



'Inexcusable and Major Problem' Exclusive MHLivingNews Question and Answer (Q&A) with Mark Weiss, J.D., President, and CEO of Manufactured Housing Association for Regulatory Reform (MHARR)

In the legal world, the difference between one word and another can be significant. The President and Chief Executive Officer (CEO) of the Manufactured Housing Association for Regulatory Reform (MHARR) is Mark Weiss, J.D. – an attorney. Weiss was asked by *Mobile and Manufactured Home Living News (MHLivingNews.com)* to respond to concerns about remarks made by the Manufactured Housing Institute CEO, Lesli Gooch, Ph.D. at the recent Federal Housing Finance Agency (FHFA) "[Listening Session](#)." Since more affordable lending is routinely appealing to all homebuyers, including manufactured home shoppers, the exclusive Q&A with Weiss that follows should be of wide interest to consumers, manufactured home industry professionals, investors, and others.

MHLivingNews Q1. At a July 18, 2023 Federal Housing Finance Agency (FHFA) "Listening Session" regarding the implementation – current and future – of the Duty to Serve Underserved Markets (DTS) mandate, Manufactured Housing Institute (MHI) CEO, Dr. Lesli Gooch, stated (among other things): "The Duty to Serve statute does not require Fannie and Freddie to purchase [manufactured housing] personal property loans, but does say explicitly that they – quote – may 'consider' such loans...." What is your view of that statement being made in an official context by a supposed industry "advocacy" organization?

Mark Weiss for MHARR Answer (A1). This statement is inexcusable and a major problem on several different levels.

First, why would Ms. Gooch, as CEO of a national industry association, say such a thing? As far as I can recall, neither Fannie Mae nor Freddie Mac have maintained in public that their complete failure to serve the manufactured housing consumer chattel finance market under DTS for the past 15 years, is due to the "may" phrasing of the underlying statute. They have offered multiple excuses, mostly based on outdated information on the alleged performance of chattel loans and an alleged lack of modern data on the same topic, but not because serving roughly 80% of the HUD Code market under DTS is allegedly discretionary. To be sure, Fannie Mae and Freddie Mac are smart enough to realize that if there is any doubt regarding "may" versus "shall" in the DTS authorizing legislation, they must come down on the side of helping consumers achieve homeownership consistent with their respective charters. So, the question becomes – if Fannie and Freddie are not resorting to this argument, why is Ms. Gooch? Why would she make such an assertion just out of the blue? Is it a product or result of some sort of understanding with Fannie and Freddie? Or coordination of some kind, as occurred between MHI and the Department of Energy in the 2014-2015 timeframe regarding manufactured housing energy standards?

There is simply no reason for anyone in the industry, or representing the industry, to publicly acknowledge, validate or rationalize Fannie Mae and Freddie Mac's failure to implement, for 15 years now, the Duty to Serve with respect to the vast bulk of the manufactured home consumer financing market represented by chattel loans. By taking that step, MHI was, effectively, making Fannie Mae and Freddie Mac's argument for them. Our job, as industry advocates, is to develop and advance arguments supporting the industry's position – (1) that Congress did, in fact, want the chattel market served under DTS; and (2) that in the absence of such support for manufactured home chattel lending, DTS is pretty

much meaningless within the HUD Code market and for manufactured housing consumers. And the facts are there to support such an argument given that – in the absence of DTS chattel loan support – the Enterprises are serving, under DTS, only a fraction of a fraction of the total manufactured housing market represented by a relatively narrow slice of the HUD Code real estate market. So, why concede anything? Why make arguments to excuse Fannie Mae, Freddie Mac and even FHFA? We need to make and advance our arguments to show that their excuses are invalid nonsense.

Instead of taking the side of Fannie and Freddie, come down on the side of consumers (and the industry) which are both suffering as a result of the Enterprises' failure to serve the vast bulk of those consumers as Congress clearly intended.

MHLivingNews Q2. Given MHI's statement at the FHFA Listening Session, what should they do, in your view?

Mark Weiss for MHARR A2. Now that MHI has made this ill-advised admission, letting Fannie and Freddie off of the proverbial "hook," they effectively "own" the DTS chattel problem and must take forceful steps to seek its correction. First, MHI should request immediate oversight hearings in Congress regarding the non-implementation of DTS within the manufactured housing market, as MHARR has already done. As part of those hearings, Fannie, Freddie and FHFA should be required to explain, with specific details, why they have failed to serve more than a fraction of the HUD Code market under DTS for well over a decade. Of course, in any such hearing, Fannie and/or Freddie could deny it is because of the "may" language of the statute, which would then amplify MHI's error (or worse) by making statutory reform even more difficult.

Second, if MHI knew about this problem, why did it not seek a corrective amendment as part of the ROAD to Housing Act recently released by Sen. Tim Scott? MHI postures as a patron of that proposal. Why not seek a remedy to change "may" to "shall?" Instead of the two financial amendment already contained in the ROAD draft – which would uniquely benefit the Clayton Homes financial entities, why not incorporate such a simple corrective amendment? That simple step would make clear, beyond any possible counter-argument, that the Enterprises must serve the manufactured housing chattel financing market under DTS. So far, there has been no such effort by MHI, which raises its own questions. Regardless, their members should be carefully watching their positions and activity on this most important issue for the industry and its consumers. ##

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