longer term financing of affordable rental housing at terms that are the same or better than conventional market products;
- Purchase of affordable multifamily rental property mortgages from CDFIs;
- Flexible underwriting of preservation transactions that balances the inherent risks of preserving government subsidized properties in underserved markets with the strength and experience of the development team. In some cases, this will require partnerships with specialized loan originators that can perform more detailed analysis of individual preservation transactions in order to identify and mitigate acceptable risk in these transactions;
- Underwriting standards that incorporate post-rehab rents for preservation properties, but only when the long-term affordability of the property is protected by federal use restrictions or new loan covenants that extend for the entire period of the loan, regardless of subsequent refinancing;
- Special financing products for “green” affordable rental housing on terms that are the same or better than those offered to “green” conventional market properties;
- GSE purchase of loans or investments in affordable rental properties should not be subject to discounts of future Section 8 rental assistance payments and should not be conditioned on Section 8 transition reserves;
- GSEs must actively reach out to state housing agencies and interested preservation purchasers to provide information on REO and delinquent properties in order to help assure that the properties are kept in good shape and maintained in the affordable housing inventory;
- GSEs should take no action to divest their current portfolio of Low Income Housing Tax Credits unless some mechanism exists to ensure that the prices of these assets do not fall

below a specified level. GSEs should also be encouraged to purchase new or existing Low Income Housing Tax Credits;

- GSEs should be encouraged to act as a potential guarantor in the tax credit market, helping to stabilize the market; this is especially important given the fact that over 50% of the units that were financed with low income housing tax credits in 2007 involved rehabilitation of existing housing. We are aware of such funds being established that provide profitable returns for the guarantors. We would welcome the opportunity to discuss this with the GSEs and FHFA.
- While numerical goals are not necessarily the best means to test the GSEs' satisfaction of the duty to serve, we suggest that FHFA consider establishing a range of goals for products that result in the financing of HUD assisted and insured, multifamily and LIHTC properties, especially where those apartments serve very low income or extremely low income households, but only where that financing does not depend upon Section 8 transition reserves or the anticipation that Section 8 rental streams are temporary.
- Given the significant refinancing needs of multifamily loans between now and 2012 and the impact that this could have across the range of rental properties serving low- and moderate-income households, FHFA should exempt multifamily loans from GSE mortgage portfolio limits through at least December, 2012.

Thank you for the opportunity to provide these comments on the GSE duty to serve affordable housing preservation.

If you have any questions, please contact me at 202-333-8931, extension 111.

Sincerely,

Michael Bodaken

Michael Bodaken
President