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CALIFORNIA REINVESTMENT COALITION

March 15, 2012

Edward DeMarco  
Acting Director  
Federal Housing Finance Agency  
400 7th Street, SW  
Washington, DC 20024

Re: *California and other community group concerns with FHFA; Request for action, or resignation*

Dear Director DeMarco,

The undersigned groups represent a broad network of community development corporations, affordable housing developers, small business technical assistance providers, legal service offices, fair housing councils, home loan and consumer counseling agencies, policy and research institutes, base organizing groups, and consumer advocacy organizations. We are united in our concern about homeowners and tenants being displaced by the damaging policies of the Federal Housing Finance Agency (“FHFA”).

We write to demand immediate action in order to stabilize California families and communities. Existing FHFA practices under your leadership have been extremely harmful to a wide range of Californians: homeowners struggling to stay in their homes, tenants facing eviction due to circumstances completely beyond their control, children who miss school and school districts decimated by local foreclosures, neighborhoods suffering from blight and decreasing property values, cities facing insolvency and bankruptcy, and taxpayers who stand to lose financially due to your shortsighted policies which have caused vast numbers of unnecessary foreclosures.

Specifically, we are urging you to put a pause on Fannie Mae and Freddie Mac foreclosures until FHFA formalizes policies to:

1. **Reduce Principal.** Allow Fannie Mae and Freddie Mac to offer loan modifications containing principal reduction down to market value, at least where this passes the net present value test, which we believe will often be the case;
2. **Stop the Dual Track.** Prevent Fannie Mae and Freddie Mac servicers from continuing the foreclosure process while borrowers are negotiating for a loan modification; and

3. **Offer Tenants Long-Term Leases.** Require Fannie Mae and Freddie Mac to offer tenants residing in foreclosed properties the option of a two-year lease if they wish to remain in their homes.

If you remain unwilling to change these policies, we ask that you resign your post immediately, for the good of California and the country.

**Principal Reduction.** There are two million California households, or roughly one-third of the state's homeowners, that are underwater. Approximately 60% of loans in our state are governed by FHFA policy which explicitly prohibits principal reduction. Principal reduction is the one policy that can most improve the financial condition of our households, our housing market and our economy. The value of principal reduction is being endorsed by economists, academics, and leading political figures in our state and nationally. Even the big banks have shown a willingness to write down principal, but mainly in those instances where they own the loans; your intransigence prevents them from doing so on Fannie or Freddie loans. American taxpayers would much prefer to see the loans they own through Fannie Mae and Freddie Mac receive sustainable loan modifications with principal reduction, as opposed to the huge financial losses that loan holders suffer when there is a foreclosure.

In fact, in the California Reinvestment Coalition's February 2012 survey of 75 housing counselors who assist thousands of Californians a month, over 40% of respondents noted that banks sometimes or often reduce principal where they own the loan in question. Yet the GSEs never reduce principal due to your stance. Your refusal is even more confusing and frustrating in light of recent changes to the HAMP program which would further incentivize principal reduction.

FHFA's rationalizations against principal reduction hold no water. They are driven by an inappropriately narrow vision of FHFA's mandate as conservator of the GSEs and appear to reflect a theoretical and ideological position that principal reduction is somehow inappropriate. This policy is causing real harm to real people. FHFA must allow loan modifications on Fannie and Freddie loans to include principal reduction.

**Dual Track.** California and the nation continue to be plagued by the dual track problem, where servicers fail to halt the foreclosure process for homeowners negotiating in good faith for a loan modification. Affected homeowners and their advocates continue to rank dual track as one of the most pernicious and prevalent practices that frustrates efforts to halt avoidable foreclosures. The dual track problem is blatantly unfair and harmful to California homeowners trying to stay in their homes. We decry FHFA policy that incentivizes servicers to complete foreclosures quickly, as well as our understanding that FHFA policy diluted provisions in the recent Attorney General robo-signing settlement agreement that could otherwise have ended the dual track.

In CRC's survey of 75 housing counselors, conducted in February 2012:

- 100% reported that the foreclosure process continues "often" or "sometimes" while a modification application is under review;
- 85% reported that homes are "often" or "sometimes" sold while a modification application is still under review; and
- Over 70% reported that homes are "often" or "sometimes" sold in violation of GSE rules around the dual track.

A recent survey of 260 consumer attorneys by the National Association of Consumer Advocates, the National Association of Consumer Bankruptcy Attorneys, and the National Consumer Law Center similarly found that 66% of respondents represented homeowners who were placed in foreclosure while awaiting a GSE loan modification.

Dual track violates our most basic notions about fundamental fairness and due process. Anyone who is trying in good faith to access available opportunities to save their home should be fully considered for a loan modification, and should receive a decision on their application before the foreclosure process is even begun. In cases where loan modification applications are submitted after the foreclosure process has begun, GSE servicers should stop the foreclosure proceedings immediately and give fair and full consideration to the borrower's loan modification application. FHFA policies and enforcement measures on dual track must be strengthened.

**Long term leases for tenants.** According to Tenants Together, tenants make up approximately 38% of California households impacted by the foreclosure crisis. Tenants living in homes that go into foreclosure are perhaps the most vulnerable of stakeholders. These families are often completely unaware that their landlord is unable to pay the mortgage and at risk of foreclosure. Often, tenant households find out about the foreclosure when their utilities get shut off, needed repairs are ignored, or a realtor comes to the home demanding that the tenants vacate the premises, all of these in violation of existing law. Unlawful eviction of tenants can easily lead to homelessness, especially for single parents, the elderly, persons with disabilities, and other vulnerable populations.

In fact, the strong federal Protecting Tenants in Foreclosure Act, state law tenant protections, and local eviction control ordinances are frequently ignored by banks and other servicers, including on properties owned by the GSEs. Even where tenant protections are honored, renters are still faced with the reality of involuntary displacement. This creates a hardship on families and makes no sense where those properties will remain vacant for months or are better marketed to investors as rental properties.

Fannie Mae's current policy of offering year-long leases to tenants living in REO properties is positive, and much better than Freddie Mac's month-to-month lease offer. Our understanding is that since that policy has been implemented, Fannie Mae has noted a substantial increase in tenants opting to take advantage of the offer. Further, and importantly, Fannie Mae reports that this approach is no more costly than evicting tenants and having to market vacant properties.

To provide even more stability to our families and neighborhoods during these difficult times, FHFA should immediately direct Fannie Mae and Freddie Mac to offer lease terms of up to two years for impacted tenants. Additionally, many tenants in Fannie properties do not know they can remain in their homes beyond a month-to-month tenancy. Both GSEs must be directed to do a better job marketing this opportunity to tenants.

Director DeMarco, we appreciate your service at FHFA, but given the profound, negative impacts your policies are having on our communities, we must ask that you halt all Fannie and Freddie foreclosures until FHFA policies change to: 1) allow principal reduction modifications; 2) finally end the dual track; and 3) provide stability for tenants.

If you are unable or unwilling to do so, we ask that you resign your post immediately, for the good of California communities.

Cc: President Barack Obama  
Attorney General Kamala Harris  
California Congressional Delegation

Sincerely,

California Reinvestment Coalition  
Able Works  
Advocates for Neighbors, Inc.  
Affordable Housing Services  
Alliance of Californians for Community Empowerment (ACCE)  
Alliance for a Just Society  
Asian Inc.  
Asian Law Caucus  
Asian Pacific Policy and Planning Council  
Aspera Housing, Inc.  
California Alliance for Retired Americans (CARA)  
California Association for Micro Enterprise Opportunity (CAMEO)

California Capital Financial Development Corporation  
California Coalition for Rural Housing  
California Resources and Training (CARAT)  
Causa Justa:Just Cause  
Center for California Homeowner Association Law  
City Heights Community Development Corporation  
Civic Center Barrio Housing Corp.  
Community Housing Development Corporation  
Community Housing Improvement Program (CHIP)  
Community HousingWorks  
Community Legal Services in East Palo Alto  
Consumer Action  
Courage Campaign  
East Bay Housing Organizations  
East LA Community Corporation  
East Palo Alto Council of Tenants Education Fund  
Empire Justice Center  
Empowering and Strengthening Ohio's People  
EPA CAN DO  
Fair Housing Council of San Diego  
Fair Housing Council of San Fernando Valley  
Fair Housing of Marin  
HomeownershipSF  
Housing California  
Housing and Economic Rights Advocates  
Housing Resource Center of Monterey County  
Housing Rights Center of Los Angeles  
Housing Rights Committee of San Francisco  
Inland Fair Housing and Mediation Board  
ISALAH  
Jewish Community Action  
Korean Churches for Community Development  
LA Voice  
Law Foundation of Silicon Valley  
Little Tokyo Service Center  
Los Angeles Neighborhood Housing Services  
Massachusetts Communities Action Network  
Mission Economic Development Agency  
Montebello Housing Development Corporation  
Multi Cultural Real Estate Alliance for Urban Change

National Association of Consumer Advocates (NACA)  
National Council of La Raza (NCLR)  
National Housing Law Project  
National People's Action (NPA)  
Neighborhood Economic Development Advocacy Project (NEDAP)  
Neighborhood Housing Services of the Inland Empire  
New Bottom Line  
New Jersey Citizen Action  
Non Profit Housing Association of Northern California (NPH)  
Nueva Esperanza  
Ohio Fair Lending  
Operation HOPE  
Opportunity Fund  
Orange County Community Housing Corp.  
Pacific Asian Consortium in Employment (PACE)  
Partners In Community Building, Inc.  
People's Self-Help Housing Corporation  
Philadelphia Unemployment Project  
PICO California  
Project Sentinel  
Public Counsel  
Regional Human Rights/Fair Housing Commission  
Reinvestment Partners  
Renaissance Entrepreneurship Center  
Rural Community Assistance Corporation  
Sacramento Housing Alliance  
Sacramento Mutual Housing Association  
San Diego City-County Task Force  
San Diego Home Loan Counseling and Education Center  
San Diego Housing Federation  
S. Hochhausen, USF School of Law  
Self Help Enterprises  
South County Housing  
Southern California Association of Non-Profit Housing (SCANPH)  
STAND Affordable Housing  
Strategic Actions for a Just Economy (SAJE)  
Sustainable Economic Solutions  
Tenants Together  
Unity Council  
Valley Economic Development Center

Vermont Slauson EDC  
Visionary Home Builders  
Watts/Century Latino Organization  
Western Center on Law & Poverty  
Yolo Mutual Housing Association