NATIONAL ASSOCIATION of REALTORS®

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The Honorable Ben Bernanke
Chairman
Board of Governors of the
Federal Reserve System
Washington, DC 20551

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
Washington, DC 20429

The Honorable Shaun Donovan
Secretary
Department of Housing and
Urban Development
Washington, DC 20410

Edward DeMarco
Acting Director
Federal Housing Finance Agency
Washington, DC 20024

The Honorable Timothy F. Geithner
Secretary
Department of the Treasury
Washington, DC 20220

John G. Walsh
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
Washington, DC 20219

Dear Sirs:

I am writing on behalf of more than 1 million REALTORS® in connection with the ongoing policy debate on the best way to dispose of properties owned by lenders, Fannie Mae, Freddie Mac, and the Federal Housing Administration (FHA). These properties are typically acquired due to default by the borrowers and are referred to as real estate owned properties or REOs.

The National Association of REALTORS® (NAR) commented on September 15, 2011, on the request for information (RFI) of the Department of Housing and Urban Development (HUD), the Treasury Department, and the Federal Housing Finance Agency (FHFA) asking for ideas to enhance the REO asset disposition programs of Fannie Mae, Freddie Mac, and FHA. We believe that the evolving economic conditions and the ongoing policy debate confirm that our September letter offers sound advice. Subsequently a delegation of senior NAR volunteers met with FHFA and other agencies involved in the REO Initiative on February 29, 2012 for a wide ranging discussion of NAR concerns centered around the lack of supply of REO in many markets. The purpose of this letter is to bring our analysis up to date and expand it to address other holders of REOs.

Expand Credit

First, we continue to believe that policy makers and holders of REOs should focus on expanding the availability of financing for qualified homebuyers and investors to increase the absorption rate of the current REO inventory and prevent unnecessary increases to the existing inventory. Our members warned in 2005 that borrowing standards were so lax as to be alarming, but for the last several years the story has been the reverse. Potential homebuyers REALTORS® have known as neighbors are unable to get loans even though they are sound credit risks. We are in complete agreement with the Federal Reserve white paper, transmitted on January 4, 2012, to the leadership of the relevant congressional committees, when it observes on page 1 that "[o]bstacles limiting access to mortgage credit even among creditworthy borrowers contribute to weakness in housing demand . . . . Further attention to easing some of these obstacles could contribute to the gradual recovery in housing markets and thus help speed the overall economic recovery."

The Federal Reserve white paper includes many interesting suggestions along these lines, including two we have long supported. We have asked HUD to expand the availability of the section 203(k) rehabilitation program to investors to help them purchase properties at risk of foreclosure and REO properties, coupled, of course, with safeguards to prevent recurrence of past abuses. We have also urged Fannie Mae, Freddie Mac, and FHFA to suspend or increase significantly the limit on the number of mortgages a borrower may hold. We appreciate Fannie's decision several years ago to increase its limit from four to 10. Freddie has decided not to increase its limit of four. FHFA has total policy control over the government sponsored enterprises (GSEs), Fannie Mae and Freddie Mac, and we believe it should exercise this authority in this case even though its general policy is to defer to business decisions of the GSEs.

Intensify Foreclosure Avoidance Efforts, But With Caution

Second, pre-foreclosure efforts should be intensified, so increases in the numbers of loan modifications, refinancings, and short sales will reduce the numbers of properties that end up as REOs. Bank of America recently announced that it will offer a select group of borrowers an opportunity to take part in a "mortgage-to-lease" pilot program. A borrower who qualifies and takes part in this program will be offered a chance to stay in their home by signing the title to their home over to the bank and receive a lease to rent the home in return. REALTORS® urge extra caution when evaluating the benefits of these type of programs versus addressing the wide range of problems that remain with other foreclosure prevention efforts, including the Treasury Department's HAMP and HARP programs. REALTORS® understand the importance of reducing blight by keeping homes from becoming vacant. However, we hope that efforts will remain focused on keeping families in their homes as homeowners, rather than on programs that consolidate hundreds or thousands of properties into rentals and require large financial institutions to act as landlords.

Strictly Limit Use of Bulk Sales of REO Properties

Third, in September we urged that the disposition of REO properties using bulk sales should be strictly limited to small geographic areas where alternatives are needed and, even then, rely on the expertise of local government, nonprofit entities, and businesses (including contractors, real estate professionals, and professional property management companies). The Federal Reserve white paper suggests a "government-facilitated REO-to-rental program has the potential to help the housing market and improve loss recoveries on REO portfolios." We reiterate that, if implemented on a strictly limited, as-needed basis, we would have no concerns. But there is a risk that a bulk sale/rental program could be used in areas where it is not necessary and delay or even impede recovery of the affected housing markets. The need for such a program should be very clear in a particular market, and even sub-market, area before given serious consideration.

Investors are already absorbing much of the housing inventory at levels unlikely to be matched by a government program that carries with it the challenges of preventing undue windfalls, assuring protection of tenant rights, supervising buyers of packages of properties, and avoiding flooding the market in future years with an over-supply. An article in the Wall Street Journal on March 19, 2012, "Wall Street Keys on Landlord Business," reported that Barclays Capital estimates that "800,000 former owner-occupied homes are being converted to rentals each year . . . ." If accurate, this private market response undercuts the white paper suggestion that an REO-to-rental program is necessary to help stabilize housing markets and reduce REO inventories, at least where investors are already achieving that objective.

Improving economic conditions are another reason to avoid major changes to REO disposition policies. We all welcome improvements in recent economic indicators, especially those that are finally showing a firming job market and significant improvements in many housing markets around the country. We recognize that risk and uncertainty remain and that there is a significant shadow inventory of potential foreclosures that could increase REO inventories now that the settlement with five of the largest banks is on track. Of course, there will be a need to continually monitor all the factors affecting housing and adjust course as necessary.

NAR's REALTOR® Confidence Index report provides additional encouraging news. In many markets, including several where the white paper suggests that an REO-to-rental program may help, our members complain about shortages of homes for sale. For example, in the distressed Phoenix market, the supply has dropped to 3.2 months, down from 17 in 2007. Los Angeles has a 4 month supply, down from 19 in late 2007. Many properties are receiving multiple bids and potential homeowners are frustrated when they are unable to find a home to buy. Even in areas with relatively high levels of REOs, the potential for buyers to absorb the supply, at least in some markets, is apparently there. Our Research Division would be happy to provide additional details.

Holders of REOs Should Minimize Period of Ownership

REALTORS® are especially concerned about how banks handle the dispositions of their REO inventories. As the Fed white paper notes, supervisory policy generally encourages banks and the GSEs to sell REOs promptly. The banking statutes limit REO holding periods and those limits would, of course, remain. We ask the regulators of the entities with REO inventories to exercise caution in issuing supervisory guidance that could result in banks, GSEs, and FHA to hold onto REO properties for lengthy periods, while renting them, where there is not a compelling justification. This analysis should be done on a sub-market basis. Taking the Washington, DC, metropolitan areas as an example, there are counties still facing major problems while others are in a robust recovery. While REOs are an exception to the statutory prohibition against banks engaging in the non-banking activities of real estate brokerage or management, it is sound policy to minimize these bank activities for their REO inventories as well. If longer REO holding periods are allowed routinely, it could lead to temptation by the holders of REOs to try to outfox the market. There is no evidence the banking industry has the knowledge or experience to succeed at this. As we learned in the 1980's and 1990's, when lenders became real estate investors and speculators, everyone lost.

Conclusion

NAR believes that programs or policies encouraging or allowing bulk sales or longer REO holding periods, with a requirement that the properties be rented for a specified period, should be carefully designed with our concerns in mind. The reported enthusiasm of hedge funds and Wall Street investment banks should raise a red flag that they are expecting too generous returns at the cost to the banking industry and the taxpayer. This could occur if they buy at a steep discount or if they allow the properties to deteriorate while mistreating tenants. We were heartened to learn at our February 29 meeting at FHFA that FHFA does not intend to accept bids that will adversely impact local housing markets and that do not include adequate provision for appropriate property management practices.

We agree that bidders should be required to agree that they will manage the properties in a way that takes into account the impact on the community, treats tenants fairly (consistent with all applicable laws and regulations designed for their protection), assures the properties are well maintained, coordinates with local initiatives and policies, provides for a reasonable disposition schedule after the required rental period, and includes local professional management. These conditions may very well reduce the amount bidders are willing to pay for a package of properties, but they are necessary to avoid the risk that savings from a bulk sale could be illusory. Without such conditions, there is a significant risk that well-intentioned efforts will fail. Any such the failure could significantly undercut the already low level of confidence the public has in the government's response to the housing crisis.

If you would like to discuss these issues further, please feel free to contact me or Charlie Dawson, NAR Policy Representative, at cdawson@realtors.org or 202.383.7522.

Sincerely,

Maurice "Moe" Veissi
2012 President, National Association of REALTORS®