



U.S. Department of Housing and Urban Development
Office of Inspector General
Office of Audit - Civil Fraud Division
451 7th Street, SW
Washington, DC 20410

MEMORANDUM NO.
2012-CF-1808

June 5, 2012

MEMORANDUM FOR: Dane Narode, Associate General Counsel, Office of Program Enforcement, Office of General Counsel, CACC

FROM: Kimberly Randall, Director, Civil Fraud Division, Office of Audit, GA

SUBJECT: Final Civil Action: Occupancy Status Violation – FHA Streamline Refinance
[REDACTED]

INTRODUCTION

The Office of Inspector General (OIG) reviewed alleged occupancy status violations for a Federal Housing Administration (FHA)-insured mortgage. Our office received the complaint through the OIG hotline. The complainant alleged that fraudulent information was provided regarding occupancy status on a loan application for an FHA streamline refinance¹ loan. The objective of our review was to determine whether [REDACTED] occupied or intended to occupy the property as he certified to on the loan application.

METHODOLOGY AND SCOPE

We reviewed the documentation received from OIG's hotline, information gathered by our Office of Investigation, the mortgage loan file, and utility records for the subject property. We also interviewed officials of the lender, One Choice Mortgage, LLC, and [REDACTED]

¹ FHA allows borrowers that currently have an FHA-insured mortgage to refinance the mortgage into another FHA-insured mortgage. "Streamline refinance" refers to the amount of documentation and underwriting that the lender must perform in this type of transaction. HUD Handbook 4155.1 provides further guidance on streamline refinance loans.

We provided our results to the U.S. Department of Housing and Urban Development (HUD) for it to take action under the Program Fraud Civil Remedies Act of 1986 (PFCRA), 31 U.S.C. (United States Code) 3801-3812.

BACKGROUND

As described in HUD Handbook 4155.1, REV-1, FHA insures mortgages on properties that consist of detached or semidetached dwellings, townhouses or row houses, and individual units within FHA-approved condominium projects. Except as otherwise noted in the handbook, FHA's single-family programs are limited to only owner-occupied principal residences. The handbook defines a principal residence as a property that will be occupied by the borrower for the majority of the calendar year.

Streamline refinances are designed to lower the monthly principal and interest payments on a current FHA-insured mortgage. The borrower certifies on Fannie Mae Form 1003, Uniform Residential Loan Application, as to the use of property, either as a primary residence, secondary residence, or investment. Additionally, the borrower certifies on the statement of occupancy his or her intention to reside in the property. The mortgage also includes a stipulation requiring the borrower to occupy the property as a principal residence within 60 days of closing and continue to occupy the property for 1 year from the date of occupancy.

RESULTS

We determined that [REDACTED] did not occupy or intend to occupy the property as he certified to on Fannie Mae Form 1003, the statement of occupancy, and his mortgage with One Choice Mortgage, LLC. On February 9, 2012, HUD filed a complaint under PFCRA, alleging that [REDACTED] submitted a false loan application when refinancing his FHA-insured mortgage. On April 9, 2012, [REDACTED] entered into a settlement agreement with HUD and agreed to pay \$6,000 to resolve the claim relating to the false certification in his streamline refinance transaction. The settlement agreement did not constitute admission of liability or fault on the part of the parties to the agreement. [REDACTED] submitted \$3,500 upon the execution of the agreement and agreed to a repayment plan, plus interest, on the remainder.

RECOMMENDATION

We recommend that HUD's Office of General Counsel, Office of Program Enforcement,

- 1A. Agree to allow HUD OIG to record the \$6,000 settlement (actual collections and repayment plan) and \$250 in expected interest in HUD's Audit Resolution and Corrective Actions Tracking System.

cc: Derek D. Fitzgerald, Deputy Director, Program Integrity, GFI