



UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 Pennsylvania Avenue, NW • Suite 1150 • Washington, DC 20425 www.usccr.gov

September 13, 2019

The Honorable Mark Calabria
Director
Federal Housing Finance Agency
400 7th St SW
Washington, DC 20219

Dear Director Calabria,

The U.S. Commission on Civil Rights writes to request that the Federal Housing Finance Agency immediately reverse its recent decision to remove the critically important language preference question from the revised Uniform Residential Loan Application (URLA).¹ We are concerned that the decision was both unsubstantiated, and that it undermines Fannie Mae and Freddie Mac's statutorily mandated duty to facilitate homeownership for underserved communities.²

The original decision to add a language preference question to the URLA, announced in October of 2017, was a step in the right direction toward broadening access to homeownership to those borrowers who are limited English proficient (LEP).³ According to data from the Census Bureau, over 25 million people in the United States are LEP.⁴ Home ownership is among the most reliable ways for households to build wealth, yet the lack of language access appears to have a negative impact on home ownership. Research by the Urban Institute found that in 2016, neighborhoods that had lower concentrations of LEP residents had a median homeownership rate of 74 percent, but for neighborhoods with higher concentrations of LEP residents, the rate was just 64 percent.⁵ Even when controlling for other factors like income and age, a five percentage-point gap remained,

¹ Fannie Mae and Freddie Mac, Uniform Mortgage Data Program, "URLA February 1, 2020 Mandate Rescheduled; New Requirements Provided," Aug. 2019, <https://www.fanniemae.com/content/news/urla-announcement-august-2019.pdf>.

² The Commission also has concerns about the recently announced Housing Reform Plans by the Departments of Treasury and Housing and Urban Development. U.S. Department of the Treasury, "Treasury Department Submits Housing Reform Plan to President," Sept. 5, 2019, <https://home.treasury.gov/news/press-releases/sm769>. Premised on an assertion that Fannie Mae and Freddie Mac's statutory affordable housing goals "were a contributing factor to the [Government-Sponsored Enterprises] risk taking and losses in the lead up to the financial crisis," the Department of Treasury recommends that "[p]ending legislation, FHFA should consider more efficient mechanisms for GSEs to achieve the statutory affordable housing goals." U.S. Department of the Treasury, "Housing Reform Plan," Sept. 2019, <https://home.treasury.gov/system/files/136/Treasury-Housing-Finance-Reform-Plan.pdf> at 23-24. It is not immediately clear what these "more efficient mechanisms" might be, and the Commission wants to ensure that the federal government is not pulling back from an essential commitment to ensure that low-income communities have access to affordable housing. The Commission notes the particular impact such action might have on communities of color. See Tracy Jan, "Trump's housing finance plan will make mortgages more expensive, especially for black borrowers, housing groups say," *Washington Post*, Sept. 10, 2019, <https://www.washingtonpost.com/business/2019/09/10/trumps-housing-finance-plan-will-make-mortgages-more-expensive-especially-black-borrowers-say-housing-groups/>. The Commission will continue to monitor the federal government's actions with respect to this plan.

³ Federal Housing Finance Agency, "Preferred Language Question to be Added to the Redesigned Uniform Residential Loan Application," Oct. 20, 2017, <https://www.fhfa.gov/Media/PublicAffairs/Pages/Preferred-Language-Question-to-be-Added-to-the-Redesigned-Uniform-Residential-Loan-Application.aspx>.

⁴ United States Census Bureau, "Detailed Languages Spoken at Home and Ability to Speak English for the Population Five Years and Over: 2009-2013," Dec. 2015, <https://www.census.gov/data/tables/2013/demo/2009-2013-lang-tables.html>.

⁵ Golding, E., Strochak, S. & Goodman, L., "New evidence shows that limited English proficiency is barrier to homeownership," *Urban Wire*, Mar. 26, 2018, <https://www.urban.org/urban-wire/new-evidence-shows-limited-english-proficiency-barrier-homeownership>.

suggesting that English proficiency directly impacts home ownership.⁶ The researchers advise that better serving the LEP community could be a key to expanding home ownership.⁷

When originally deciding to add the language preference question to the URLA, your agency engaged in a considered, comprehensive process. In an effort to respond to industry concerns, your agency commissioned a research study that included consumer-testing the question with focus groups resulting in a 50 page report that was released in April of 2017.⁸ The decision to add the question was considered as a policy matter based on review of over 200 public comments received in response to your agency's May 2017 Request for Input.^{9 10} The proposed language preference question was also reviewed by the Consumer Financial Protection Bureau to ensure compliance with the Equal Credit Opportunity Act.¹¹ In announcing the addition of the language preference question in October of 2017, the former Director announced, "Adding a preferred language question to the URLA will enable mortgage industry participants to connect LEP borrowers to available language access resources. This will support access to credit for a growing segment of the nation's housing finance market." Yet, in contrast, the decision to remove the question from the revised URLA was announced without opportunity for public comment and with no explanation of the process that led to the decision. Absent information regarding the circumstances that led the agency to withdraw the question, including whether your agency has taken any steps to ensure that the reversal complies with the consumer protection obligations of your agency under its duty to serve under-served communities, and upon which statutory, regulatory, policy, or other reasons your agency relied upon in making the reversal, the Commission can only conclude that this decision was entirely unsubstantiated, and deserving of immediate reversal.

Restoring the language preference question on the URLA would have important benefits to LEP communities. For example, the URLA remains in a borrower's loan file over the life of the mortgage process. If homeowners find themselves facing foreclosure, their loan servicers can identify their language needs and refer them to existing community services that can assist with loan modification or other assistance, rather than falling victim to predatory scams or losing their homes entirely. An analysis of data from the Home Affordable Modification Program (one of the foreclosure-prevention initiatives launched during the foreclosure crisis) and a survey of housing counselors found that LEP borrowers "are especially vulnerable to having difficulty in navigating the complex loss mitigation process."¹² In addition to allowing lenders and servicers to refer borrowers to existing language resources, collecting the language preference data of borrowers will ideally lead the industry to expand language services once the data supports the need for it.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ Federal Housing Finance Agency, "Language Access for Limited English Proficiency Borrowers: Final Report," Apr. 2017, <https://www.fhfa.gov/PolicyProgramsResearch/Policy/Documents/Borrower-Language-Access-Final-Report-June-2017.pdf>.

⁹ Federal Housing Finance Agency, "Improving Language Access In Mortgage Lending and Servicing Request for Input," May 25, 2017, https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Language_Access_RFI.pdf.

¹⁰ *Ibid.*

¹¹ Vespa-Papleo, J. Frank, Consumer Financial Protection Bureau, "Identification of language preference on the Uniform Residential Loan Application," Nov. 20, 2017, <https://www.consumerfinance.gov/about-us/blog/identification-language-preference-uniform-residential-loan-application/>.

¹² California Reinvestment Coalition, "Race to the Bottom: An Analysis of HAMP Loan Modification," Jul. 2011, https://archive.org/stream/216478-california-reinvestment-coalition-hamp-report/216478-california-reinvestment-coalition-hamp-report_djvu.txt.

The U.S. Commission on Civil Rights has heard testimony from stakeholders in a multitude of contexts regarding the importance of language access to equality of opportunity in this country. Last year, we heard testimony from Leon Rodriguez, the former Director of the Office for Civil Rights at the U.S. Department of Health and Human Services, regarding the importance of language access in hospitals, where it can be a matter of life or death. In our examination of minority voting rights, we heard testimony regarding the link between language access and increased LEP voter participation. The Commission's experience with the importance of language access issues compels us to ask that your agency immediately reverse its decision to remove the language preference question from the URLA, which is an important step toward economic equality for LEP communities across the country.

Sincerely,



Catherine E. Lhamon, Chair



Patricia Timmons-Goodson, Vice-Chair



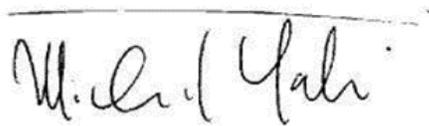
Debo Adegbile, Commissioner



David Kladney, Commissioner



Karen K. Narasaki, Commissioner



Michael Yaki, Commissioner