

Manufactured Home Owners Association of America

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Alfred M. Pollard, General Counsel,
Federal Housing Finance Agency
1700 G Street, NW, 4th Floor
Washington, D.C. 20552
Submitted via E-mail to: RegComments@fhfa.org

RE: (RIN) 2590-AA27

Dear Attorney Pollard:

This letter is in response to the Agency's Advance Notice of Proposed Rulemaking and Request for Comment Regarding Duty to Serve Underserved Markets for Enterprises.

We are the Manufactured Home Owners Association of America (MHOAA). We represent home owners who have been underserved as a result of being in one or more of three underserved markets: (1) manufactured housing, (2) preservation of affordable housing and (3) rural housing. We believe that the Duty to Serve is meant to include a duty to serve low and very low income manufactured home owners – to preserve the loss of their homes and communities that represent the largest source of previously unsubsidized affordable housing in the country. It has been estimated that there are 50 to 60 thousand manufactured home communities in the country with 10 million home owners just like us. We have been ignored and underserved and have suffered from predatory practices as a result.

MHOAA is the only national organization that represents the 10 million home owners who live in 50,000 resident-owned or lease-land communities across this nation and has been doing so since 1994. We currently represent over 20 state-wide home owner associations that are working in their states and at a national level to improve the economic opportunities of those living in manufactured home communities, two-thirds of whom are of low or modest incomes. Our homes are often our one major asset.

A Historical Review

Sixty years ago our communities began as rental site for "trailers" or "mobile homes" and that is what they were. If you didn't like the rent, the rules or the landlord, you could hook the trailer to the car and go. This kept a control on the conduct of the landlord, as it does in any other rental contact. The home purchase costs were low and so was the risk. It provided landlords with an adequate rate of return on their investment while enabling many veterans and others a solution to the lack of affordable housing after World War II.

Over the next 20 years tens of thousands of manufactured home communities were developed nationally, enabling many families and seniors to enjoy their homes and

communities at reasonable cost. As this was happening our homes grew more and more expensive and less mobile. Those once designed to be mobile were expanded or aged to be no longer moveable. Manufactured homes are “stick built” off-site. Once sited, not more than 1% of the homes are ever moved. Relocation is expensive and can only be done by professionals with special equipment. More importantly, even if they could be moved, there is no place to relocate them. The landlord tenant equation changed forever. Manufactured home owners in communities are captive to the profit motives of the landowner.

In the 1980's, new federal policies began to promote land and housing speculation, often with little oversight. Predatory lending has brought us to worldwide economic turmoil and destruction, resulting in more homelessness and social costs borne by taxpayers. This movement has been especially destructive to those at the bottom of the economic ladder. The 1990's saw many large out-of-state corporate landlords buying up our communities with the intent to sell them for another use rather than operating them long-term. Many communities were ripe for development because they were centrally located in town and cities with easy access to sewer, water, and electricity. Rents were raised, not based on an adequate rate of return on investment, but to increase the value of the land to gain a better selling price. As part of this strategy, service and repair or replacement of infrastructure in older communities was not a priority and was either deferred or ignored completely.

The beginning of the new millennium saw a spike in community closures nationwide. This encouraged mom-and-pop landlords to adopt the corporate strategy of making a “killing” instead of conducting a profitable business. In Oregon, for example, 67 closures have occurred since 2000 with 2,703 families losing their homes. We have also documented the rent increases of 16 sample communities in that state that have occurred from 2003 – 2008. Of these, 14 of the increases were more than double to quintuple the Consumer Price Index (CPI) for that period. I wish I could state that the Oregon example was a stand-alone situation, but it isn't. We have evidence of similar occurrences across the country. Only the state of Vermont requires such increases to be documented and justified. The end result is that everywhere else in the country, it is difficult for legislators and policy makers to have a handle on what is happening on the ground.

The destruction and devaluation of our homes and communities by closures and excessive rent increases, have given the industry a bad reputation. Newspaper accounts of seniors on limited incomes having little option but to abandon their homes when the rent on the space their homes occupy become unaffordable, is simply not good public relations. Worse still are instances when residents are thrown out of their communities when they are closed, often with little or no compensation, due to a change in land use.

Duty to Serve

We believe the “Duty to Serve” the three underserved markets is the duty to serve those home owners and not the industries separate and apart from the interests of the home owners. In other words, it's about home ownership and the security and opportunity which is supposed to represent home owners in America; not solely being about generating wealth for investors or developers. This is why we write; to call attention to developing rules for Fannie Mae & Freddie Mac to ensure that they lead the industry in ways that help home owners and not those who would make a profit from home owners.

The main concerns of MHOAA are bringing the true aspects of home ownership to manufactured home owners. We believe that to do this we need the following:

1. To gain stability of long-term land tenure for homes in communities.
2. To title homes as real property, regardless of the ownership of the land.
3. To have access to home financing which is reasonably priced, fairly underwritten and on reasonable terms.

In 2003, Consumer's Union published a study on asset appreciation of manufactured housing. They concluded that two things were needed to make ownership of a home in a community an asset building experience of traditional home ownership; 1) land tenure and 2) access to reasonably priced financing.

There have been long-term programs in New Hampshire that have caused real market change with resident ownership of communities and with initiatives in single family lending, that have proven this to be true. Still, lending to home owners who are creditworthy is tainted by old stereotypes of our homes as depreciable assets. We are further discriminated against in Desktop Underwriting (DU) which attributes additional risk factors to us, not based on our individual creditworthiness or our true asset values. This carries forward assumptions which came out of the manufactured housing financing of the past that lead to great losses. These losses resulted from predatory lenders, imbedded with the dealer distribution network and serving community owners. Homes were sold for more than they were worth, financed at predatory rates and lacked quality. Most were placed onto lease lots with skyrocketing rents and no protections existed against park closures. All this contributed to losses. As a result, a manufactured home purchaser today must have extraordinary credit to qualify for lending to overcome the DU built-in risk assumptions. Home buyers should not suffer the burdens placed on them by the sick market. The illness can be cured by a paradigm shift with emphasis placed on the home buyer instead of the community owner.

Fannie Mae & Freddie Mac can lead market changes by addressing three key elements; 1) encouragement of long-term tenure and stability in its multi-family manufactured home lending, 2) support the titling of manufactured homes in communities as real estate, and 3) develop manufactured home single family financing products for homes in communities with underwriting controls against the lender/consumer risks and remove the prejudicial assumptions from DU so that low income people with good credit can qualify on their own merits.

We understand that Fannie Mae & Freddie Mac are major lenders to investors who buy and sell our communities, raise our rents at will, refuse to give lease protections and close communities for more profitable developments, resulting in asset loss. We do not blame Fannie Mae & Freddie Mac for the ills of the industry, but we think they could do a lot to make changes. Investors will do what is in their best financial interest. Can incentives be given to assure that our home owners are treated like home owners as a condition of getting the money, or at least the money spent in furtherance of the Duty to Serve? We believe the answer is yes!

Fannie Mae & Freddie Mac should take steps to discourage the closure of the communities and encourage the move into resident-owned communities as they are sold. There must be some incentives that Fannie Mae & Freddie Mac can develop in their lending that would entice more good faith and fair dealing in land leased communities, where typically home owners do not have a lease at all. If the investor owners would give home owners the protections of long-term leases and the option to purchase the community before it could be sold to someone who might develop it or before the current owner could close it, it seems it would protect home owners and Fannie Mae & Freddie Mac as well.

To include the multi-family products in its Duty to Serve goals, the loans should be made directly to the home owner associations for the purchase of the community and operate it as a resident-owned community in such a way as to preserve the community long-term. New products for resident purchases are needed. We need higher loan-to-value ratios or willingness for Fannie Mae & Freddie Mac to partner with other non-profit lenders or public agencies that are trying to help us secure and preserve our homes. If local governments and state housing authorities and charitable groups are involved in the organizing and financing of residents, Fannie Mae & Freddie Mac participation should qualify for Duty to Serve.

Over the past few years, underwriting expertise has developed at the state and national level tailored to the purchase of our communities. This expertise was developed in the past 25 years in New Hampshire, where home owners have successfully purchased 93 communities without any foreclosures. Now we have a national organization known as ROC USA™ with an existing and expanding network of technical providers in 11 states that serves home owners in 33 states. They provide assistance in making assessments of the value of the communities, the cost of necessary capital infrastructure improvements and the steps needed to educate the home owners regarding the management of the community.

Ownership of our own communities is the ultimate long-term solution to the instability of the communities and the lack of investment in infrastructure. Resident ownership preserves the manufactured home community as affordable because home owners are not out for a profit; just the preservation, maintenance and improvement of the community.

As an association, we have been concerned that some forms of resident ownership create divided communities; divided between the low and very low-income home owners and more middle class home owners who can afford to buy shares. The result is a modified investor-owner model where your neighbor now can act like the investor did previously. Resident ownership needs to be financed in a way that allows most home owners to be participants. A loan product that requires home owners to raise 20% of the purchase price through buying shares will not be productive. Non-profit lenders and public sources must be partnered with in order for Fannie Mae & Freddie Mac to reach these new markets. This is where leadership truly needs to be provided.

Manufactured home owners would like to see the leadership of Fannie Mae & Freddie Mac as lenders that would treat our homes as “homes” and not vehicles. Until this happens, we will not fully be protected the way other home owners are when buying and financing homes. There are states that allow manufactured homes to be real estate even when they are in communities. If Fannie Mae & Freddie Mac would insist on this, it would happen. We

have been advised that the Uniform Law Commission is holding a stakeholder's meeting on September 21st, 2009 on this issue with the possibility of proposing a Uniform Law on this issue like they have in other financing areas. MHOAA will attend to voice its support for this. We are aware of the Report published by CFED (http://www.cfed.org/imageManager/documents/mh_realproperty.pdf) and all the pluses and minuses having been considered, this is important for homeowners to support.

The new Duty to Serve law states that Fannie Mae & Freddie Mac may meet their Duty to Serve by buying up chattel loans. Fannie Mae & Freddie Mac need only look at the Statement on Subprime Mortgage Lending and the Interagency Guidance on Non-traditional Mortgage Products (particularly in the Consumer Protection Issues and Consumer Protection Issues sections) to see how chattel lending raises concerns. There may not be "rate shock" under the chattel loan itself, but what about "rent shock", or the worst shock of all, park closure? Traditional chattel lending has not addressed these concerns. No mortgage protections exist. No disclosures of risk or explanations to consumers are required, not just of the loan, but of the homeownership risks in an investor community with a short or non-existent lease. Disclosures and borrower counseling, recommended to protect both consumer and lender, do not exist and the chattel underwriting does not demand them. If the loans were real estate mortgages, then appraisals, long-term leases, insurance, title insurance, etc. would be demanded. To address the same concerns as the Statements and Guidelines, in the context of chattel lending in investor owned communities (unlike resident-owned communities), Fannie Mae & Freddie Mac must address the leasing process and land tenure with the same disclosure and counseling requirements and by implementing underwriting guidelines to address lender risk caused by rent increases, lease termination and park closure or the life of the loan.

Preservation of the homes of manufactured home owners is in and of itself, affordable housing preservation, the second underserved market. It doesn't have to be subsidized housing to be affordable housing. If it is owned by people who fit the income guidelines, they have found it affordable to buy; they just need it to be affordable to keep and not lose it. Most communities, although there are high-end exceptions, tend to be at least 60 to 70% low income. Some communities are 50% or more very low income. The untold story in this country is how much homelessness has come from the closure and redevelopment of manufactured home communities. FHFA can determine guidelines for the classification of a low income home owner in order for the lending to count toward the preservation of affordable housing goal: as long as the housing gets preserved through resident ownership, non-profit ownership or long-term leases with an option for the home owners to purchase before it can be sold or redeveloped.

We are concerned that the crisis in the commercial finance markets (way beyond the control of low income home owners) is causing a crisis for community owners. More and more communities will go into foreclosure and even though home owners are paying their rent, they will lose their homes. Many of the big owners are seeing the maturity of their financing; many communities have vacancies that exceed traditional guidelines for current multi-family lending. The new wave of community instability is going to begin. Our concern is that no one looks at this as a housing crisis because manufactured home communities are "commercial" properties. Flexibility is needed in traditional financing to allow home owners

to buy these communities, as long as they have cash-flow. Flexibility is also needed for home financing once they are resident-owned in order to place and sell new homes.

Our view of the tests set forth in the Notice is that all should be used as part of a rating system that would cause Fannie Mae & Freddie Mac to develop products, bring home owners in as new participants, give grants for the technical assistance that home owners need and help support the kinds of non-profit delivery systems needed to reach home owners.

In Conclusion

We want to support the Duty to Serve. We do not have the resources that the industry has, so we ask that FHFA remember it is the duty to serve home owners not the industry. For example, there should be a test that says, if Fannie Mae & Freddie Mac's products and activities might help the industry sell more new homes and upgrade and gentrify MH communities, but the result would be the displacement of low income and very low income home owners in the process, it does not meet the Duty to Serve the home owners or preserve their affordable housing. We support the implementation of Duty to Serve goals and hope to be active partners with the FHFA and Fannie Mae & Freddie Mac as you implement these goals.

Please feel free to contact us with your comments.

Very truly yours,

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