BARNEY FRANK, MA, CHAIRMAN

U. S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

SPENCER BACHUS, AL, RANKING MEMBER

May 17, 2010

Mr. Edward DeMarco
Acting Director
Federal Housing Finance Agency
1700 G Street, NW - 4th Floor
Washington, DC 20552

Dear Acting Director DeMarco:

We are writing to urge FHFA to take action to deny housing goal credit for multifamily loans which facilitate the conversion of units from being affordable to not being affordable.

In order to fully achieve the purposes of financing units affordable to low income families, it is important for FHFA to revise the affordable housing goals to include a provision which would exclude credit for units with rent levels that are affordable at the time of the loan, but for which it is foreseeable and in fact expected that rents will soon rise to unaffordable levels.

A good example of this is the CMBS purchase several years ago, by both Fannie Mae and Freddie Mac, which included financing for the purchase of Peter Cooper Village/Stuyvesant Town in New York City. While rents were affordable at the time of the property purchase and financing, the high purchase price and loan amount appears to have been predicated on the assumption that a significant number of rent-controlled units would have to be aggressively converted to market-rate. A similar type of problem occurs when a loan is used to finance the rehabilitation of older apartment units, predicated on raising rents to pay for the refurbished units, to cover the debt service on the new loan.

Unfortunately, the historical GSE regulatory practice has been to judge whether a unit counts as affordable based on the rent level at the time of the loan. While this is a simple way to measure affordability, it results in a highly inappropriate outcome when the purpose of the loan is to facilitate higher rents, as in the prior examples. The updated HERA statute is ambiguous on this point. It states that goals credit is based on "*whether the rent levels are affordable*" and defines a rent level as affordable "*if it does not exceed 30%*" *of the income level of a low income family.*" This language does not explicitly address time frame; it is silent on loans where there are future higher, foreseeable rent levels connected to the financing.

Therefore, we urge you to amend the housing goals to exclude the counting of units in which rent levels are expected rise to unaffordable levels as a result of the loan and corresponding plans for rehabilitation or repositioning of the units in the local market. At a minimum, the rent level test should be measured as the higher of the current rent level or the expected stabilized rent level under the financing, eg., as reflected in the pro forma underwriting for the loan.

We believe this change will help ensure that the goals measure and encourage the purchase of multifamily loans that are truly affordable to low income families. It would avoid the very counterproductive result we have seen in the past where loans which received affordable goals credit actually facilitated the opposite outcome, the conversion of affordable rental housing units to rent levels which are not affordable for low income families.

BARNEY FRANK
Chairman

CAROLYN MALONEY
Member of Congress