

Comments of the National Consumer Law Center  
to the Federal Housing Finance Agency

Regulatory Information Number 2590-AA27

12 CFR Part 1282

**Duty To Serve Underserved Markets for Enterprises**

Comments submitted via electronic submission and email submission to  
RegComments@fhfa.gov.

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The **National Consumer Law Center ("NCLC")**<sup>1</sup> submits the following comments on behalf of its low-income clients, regarding the proposed rule making to establish a duty to serve underserved markets. These comments focus upon manufactured housing. While NCLC's work in this area aims to protect the interests of low-income owners and purchasers of manufactured homes, the analysis of efforts to serve this market through the borrower's perspective will not only serve homeowners and purchasers, but will also contribute to the safety and soundness of the enterprises and the interests of the general public. Such an analysis also provides a better framework for evaluating a duty to serve this underserved market than would an evaluation based solely upon meeting the needs of the manufactured housing industry. Without such analysis, many lending products for manufactured housing do a disservice to homeowners and lenders, rather than serving the market.

**OVERVIEW**

The manufactured housing finance market has traditionally been, and remains, underserved. The lack of affordable and safe financing options has not only made it more difficult and expensive for those purchasing a manufactured home, but also reduced the value of existing homes. This is of particular concern as manufactured housing is the largest source of unsubsidized low-income housing in the United States. Better serving

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<sup>1</sup> The **National Consumer Law Center, Inc. (NCLC)** is a non-profit Massachusetts corporation, founded in 1969, specializing in low-income consumer issues, with an emphasis on consumer credit. On a daily basis, NCLC provides legal and technical consulting and assistance on consumer law issues to legal services, government, and private attorneys representing low-income consumers across the country. NCLC publishes a series of seventeen practice treatises and annual supplements on consumer laws, as well as bimonthly newsletters on a range of topics related to mortgage lending, personal property lending, repossession and foreclosure. NCLC attorneys have written and advocated extensively on all aspects of consumer law affecting low income people, conducted training for tens of thousands of legal services and private attorneys on the law and litigation strategies to deal with predatory lending and other consumer law problems, and provided extensive oral and written testimony to numerous Congressional committees on these topics. NCLC's attorneys have been closely involved with the enactment of all federal laws affecting consumer credit since the 1970s, and regularly provide comprehensive comments to the federal agencies on the regulations under these laws. These comments are written by Andrew Pizor and John Van Alst.

this market with quality, affordable financing products, created to ensure protections for the GSEs and the homeowners with the particular issues of the manufactured housing in mind, will be a tremendous boon to manufactured homeowners and the general public.

## **MANUFACTURED HOME COMMUNITIES**

One of the issues that must be addressed by lending products in order to truly serve homeowners, lenders, and the industry is that of manufactured home owners who own their home yet lease the land upon which their home sits. Currently about 3.5 million families live in 50,000 land-lease, manufactured home communities in the United States. The market for fair and responsible lending in these communities is certainly underserved. Traditional mortgage lenders<sup>2</sup> and the GSEs have been reluctant to lend on homes located in leasehold communities. Chattel lenders that do lend on these homes often engage in predatory lending practices that harm homeowners and increase default rates. Also, as resident purchases of communities have increased, many potential resident owned entities are finding it difficult to obtain financing for the community purchase.

### **LENDING ON INDIVIDUAL HOMES IN COMMUNITIES**

One primary reason for the reluctance of lenders to enter this market and for the negative performance of the loans that are made is the particular risks that homeowners in this situation face. The land owner from whom the homeowner leases the land may suddenly raise the rent beyond the homeowner's ability to pay. The land owner may simply evict the homeowner. This risk that the homeowner might be forced to leave the community is grave. Relocating a manufactured home can be very expensive and often subjects the home to damage during the move.

Also the value of the home to both the homeowner and potential buyers will typically be dependent upon the location of the home. It is a common refrain in home valuation that the most important characteristics that contribute to the value of a home are "location, location, location." Unfortunately, an owner of manufactured home wishing to sell the home, or a lender that must sell a home after default, may not be allowed to sell the home where it is sited. The uncertainty faced by seller and buyer alike can lower the value of the home tremendously.

The loss of value associated with lack of land security, both that the owner may be force to move the home and might not be allowed to sell the home where it is sited, can greatly increase the likelihood that a borrower will default. A homeowner that can no longer live in the home or cannot sell the home is much less likely to keep up the payments. Thus these are risks borne not just by the homeowner, but by the GSEs as well if they become involved in this market.

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<sup>2</sup> All references to "traditional" mortgages are generally intended to mean mortgage loans meeting Fannie Mae and Freddie's Mac's funding criteria for site-built homes.

There are, however, ways to protect both homeowners and the Enterprises in this lending market. The Enterprises should not encourage lending in situations where both the homeowner and the lender lack security. Protections should be in place to ensure that homes and homeowners are protected from arbitrary removal from the home site, which increases the risk of default. Therefore, the GSEs should not get Duty to Serve credit for loans secured by homes on, or to be placed on, leased land or in a residential community unless:

- a) The lease term exceeds the loan term by at least five years and is renewable in the absence of just cause. The lease or state law should restrict unjust evictions by requiring good cause for eviction, grace periods for rent payments, and a right to cure.
- b) State law or the lease includes language preserving residents' right to form a homeowners association and the association's right to present competing purchase offers prior to the sale or closure of the community.
- c) State law or the lease permits the formation of resident associations and the right to associate and organize. This enables community residents to protect their rights including the right to attempt to purchase the community should it be marketed for sale. The ability to enforce this and other homeowner rights should reduce the risk of default by having a positive impact on the security of the homeowners, the maintenance of the community, and the re-sale value of the homes in it.
- d) State law or the lease allow the transfer of the home to a new owner by the borrower or the lender in the event of default by:
  - Allowing the sale of the home in the community,
  - Allowing subleasing and assignment of the lease,
  - Allowing "For Sale" signs,
  - Placing limits on the landowners' discretion to reject new purchasers, and
  - Providing a reasonable time period after an eviction to sell the home.
- e) State law or the lease protects lender interests and the value of the home upon default by requiring notice to the lender and a right to cure upon default on the ground lease, and allowing the lender to sell the home on site after foreclosure.

The regulations implementing the GSE's duty to serve, and any new products approved by the FHFA, should ensure that these protections are provided to owners of manufactured homes and to the GSEs. While manufacturers and dealers would benefit in the short term from an expansion of loan similar to those chattel loans already being made on homes in leased land communities, the GSEs and homeowners are better served

by policies that protect the homeowner. In the long run, manufacturers and dealers benefit from such loan standards as well. Standards that protect the interests of homeowners ultimately lead to homes that will better hold their value and better performing loan products on better terms for consumers.

## **LENDING ON MANUFACTURED HOME COMMUNITIES**

Just as lending on homes in leasehold communities can be either a service or a disservice to homeowners, lending for the purchase or financing of a community itself can also either help or hurt homeowners and the general public. Loans to investor-owners of communities that do not protect homeowners do not help homeowners or the public. Accordingly such loans should not be included in the evaluation of the Enterprises' duty to serve. What truly serves homeowners are loans to resident-owned cooperatives that allow for true protection of the homeowners.

Not only are such loans better for the homeowners, but, as the New Hampshire Community Loan Fund's experience shows, done correctly, they are a very safe loan from perspective of the lender. Now that opportunities for such purchases are spreading nation-wide with the development of Resident Owned Communities-USA, such loans will become much more common and provide a real opportunity for the Enterprises to make a positive impact. Such lending should be encouraged through inclusion in the duty-to-serve standard.

## **CLASSIFICATION OF HOMES AS REAL OR PERSONAL PROPERTY**

Manufactured homes are typically considered personal property absent some affirmative action by the homeowner. This stems in large part from the perception that such a "mobile" home will be moved. However, manufactured homes are rarely moved from their original location. Estimates are that only 1% of manufactured homes are moved after being sited.<sup>3</sup> Although a little over three quarters of the states have some statutory method of converting a manufactured home from personal property to real property, these existing conversion statutes are often inadequate.

The classification of a manufactured home as real or personal property can have a large impact on homeowners and lenders. The effects of the home's designation will differ from state to state.

The distinction between real property and personal property is especially important upon default. If a home is personal property, rather than real property or a fixture, then it is governed only by Article 9 of Uniform Commercial Code (UCC) or other state laws dealing with repossession, not by state foreclosure law. Such a home is

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<sup>3</sup> See David Buchholz, "Mobile" Homes No More: Policy Innovations in Manufactured Housing, Fannie Mae Foundation Policy, News and Innovations, 2005, vol. 7, #4.

generally subject to replevin or self-help repossession.<sup>4</sup> However if the home is real property, then in most states the creditor must use the foreclosure process if the homeowner defaults.

Taxes are often determined by a home's categorization as either real or personal property. This includes not on annual property tax, but often sales tax as well. Application of exemption laws, both those that provide that certain property may not be subject to taxation, and those that protect property from judgment creditors seeking to enforce judgments, may be affected by a home's classification as real or personal property. The classification can have other impacts as well including, the ability of appraisers and real estate agents to work with the home.

Application of various consumer protection statutes can depend upon a home's classification. Laws such as the Real Estate Settlement and Procedures Act, the Credit Practices Rule, Federal Reserve Board's Regulation AA, Unfair or Deceptive Acts or Practices protections, the Magnuson-Moss Warranty Act, the Fair Housing Act, and others can all be impacted by the home's classification.

### Desirability of Real Property Designation

There are advantages to the homeowner whose home is designated real property. It is more likely that such a home may be financed under favorable terms and hopefully the consumer will enjoy additional protection due to stricter underwriting guidelines used by a traditional mortgage lender unconnected to the dealer or manufacturer. Some federal consumer protections will apply at the purchase of such a home. In the event of default, the owner of a home designated as real property will not be subject to self-help repossession. Such a homeowner will also have the other benefits already enjoyed by owners of site-built homes such as greater ability to refinance the home, the option to title

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<sup>4</sup> *In re Onyan*, 163 B.R. 21 (Bankr. N.D.N.Y. 1993) (mobile homes are considered personal property constituting "consumer goods" for purposes of Art. 9); *Midland-Guardian Co. v. Hagin*, 370 So. 2d 25 (Fla. Dist. Ct. App. 1975) (mobile home is goods and Article 9 allows secured party to use self-help or replevin to obtain possession after default); *Griswell v. Columbus Fin. Co.*, 220 Ga. App. 803, 470 S.E.2d 256 (1996) (unless it is permanently attached to realty, mobile home is personal property, not real property, so real estate foreclosure law does not apply); *Barnett v. First Fed. Sav. & Loan Ass'n of Atlanta*, 169 Ga. App. 396, 313 S.E.2d 115 (1984) (Article 9 governed mobile home writ of possession proceeding); *Dungan v. Dick Moore, Inc.*, 463 So. 2d 1094 (Miss. 1985) (Article 9 governs and allows either self-help repossession or replevin to retake vacated mobile home; debtor has right to redeem, home must be sold pursuant to U.C.C., etc.); *White v. Secrest*, 121 Misc. 2d 495, 467 N.Y.S.2d 954 (County Ct. 1983) (replevin is appropriate remedy if mobile home is personal property; suit for money damages is an appropriate remedy if replevin cannot be granted because home has become real property); *Hensley v. Ray's Motor Co.*, 580 S.E.2d 721 (N.C. Ct. App. 2003) (for purposes of statute of limitation, mobile home is personal property governed by U.C.C. unless it is permanently annexed to the land or other circumstances convert it to real property). *See also* *Grant v. Gen. Elec. Credit Corp.*, 764 F.2d 1404, 1407/-/08 (11th Cir. 1985) (Ga. law) (Article 9 allows creditor to repossess mobile home by self help); *Green Tree Fin. Servicing Corp. v. Sutton*, 650 N.W.2d 228 (Neb. 2002) (upholding ruling allowing creditor's replevin of mobile home).

the home as a tenancy by the entirety, and greater protection for family members under some dower, curtesy, or elective share statutes.

Not only do home owners and buyers benefit. Manufacturers and dealers gain from the increased desirability of their product. Increased ability to resell such a home, due to the availability of appraisals and real estate agents' listings, make the homes sold by dealers and manufacturers a better value. There are benefits for the larger community as well. Uniformity in the treatment of homes, both site-built and manufactured, would reduce complexity, improve fairness in treatment of homes, and create efficiencies in tax administration and the administration of estates.

While there may be instances where designation as personal property could be preferable for a homeowner for tax benefits, or coverage under state laws prohibiting unfair and deceptive acts and practices (UDAP laws) in some states or the credit practices rule promulgated by the FTC, FRB or OTS, on the whole homeowners are better off with the classification as real property.

## **CLASSIFICATION AS REAL PROPERTY AND THE DUTY TO SERVE**

The underlying basis for the new duty-to-serve requirement is to help homeowners in the underserved markets. Therefore any activities the Enterprises undertake should be calculated to promote safe and beneficial lending practices rather than merely increasing the amount of lending activity. The differences between personal property loans secured by manufactured housing and real estate loans is central to goal of improving the quality of credit available to manufactured home buyers. Because of these differences, the Enterprises should actively promote the use of real property loans over personal property loans whenever possible.

As described above, consumers are generally better off using real property loans, rather than personal property loans to purchase a home. This is especially true in the area of home finance. Personal property loans often have higher monthly payments because they are shorter (typically 20 years rather than 30) and have higher interest rates (rates on chattel loans are generally 2 to 5% higher than comparable real estate mortgages<sup>5</sup>). There is a smaller pool of lenders for personal property loans meaning less competition and fewer choices. Because lenders making such loans are more likely subsidiaries or captive lenders of manufacturers, the lender is more likely to make loans as part of a sale from a dealer rather than a refinance or private sale. Personal property loan borrowers also have fewer options for loss mitigation.

The Enterprises should encourage the use of real estate loans instead of personal property loans whenever possible. Although the statute indicates that the duty to serve **may** include personal property loans, the Enterprises should only get credit for personal property loans where the home securing the loan is **not eligible to be titled as real**

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<sup>5</sup> Ronald A. Wirtz, *Home, sweet (manufactured?) home*, Fedgazette, July, 2005, available at <http://www.minneapolisfed.org/pubs/fedgaz/05-07/cover.cfm>.

**estate.** Because personal property loans are already prevalent in the manufactured housing industry, usually to the detriment of consumers, the Enterprises will need to adopt guidelines that encourage the lending industry to offer more real property loans. As part of those guidelines, the Enterprises should not purchase personal property loans without appropriate restrictions, as described below.

**Restrictions:**

1. The Enterprises should not receive any housing goals credit for personal property loans secured by homes that are eligible for a real property title or that have already been titled as real property. In practice, this means the Enterprises should only purchase personal property loans from states that do not allow home owners, or homeowners in particular situations, to convert their title to real property.
2. The Enterprises should only purchase loans originated using safe and sound underwriting practices that ensure loans are affordable and sustainable for the borrower, regardless of whether the Enterprise receive duty-to-serve credit. In order to do so, the Enterprises should insist that lenders follow the safety and soundness guidelines set forth in the Interagency Guidance on Nontraditional Traditional Mortgage Product Risks, 71 Fed. Reg. 58609 (Oct. 4, 2006), and the Statement on Subprime Mortgage Lending, 72 Fed. Reg. 37569 (July 10, 2007). The Enterprises should also enact guidelines that prevent a recurrence of the origination problems recently seen in the site-built home market. NCLC has recently submitted a more detailed discussion of appropriate underwriting guidelines in response to the Federal Trade Commission’s Advance Notice of Proposed Rulemaking on Mortgage Acts and Practices, Rule No. R911004. It is available on NCLC’s web site.<sup>6</sup>
3. The personal property loan guidelines should prohibit loan terms or features that create a higher risk of default. Personal property loans pose an inherently greater risk of home loss than real estate loans because borrowers are have fewer loss-mitigation rights and because repossession is generally easier than foreclosure, even in non-judicial foreclosure states. The lower-income consumers targeted by the duty-to-serve requirement have no margin for error in their household budgets, so it is especially important that the Enterprises avoid promoting a secondary market for risky loans. For that reason, the Enterprises should only purchase personal property loans meeting all of the following criteria:

- a) An APR lower than the rate for higher-priced mortgage loans as defined by the Federal Reserve Board’s recently amended Regulation Z, § 226.35<sup>7</sup> regardless of whether the loan is subject to the Truth in Lending Act. Higher-priced mortgage loans (HPML) are a category of loans the Board has found to

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<sup>6</sup> [http://www.nclc.org/issues/predatory\\_mortgage/content/FTCMortgageCommentsAug09.pdf](http://www.nclc.org/issues/predatory_mortgage/content/FTCMortgageCommentsAug09.pdf)

<sup>7</sup> 12 C.F.R. § 226.35(a) as amended by 73 Fed. Reg. 44603 (July 30, 2008) (effective Oct. 1, 2009). The definition is: “(a) Higher-priced mortgage loans —(1) For purposes of this section, a higher-priced mortgage loan is a consumer credit transaction secured by the consumer’s principal dwelling with an annual percentage rate that exceeds the average prime offer rate for a comparable transaction as of the date the interest rate is set by 1.5 or more percentage points for loans secured by a first lien on a dwelling, or by 3.5 or more percentage points for loans secured by a subordinate lien on a dwelling.”

pose greater risk to homeowners and to require greater scrutiny. The APR trigger for HPMLs is a reasonable level to set for Enterprise purchases. Based on estimates of historical rates,<sup>8</sup> this cap will permit the Enterprises to buy personal property loans on the lower end of the rate spectrum but will exclude more expensive loans. The ability to sell lower rate loans to the Enterprises will put pressure on the market to moderate interest rates.

b) No prepayment penalties. Not only do prepayment penalties increase the risk of default by preventing distressed homeowners from selling their home or refinancing into something more affordable, but they can also put a damper on the used home market by forcing sellers to increase prices by enough to cover the penalty.

c) No loans with yield spread premiums or other incentives that encourage the party arranging the loan (such as a retail seller or broker) to act against the borrower's best interest.

d) Personal property loan origination must comply with the Real Estate Settlement Procedures Act's requirements, such as disclosure of all costs and fees and the prohibition on kick-backs.

e) Loans should never exceed 100% of the appraised value. The sale price set by a retail home dealer should not be used in calculating the loan-to-value ratio because of the proven risk that dealers will inflate the price.<sup>9</sup>

4. All loans financing the purchase of a new or used home should be underwritten based on an independent appraisal, just as lenders already require in the site-built home market. Appraisers should use the same methodology as used for site-built homes, rather than a "blue book" or other method that presumes automatic depreciation. Where the home has already been sited, the appraisal should take the quality of the location into account as well as the security of land tenure for the home. Lending based on an appraisal, rather than the advertised, retail price will reduce the possibility of a loan going underwater shortly after purchase. Demanding a comprehensive, independent appraisal for all home purchases will protect note holders, the Enterprises, and home buyers.

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<sup>8</sup> The author of these comments was unable to locate comprehensive historical data on personal property loans for manufactured homes. Therefore, the estimate of historical rates is based on a June 2006 article from the San Francisco Federal Reserve Bank stating: "Consider data provided by two different lenders who deal predominantly in manufactured home chattel loans. Don Glisson Jr. of Triad Financial noted that his loans start at 7 percent, but only 20 percent to 25 percent of customers receive this rate. Others pay up to 10.5 percent, which is reserved for those with the lowest credit scores who are borrowing on a single-wide unit. David Rand of Origen Financial noted that his average was 9.5 percent with a range of 7.5 percent to 15 percent." Sean West, *Manufactured Housing Finance and the Secondary Market*, Community Development Investment Review 35, 36 (2006).

<sup>9</sup> See generally, Kevin Jewell, *What's it Worth?*, Consumers Union (2005).



## **LAND-HOME AND REAL ESTATE LOANS ON MANUFACTURED HOUSING**

In order to facilitate financing for land-home and real estate loans, the Enterprises should be more willing to purchase new and used home loans that do not qualify for the MH Select program. MH Select was created in the wake of the MH market collapse earlier this decade. Although the goals of MH Select are laudable, its standards are higher than necessary to protect the Enterprises from risks associated with the MH market. Limiting Enterprise loan purchases to loans meeting the MH Select standards will seriously limit any prospect for rejuvenating the MH market. MH Select's requirements also create tension with the Enterprises' housing goals because MH Select homes are more expensive than many other home models and are unaffordable for moderate and lower-income buyers.

### **Used Homes**

Currently most underwriting guidelines favor new homes over used. This overlooks the need to revive the used-home market. While the MH Select program permits the Enterprises to purchase loans on used MH Select homes, there are few, if any, qualifying used homes available. So, unless the Enterprises start purchasing loans on used, non-MH Select homes, the resale market for MH will remain depressed.

Purchasing loans on used homes is necessary to support a market for used homes. If there is a viable resale market for used homes, lenders and consumers will benefit in several ways:

- a) Homeowners will be able to sell homes to payoff loans, either when in financial distress to avoid default, or when they are ready to upgrade to a better quality home
- b) The ability to finance a used home purchase will allow prices to rise where demand and quality are sufficient to support growth. As made clear by the recent credit crisis in the site-built home market, lack of access to credit or unreasonably tight credit standards can place downward pressure on home prices. If people can't borrow money to make a purchase, they won't buy or they will be pushed into the arms of unscrupulous lenders.
- c) Lenders will benefit from a viable resale market because they will have an outlet for foreclosed homes. As shown by the current glut of REO, a healthy market for used homes is important for lenders that need to recoup money lost on defaults.

### **Small Lenders**

The Enterprises should develop the flexibility to purchase real estate loans on a flow basis from experienced, small, non-profit and private lenders and developers that have created unique, successful programs using their local knowledge and experience.

When establishing guidelines regarding a lender's experience and track-record with MH lending, the Enterprises should be careful to avoid requirements that automatically exclude small lenders by requiring loan volumes or other measurements that are out of proportion to the size of the local markets in which such lenders may operate. Measurements should also not be biased by the weight of data collected from loans originated earlier this decade when unduly lax underwriting practices were common, as long as the intuition under consideration has adopted safe and sound underwriting guidelines.

Community-based non-profit and small private lenders are in a position to obtain specialized knowledge about the economic conditions relevant to lending in their communities which the Enterprises and larger lenders would not be able to develop. Because these lenders work on a smaller scale than national entities, they can also develop unique underwriting guidelines and loan programs that succeed because they are customized to local conditions.

The Self-Help Credit Union in North Carolina, for example, extends purchase money real estate financing for used MH without imposing the stringent construction or design requirements used by MH Select. Instead, Self-Help accepts a wide range of standard MH designs for collateral but uses carefully designed appraisal standards to insure that the collateral is in good condition, has been setup properly, and is unlikely to depreciate.

Enabling the Enterprises to routinely purchase loans from unique, but well-designed programs will increase the availability of real estate financing while diversifying the potential risk from reliance on a small group of large lenders that may engage in similar lending practices. Once the Enterprises adopt more flexible guidelines, this type of loan program could also be replicated in other communities having small lenders willing to develop the necessary local knowledge. While the Enterprises may need some occasional quality-control testing to maintain standards, small non-profits and developers have proven that MH real estate lending can be done safely. While the Enterprises have occasionally purchased loans from such institutions on an ad hoc basis,<sup>10</sup> the Enterprises should do so on a more regular basis without requiring lenders to seek a variance.

## **Depreciation**

The Enterprises should reconsider their reliance on MH design as the primary method for minimizing the risk of collateral depreciation. Depreciation is at the heart of the MH Select construction guidelines and appears to underlie much reluctance to make land-home and real estate loans. However, there are other reasons for depreciation besides design. Taking them into account can protect note holders while still allowing the Enterprises to purchase loans secured by a wider variety of home designs and

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<sup>10</sup> For example, in 2004 Fannie Mae issued a variance for real estate loans on a manufactured home development designed by HomeSight in Washington. Fannie issued the variance after examining HomeSight's plans and previous work.

manufacturers than would be possible under guidelines dependant on the MH Select design standards.

Price Transparency: One cause of depreciation is inflating the retail sale price of new homes. New manufactured homes are often compared to new cars because the value appears to drop significantly as soon as they leave the dealer's lot. This means a loan for 100% of the retail purchase price for a new manufactured home will immediately go underwater after the purchase. The Enterprises can avoid this problem in at least two ways:

- a) by requiring an independent appraisal for all homes as sited before the sale is consummated. This will give the buyer an opportunity to use the appraisal to obtain a fair sale price and will help lenders ensure that loans are fully secured. If loans are only based on the appraised value rather than the retail price, dealers and developers will be pressured to offer prices based on the home's actual value.
- b) offering favorable terms for loans originated in states having price transparency laws, such as the California Health and Safety Code § 18032, or for homes sold by dealers posting similar information. The later would obviously require occasional verification.

Appraisal Standards: The Enterprises should stop using any appraisal system that presumes depreciation. Instead appraisals should be based only on comparable home prices, as in the site-built home market, provided that retail prices should not be accepted as comparables. All loans financing the purchase of a new or used home should be underwritten based on an independent appraisal, just as lenders already require in the site-built home market. Appraisers should use the same methodology as used for site-built homes. Where the manufactured home has already been sited, the appraisal should take the quality of the location into account as well as the security of land tenure for the home.

Setup Improvements: Insistence that new homes be setup by well-trained, bonded personnel and that all loans require an on-site inspection after setup. The inspection report should be provided to the Enterprise before the loan can be purchased.

## EVALUATION

In evaluating the efforts of the enterprises too meet the duty to serve, the focus should not be on loan volume alone, but should look primarily to the types of loans being made. Loans that protect homeowners and lenders and a strong manufactured housing market should be encouraged. Often times such loans will not only meet the Enterprises' duty to serve the manufactured home market, but also the market for affordable housing and rural housing. When this is the case, the Enterprise should receive credit in all three areas.

Loans that provide homeowners the opportunity to purchase their own community should receive credit towards the duty to serve commiserate with the fact that many homeowners are being protected with every such transaction.

### **CONCLUSION**

There is a tremendous need to better serve the manufactured home lending market. It is important however, that any effort to better serve this market recognize the unique aspects of the market. Simply increasing the number of loans made that leave homeowners and lenders without protection and security does a disservice and will only continue existing problems. The duty-to-serve requirements should encourage responsible lending practices and safety for lenders and homeowners through security of land tenure.