



NATIONAL MANUFACTURED HOME OWNERS ASSOCIATION

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Alfred M. Pollard,  
General Counsel,  
Attention: Comments/RIN 2590-AA27  
Federal Housing Finance Agency  
400 7th Street, SW,  
Eighth Floor  
Washington, DC 20219

Submitted via [fhfa.gov](http://fhfa.gov)

March 8, 2016

**RE: Comments RIN 2590-AA27**

Dear Mr. Pollard,

The National Manufactured Home Owners Association (NMHOA) is a membership-based organization representing the needs of manufactured homeowners across the country. NMHOA was founded in 2000 by manufactured homeowners who realized that they needed a strong national voice if their issues were ever to receive the attention they so badly deserved.

More than 2.9 million households own their homes but rent the land under them and reside in 50,000 manufactured housing communities. The vast majority of these homeowners and their families live with little security of tenure, fear of eviction, and face economic eviction on a daily basis.

To date, neither the federal government nor the government of any state has done much of anything to secure the long-term preservation of manufactured housing communities despite the significant role they could potentially play in providing affordable homeownership opportunities for young working families, Veterans, and seniors.

Given the current vulnerability of most manufactured homeowners in land lease communities, it is safe to say that the FHFA Duty to Serve rule does not go nearly far enough to preserve the viability of manufactured housing as the largest segment of unsubsidized affordable housing in the country.

While we appreciate that the Enterprises are somewhat limited in their scope, it does appear as if more could be done to truly serve underserved markets, and in particular manufactured homeowners who are simply choosing to live within their means and fulfill the American dream of homeownership. GSEs should also understand that in many cases by creating more viable loan products for manufactured homeowners in manufactured housing communities they would be meeting at least two of the targeted underserved markets and in many cases would be benefitting ALL THREE categories of underserved markets.

NMHOA has reviewed 12 CFR 1282 thoroughly and offers the following comments to the specific questions included in the Proposed Rule:

1. *How much discretion should the Enterprises have in selecting activities – Core Activities and Additional Activities – to serve underserved markets?*

To the extent that core and additional activities have not been clearly stated in the Proposed Rule, but are allowed in other federal, state or local programs, and to the extent that adoption of such programs by the Enterprise would benefit those for whom the Duty to Serve has been promulgated, then NMHOA has no objection to the Enterprises being given that additional discretion.

2. *Should FHFA establish specific Regulatory Activities for the underserved markets, or should the Enterprises have broad discretion to decide how to serve these markets?*

See answer to Q.1 above.

3. *Are the proposed Regulatory Activities, as identified in the proposed rule for each of the underserved markets and described below, appropriate for accomplishing Duty to Serve objectives?*

In NMHOA's opinion the proposed Regulatory Activities do not go far enough and this will be further clarified in our comments to the questions below.

4. *Are the requirements for Objectives discussed above appropriate, and should there be any additional requirements?*

Within the limited scope of the proposed rule as currently presented, NMHOA appreciates that FHFA recognizes that the objectives of the Statutory, Regulatory and Additional Activities need to meet "SMRTT" goals, whether these be for a single year or for a longer time period.

Additional requirements could include: consumer satisfaction, length of time that a manufactured housing community remained operational rather than being sold for another purpose, length of time homeowners are able to stay in

their homes without suffering economic eviction, tracking the number of evictions, tracking the number of manufactured homes captured by community owners, and documenting the transfer of title verification when these manufactured homes are sold. Additionally, manufactured housing communities with the highest default rates should be identified and sanctioned.

It is unconscionable that some of the greatest beneficiaries of GSE support have been some of the most opportunistic and abusive community owners, in terms of escalating manufactured housing community pad rents to predatory levels. The Consumer Finance Protection Bureau should have special authority to work with the GSEs to provide oversight and homeowner protections in communities financed with GSE backed loans.

5. *Should Duty to Serve credit be given under the loan products assessment factor for an Enterprise's research and development activities that may not show results in their initial phase, but which may be necessary for long-term product planning and development of under-served markets?*

Yes, Duty to Serve credit could play a crucial role in support of innovative strategies that have yet to be identified. For instance provide a rebate program for homeowners who make loan payments on time, provide incentives to replace pre-HUD homes with new energy efficient homes, or create a "cash for clunker homes program" (similar to the cash for clunker car program adopted to help stimulate manufacturing and reduce energy consumption).

6. *Has FHFA adequately defined the scope of extra credit for the proposed residential economic diversity activities?*

It is unfortunate that manufactured housing communities and energy efficiency improvement activities have been excluded as activities that could earn an Enterprise extra credit. There are many examples of Energy Star or even more "green" building of manufactured homes in terms of energy efficiency. Indeed, NMHOA participated in the Dept. of Energy's Working Group that looked specifically at heightening energy efficiencies in new manufactured homes while still ensuring affordability. This work group consisted of industry representatives, environmental experts, and consumers.

There was wide support for all of the recommendations we suggested.

Additionally, FHFA has chosen to exclude pre-HUD code homes from the Duty to Serve rule. NMHOA encourages the inclusion of pre-HUD code homes since the owners of these homes are some of the most vulnerable homeowners and an opportunity to access financing to upgrade their homes could make a huge difference in terms of the long-term quality of these homes.

7. *Is there an alternative mechanism to an Underserved Markets Plan that would better enable FHFA to evaluate the Enterprises' Duty to Serve obligations?*

No comment.

8. *Should the Enterprises be required to prepare Underserved Market Plans for terms with a period other than three years?*

No comment.

9. *Should public input be sought on the Enterprises' proposed Underserved Market Plans, and if so, is there a more effective approach than the proposed approach?*

Public hearings held in conjunction with the Consumer Finance Protection Bureau could be truly beneficial. Since manufactured housing community lot rents are so directly tied to home value and one's ability to make mortgage payments, stronger regulations should be adopted to prevent unfair and/or unreasonable rent increases and mortgage rates.

**i. Manufactured Homes – Proposed §1282.33(c)(1)**

10. *What existing Enterprise criteria for support of manufactured home loans titled as real property could be modified to expand support for very low-, low-, and moderate-income families, consistent with Enterprise safety and soundness?*

It is absolutely imperative that purchasers of manufactured homes, whether they access real mortgages or chattel loans, have the same consumer protections as purchasers of site built homes. Manufactured housing will never acquire its proper place in the market if it is always treated differently from other housing types.

11. *Should Enterprise support for manufactured home loans titled as real property be a Regulatory Activity?*

Yes. This is a good start, but it does not go far enough, especially since the majority of manufactured homes, whether on fee simple lots or in land lease communities are currently purchased using chattel loans.

12. *Should the Duty to Serve rule only give credit for support to manufactured home borrowers with specific needs, such as current borrowers with real estate mortgages with excessive coupon rates, or current borrowers with chattel loans who could benefit from conversion to real estate financing? If so, what kinds of needs would be appropriate?*

No, credit need to be extended to other manufactured home purchasers or those who plan to refinance their homes. In order to truly have an impact for the

majority of manufactured homeowners, then Duty to Serve must incorporate a program that assists households who used chattel loans to purchase their homes.

13. *Should the Enterprises receive credit for purchasing chattel loans, on an ongoing or pilot basis? If so, what improvements should be made in the process of originating and servicing that would make chattel loans safer for borrowers?*

Yes. Chattel loans need to be available but they also need to be regulated. It is no good if manufactured home purchasers are steered into costly chattel loans with high fees and costs and short amortization periods. Chattel loans also need to be available to homeowners who want to refinance to upgrade or improve their homes and to those who want to purchase someone's home. Homeowners accessing chattel loans need to have the same consumer protections (RESPA, etc.) as any other home purchaser.

Homeowners also need access to good quality insurance products – perhaps FHFA could devise such a product, since the private sector is sadly lacking when it comes to providing affordable comprehensive homeowners' insurance for owners of manufactured homes.

If the Duty to Serve rule could incorporate incentives for states to adopt the Uniform Law Commission's Manufactured Housing Act relating to titling reform, this would have a tremendous impact on the ability of purchasers to access real mortgages.

While the narrative in the Duty to Serve rule references the fact that manufactured homes almost immediately lose value, at least some of this must be laid at the feet of the community owners. Ever-increasing rents, deteriorating infrastructure, unkempt landscaping, etc. all play a role in the depreciating value of a home sited in a land lease community.

NMHOA would be very supportive of a chattel loan pilot project in Colorado, Oregon, or Washington – three states where we are currently investing heavily.

Since the term "chattel," by definition, does not accurately describe manufactured homes, a new category should be established to better reflect the manufactured housing situation. One definition describes chattel as "a catch-all category of property mostly associated with **movable goods**. At common law, chattel included all property that was not real estate and ***not attached to real estate***. Examples included everything from leases, to cows, to clothes. In modern usage, chattel often merely refers to tangible **movable personal property**. Also, the term "chattel" promotes an unfair and negative image of manufactured homes being "trailers". The historic chattel connection with

slavery certainly has parallels to the vulnerability of manufactured homeowners residing in manufactured housing communities. In fact, some judges have remarked that community owners have homeowners “over a barrel” and even described tenancy in manufactured housing communities as a form of economic servitude. Many manufactured homeowners pay property tax on their homes at the same rate as owners of site-built homes and deserve similar protections and mortgage rates.

*14. Should Duty to Serve credit be available for Enterprise support of chattel-titled manufactured homes where the units are sited in manufactured housing communities for which an Enterprise has purchased the blanket loan and the blanket loan qualifies for Duty to Serve credit?*

Yes. It makes a lot of sense to provide Duty to Serve credit for chattel-titled manufactured homes in this, and other situations. There should also be safeguards/strings attached for any GSE money used to purchase MH communities.

*15. If FHFA allows Duty to Serve credit for Enterprise support of chattel lending, should tenant protections be required? How could compliance with borrower and tenant protections be implemented and monitored within the operational systems and capacities of the Enterprises and those of their seller/servicers and other counterparties?*

Yes. Tenant protections should always be included in any Enterprise Duty to Serve opportunity. Manufactured homeowners are incredibly vulnerable and need governmental oversight of the industry to help them preserve the equity in their homes and to ensure that they do not lose their largest asset, their home, should the land under the home be sold for alternative development purposes.

The Enterprises may need to develop annual reporting or other processes to ensure on-going compliance. A complaint line for consumers would also be of value, so that they could inform the Enterprises when the community owner was no longer in compliance. Finally, having the Enterprises partner with the Consumer Finance Protection Bureau to adopt the Federal Manufactured Housing Dispute Resolution Program or some other forms of protections for homeowners would be of real benefit to consumers as would a windfall profit tax if annual rent increases surpass the Consumer Price Index.

**ii. Manufactured Housing Communities – Proposed § 1282.33(c)(2)**

NMHOA was pleased to see that FHFA lists three regulatory activities that could be undertaken in order to qualify for Duty to Serve credit. It is interesting that the

Underserved Market Plans need to show how an Enterprise will undertake one or more of the activities or provide the reasons why they will not undertake each of the activities. NMHOA would much prefer if all three regulatory activities were required, rather than just one of the three.

For instance NMHOA is concerned that blanket mortgages on manufactured housing communities will be available to manufactured housing communities with less than 150 pads without any requirement of tenant protections. NMHOA is also concerned that these communities could be entirely operated as rental communities, much like apartment complexes, where tenant protections are even less in evidence than in manufactured housing communities. This is a problem.

The narrative seems to suggest that smaller communities may be more affordable for homeowners, assuming there will be lower rents since there are fewer amenities. This is not necessarily borne out by experience. For instance, there are three small communities in Des Moines WA where a total of 105 households, mostly young Latino families, are being displaced for alternative development. Their rents are no different from other larger communities in the area.

*16. Are there other segments of the manufactured housing market besides those discussed above that warrant Enterprise support under Duty to Serve, such as communities located in lower-income or economically distressed areas?*

Blanket loans to help preserve manufactured housing communities, regardless of where they are situated makes a lot of sense. Manufactured housing communities could play an important role in the affordable housing continuum, but only if the homeowners residing in them can continue to afford to live there. Providing Duty to Serve credit without requiring homeowner protections is of limited value to low- and moderate-income manufactured homeowners.

*17. Is the proposed limit of 150 pads for eligible small manufactured housing community appropriate? Is there a different threshold that could better achieve the purposes of the Duty to Serve?*

The number of pads in the community is less relevant than the need to provide tenant protections regardless of the size of the community.

*18. Are the proposed pad lease protections appropriate? Should any additional pad lease protections be required for an Enterprise to receive Duty to Serve credit?*

The proposed pad lease protections do not go far enough. NMHOA is concerned that industry lobbyists will use these limited protections to argue at the state level that these should be regarded as the ceiling above which they do not need to go, rather than as the floor upon which to build much stronger protections. While 14 states lack any protections for manufactured homeowners, FHFA ought

to look at the “gold standard” states and/or at the model law drafted by the National Consumer Law Center and found in the 2004 AARP handbook: *“Manufactured Housing Community Tenants: Shifting the Balance of Power”* to get a better sense of the level of lease protections manufactured homeowners need to feel secure in their own homes. Additional pad protections could include: five year rental agreements; two years’ notice of closure; rent stabilization; and guaranteed enforcement.

19. *Should the proposed pad lease protections be required for any manufactured housing community, regardless of its ownership or size, to be eligible for Duty to Serve credit?*

Absolutely. Duty to Serve is supposed to benefit underserved markets, not the manufactured housing industry. Perhaps there is a role for the Consumer Finance Protection Bureau here.

20. *Would the proposed methodology for determining affordability effectively approximate incomes of the community’s tenants?*

Not necessarily. There are many manufactured housing communities located in the more affluent parts of town. In addition, many manufactured housing communities are located in commercial areas, where there may be few other residential structures in the same tract.

21. *Could governing or financing documents for the community provide a proxy for resident incomes?*

That would depend on the type of community it was. Government-owned, resident-owned, or a community owned by a mission driven organization may well have the governing documents that could prove income levels, but land lease communities would not necessarily have access to this information, and nor would the homeowners be happy to provide it.

22. *Where the loan seller knows the incomes of the tenants of a manufactured housing community at the time an Enterprise purchases the loan, should that income determine affordability?*

Yes, provided there are restrictions on the income eligibility of future purchasers of the homes in that community. For instance, community land trusts ensure long-term affordability by using a formula to determine reasonable return on investment as well as affordability for new purchasers.

23. *Are there other loan programs, terms or lending criteria that, if adopted, could increase Enterprise purchases of blanket loans on manufactured housing communities?*

The Enterprises could work with state and local affordable housing preservation programs to support reputable mission driven manufactured housing community operators or facilitators of resident purchase of communities. Promoting manufactured housing community ownership by reputable operators will help preserve manufactured housing as the largest form of unsubsidized housing in the country. To maintain that viability, pad rents need to be reasonable enough to motivate people to purchase manufactured homes and to encourage seniors to downsize from a site-built home to a manufactured home in a community.

*24. Should FHFA address geographic diversity of the Enterprises' assistance for manufactured housing as part of the Duty to Serve manufactured housing community financing needs, and if so, how?*

Yes. FHFA could address geographic diversity by supporting the development of 55+ manufactured housing communities, which have high percentages of low income residents and have higher concentrations in southern states; provided these communities guaranteed fair rents and long-term security of tenure for these older adults to allow them to "age in place". Additionally, in serving rural areas, consideration should be given to support construction of new manufactured housing communities to serve farm workers and seniors, again provided there are homeowner protections like long-term security of tenure and reasonable rents.

*25. Since loans may support large sales prices, which could drive increases in pad rents and render the communities unaffordable to lower-income households, should acquisition loans be ineligible for Duty to Serve credit?*

Has this been proven to be true? It seems that there are a variety of factors that play into rent raises and indeed often times rents are raised without any reason. Rents may also be increased even in situations where amenities are decreased so NMHOA is not convinced that large sale price will impact rents more than any number of other variables.

*26. Would Enterprise refinance loans be particularly helpful to residents because they are long-term, fixed rate, and relatively low-cost, which reduces pressure on community owners to increase pad rents?*

Not necessarily. Community owners raise pad rents for a variety of reasons and for no reason at all. Too many community owners are out to maximize profits and if they raise pad rents high enough, they are enabled to seize ownership of the manufactured homes themselves for little to nothing. That hurts not just homeowners, but lenders and manufacturers as well.

NMHOA very much appreciates the opportunity to comment on the proposed Duty to Serve rule. It is a good start, but more needs to be done if the purpose of the rule is to be realized. Underserved manufactured homeowners need as much protection as possible, whether that be through stronger consumer protections when buying a manufactured home, or stronger protections to help them live peaceably in their own homes for as long as they choose.

We would be happy to continue the conversation with FHFA staff especially as we were not invited to participate in this rule making process.

Sincerely,

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