

FHFA's Duty to Serve: Increasing Support for Shared Equity Models

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The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 instituted Duty to Serve requirements for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). Section 4565 of this Act requires these entities to develop strategies, ultimately programs, underwriting guidelines and specific products to “increase liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets.” The specific markets are manufactured housing, affordable housing preservation and rural markets. The entities are required to develop underserved market plans which must be reviewed and approved by the Director of the Federal Housing Finance Authority.

Specific to affordable housing preservation, both Fannie Mae and Freddie Mac address lending for shared equity in their most current underserved market plans. Most encouraging is Freddie Mac’s new interest in shared equity lending. This article will discuss how they address shared equity in more detail, but first: a description.

What is “Shared Equity”?

“Shared equity” in affordable housing means a sharing of appreciation and equity between a seller and the community accomplished through contracts. Shared equity models seek to balance the individual household’s interest in building

wealth and the community’s interest in creating/preserving affordable housing. The main attraction to shared equity models is the idea of a one-time public subsidy that makes the property initially affordable and then stays with the housing unit over time through resale restrictions, thus keeping the housing affordable to buyers (or renters) for years, even generations, to come.

There are three main types of shared-equity models:

- Deed restrictions or restrictive covenants;
- Limited equity cooperatives; and
- Community Land Trusts

Of the three, the Florida Housing Coalition asserts community land trusts as the preferred form of shared equity, primarily due to privity created by a community land trust's ownership of the land. Privity is legal term that describes the mutual interest of the homeowner and the community land trust in the property, which protects the community land trust's ability to enforce affordability restrictions in its ground lease. This preference for the community land trust model is not to the exclusion of the other two, as the Coalition supports the incorporation of shared-equity provisions in SHIP purchase assistance strategies and inclusionary housing ordinances, and limited equity cooperatives may develop as a viable affordable housing option in Florida as multifamily becomes a more acceptable form of ownership.

What is the involvement of Fannie and Freddie?

Both Fannie Mae and Freddie Mac specifically address shared equity lending in their underserved market plans. Here's how:

Fannie Mae

Fannie Mae officially entered lending for shared equity with the 2011 update to its Selling Guide to include loans for community land trusts. Fannie Mae developed specific underwriting guidelines for community land trust loans, including requirements for the ground lease and application of Fannie Mae's Ground Lease Rider. Fannie Mae's willingness to purchase community land trust loans supports the primary objective of increased liquidity for loans that go towards affordable housing preservation due to the resale restrictions enforced by community land trust ground leases. Although providing an invitation for greater participation by primary lenders, Fannie Mae finds that shared equity loans are not well-promoted or supported in the larger lending community mainly because the added complexity in the origination process does not appear worth it for the small number of transactions that take place. (For this reason, usually small,

locally-based banks are the main lenders of community land trust loans.)

To change this, Fannie Mae's major strategy for increasing participation is to publicly promote the strength of its existing shared equity portfolio. Fannie Mae will also engage in the presentation of market research and other data analysis to further encourage lender participation. Additionally, Fannie Mae has set a specific goal of purchasing at least 850 shared equity loans over the 3-year period beginning January 1,

2018. To accomplish this, Fannie Mae will make changes to its policies that will increase the number of eligible loans and simplify requirements, all while maintaining appropriate risk controls. Further, Fannie Mae will study ways to proactively increase liquidity for multifamily loans with shared equity, specifically limited equity cooperatives.¹

Freddie Mac

The entrance of Freddie Mac into shared equity lending is important to the advancement of community land trusts and other shared equity models in its potential to add further liquidity to the market and make such loans even more

attractive to primary lenders. Freddie Mac aims to facilitate a secondary market for shared equity loans. To that end, Freddie Mac has conducted its own research and come to similar conclusions as Fannie Mae regarding the challenges to doing so. The lack of standardization among shared equity programs results in loan products (created for these programs) yielding relatively few transactions, and primary lenders have shied away from such programs due to lack of knowledge or unwillingness to deal with the more complex structures. All of this contributes to very little investor interest.

In response to these challenges, Freddie Mac is researching

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The Florida Community Land Trust Institute is actively working with several communities and organizations to establish new community land trusts throughout the state. This has the potential to begin building the scale needed to attract investment.

¹ The full text of Fannie Mae's Underserved Market Plan can be found at: <https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/FannieProposedUMP.pdf>.



The Florida Community Land Trust Institute is a program of the Florida Housing Coalition which began in January, 2000. The Florida Housing Coalition is a statewide nonprofit providing training and technical assistance in Florida for more than 25 years.

In regard to community land trusts in Florida, we provide assistance to government and nonprofit entities with:

- Assessing whether a community land trust is appropriate for your community and if so, which model makes the most sense for your community;
- Understanding the terms of the ground lease and options for resale provisions;
- Start up for the nonprofit community land trust;
- Capacity building for the nonprofit community land trust; and
- All manner of real property development and financing issues.

and planning to develop a shared equity loan fund. The intent of the loan fund is to address access to capital crucial to building the scale needed to attract investment in the secondary market and support the ability of organizations such as community land trusts to acquire properties during the early years of operation before they can generate income from fees and sales. The idea is to create a revolving loan fund that structures traditional first mortgage loans and subordinate financing with shared-equity provisions. While this sounds similar in effect to SHIP purchase assistance programs that have these provisions, Freddie Mac specifically describes the loan fund as a means for organizations, such as community land trusts, to increase their capacity. This idea is not fully developed. However, it appears funds would flow through community land trust organizations to buyers, providing an additional funding source to grants and other sources such as SHIP funds. Freddie Mac plans to invest up to \$2 million in researching and creating a pilot fund in 2018.

In addition to the loan fund, Freddie Mac plans to work actively to increase lender awareness and understanding of shared equity programs. Activities to accomplish this objective include conducting lender surveys, developing curriculum for both lenders and program sponsors, and providing lender trainings.²

Why is this important?

These efforts by Fannie Mae and Freddie Mac are invaluable to the promotion of community land trusts and other shared equity models in Florida, and could not come at a better time. The Florida Community Land Trust Institute is actively working with several communities and organizations to establish new community land trusts throughout the state. This has the potential to begin building the scale needed to attract major investment. However, these organizations need capital to jumpstart and sustain them during their infancy. Also, many SHIP programs have implemented shared equity provisions as part of purchase assistance and new construction programs. Further, established community land trusts continue to cite challenges with first-mortgage lending. These challenges, and the efforts to address them, will be discussed at the Community Land Trust Symposium on Day Three of our upcoming Statewide Affordable Housing Conference. We are proud to announce Freddie Mac as a conference-sponsor and participant in the Symposium. For attendees, this is an excellent opportunity to influence the development of policies and programs that could directly benefit your organization and advance the cause of permanent affordability. HNN

² A more detailed description of the loan fund and other strategies can be found in Freddie Mac's Underserved Market Plan at: <https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/FreddieProposedUMP.pdf>.



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