

January 23, 2019

Ben Carson, Secretary  
Brian Montgomery, Acting Deputy Secretary  
U.S. Department of Housing and Urban Development  
451 7<sup>th</sup> St., S.W.  
Washington, DC 20410

Dear Secretary Carson and Acting Deputy Secretary Montgomery:

On behalf of the low-income clients and communities we represent, we urge the Department of Housing and Urban Development (HUD) to issue a stay of all judicial and non-judicial foreclosure activity on forward and reverse FHA mortgages pending resolution of the federal government shutdown. The stay should include (1) the tolling of applicable deadlines for all FHA borrowers, non-borrower spouses with reverse mortgages, and servicers related to loss mitigation and other available relief, including the deadlines set forth in HUD Mortgagee Letter 2015-15 regarding the Mortgagee Optional Election (MOE) Assignment program; and (2) any action to call reverse mortgage loans due and payable. Given that HUD's National Servicing Center (NSC) and other departments that play a critical role in loss mitigation<sup>1</sup> are currently operating at drastically reduced capacity, these measures are warranted to protect homeowners – particularly elderly homeowners – from losing their homes.

Reverse Mortgages.

The Home Equity Conversion Mortgage (HECM) program was created to make it easier for older homeowners to age in place by allowing them to borrow against their home equity without risking displacement. HUD's National Servicing Center is critical to this mission. The NSC facilitates approvals of servicer requests for waivers and extensions in connection with loss mitigation measures, provides guidance to HECM servicers, and works directly with homeowners, housing counselors and advocates to resolve escalated issues that frequently arise during the loss mitigation process. In the effective absence of this critical resource and other agency operations, HECM borrowers facing foreclosure cannot access key foreclosure alternatives that would otherwise be available to allow them to avoid displacement and potential homelessness, including, for example:

- Repayment plans for defaulted property charges, which require approvals for extensions of foreclosure timelines from HUD;
- At-risk extensions for borrowers over 80 years of age with serious medical hardships, which require HUD review and approval; and
- Assignments under the MOE Assignment program, which must be reviewed and accepted by HUD and are currently subject to excessive delays.

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<sup>1</sup> HUD's website states that "the goal of the National Servicing Center is to work with FHA homeowners and their lenders to avoid foreclosure."

For non-borrower spouses seeking assistance under the MOE Assignment program, the unavailability of key HUD personnel presents a particularly difficult challenge. First, the program currently includes extremely tight deadlines for completion of various requirements by both the borrower and the servicer that will be impossible to meet under HUD's current skeletal operating conditions. Unless these deadlines are tolled during the shutdown, many non-borrower spouses who otherwise qualify will be denied MOE relief simply because of delays resulting from the shutdown. Second, the NSC and other HUD departments play an indispensable role in the implementation of this relatively new program. In addition to reviewing MOE assignment requests from servicers, HUD is called upon to intercede in the majority of MOE assignment cases because of servicers' frequent misinterpretation or misapplication of MOE rules.

In one current case in California, for example, an elderly woman is on the verge of losing the home she inherited from her parents because the servicer erroneously denied her MOE application, and the HUD representative at the NSC who was handling the matter was furloughed 2 ½ weeks before the scheduled foreclosure sale. This surviving spouse's attorney was able to secure a brief postponement 36 hours before the scheduled sale, but if the shutdown continues into February, she will likely lose her home despite qualifying for assignment and deferral under the MOE program.

Allowing foreclosure activity on HECM loans to continue while key agency loss mitigation resources remain unavailable to elderly homeowners would undermine the program's mission and result in irreversible losses to homeowners and to the Fund.

#### FHA Forward Mortgages.

Borrowers with standard FHA-insured mortgages who have problems obtaining loss mitigation assistance from their servicers will also face harm from severely limited access to assistance from the NSC. Borrowers and their advocates regularly contact the NSC to address situations in which loan servicers fail to follow FHA guidelines on foreclosure alternatives. FHA has detailed eligibility requirements for borrower relief, including specific rules about loan modification eligibility. Advocates often find that servicers incorrectly deny borrowers for loss mitigation options, fail to correctly assess a borrower's options, and fail to properly calculate the terms of relevant options. In addition, servicers often impose additional and unnecessary barriers to assistance.

When contacted about such errors, the NSC reaches out to servicers to address the problems. While the NSC will generally not order servicers to take specific actions, intervention by NSC and other HUD personnel can make a big difference in these cases, helping save homes from unnecessary foreclosure and avoiding unnecessary claims payments. Without a fully functional NSC, there will be unnecessary foreclosures as this shutdown extends.

In order to avoid unnecessary foreclosures on borrowers who could have avoided foreclosure but for the government shutdown, we urge the Secretary to issue a stay of all judicial and non-judicial foreclosure activity on forward and reverse FHA mortgages, including any action to call reverse mortgages due and payable and the tolling of

applicable deadlines for loss mitigation and other available relief. The stay should remain in place until the agency reopens and clears the backlog of loss mitigation and MOE requests that is accumulating while the shutdown continues.

Sincerely,

Americans for Financial Reform Education Fund  
BASTA, Inc.  
Black Rock-Riverside Neighborhood Housing Services, Inc.  
California Reinvestment Coalition  
Center for Responsible Lending  
Centro Legal de la Raza  
Charlotte Center for Legal Advocacy  
Chicago Volunteer Legal Services  
Community Legal Services in East Palo Alto  
Connecticut Fair Housing Center  
Consumer Action  
Consumer Advocates against Reverse Mortgage Abuse  
Elder Law and Advocacy  
Fair Housing Council of the San Fernando Valley  
Health Justice Innovations, LLC  
Housing Action Illinois  
Housing and Economic Rights Advocates  
Inner City Law Center (Los Angeles)  
Jacksonville Area Legal Aid, Inc.  
Law Foundation of Silicon Valley  
Legal Aid Foundation of Chicago  
Legal Aid Society of Milwaukee, Inc.  
Legal Aid Society of Southwest Ohio, LLC  
Legal Services of Northern California  
Maryland Legal Aid  
Mid-Minnesota Legal Aid  
National Community Reinvestment Coalition (NCRC)  
National Consumer Law Center (on behalf of its low-income clients)  
National Disability Rights Network  
National Fair Housing Alliance  
National Housing Law Project  
The Public Interest Law Project  
Sargent Shriver National Center on Poverty Law  
SeniorLAW Center (Philadelphia)  
Western Center on Law & Poverty  
West Side Neighborhood Housing Services, Inc.  
Woodstock Institute