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March 28, 2013

Jerry Hartman, President  
The Barbara McDowell and Gerald S. Hartman Foundation  
3607 Whispering Lane  
Falls Church, VA 22041

Dear Mr. Hartman:

The National Housing Law Project (NHLP) is pleased to share the following interim report of activities currently funded by the Barbara McDowell and Gerald S. Hartman Foundation. The foundation's award was made to support NHLP's legal advocacy in pressing the U.S. Department of Agriculture's (USDA's) Rural Housing Services agency to cease its punitive and unusually harsh collection practices, which target former rural homeowners who bought homes mortgages backed by the USDA and who have subsequently been affected by the foreclosure crisis. We are very pleased to report that we have made substantial progress in modifying the Rural Housing Service's (RHS) debt collection practices but that all of our goals have yet to be achieved and so we are still planning litigation against the agency.

As discussed in our funding application, roughly ten years ago, the RHS implemented a process by which it, through the Department of Treasury, began to administratively collect funds from its direct and guaranteed home loan borrowers that represented outstanding mortgage balances that the borrowers owed directly to the agency due to a default or, in the case of its guaranteed loans, shortfalls that RHS paid to private banks when the full loan balances were not recovered through foreclosure sales.

NHLP contends that the agency implemented their collection practices illegally and contrary to the purposes of the housing programs that it administers. Even as we prepared to litigate to halt the RHS's practices, we continued to meet with the agency for the past six months in an effort to stop the practice without entering the courts.

Seeking to avoid costly and lengthy litigation, this past week, the RHS advised NHLP that it will institute the following modifications to the program:

First, RHS has revised the loan guarantee application form, which applicants execute when applying for a guaranteed loan, by removing a one-sentence provision under which the applicant

agreed to indemnify the agency in the event that the agency incurs a loss as a result of the borrower defaulting on the guaranteed loan. The agency had been relying on this provision to collect losses from guaranteed borrowers. Effectively, this change eliminates the agency's capacity to pursue future guaranteed borrowers for losses that it incurs as a result of the borrower's default.

Second, with respect to direct loan borrowers, the agency has indicated that it will forgo collection practices against any future borrower who deeds the property to the agency in lieu of foreclosure or who enters into a short-sale with the agency's approval. This effectively eliminates RHS' practice of pursuing former homeowners, who have already lost their homes, for shortfalls that remain after the home's sale.

Third, also with respect to direct loan borrowers, the agency has advised us that it will not pursue debt collection against future borrowers who default on their loans unless the agency can establish, through information that is readily available to it, that the borrower has significant assets that can satisfy the outstanding debt.

***These concessions to the RHS' collection practices, which RHS has made to avoid our litigation, will benefit tens of thousands of homeowners with RHS-backed home loans.***

However, the agency advised NHLP that all of these changes will only apply to borrowers against whom collection actions have not been commenced. It contends that the Department of Treasury controls all actions against borrowers against whom collection actions have been commenced and that it is unable to stop ongoing collections in those cases.

With respect to future collections against direct borrowers that have significant assets, NHLP has asked the agency for further clarification as to the circumstances under which the agency will take collection actions against future borrower. It is NHLP's view that the statements made by the agency do not establish definite criteria that allow us to evaluate when the agency will continue to take collection action and what the impact of this change will have on its current practices.

While NHLP is pleased by the changes that RHS has made to the program and believes that the number of borrowers adversely affected in the future will be significantly reduced, it is very dissatisfied that the agency is not extending relief to current borrowers against whom collection practices have commenced. During our discussion with RHS, it advised us that the agency was collecting as much as \$35 million per year under this collection program. While we find this number to be much higher than we would have expected, it does mean that RHS has probably illegally collected as much as \$100 million under the program!

NHLP is now planning to initiate litigation against the agency to recover the already-collected amounts. We have initiated discussions with a private District of Columbia firm to assist us in bringing this litigation. We expect to make a decision on this issue within the next 45 days. During that time we also hope to resolve any outstanding ambiguities with respect to the future collection program.

We appreciate the support of the Barbara McDowell and Gerald S. Hartman Foundation, which is allowing NHLP to provide legal advocacy for these largely-forgotten rural homeowners. We look forward to sharing the outcomes of this work in our final report to the Foundation.

Sincerely,

A handwritten signature in cursive script that reads "Marcia Rosen".

Marcia Rosen  
Executive Director