

National Foreclosure Prevention and Neighborhood Stabilization Task Force

November 5, 2012

Mr. Joseph A. Smith, Jr.
Office of Mortgage Settlement Oversight
301 Fayetteville St., Suite 1801
Raleigh, NC 27601

Dear Mr. Smith:

The National Foreclosure Prevention and Neighborhood Stabilization Task Force appreciates your office's ongoing efforts to enforce the National Mortgage Settlement. The progress report released on August 29th was a welcome indication that the five servicers are proceeding quickly to fulfill their settlement obligations. Indeed, two of the participating servicers recently informed us that they are on track to complete their obligations under the settlement by April of next year. However, the progress report provided only top-level detail on the servicers' anti-blight activities to help communities struggling with a wave of foreclosures. To help ensure that the servicers' efforts under the settlement achieve maximum public benefit, we offer here some recommendations for monitoring the anti-blight provisions of the settlement.

About the Task Force

Convened in November 2007, the National Foreclosure Prevention and Neighborhood Stabilization Task Force is a cross-industry group of local and national organizations working to address the impacts of the foreclosure crisis on communities. Our mission is to bring together advocates, practitioners, and other experts from across the country around foreclosure prevention and neighborhood stabilization efforts, to exchange critical information and to help craft policy, legislative, and programmatic initiatives that primarily support low and moderate-income individuals and families.

Anti-blight Obligations

The settlement includes several provisions specific to reducing or preventing blight resulting from foreclosures. These provisions are an essential complement to the loan modifications for current borrowers, compensation to communities and the displaced, and forward-looking servicing reforms. The provisions directly relevant to our recommendations are:

- *Property standards.* The settlement requires servicers to "implement policies to ensure that REO properties do not become blighted." (Servicing Standards VIII. A. 1.)
- *Participation in anti-blight activities.* The settlement requires each servicer to "develop and implement policies to enhance its participation in state and local anti-blight programs such as land banks/servicers, neighborhood stabilization programs, and nonprofit redevelopment programs." (Servicing Standards VIII. A. 2.)
- *Tenant protections.* The settlement requires servicers to "comply with applicable state and federal laws governing the rights of tenants living in foreclosed residential properties; and, the

servicer must develop and implement written policies and procedures to ensure compliance with those laws.” (Servicing Standards VIII. B. 2.) Nationally, the most relevant requirement is the Protecting Tenants at Foreclosure Act (PTFA), although many states have implemented additional protections in state law.

Recommendations

Thus far, the anti-blight provisions have received far less attention than consumer relief or the overall servicing standards, yet they have great potential to help communities across the country. Given the realities of scarce resources, the best hope to combat blight is to coordinate efforts by localities, nonprofits, realtors, servicers, and others so that individual property-level efforts become neighborhood stabilization strategies. Your office, in its capacity as monitor of the settlement, can report on servicers’ successful activities as well as areas that require more effort, thereby helping servicers to evaluate their own performance and stakeholders to encourage better coordination of anti-blight activities. To that end, we recommend several reporting points, summarized here and developed in more detail below:

1. Expand quantitative measures of anti-blight activities
2. Publish the policies and property standards set for REO properties
3. Publish anti-blight and tenant protection policies
4. Identify REO properties held

1. Expand quantitative measures of anti-blight activities

There are several quantitative measures that servicers could report that would improve public understanding of their anti-blight activities. For instance, servicers could report how many homes were donated, and of those, how many were no-value vs. of-value. Including locations (even just ZIP codes) would allow measurement by geography. In terms of asset management, servicers could report numbers of fines or liens assessed against their REO properties, including total numbers of property-level citations, what type of citations they were, and the total fees assessed. Servicers could also report whether properties were vacant or occupied by tenants at a given point in time, since vacancy is a key indicator of likely blight. Reporting on the total number and geographic distribution of evictions would enable much better public monitoring of compliance with PTFA and state-level tenant protections. All of these indicators are objective, measurable, and likely already tracked in some fashion by the asset management divisions of the servicers.

2. Publish the policies and property standards set for REO properties

Each servicer should, as part of its asset management, have standards for its REO properties. These are internally-set standards for maintenance, property visits, minimum condition, compliance with tenant protection laws, rental policies, etc. If your office required the servicers to publish those policies and property standards, it would provide a way for the public to evaluate whether the servicers are setting an appropriate goal for themselves and then whether their actions are meeting that goal. Publishing existing standards or guidelines should not be burdensome—it would simply be a matter of making a document public. Nor would it put any servicer at a competitive disadvantage, since all would be required to report.

3. Publish anti-blight policies

The settlement requires servicers to enhance their participation in state and local anti-blight programs. The settlement calls out land banks, neighborhood stabilization programs, and nonprofit redevelopment programs, and the category could logically include maintenance of stable tenancies, lease to purchase arrangements with former owners or tenants, and policies to manage the release of REO properties to

mitigate negative market impacts. Thus far, servicer participation in such programs has been inconsistent across geographies, programs, and different servicers. At a minimum, your office should require the servicers to publish the policies they have established, particularly now that we have passed the October 2 deadline for complying with all of the servicing standards. In addition, publication of these anti-blight policies would allow localities to identify opportunities to develop or build on existing neighborhood stabilization programs and reach out to the relevant servicer to coordinate efforts such as property donations.

4. Identify REO properties held

It has been an ongoing challenge for localities to identify which servicer is responsible for particular REO properties. The layers of ownership and delegated asset management responsibilities often make it difficult to make direct contact to resolve property maintenance or related landlord-tenant issues. It also makes it difficult for researchers to evaluate the effects of policies at the local, state, federal, or individual servicer level. Your office could require servicers to make lists of their REO assets available either publicly or to pre-approved responsible parties. Alternatively (since servicers have thus far resisted requests to release data), your office could require servicers to respond to lists of blighted properties by identifying whether or not the specified properties are in the servicer's REO portfolio. Put simply, servicers should identify their holdings and take responsibility for their properties.

Conclusion

The Task Force greatly appreciates your efforts to monitor the national mortgage settlement. Thorough, fair, and consistent oversight of the terms of the settlement will help all housing and community stakeholders, including servicers, work together to aid foreclosure recovery. We hope our input aids you in your task.

We would like to discuss these recommendations further with you and your staff. Ethan Handelman at the National Housing Conference (ehandelman@nhc.org, 202-466-2121 x238) is our point of contact and has already requested a meeting. We look forward to a constructive discussion and, more importantly, improved results in communities.

Sincerely,

The undersigned organizations and localities of the National Foreclosure Prevention and Neighborhood Stabilization Task Force:

Atlanta Neighborhood Development Partnership Inc.
Center for Community Progress
CHAPA – Citizens' Housing and Planning Association
City of Saint Paul, MN
Detroit Foreclosure Prevention and Response Initiative
Duluth LISC
Enterprise Community Partners
Family Housing Fund
Habitat for Humanity International
Healthy Neighborhoods, Inc. of Baltimore
Local Initiatives Support Corporation

Mercy Housing
Metropolitan Consortium of Community Developers
Minnesota Housing
Mississippi Faith Based Coalition for Community Renewal
National Community Reinvestment Coalition
National Community Stabilization Trust
National Housing Conference
National Housing Institute
National Housing Law Project
National Law Center on Homelessness & Poverty
National Low Income Housing Coalition
Neighborhood Housing Services of South Florida
NeighborWorks America
NHS of Kansas City
Restored Homes HDfC
Restoring Urban Neighborhoods LLC
Twin Cities LISC