



EMORY
LAW

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December 7, 2020

Ann E. Misback, Secretary
Board of Governors
Federal Reserve System
20th Street & Constitutional Avenue NW
Washington, DC 20551

RE: Docket No. R-1723, RIN 7100-AF94; ANPR
Comments in Response to Question #62

Dear Ms. Misback:

It is my pleasure to submit to the Federal Reserve Board these comments in response to the Advance Notice of Proposed Rulemaking, Request for Comment, Docket No. R-1723, RIN 7100-AF94. My comments focus primarily in responding to Part VIII, Question 62.

As an overall perspective, I am supportive of the direction and thrust of the modifications reflected by this ANPR. The CRA is a key aspect of the Federal Reserve System and serves a vital role in the ties between the services of financial institutions and low and moderate-income communities. Such services would rarely occur but for the existence of the CRA, and the gaps between financial services and LMI communities would only be exacerbated if the CRA is not reviewed and modified on a regular basis.

There are two dominant international crises that directly impact the importance of CRA and Regulation BB, both as to its efficacy and its flexibility. These are COVID-19 and climate change. Both crises are disproportionately affecting LMI, the most vulnerable with the least access to viable financial services.

Part VIII of the ANPR focuses on the Community Development Test and its Qualifying Activities and Geographies. I am supportive of the desire to include within affordable housing the broad range of nonsubsidized housing occupied by LMI, most particularly in rural areas where the majority of such nonsubsidized housing takes the form of manufactured housing or mobile homes. The key in adopting a broader regulatory definition will be to ensure that the housing is available to LMI over an extended period. As noted in Part VIII, A.1.(a), I am also supportive of recognizing the key role that land banks and land banking programs in acquiring vacant, abandoned, and deteriorated properties and transferring them at low or no cost into affordable housing.

Part VIII, A.2 focuses on the definition of Community Services, Part VIII, A.3 on Economic Development, and Part VIII, A.4 on Revitalization and Stabilization. In the context of all three of these topics the ANPR seeks comments, in Question 62, on whether the Board should include disaster preparedness and climate resilience as qualifying activities in certain target geographies. In light of the twin crisis of COVID-19 and climate change, my answer is most certainly yes.

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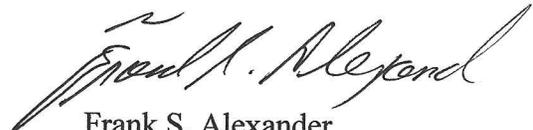
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For more than three decades I have focused on legal, policy, and programmatic changes related to the local and state creation of land banks and land banking. I have been directly or indirectly involved in the enactment of state land bank legislation in over fifteen states leading to the creation of over 200 local land banks. Virtually all of this work has been focused on LMI neighborhoods and communities affected by vacant, abandoned, and deteriorated properties with a goal of eliminating the negative externalities of such properties and transforming them from vacant spaces into vibrant places. More recently my attention has turned towards using the skills and tools we learning through land banks and land banking and focusing them on rural communities which are not just vulnerable in socio-economic terms, but vulnerable in the face of climate change.

The direct effect of climate change will not differentiate according to wealth or structure. It will, however, have disproportionately greater impacts on the vulnerable, and this will be particularly felt with respect to housing conditions. Climate resilience – particularly in rural coastal communities – must of necessity anticipate not just sea level rise but also storm surge, inland flooding, and rising water tables. Septic tanks and septic fields will be one of the early warning signs of the collapse of housing. In most rural LMI communities along the Gulf Coast and southern Atlanta coast there is an absence of state and local policies to guide regular septic field inspections, or even knowledge of the location of septic fields. When the predominant affordable housing for LMI consists of mobile homes or manufactured housing reliant upon septic fields that are failing, or will fail in the near future, the supply of affordable housing will quickly disappear.

This is but one example of the importance of the importance of including within the definition of CRA qualifying activities disaster preparedness and climate resilience. Yes, it is still critical that such expansion of qualifying activities be targeted to specific geographies defined in large part as LMI, or a corollary of AMI, together with a definition of affordable housing that includes nonsubsidized housing. The key is to recognize that for many rural LMIs a focus on affordable housing with not work over time without acknowledging that its viability is heavily dependent on climate resiliency.

Sincerely,



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