The Honorable Kenneth C. Holt, Secretary
Department of Housing and Community Development
7800 Harkins Road
Lanham, MD 20706

June 23, 2021

Dear Secretary Holt,

On behalf of the Maryland Consumer Rights Coalition (MCRC) and the undersigned stakeholder organizations, homeowner-advocates, and community leaders, we are writing today to urge you to revise your draft Homeowner Assistance Fund (HAF) plan to ensure the program is accessible to Maryland's struggling homeowners and effective in preventing avoidable foreclosures.

Section 3206 of the American Rescue Plan establishes a broad HAF mission to help homeowners avoid foreclosure and displacement and to address mortgage-related delinquency and default as well as loss of utilities and home energy services.

We applaud the Department for posting its plan and accepting input for a revised plan. We are glad to see that the program includes assistance for homeowners with tax, chattel loan, HOA fee, or land lease delinquencies as well as substantial financial assistance for homeowners with delinquent mortgages. We look forward to working with you to implement partnerships with housing counseling and legal services organizations to facilitate program development, outreach, and assist with applications and intake for those requiring HAF assistance.

Yet, many aspects of the plan urgently need revision and improvement to ensure success for Maryland. The plan as proposed will fail to reach many homeowners who could avoid foreclosure with HAF assistance and will create unnecessary barriers even to those already eligible under the current plan.

We recommend the following changes to the proposed HAF plan:

- The Program should utilize and expand the capacity of the tried and true existing housing counseling and legal service networks to aid borrowers in submitting applications through a variety of methods and not solely rely upon an electronic portal that has not been utilized before. Maryland was given up-front planning funds and these funds should be disbursed to the housing counseling and legal service networks to hire up staff now.
- Program eligibility should be for homeowners with financial hardships after January 21, 2020, as per the statute's language. This should include homeowners with financial hardships after this date but who also had hardships prior to that time. Some homeowners faced personal hardships before COVID and then found that their challenges were compounded by the pandemic. Further, those lenders (and not just their servicers) receiving funds should be licensed by the State of Maryland to be eligible for the funds or expressly exempted from licensure. And these lenders should also be required to certify such status (and other criteria) so that we have a way to pursue them if in facts the lender does not follow through on its commitment to the State and the borrower.

- Homeowners in foreclosure, including those in mediation or post mediation, should be eligible for Type 2 assistance. A $5,000 grant will not help most homeowners get out of foreclosure. Many homeowners will face foreclosure immediately after their forbearance due to the structure of the federal mortgage servicing laws and will not be able to seek a loan modification until they are already in foreclosure.
- Homeowners in bankruptcy should not be discriminated against and should be included in the HAF program. Many homeowners will be advised to file for bankruptcy to prevent a foreclosure and as a way to obtain a loan modification, especially if the HAF program has not yet been rolled out. Homeowners can provide their mortgage lender with a simple release to enable the parties to communicate about the HAF during the bankruptcy. Further, we are happy to work with you and the Bankruptcy Court to develop standing orders from the court to facilitate this effort for eligible borrowers.
- Homeowner eligibility should not be limited to those who are unemployed and underemployed. The American Rescue Plan establishes a broad mission for the program, for homeowners facing financial hardship during the pandemic who are at risk of delinquency, default and displacement. Many homeowners have faced financial hardships due to illness, the death of a family member, or other developments indirectly caused by COVID.
- Homeowners should not be required to document their specific financial hardship for subjective review. The program will need to document the homeowner's loan status or delinquent taxes or other bills in order to provide the assistance, however additional documentation of the underlying hardship is likely to unduly limit program access. Notably, research has shown that when homeowners obtained forbearances without documentation for COVID hardships under the CARES Act, homeowners generally were not incentivized to ask for assistance when they didn't need it.
- Homeowners should have access to HAF program applications in hard copy not just through an electronic portal. Many vulnerable homeowners may not be able to apply if they are required to have online access. While we encourage the Department to work with local non-profit housing groups to assist with community outreach and applications, including for homeowners with limited English proficiency, some homeowners likely will seek to apply on their own without access to the portal. In the past similar programs have always required homeowners to apply through a qualified housing counseling agency and such a requirement serves as an additional check in preventing fraud and abuse that an exclusive portal process will invite.
- The American Rescue Plan provides that HAF can cover a wide range of mortgages, including reverse mortgages. We urge you to ensure homeowners with reverse mortgages and other uncommon arrangements such as land contracts, can access the program. At the same time however, whether HAF should be used in particular situations involving second or third lien mortgages should be limited—especially if those loans are underwater and not likely to pursue foreclosure. We also do not think lenders who are not licensed by the State or who are not expressly exempt from licensure should be eligible without the an exemption granted by the Commissioner of Financial Regulation. Also, the plan should encourage lender participation when sums claimed due are negotiated (fees and interest claimed due reduced). In doing this more funds will be available to help other borrowers.

We appreciate that the draft plan contains information about eligibility based on area median income. The federal law and guidelines from the Treasury also focus on the need to incorporate access for socially disadvantaged individuals. We encourage the Department to work with community groups to promote better access to these homeowners.

Thank you for your consideration. We would be happy to meet with you to discuss these issues further.

Best,

Marceline White
Executive Director, MCRC

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