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July 22, 2010

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

Re: Enterprise Duty to Serve Underserved Markets
75 Federal Register, No. 108 at 32099 -- RIN 2590-AA27

Dear Mr. Pollard:

The following comments are submitted on behalf of Cappaert Manufactured Housing. Cappaert is a producer of manufactured housing regulated by the U.S. Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401, et seq.), as amended. [Insert name] is a member of the Manufactured Housing Association for Regulatory Reform (MHARR) and in addition to these comments, supports and agrees with the comments filed by MHARR in this docket.

On June 7, 2010 the Federal Housing Finance Agency (FHFA) published a proposed rule in the Federal Register to implement the "duty to serve underserved markets" (DTS) provision of the Housing and Economic Recovery Act of 2008 (HERA). The DTS mandate represents both a congressional finding that the two Government Sponsored Enterprises (Enterprises) have not -- and are not -- properly serving the manufactured housing market, as well as a remedy, designed to materially increase the participation of the Enterprises in the manufactured housing market. Measured against these benchmarks, the DTS rule proposed by FHFA is grossly inadequate and will not produce the new programs and significant policy changes that are needed for the Enterprises to properly serve consumers of affordable manufactured housing.

By FHFA's own acknowledgment, manufactured homes financed as personal property constitute approximately 63 percent of the entire manufactured housing market. With the inclusion of land-home packages, the proportion of new manufactured homes financed other than as conforming real estate transactions constitutes approximately twothirds of the market. Yet both categories are excluded from DTS, automatically limiting DTS to no more than 30 percent of the manufactured housing market. Very simply, DTS cannot be successful in meeting Congress' objective of increasing the Enterprises' support for manufactured home-ownership when the vast majority of manufactured homes and manufactured home transactions are not even eligible for consideration under any conceivable "plan" that could be submitted to -- or approved by -- FHFA under the proposed rule.

For the Enterprises, that spent years putting people into homes they could not afford -- leading to their own collapse -- to now balk at helping people buy manufactured homes that they can afford, based on alleged "risk," and for FHFA to simply accept that position, is absurd, unacceptable and inexcusable. Manufactured home loans -- of all types -- which pair purchasers with modern (i.e., post-Manufactured Housing Improvement Act of 2000) manufactured homes that they can afford, rather than employing gimmicks to paper over insufficient resources, when managed properly, are no more risky than any other home loan and are far less risky than the loans which landed the Enterprises in conservatorship.

Because of past bad practices, the Enterprises, as FHFA notes, have been bailed-out with hundreds of billions of dollars in taxpayer funding. If the Enterprises would devote a fraction of that amount -- such as $10 billion -- to workable loan programs of all types for manufactured housing, consistent with the intent and design of DTS, they would help provide home-ownership for hundreds of thousands of lower-income Americans, while saving the federal government billions of dollars that would otherwise be spent on housing subsidies.

The proposed rule, moreover, contains no benchmarks whatsoever for compliance by the Enterprises and no objective evaluation criteria for compliance, effectively leaving the Enterprises free to continue discriminatory policies against the small segment of the manufactured housing market that would be subject to DTS.

According to the proposed rule, each Enterprise would develop an "underserved markets plan" in which the Enterprise itself "would establish benchmarks and objectives upon which FHFA would evaluate and rate its performance." Without any objective criteria from FHFA, however, as to the level of performance that would be necessary to establish adequate compliance with the statutory mandate, this effectively allows the Enterprises to establish their own rules for compliance. And given the Enterprises' track record in failing to serve the manufactured housing market -- the very failure that led Congress to enact DTS -- as well as the overt hostility toward manufactured housing that remains evident in the Enterprises' respective ANPR comments, there is no reason to believe that the Enterprises will make any effort, under the regime established by FHFA, to significantly increase their participation in the relatively small real estate portion of the manufactured housing market. Nor is there anything in the proposed rule to indicate, objectively, the circumstances under which FHFA would reject a proposed underserved markets plan for insufficiency, as contrasted with evaluating an Enterprises' compliance with such a plan.

For the foregoing reasons and for reasons that are further explained in the comments filed by MHARR, we urge FHFA to modify its proposed rule and adopt a final DTS rule that: (1) includes chattel financing and land-home packages; (2) provides more specific and rigorous criteria for DTS compliance and compliance evaluation; (3) specifically authorizes self-insurance of manufactured housing purchases by the Enterprises; and (4) that specifically authorizes the Enterprises to purchase FHA Title I manufactured housing loans.

Very truly yours,

Mike Cappaert

Mike Cappaert
President