

United States Senate

September 21st, 2017

Ms. Verise V. Campbell
Chief Executive Officer/Chief Operating Officer
Nevada Affordable Housing Assistance Corporation
3016 W Charleston Boulevard, #160
Las Vegas, NV 89102

Dear Ms. Campbell:

I write to you today regarding implementation of the Hardest Hit Fund (HHF) in the State of Nevada.

As you know, our State was devastated by the foreclosure crisis beginning in 2007. Nevada had the highest foreclosure rate for 62 straight months during the Great Recession.¹ In fact, during the height of the crisis, nearly 70 percent of Nevada homeowners were “underwater” on their homes, meaning that they owed more on their mortgage loans than their houses were worth.² One study found that 19 percent of children in the Silver State were impacted by mortgage defaults and foreclosures – the highest rate of any state in the nation.³

It is against this backdrop that in February 2010, the previous Administration created the HHF to assist those states most gravely impacted by home mortgage defaults and foreclosures.⁴ Through HHF, Nevada received nearly \$203 million for the purpose of preventing avoidable foreclosures and stabilizing local housing markets through actions including mortgage principal reduction and assistance for homeowners experiencing underemployment or temporary lapses in employment.⁵

Unfortunately, implementation of Nevada’s HHF allocation has fallen short of expectations. The most recent data available to my office suggests that only \$93 million – or roughly 46 percent of the total funds allocated – has been deployed to Nevadans for the purpose of keeping them in their homes.⁶ This lackluster performance comes at a time when challenges for our State still linger, with the Las Vegas-Henderson-Paradise metropolitan area facing the second-highest rate

¹Lapan, Tovin. “At La Raza Conference, Looking for a Way Forward From Housing Crisis.” *Las Vegas Sun*, July 10, 2012. Available at: <https://lasvegassun.com/news/2012/jul/10/la-raza-conference-looking-way-forward-housing-cri/>

²Green, Steve. “Report: Nearly 70 Percent of LV Homeowners Underwater on Mortgage.” *Las Vegas Sun*, November 30, 2009. Available at: <http://m.lasvegassun.com/news/2009/nov/30/report-nearly-70-percent-lv-homeowners-underwater/>

³Isaacs, Julia B. “The Ongoing Impact of Foreclosures on Children.” *Brookings Institution*, April 2012. Available at: https://www.brookings.edu/wp-content/uploads/2016/06/0418_foreclosures_children_isaacs.pdf

⁴See U.S. Department of the Treasury. “Hardest Hit Fund: Program Purpose and Overview.” Available at: <https://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/hhf/Pages/default.aspx>

⁵Special Inspector General for the Troubled Asset Relief Program (SIGTARP). “Quarterly Report to Congress.” January 27, 2017, page 161. Available at: https://www.sig tarp.gov/Quarterly%20Reports/January_27_2017_Report_To_Congress.pdf

⁶Nevada Affordable Housing Assistance Corporation (NAHAC). “Quarterly Report to Congress: Q4 2016,” page 2. Available at: http://nahac.org/wp-content/uploads/2017/05/HFA_NV_Q42016_Revised_03-16-17.pdf

of underwater mortgages in the country in June 2017.⁷ All told, in 2016, more than 6,100 Nevada homeowners lost their homes to foreclosure; more than 24,000 were behind on their mortgages; and more than 77,000 were underwater.⁸

Despite this high level of need, only around 5,400 Nevadans have been helped by HHF, with only a little over one-third of the families applying for assistance actually receiving it.⁹ Accordingly, Nevada has an above-average rate of homeowners withdrawing their applications for assistance, likely because they are frustrated with lengthy wait times.¹⁰

While I understand that the current leadership team at NAHAC is relatively new to their roles, and is endeavoring to improve programs, I remain concerned that the State of Nevada will not deploy the funds available to them by the Treasury Department's rolling spending deadlines through 2020. Without concerted action to improve NAHAC outreach and implementation, Nevada runs the risk of not utilizing the funding made available to the State in the wake of the greatest mortgage crisis since the Great Depression.

As such, below please find a list of suggestions for how NAHAC might improve spend-out rates and better serve Nevadans. I ask that you consider the points herein and keep an open dialogue with my office about what improvements NAHAC intends to adopt, and when.

- 1. Administrative Expenses:** While it was under the previous leadership team that NAHAC engaged in wasteful spending on extravagant employee perks and other luxury items,¹¹ the organization must be mindful of constraining administrative expenses at a time when the delivery of assistance to Nevada households is lagging. Indeed, it appears that administrative costs are running higher than is appropriate for a government program intended to help the most vulnerable households. Data from the most recent publicly available quarterly report provided to the public from NAHAC indicates that overhead expenses comprise around 19 percent of all spending in the program.¹² At the same time, Nevada had the second-to-lowest rate of funds being drawn-down from the Treasury Department for the purpose of helping households of all participants in the program across the country.¹³ I therefore ask that NAHAC endeavor to contain administrative expenses to 10 percent of all program dollars, consistent with the state average for other HHF participants.¹⁴

⁷ CoreLogic. "Equity Report: First Quarter 2017." Available at: <http://www.corelogic.com/downloadable-docs/equity-report-q1-2017-20170608.pdf>

⁸ Special Inspector General for the Troubled Asset Relief Program (SIGTARP). "Quarterly Report to Congress." January 27, 2017, page 159 (an analysis of CoreLogic data). Available at: https://www.sigtar.gov/Quarterly%20Reports/January_27_2017_Report_To_Congress.pdf

⁹ Id, page 97

¹⁰ Id, page 99

¹¹ SIGTARP. "Audit Report: Waste and Abuse in the Hardest Hit Fund in Nevada." September 9, 2016. Available at: https://www.sigtar.gov/Audit%20Reports/HHF%20Nevada_090916.pdf

¹² Supra note 6, page 2. Specifically, the figure comes from dividing out the total spent on administrative support, outreach and counseling versus the total spent on assistance to homeowners.

¹³ Specifically, of 18 states plus the District of Columbia, Nevada has the second-to-lowest draw-down rate. See U.S. Treasury Department. "Troubled Asset Relief Program: Monthly Report to Congress." June 2017, page 4. Available at: <https://www.treasury.gov/initiatives/financial-stability/reports/Documents/2017.06%20June%20Monthly%20Report%20to%20Congress.pdf>

¹⁴ Supra note 8, page 94

- 2. Outreach:** With only 5,400 or so Nevadans being assisted currently, more homeowners can be enrolled into NAHAC programs. In particular, more outreach is needed to homeowners outside of Clark County.¹⁵ Indeed, in eleven separate Nevada counties, fewer than 25 homeowners have been assisted. And in four Nevada counties, not a single homeowner has been assisted.¹⁶ As such, NAHAC programs would benefit from concerted outreach to eligible households, with a particular focus on those counties not currently adequately being served. An updated outreach plan should include sending mailed notices to households identified as eligible by mortgage servicers participating in NAHAC programs as soon as is practicable.

Additionally, NAHAC has only one physical office, located in Las Vegas, whose address is not provided on your website. NAHAC should consider generating more knowledge of its location in order to facilitate “drop-ins” from homeowners that prefer in-person contact. Likewise, NAHAC should consider developing a physical presence in Northern and/or rural Nevada, perhaps leveraging existing governmental office space.

- 3. Income Thresholds:** It is my understanding that NAHAC programs did not have income restrictions for participants until November 1st, 2016, at which point NAHAC adopted a limit for homeowners of 150 percent of County Area Median Income (AMI). Then, on May 31st, 2017, NAHAC again changed the income limits to 150 percent of State AMI. This change had the effect of limiting the universe of homeowners eligible for assistance in the Counties of Churchill, Douglas, Elko, Eureka, Humboldt, and Lander, as well as Carson City. Additionally, the frequent changes in income restrictions likely had the effect of confusing homeowners as to whether they were eligible. While targeting assistance to households at or below certain AMI thresholds is generally sensible, because of the lackluster spend out rates under NAHAC programs, I recommend considering reverting back to the pre-November 2016 policy of not imposing income limits on program participants.
- 4. Negative Equity Loans:** Current NAHAC eligibility criteria as it relates to negative equity loans could be changed to ensure that program dollars are utilized before the Treasury Department’s deadline. For example, for homeowners that are current on their mortgage payments with more than 10 percent negative equity, mortgage principal balances may only be reduced to a 100 percent loan-to-value ratio under current program rules (meaning, the homeowner’s principal balance would not be reduced to a level where they had equity in their home). Deeper reductions in principal balances may be appropriate in these circumstances,¹⁷ especially since economic evidence suggests that principal reduction modifications are the most effective bulwark against foreclosures. Foreclosures, in turn, have the effect of depressing nearby home values and amplifying neighborhood losses in wealth.¹⁸

¹⁵ Indeed, 78 percent of program participants reside in Clark County. *Supra* note 6, page 2.

¹⁶ *Id*

¹⁷ Indeed, current program rules would seem to incent homeowners to become delinquent on their payments in order to be eligible for deeper principal reduction assistance.

¹⁸ Remy, Mitchell and Damien Moore. “Options for Principal Forgiveness in Mortgages Involving Fannie Mae and Freddie Mac.” *Congressional Budget Office Working Paper 2013-02*, May 2013. Available at:

http://www.cbo.gov/sites/default/files/cbofiles/attachments/44114_WorkingPaper-OptionsPrincipalForgiveness1.pdf

NAHAC should also consider ways to provide deeper loan-to-value reductions to homeowners who are not current on their payments, such that mortgage payments consistently reach levels of 25 to 30 percent of the homeowner's income.

5. **Income and Hardship Proof:** NAHAC programs require proof of income and hardship on behalf of homeowners in order for the household to qualify for assistance. Current data suggests that 39 percent of homeowners are withdrawing their applications from NAHAC, suggesting that wait times or paperwork burdens may be a substantial impediment to enrollment.¹⁹ NAHAC should consider measures to streamline and/or simplify income verification and proof of hardship in order to facilitate increased program participation.
6. **Down-Payment Assistance:** Certain other states utilizing HHF have included in their menu of programs down-payment and closing cost assistance to qualified homebuyers. NAHAC can expeditiously work with the Treasury Department to identify areas exhibiting the requisite characteristics to qualify for such an expansion to the use of HHF. While I understand that NAHAC is currently deliberating such a program to possibly come on-line later in 2018, it may be beneficial to accelerate this review.
7. **Reverse Mortgages:** Reverse mortgages can raise a number of consumer protection concerns, including deceptive advertising,²⁰ inadequate disclosures and risk of eviction for cash-strapped seniors seeking to age in their homes, rather than institutions.²¹ While additional protections are needed, prospectively, to protect seniors from these risks, for those elderly households with existing reverse mortgages, HHF may be a tool to protect homeowners from foreclosure. Indeed, other states utilizing HHF have created specific programs targeting assistance to senior homeowners with Home Equity Conversion Mortgages, or HECMs (the most common product commonly referred to as "reverse mortgages"). Such HHF programs generally help seniors become current on property-related expenses, including taxes, homeowner's or flood insurance, and homeowner association fees. Given the growing population of seniors in Nevada,²² NAHAC should consider adopting a program option geared specifically to HECM borrowers.
8. **Language Access:** NAHAC's website, nahac.org, does not have any materials available in a language other than English. NAHAC should consider developing alternate versions of its website and application materials in order to facilitate more understanding and access for individuals for whom English is not their first language.

¹⁹ Special Inspector General for the Troubled Asset Relief Program (SIGTARP). "Quarterly Report to Congress." April 26, 2017, page 87. Available at: https://www.sigtar.gov/Quarterly%20Reports/April_26_2017_r1_Report_to_Congress.pdf

²⁰ Consumer Financial Protection Bureau. "CFPB Takes Action Against Reverse Mortgage Companies for Deceptive Advertising." *CFPB Newsroom*, December 7, 2016. Available at: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-reverse-mortgage-companies-deceptive-advertising/>

²¹ McKim, Jennifer. "More Seniors Are Taking Loans Against Their Homes – And It's Costing Them." *Washington Post*, August 25, 2017. Available at: https://www.washingtonpost.com/business/economy/more-seniors-are-taking-loans-against-their-homes--and-its-costing-them/2017/08/25/5f154072-883a-11e7-961d-2f373b3977ee_story.html?utm_term=.bb15d9bd2106

²² "Governor's Commission on Aging: NRS 439 Report; Community Needs and Priorities for Older Nevadans." June 2016. Available at: <http://adsd.nv.gov/uploadedFiles/adsdnvgov/content/Boards/COA/COA.2016%20Gov%20Report.pdf>

9. Residency Status: I understand that in determining enrollee eligibility, NAHAC only provides assistance to homeowners that are U.S. citizens or legal U.S. residents. These restrictions do not necessarily comport with lenders' underwriting requirements. For example, mortgage loans may be originated using an Individual Taxpayer Identification Number, a tax processing number available to certain nonresident and unauthorized immigrants, their spouses and dependents. I request that NAHAC provide my office with data on the number of households that have been denied assistance on the basis of their, or their spouse's, residency or immigration status. I also request that NAHAC explore expanding the categories of individuals eligible for assistance on the basis of residency status.

This is particularly pressing in light of the Trump Administration's recent decision to terminate the Deferred Action for Childhood Arrivals (DACA) program. If not reinstated by Congress in the next six months, as many as 13,000 DACA recipients in Nevada – who received Social Security numbers and may have purchased homes – could eventually lose their ability to work legally in the U.S.²³ Without the ability to obtain and maintain employment, many DACA recipients may not be able to afford their mortgages and may need the housing assistance provided by NAHAC. Even before the Administration's decision to terminate DACA, anecdotal evidence suggests that increased deportations may be increasing the rate of foreclosure.²⁴

10. NAHAC Partnerships: Conversations with my office suggest that NAHAC does not have operational relationships or information system linkages with certain State offices, including those serving veterans or individuals experiencing unemployment, or the Nevada Attorney General's office. Partnerships with those offices could help identify homeowners eligible for HHF programs. Again, steps should be taken to reduce the paperwork burden on borrowers and leverage existing governmental data to expedite the evaluation of a homeowner's eligibility for NAHAC programs. I therefore ask that NAHAC develop a plan for how it expects to bolster inter-governmental cooperation.

11. Public Reporting: Currently, it appears that NAHAC publishes reports documenting progress in assisting Nevadans on a quarterly basis. The last report publicly available is for the fourth quarter of 2016.²⁵ I recommend that NAHAC update the frequency of reporting to a monthly basis, and that you post such reports promptly on your public website. I would also recommend that NAHAC provide public reporting indicating the reasons for homeowners being denied assistance, and/or withdrawing their applications from NAHAC before an eligibility determination is made. This data will allow the public to better evaluate how well NAHAC is expediting the delivery of assistance to eligible Nevadans.

With more than seven years having passed since the allocation of HHF to the State of Nevada, current program enrollment and spend-out rates are not living up to expectations. While I appreciate that the new leadership team at NAHAC is not responsible for legacy issues with

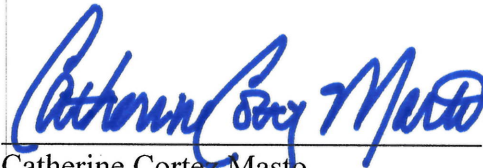
²³ Bekker, Jessie. "Nevada's 13,000 DACA Recipients Confront Limbo." *Las Vegas Review Journal*, September 5, 2017. Available at: <https://www.reviewjournal.com/local/local-nevada/nevadas-13000-daca-participants-confront-limbo/>

²⁴ Khrais, Reema. "What Happens to Your House When You Get Deported?" *Marketplace*, August 10, 2017. Available at: <https://www.marketplace.org/2017/08/10/economy/little-noticed-effect-deportations-foreclosures>

²⁵ Supra note 6; note that quarterly reports for the first two quarters of 2017 should be available on the website at this time.

HHF implementation, substantial changes are needed if Nevada is to allocate their funding by the deadlines set by the Treasury Department. My office stands ready to assist NAHAC in the implementation of its Hardest Hit Fund. We should not let Federal assistance sit idle while so many Nevadans are still left behind from the 2008 mortgage crisis. Thank you for your prompt attention to this correspondence.

Sincerely,



Catherine Cortez Masto
United States Senator

cc:
Office of Governor Brian Sandoval
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