

January 12, 2010

Ms. Tina Tchen
Director, Office of Public Engagement
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Sent via e-mail

Dear Tina,

Thank you for inviting us in last month to talk with you and your colleagues about our organizations' concerns about the foreclosure crisis and our ideas about steps the Obama Administration can take to address it. As you heard, many constituencies have been deeply affected by this devastating problem, including people and communities of color, seniors, and – increasingly – workers who have lost their jobs or are suffering reduced hours and pay. Until we stem the tide of foreclosures, the housing market will remain unstable and threaten the larger economic recovery.

We commend the Administration for acknowledging that the government has a critical role to play in solving the foreclosure crisis. We applaud the range of tools that have been applied, including low interest rates, the power of the GSEs, and the expansion of FHA lending, among others. In particular, we welcomed the launch of the Making Home Affordable program, and many of us have worked closely with the Treasury Department over much of last year to maximize its effectiveness. However, we have grown increasingly concerned that HAMP as currently constructed and administered cannot prevent the millions of foreclosures that are anticipated over the next few years. Additional measures are needed to bring this crisis under control.

In the December 18 meeting, we discussed a number of steps that must be taken to make HAMP work better. These include:

- 1. Stop all foreclosure actions while borrowers are being evaluated for HAMP loan modifications.*** Too many foreclosure sales are occurring while borrowers are waiting to hear the outcome of their HAMP review. Homeowners who are in foreclosure during the HAMP review face significant added costs, and the servicer's incentives to complete the foreclosure rather than provide an affordable modification increase as the foreclosure process proceeds. In addition, it is our experience that borrowers get confused and anxious when they receive communications about foreclosure while in HAMP review, and that such communications create a disincentive for borrowers to keep in touch with servicers and provide information that may be needed to complete the review process. Some borrowers, anticipating losing their home, may actually move, making it difficult for servicers to maintain contact. This phenomenon was described in a recent New York Times article. We urge you to change the HAMP policy about foreclosures,

and require servicers to stop all foreclosure proceedings and referrals while loans are under active HAMP review.

On a related point, your colleagues asked if we could provide detailed information about the number of borrowers who have received foreclosure sale notices or whose houses have been sold at auction while they were awaiting a determination about their eligibility for HAMP. As we indicated, like you, we do not have access to systematic information about this problem. However, it is reported widely among housing counselors and borrowers' attorneys, and we have already provided numerous examples to the Administration. We would be happy to bring together a number of housing counselors and attorneys who work with borrowers seeking HAMP loan modifications to brief you on the patterns that they see in their practices.

2. ***Protect borrowers from the negative impact of servicers' processing delays.*** The failure of servicers to process HAMP applications in a timely manner and convert trial modifications to permanent modifications has many negative consequences for borrowers. We have made a number of recommendations about ways to expedite the conversion process and minimize the negative impact of servicer delays on borrowers.
3. ***Institute an independent appeals process for borrowers who believe their HAMP application was not handled properly.*** HAMP is a complex and evolving program, and it is inevitable that there will be some confusion and mistakes in the way applications are handled. It is imperative that borrowers have the ability to initiate an independent review of their application by someone other than the servicer who has the authority to require the servicer to correct erroneous decisions. This type of appeals process is fundamentally different from the Freddie Mac compliance process, the HOPE hotline escalation process, or the servicer-based second-look programs currently in place.
4. ***Increase transparency in HAMP.*** Treasury should make the NPV model available to the public, which we understand is planned for this quarter, and also should make loan level HAMP data – analogous to the data disclosed under the Home Mortgage Disclosure Act – available to the public.
5. ***Allow borrowers more than one bite at the apple.*** Given the current economic environment, it is very likely that some homeowners who receive HAMP loan modifications will suffer subsequent reductions or interruptions in income. Under current HAMP policy, these homeowners are precluded from applying for a new loan modification. This policy should be changed for borrowers with involuntary reductions in income, such as unemployment, divorce or death of a spouse, or medical debt.
6. ***Provide access to HAMP for homeowners in bankruptcy.*** As a result of the HAMP guidelines providing servicer discretion on whether to provide homeowners

in bankruptcy access to loan modifications under the program, homeowners generally are being denied such loan modifications. The HAMP guidelines should provide clear guidance on instances where a loan modification should be provided to homeowners in bankruptcy. The HAMP guidelines should explicitly provide that servicers must consider a homeowner seeking a modification for HAMP even if the homeowner is a debtor in a pending bankruptcy proceeding.

7. *Working more closely with housing counselors and borrowers' attorneys.*

While progress has been made in recognizing the value of housing counseling, getting cases to resolution is still a difficult and time-consuming process. When authorized by borrowers, all mortgage servicers should be required to work with HUD-approved housing counseling agencies and borrowers' attorneys. In addition, mortgage servicers should be required to disclose to counselors and attorneys the reasons for any declinations and the NPV test results. HUD and Treasury can ensure that approved housing counselors and attorneys are more fully integrated into the HAMP program by paying them directly for their work on loan modifications. A related issue is that more HUD funding, for both direct service and capacity-building, is needed for housing counseling and legal aid organizations to meet the overwhelming demand for their services.

We also discussed a number of new programs or program components that are needed to stop the current and upcoming waves of foreclosures, in which the homeowner's negative equity is a major factor and which HAMP was not designed to address. New tools are needed to address these foreclosures, including:

- 1. *The use of principal reduction to achieve affordability and create sustainable loan modifications.*** A considerable body of research now shows that negative equity is a more accurate predictor of default than unemployment or other factors, and that loan modifications which include substantial principal reduction perform better over the long run. To bring this crisis under control, the government needs an aggressive program to help troubled homeowners bring their mortgage debt back into alignment with their property values, restore affordability, and rebuild equity in their homes. Some have voiced the concern that a program of principal reduction would create a "moral hazard." That is, it would create an incentive for homeowners who can afford their mortgage payments to default in order to obtain a smaller loan. We believe that this problem can be avoided with good eligibility and underwriting standards, as well as by considering other ideas such as phased-in reductions or shared appreciation arrangements.
- 2. *A program to help unemployed homeowners facing default and foreclosure.*** The dramatic rise in unemployment and the attendant interruption of income has forced some homeowners into default who could otherwise afford their mortgage payments. Homeowners with negative equity are unable to sell their home or take out a home equity loan in response to their emergency. The HAMP program's current design does not address homeowners facing significant income interruptions. Unemployed homeowners need a program to help them meet their

mortgage obligations until they can get a new job. In earlier meetings, we presented details of a proposed program to help these homeowners, and continue to be eager to discuss ways to make such a program work.

- 3. *Tools to help those whose homes cannot be saved achieve a “soft landing,” while simultaneously helping to stabilize neighborhoods where foreclosures are concentrated.*** In the meeting, we discussed briefly one proposal to help achieve these goals, a “right to rent” program. There may be other tools as well. Possibilities include a “cash for keys” program that lets families negotiate the terms and timing of their departure from the house, and a lease-purchase program to put vacant homes back into occupancy and help families work toward - or back toward - homeownership. In addition, we recommend consideration of a larger effort to help non-profit organizations and local governments acquire foreclosed properties for rental or resale. We would welcome the opportunity to discuss these with you further.

We believe that we share a common set of goals: stopping the foreclosure crisis and restoring stability to families, communities, and the housing market. We look forward to working with you and your colleagues to achieve these goals. If there are proposals we have outlined that you have already considered and rejected, we would find it very helpful to understand the obstacles you see to their adoption. Similarly, it would be helpful for us to know which of the ideas we have proposed are under active consideration by the Administration, what the timeline is for moving forward on these issues, and how we can best work with you to prevent millions of families from experiencing the devastation brought about by foreclosure.

Attached is the paper we provided at the meeting, outlining our ideas and identifying point people you may contact for more details on each topic. We look forward to hearing back from you in the very near future, and to working together to bring an end to the foreclosure crisis.

Sincerely,

Americans for Financial Reform
California Reinvestment Coalition
Center for American Progress
Center for Responsible Lending
Community Legal Services of Philadelphia
Consumer Federation of America
Consumer Action
Greenlining Coalition
Leadership Conference on Civil and Human Rights
National Association of Consumer Bankruptcy Attorneys
National Coalition for Asian Pacific American Community Development (CAPACD)
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low income clients)

National Council of La Raza
National Fair Housing Alliance
National Urban League Policy Institute
Philadelphia Unemployment Project
PICO National Network
Service Employees International Union

Cc: Larry Summers, Director, National Economic Council
Diana Farrell, Deputy Director, National Economic Council
Peter Swire, Special Assistant to the President for Housing Policy, National Economic Council
Jared Bernstein, Economic Policy Advisor, Vice-President Joseph Biden
Derrick Douglas, Special Advisor to the President for Urban Affairs, Domestic Policy Council
Stephanie Valencia, Office of Public Engagement
Buffy Wicks, Office of Public Engagement
Phyllis Caldwell, Chief, Homeownership Preservation Office, Department of the Treasury
Sarah Apsel, Department of the Treasury
Carol Lambert, Department of the Treasury
William Apgar, Senior Advisor to the Secretary, Department of Housing & Urban Development
Patience Singleton, Department of Housing & Urban Development

Enclosure