



Manufactured Housing Association for Regulatory Reform

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May 11, 2020

VIA FEDERAL EXPRESS

Hon. Mark Calabria
Director
Federal Housing Finance Agency
Constitution Center
400 7th Street, S.W.
Washington, D.C. 20219

Re: Duty to Serve Underserved Markets – Manufactured Housing

Dear Director Calabria:

We are writing to ask for your help in finally achieving – after more than a decade of needless delay and obfuscation -- the full and proper implementation by Fannie Mae and Freddie Mac of the statutory Duty to Serve Underserved Markets (DTS) mandate with respect to federally-regulated manufactured housing.

When MHARR met with you on July 11, 2019 to address the urgent concerns of the industry's smaller, independent businesses (and consumers) with respect to the ongoing failure of Fannie and Freddie to implement DTS for the mainstream HUD Code manufactured housing market and American consumers of affordable housing in anything close to a market-significant manner, you had been newly-appointed and confirmed to your current position. Thus, when you indicated that you needed time to review and address this situation, we were willing to accept that response – at that time.

Nearly a year later, though, nothing with respect to the implementation of DTS within the manufactured housing market has changed and, indeed, in relative terms, matters have gotten significantly worse with the passage of additional time but no real progress whatsoever in securing the promise and benefits of DTS for the vast majority of manufactured housing consumers and potential homebuyers.

Indeed, if anything, Fannie and Freddie, on your watch, have backtracked from the already meager and thoroughly inadequate commitments they had already made in their initial 2018-2020

DTS “implementation” plans. Moreover, you, as Federal Housing Finance Agency (FHFA) Director – and the federal regulator for Fannie Mae and Freddie Mac, inexplicably:

(1) certified to Congress¹ that Fannie and Freddie, pursuant to their initial DTS plans (admittedly developed and initially approved by FHFA prior to your arrival, even though completely inadequate and a sham in both instances) have complied with and fulfilled their DTS obligations to the HUD Code manufactured housing market when they clearly have not; and

(2) accepted modifications to Fannie Mae’s 2018-2020 DTS “implementation” plan that further delay and significantly reduce the Enterprises’ already miniscule, insufficient and needlessly prolonged promised undertakings with respect to securitization and secondary market support for consumers of federally-regulated manufactured housing.

As you are well aware, President Trump has promised the nation a post-COVID-19 economic recovery by the end of 2020 and an “outstanding” economy in 2021. The manufactured housing industry (with its traditional core comprised of thousands of smaller, independent businesses, representing tens of thousands of American jobs) is the leading and, indeed, only, provider of inherently (i.e., non-subsidized) affordable housing and homeownership for millions of Americans. With the phased re-opening of the economy following the COVID-19 pandemic, the industry is poised to move forward. The utter failure thus far, however, of Fannie Mae and Freddie Mac to provide meaningful, market-significant support for manufactured housing purchase loans pursuant to DTS is needlessly forcing hundreds-of-thousands of moderate and lower-income American families to resort to higher-rate, arguably “predatory” loan sources controlled by the industry’s largest corporate conglomerate, Clayton Homes, Inc. (a subsidiary of Warren Buffet’s Berkshire Hathaway, Inc.) or to drop out of the housing market altogether. Either way, this is unconscionable, and should not be sanctioned or countenanced by the Trump Administration via FHFA. Rather, this emasculation of DTS by Fannie Mae and Freddie Mac with respect to federally-regulated manufactured housing must be unequivocally rejected by FHFA under your leadership.

Worse yet, as this travesty continues, Fannie Mae and Freddie Mac are dutifully “customizing” DTS to serve the interests of the industry’s two or three largest conglomerates (led by Clayton Homes, Inc. and Berkshire Hathaway’s Warren Buffett) and their captive “portfolio” lenders which have – and continue to -- benefit from their ongoing emasculation of DTS. Thus, instead of providing any – let alone market significant levels of support -- for the personal property loans that help finance the industry’s most affordable homes and the vast bulk (nearly 80%) of all industry production, Fannie and Freddie have instead wasted valuable time and resources (in conjunction with the conglomerates’ industry representative, the Manufactured Housing Institute -- MHI) to bypass DTS support for mainstream, affordable manufactured homes and instead change the fundamental character and even the name of the factory-built homes that they will

¹ See, October 30, 2019 FHFA Annual Housing Report at p. 18: “FHFA has evaluated Fannie Mae’s and Freddie Mac’s year-one performance under their initial Underserved Markets Plans. The Agency has determined that each Enterprise complied with its duty to serve requirements in all three underserved markets. In addition, FHFA finds that each Enterprise performed a satisfactory job of increasing the liquidity and distribution of available capital in each of the three underserved markets.”

support (through their so-called “MH Advantage” and “Choice Home” programs), to larger, non-affordable homes that mimic the site-built homes they would prefer to deal with and not affordable, mainstream federally-regulated manufactured homes as mandated by Congress. This is not merely a diversion of DTS contrary to the clear directive of Congress, but a corruption of its very purpose and objective, and it is incumbent on FHFA to put an end to this 12-year charade by Fannie Mae and Freddie Mac.

Put differently, your predecessors and FHFA institutionally, have allowed Fannie Mae and Freddie Mac to trifle with and evade the Duty to Serve mandate with respect to federally-regulated manufactured housing based on excuses and dodges that are both disingenuous and outrageous, and have been debunked time and again by MHARR for more than a decade. Indeed, given reports that manufactured housing loan performance data is – and has been – available to both Fannie Mae and Freddie Mac, it appears more and more likely that their extended failure to fully and faithfully implement DTS with respect to manufactured housing is a scandal that has played-out right under the noses of FHFA regulators. This entire matter, therefore, must either be definitively resolved by the Trump Administration or by Congress (or both), with a full opportunity for affected stakeholders to present accurate and factual information relevant to this matter. Consequently, this matter should either be fully investigated by the Administration, or subject to direct and specific oversight by Congress, or both.

Based on all the above, and with a year having passed now since your arrival at FHFA (and the process for the development and approval of the next round of DTS implementation plans already underway), we must conclude that you either agree with Fannie and Freddie’s willing failure and deliberate refusal to implement DTS in a meaningful way for the mainstream federally-regulated manufactured housing market (and particularly its smaller businesses, with the tens of thousands of jobs that they represent) and consumers, or that you are receiving incorrect, inaccurate, or misleading information. Consequently, in the event that you are receiving inaccurate, misleading, or biased/skewed information, and given its urgency for the industry and consumers, this matter should be referred to the FHFA Inspector General for a thorough investigation. On the other hand, if you feel strongly that something is missing from – or there is an ambiguity regarding the meaning, purpose and objective of DTS with respect to the manufactured housing market -- then you have an obligation to seek appropriate congressional oversight and possible adjustments to the Duty to Serve Underserved Markets provision of the Housing and Economic Recovery Act of 2008 (HERA) to make it fully-functional for the mainstream manufactured housing market.

In either case, though, the status quo over the past twelve years is unacceptable and must be corrected if the federally-regulated manufactured housing industry is to realize its full potential as an affordable housing resource for hundreds-of-thousands and, potentially, millions of moderate and lower-income American families, and if DTS is to be fully and legitimately implemented as designed by the United States Congress.

We will contact your office soon to schedule a meeting with you to address this critical matter further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Weiss', with a long horizontal flourish extending to the right.

Mark Weiss
President and CEO

cc: Hon. Donald J. Trump
Hon. Ben Carson
Hon. Mike Crapo
Hon. Sherrod Brown
Hon. Maxine Waters
Hon. Patrick McHenry
Hon. Russell Vought
Federally-Regulated Manufactured Housing Industry Members