

Congress of the United States
Washington, DC 20515

December 11, 2014

The Honorable Laura S. Wertheimer
Inspector General
Federal Housing Finance Agency
400 Seventh Street, SW
Washington, DC 20024

Dear Ms. Wertheimer:

We are writing to request that you review the internal controls that Fannie Mae and Freddie Mac have implemented to ensure contractors maintaining properties under their control comply with the requirements of the Fair Housing Act. We would also like to know whether either enterprise maintains data on alleged violations of the Act by its contractors, whether the enterprises have investigated any alleged violations and, if so, whether the enterprises have found any violations or taken any corrective actions to address them.

Allegations of Discrimination by Property Preservation Companies

The rapid increase in foreclosures and delinquent mortgage loans following the collapse of the U.S. housing market in 2008 and 2009 sharply increased demand for property preservation services, including inspections, winterization, lawn maintenance, and utility management.¹ According to a 2011 report by the Government Accountability Office (GAO), for example, the number of vacant residential housing units in the United States increased by 51% between 2000 and 2010, and the number of non-seasonal vacant units as a share of the U.S. housing stock increased from 6% to 8%.² In 2010 alone, Fannie Mae and Freddie Mac spent almost \$1 billion for maintenance on their Real Estate Owned (REO) properties.³

Companies contracted by Fannie Mae and Freddie Mac must comply with the provisions of the Fair Housing Act, which prohibits parties from “[f]ailing or delaying maintenance or

¹ Federal Housing Finance Agency, Office of Inspector General, *FHFA Oversight of Enterprise Controls Over Pre-Foreclosure Property Inspections*, 10-11 (Mar. 25, 2014) (AUD-2014-012).

² Government Accountability Office, *Vacant Properties: Growing Number Increases Communities’ Costs and Challenges*, 12 (Nov. 2011) (GAO-12-34).

³ *Id.* at 31.

repairs of sale or rental dwellings because of race, color, religion, sex, handicap, familial status, or nation origin.”⁴

However, recent studies suggest property preservation companies providing services for Fannie Mae REO properties may have engaged in maintenance practices that do not comply with the Fair Housing Act’s requirements. In May 2014, the National Fair Housing Alliance (NFHA) filed a complaint with the Department of Housing and Urban Development against the nation’s largest privately held property maintenance firm, Safeguard Properties, LLC.⁵ The complaint alleged that Safeguard violated the Fair Housing Act by “providing noticeably inferior maintenance services” for Fannie Mae REO properties in African-American, Latino, and other majority non-white communities as compared to white communities.⁶ For example, NFHA’s investigation in Baltimore, Maryland, found that “43 percent of REO properties in African-American neighborhoods had boarded up windows, while this only occurred in 28 percent of homes evaluated in predominantly White neighborhoods.”⁷ NFHA filed similar complaints against Asset Management Specialists, Inc. (AMS), on July 10, 2014,⁸ and Cyprex Services on July 22, 2014.⁹

NFHA has also filed housing discrimination complaints against several U.S. banks, including Bank of America, U.S. Bank, and Wells Fargo. On June 5, 2013, Wells Fargo settled the NFHA litigation for \$42 million, while denying “that it has violated the Fair Housing Act or engaged in differential treatment of REO properties on the basis of race, national origin or any other prohibited basis.”¹⁰ According to media reports, negotiations between NFHA and Bank of America and U.S. Bank have reached an impasse.¹¹

Separately, the Illinois Attorney General alleged in a lawsuit filed in September 2013 that Safeguard “routinely deemed occupied properties in Illinois as vacant ... broke into homes, changed the locks, turned off the utilities and removed occupants’ personal possessions in spite

⁴ Fair Housing Act of 1968, Pub. L. 90-284.

⁵ Statement in Support of Complaint of the National Fair Housing Alliance, et al., to the Department of Housing and Urban Development (May 13, 2014).

⁶ *Id.* at 3-4.

⁷ National Fair Housing Alliance, *The Banks Are Back—Our Neighborhoods Are Not: Discrimination in the Maintenance and Marketing of REO Properties*, 3 (Apr. 4, 2012). See also National Fair Housing Alliance, *Zip Code Inequality: Discrimination by Banks in the Maintenance of Homes in Neighborhoods of Color* (Aug. 27, 2014).

⁸ Statement in Support of Complaint of the National Fair Housing Alliance, et al., to the Department of Housing and Urban Development (July 10, 2014).

⁹ Statement in Support of Complaint of the National Fair Housing Alliance, et al., to the Department of Housing and Urban Development (July 22, 2014).

¹⁰ Department of Housing and Urban Development, Conciliation Agreement between National Fair Housing Alliance, et al., and Wells Fargo Bank, N.A., para 1. (June 5, 2013) (Case No. 09-12-0708-8).

¹¹ *Wells Fargo Settles Complaint on Foreclosed Homes*, Washington Post (June 6, 2013).

of clear evidence that the homes were still occupied.”¹² The Attorney General also alleged that Safeguard has failed to adequately train or supervise its subcontractors.¹³ The Attorney General is seeking the revocation of “any and all licenses, charters, franchises, certificates or other evidence of authority of [Safeguard] to do business in the State of Illinois.”¹⁴

Request for Audit

Previous work by your office has found significant problems with the performance of property maintenance companies engaged by Fannie Mae and Freddie Mac to conduct property inspections and to manage properties in the pre-foreclosure process.

For example, a November 2012 report issued by your office concluded that American Mortgage Field Services, LLC, a company hired by Bank of America to conduct asset preservation inspections of Fannie Mae and Freddie Mac properties, falsified up to 70% of its property inspections between 2009 and 2012.¹⁵

A March 2014 report issued by your office concluded that Fannie Mae and Freddie Mac did not have sufficient quality controls in place to ensure that property maintenance contractors, including Safeguard, AMS, and Cyprexx, provided accurate, complete, and consistent information in inspection reports for properties in the pre-foreclosure process.¹⁶ The report also found “limited assurance that either Enterprise had effective controls in place to ensure the quality of inspections conducted.”¹⁷

Given the serious allegations discussed above, we request that your office initiate a comprehensive audit to examine whether Fannie Mae and Freddie Mac are taking adequate steps to ensure that property preservation companies maintain or service REO properties in compliance with the requirements of the Fair Housing Act. Specifically, we request that you examine the following issues:

¹² Office of the Attorney General of Illinois, *Madigan Files Suit Over Illegal Eviction Practices* (Sept. 10, 2012) (online at illinoisattorneygeneral.gov/pressroom/2013_09/20130910.html).

¹³ Complaint for Injunctive and Other Relief, para. 37 (Sept. 13, 2013), *The People of the State of Illinois v. Safeguard Properties, LLC*, Circuit Court of Cook County, Illinois (No. 2013-CH-20715).

¹⁴ *Id.* at 22.

¹⁵ Federal Housing Finance Agency, Office of Inspector General, *Enterprise Oversight of Property Preservation Inspections* (Nov. 26, 2012) (SIR-2013-0002).


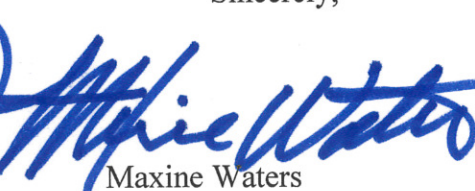

¹⁶ Federal Housing Finance Agency, Office of Inspector General, *FHFA Oversight of Enterprise Controls Over Pre-Foreclosure Property Inspections*, 2-3 (Mar. 25, 2014) (AUD-2014-012).

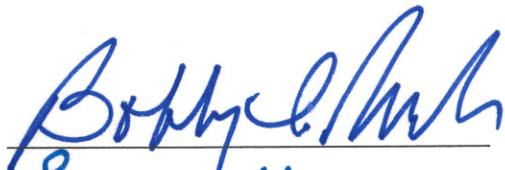
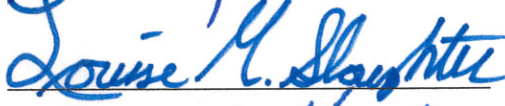

¹⁷ *Id.* at 15.

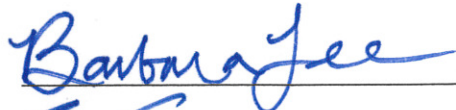
1. What controls do Fannie Mae and Freddie Mac have in place to prevent violations of the Fair Housing Act by property preservation companies performing maintenance on REO properties?
2. Do Fannie Mae and Freddie Mac conduct regular reviews to ensure that property preservation companies performing maintenance on Fannie Mae REO are complying with the requirements of the Fair Housing Act?
3. Have reviews conducted by Fannie Mae or Freddie Mac identified any type of disparate impact in maintenance at their REO properties? If so, what corrective actions have Fannie Mae and Freddie Mac implemented, if any, in response to the results of the investigations they have conducted?

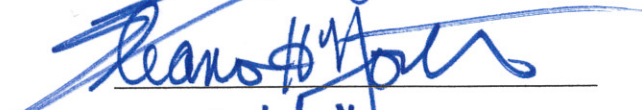
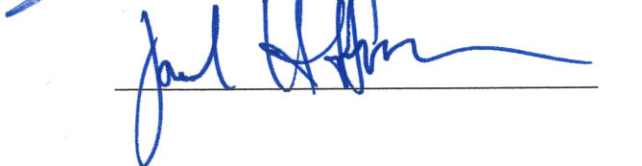
If you have any questions about this request, please have a member of your staff contact Brandon Reavis at (202) 225-4741. Thank you for your consideration.



Sincerely,

		
Elijah E. Cummings	Maxine Waters	Gwen Moore
Ranking Member	Ranking Member	Member of Congress
Committee on Oversight and Government Reform	Committee on Financial Services	












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cc: The Honorable Darrell E. Issa, Chairman
Committee on Oversight and Government Reform

The Honorable Jeb Hensarling, Chairman
Committee on Financial Services