4th Annual National P&P Conference Summary

The theme, "Conveying Our Best" set the stage for this year's conference agenda and discussions. The Conference Agenda was focused on industry best practices in loss mitigation, property preservation activities both pre-foreclosure and REO, and industry efforts focused on collaboration with cities to reduce blight in neighborhoods across the country. As with past Conferences, the steering committee, key note speakers and panelists represented all facets of the industry and shared valuable ideas to foster home retention, maintain attractive vacant properties and form cooperative relationships with cities. Click here to read comments we received from some of the participants.

Recognizing FHA's need to reach more borrowers and opportunities for streamlining the property preservation guidelines for servicers, FHA Director, Office of Single Family Asset Management, Mr. Vance Morris provided the Keynote Address opening the Conference. His opening comments provided an overview of the housing industry's need for improvement and his role and strategies for FHA modernization. In an effort to be competitive in mortgage market, FHA has asked Congress for modifications to the insurance program. House Bill 1852 is in circulation and if passed, would allow FHA to:

- Increase mortgage lending limits
- Extend mortgage terms up to 40 years
- Assess premiums based on borrower risk
- Offer flexible down payment options

Mr. Morris continued with a summary of his recent activities which included meeting with the M&M contractors, REO Directors and Safeguard Properties and touring HUD owned assets to gain a better understanding of HUD's property preservation guidelines. Mr. Morris then shared FHA's goals for the next 18-24 months, which include, but are not limited to:

- Increasing the incentives for successful loss mitigation efforts resulting in home retention
- Increasing non-retention loss mitigation options for borrowers and servicers
- Clarifying and updating the definition of convey condition and how properties are to be conveyed, including title issues
- Communicating consistency and offer clarification to servicers and the property preservation industry
- Changing the way FHA accounts for and pays out P&P costs
- Changing the approach to monitoring and addressing default earlier in the process
- Evaluating why property condition declines so quickly following default

Industry Best Practices & Key Issues

The Industry Best Practices and Key Issues session, moderated by Ms. Deb Oakley, Senior Vice President – Homeownership preservation at National City Bank, focused discussions surrounding the default industry's response to the mounting foreclosures and abandoned properties. With increased media attention, the courts, local and state legislatures, and advocacy groups are working to create borrower-sensitive public policy, which have the potential of imposing higher costs to servicers and lenders. MBA Senior Director, Ms. Vicky Vidal shared the consequences of proposed legislation to allow tenants to occupy properties for up to 6 months following foreclosure sale. This legislation has the potential to create several disruptive events including:

- significant decrease of 3rd party sales at foreclosure
- decrease in sales prices
- increase in the conveyance timeframe and corresponding property preservation expenditures.

Additionally, the proposed legislation exposes the property to a higher risk of occupant abuse and offers little clarification as to how servicers are to apply collected rent payments.

While proposed legislation is the public's response to the increasing foreclosures, servicers and lenders are responding by leveraging industry resources, trade organizations, and loss mitigation efforts to reach out and educate borrowers. Lenders, including National City, have been attending weekend foreclosure workshops in localities most affected by the crisis. These workshops are not only an excellent opportunity to meet borrowers, answer questions, and provide guidance regarding their options, but serve as an excellent forum to meet local city officials and establish cooperative partnerships.

Ms. Oakley also suggested that servicers educate their production staff on the loss mitigation tools, because those staff often receive calls and questions from borrowers. Earlier intervention and counseling is the best approach and servicers should take advantage of any and all contact with a borrower.

The Hope Now Alliance is a voluntary, cooperative effort between lenders, housing counselors, industry trade groups, and investors to reach delinquent borrowers and educate them regarding loss mitigation options. Many servicers have extended their traditional "door hanger" inspections to leave a Hope Now flyer at the property during routine monthly property inspections completed by their field service providers. The Hope Now Alliance has launched a national advertising campaign to encourage borrowers to contact their servicer. This campaign has already resulted in over 14,700 calls into the hotline, 888-995-HOPE. While it is too early to measure the success of the program, the early results are indicating a much higher borrower call in rate when servicers deliver the flyer to delinquent borrowers.

Mr. Robert Padgett, Operations and Servicing Director Associate with Freddie Mac, echoed the importance of establishing contact with borrowers early in delinquency and added Freddie Mac's recognition of their need to streamline the loss mitigation process and documentation furnished by borrowers. The streamlining and reduced documentation has also resulted in greater internal efficiencies. Freddie Mac has also implemented several pilot programs that are aimed at achieving successful loss mitigation within a few days, instead of weeks (as with the old programs). Through the pilot programs Freddie Mac has been successful at establishing contact with 25% of the borrowers that servicers were unable to make contact with. A key to their success was creating dedicated resources to engage the borrowers in debt counseling. Borrowers will become disinterested if their phone calls are placed on hold for lengthy periods of time, resulting in apprehension to wait or call back.

Mr. Mike Frueh, VA Assistant Director for Loan Management, agreed that simplified documentation is appealing to borrowers. He also shared that consideration of trial loan modifications, for a period of a few months, may be a viable option following successful workout, prior to completing the cumbersome paperwork. The VA has an extensive network of staff to act as an intermediary to contact borrowers. VA also recognizes the need for improving technology to streamline the interaction between borrowers, servicers and the VA.

Mr. Terry Smith, Managing Director of the Ellington Management Group, also acknowledged the need for increased loss mitigation and default resolution. He added that his firm is looking for ways to reduce the loss mitigation documentation and is considering freezing interest rates for borrowers that have adjustable rate mortgages to avoid timely and costly foreclosures.

The increase in foreclosures has also taxed the field service provider's contractor network, resulting in minor increases in the number of days to secure and maintain the abandoned properties. This domino affect is also creating a larger work load for cities by which city code enforcement personnel are forced to react with stringent rules in effort to respond or lessen the negative effect of the local media attention. Servicers will respond immediately to posted city citations/violations and calls from city code enforcement, but code enforcement is tasked with the burden of making contact with the appropriate persons charged with taking action to resolve the citation/violation.

As a result of last year's National P&P Conference, the MBA has agreed to host a list of servicers and their corresponding contact information for use by code enforcement personnel on their website. The MBA Property Preservation Resource Center was designed to assist in identifying the loan servicer and the designated staff for a particular property. The web page, published in November 2007 provides:

- a link to a servicer locator Web page hosted by Mortgage Electronic Registration System (MERS)
- a link to a servicer page which provides contact information to help locate mortgage servicer's property preservation departments and staff.

Many cities require that code enforcement notify all parties of posted citations/violations regardless of loan or occupancy status. Servicers are hesitant to take action to resolve citations/violations if the property is pre-foreclosure sale, occupied, or if the loan is current. The servicers generally either a lawsuit from the borrower or triggering a mortgagee in possession claim. Ron Chernek, attorney with Reimer, Lorber & Arnovitz in Ohio, stated that although there is not a lot of case law, the mortgage agreements clearly allow servicers to protect their assets. He cautioned servicers not to deny mortgagors access if they do return to the property and not to collect rent under any circumstance. Mr. Chernak added that registering vacant properties to comply with city codes does not in itself trigger mortgagee in possession.

Code enforcement personnel agree that timely action to respond to citations and violations does occur when the servicer is contacted. However, it was felt that there is an increasing number of abandoned properties that the servicer does not respond because they have also abandoned the property. These properties are contributing to the blight in neighborhoods throughout the country and are costly to maintain by the city. Only nine (9) cities across the country have the capacity to deal with properties donated to their land banks. Like the exhausted contractor base for the field servicers, Community Development groups and land banks do not have the staff or monetary resources necessary to demolish, maintain, or renovate these properties. Joe Schilling with the National Vacant Property Campaign would like to establish working groups with the inclusion of the mortgage servicers to help more communities develop land banks and alternative options for these properties.

FHA Laurie Maggiano advised that HUD has an influx of inventory as well. HUD has several programs geared to reduce the volume of properties in inventory, including:

- ACA program, which sells properties for a fraction of the value to be rehabilitated
- 203K program which provides rehabilitation funds
- Good Neighbor next door program
- Non-profit discounts
- Discounts to disaster victims
- $1 home sales

HUD's challenge at reducing inventory is that often the cost of rehabilitation far exceeds the property value and inventories are in concentrated areas, specifically Ohio and Michigan.

All of the panelists shared the common theme that increased loss mitigation and cooperative efforts to streamline communication with all facets of the industry is critical to responding to the increasing foreclosures.

National Vacant Blight & Code Enforcement

Mr. Joseph Schilling from the National Vacant Property Campaign began the session with an overview of the City's perspective and response to blighted neighborhoods, explaining that only 15% of the vacant and abandoned properties are serviced by the field service providers. The balance of the abandoned properties do not have servicers on record or persons that can be held responsible for maintaining the properties. Mr. Doug Leeper, Code Enforcement Officer from the city of Chula Vista, California, further explained that cities and code enforcement implement stringent rules as a reaction to the overwhelming number of vacant and abandoned properties. This also impacts the servicers that are maintaining their properties proactively. These ordinances are necessary though to provide the cities with the funds necessary to address the issue. HUD Housing Specialist Leslie Bromer added that imposed fees to comply with these ordinances are reimbursable as part of the acquisition fees.

Mr. Schilling expects more ordinances to be issued in response to the cities' needs for capital to maintain their abandoned properties. While this reaction provides a short term buffer, he suggests that the stakeholders in the industry continue to communicate with each other to work towards a more proactive solution to the growing need for abandoned property management.

Code Enforcement within the local government is a difficult job and encompasses far more than abandoned properties, including abandoned automobiles and hundreds of codes to enforce. The number of irate phone calls regarding nuisance properties continues to rise making the job more difficult to respond to the property timely. The main goal of Code Enforcement is to ensure neighborhoods do not become blighted, which is accomplished by timely resolution of nuisance complaints.

Over the course of the past few years, Code Enforcement has seen an improvement in the communication with servicers and quicker response time to posted citations/violations. There is still difficulty in determining the servicer on record due to deeds not recorded timely and the role of servicers and investors. In an effort to create transparency the MBA has agreed to host the MBA Property Preservation Resource Center, which provides contact information of the mortgage servicer's property preservation departments and staff. The next challenge is to reduce the occurrence of improperly recorded titles and ensure timely recorded titles.

Ms. Sherilee Massier, Wells Fargo Manager, described the benefits gained by improved communication with Code Enforcement. Wells Fargo has had success in obtaining the cities assistance in removing vagrants (without the need for an eviction) from properties and obtaining documentation to support hazard insurance claims. Code Enforcement officials have even contacted Wells Fargo to notify of issues at a property before the monthly inspection was due to be completed. All of these scenarios have resulted in quicker resolution and mitigation of damages.

Ms. Jill Rein, an Attorney with Pierce & Associates, advised that the mortgage deed and agreements give servicer's the rights to take action on posted citations/violations and notices, even if the loan is current and prior to foreclosure sale. She added clarification that litigation is often based on, "when the servicer went into the property they took…", and not based on the issue of securing or protecting the mortgagee's interests. Ms. Rein added that Code Enforcement documentation is used during the litigation process and has been extremely helpful in settling cases in favor of the mortgagee.

Servicers are also encouraged to ask Code Enforcement for a declaration of needed actions prior to proceeding with maintenance at a pre-sale property. Servicers should proceed to obtain a court order to enter the property if it is not abandoned, and notify Code Enforcement of their intended actions.

HUD Vision & Guideline Compliance

Ms. Leslie Bromer, HUD Housing Specialist, provided an overview of HUD's recommendations for improving communication between the lenders/servicers and the M&M Contractors. Of critical importance is the servicer's need to ensure all information sent to the M&M Contractor is thorough and complete. All details should be included on the forms, and when the form does not allow for all details to be included, the servicer should direct the M&M to the attached supporting documentation. It is the servicer's responsibility to explain the history of the file with every P&P request.

Servicers are also required to submit 1st and 2nd bid requests together, not separately. Servicers are encouraged to explain the delay if both bids cannot be furnished at the same time.

Servicers are required to include specific details on the O/A request when requesting permission to tarp or patch a roof, including:

- Whether the roof has an active leak or hole;
- If the roof is not leaking but the bid is submitted as a preventative measure; and
- Whether the property will be conveying with a tarp.

At a minimum, these details must be included in the supporting documentation with the O/A form.

In response to the requests from the M&M for accurate and comprehensive details, the servicers requested that the M&M contractors total the bid approvals correctly and provide legible responses. Illegible forms and incorrect totals are creating the need for timely follow up from the servicers and delays in completing the work.

Ms. Bromer reiterated that work completed prior to bid approval from the M&M is claimable and reimbursable. The M&M Contractor cannot deny the O/A request simply based on the fact that the work has already been completed.

Servicers on the panel and in the audience commented that their need for improved communication extends into eliminating guideline interpretation inconsistencies between the M&M Contractors. As an example, identical bids are submitted to two different M&Ms and one is approved where the other is denied. HUD is evaluating the need for joint training sessions with the servicers and M&M Contractors to reduce the number of inconsistencies.

Some M&M contractors are also denying all 2nd bid requests and asking for 3rd bids stating that the 1st and 2nd are not the same scope (because they vary too much in price). As a requirement of the regulations, servicers are not permitted to advise the second bidder on what items or quantities to bid on. Mr. Boris Whiteside from National Home

Management Solution (M&M contract in FL, NY, and NJ) explained that 3rd bids are being requested because both the 1st and 2nd are too high. In lieu of requesting 3rd bids, servicers would like the M&M to approve the lower and assume the risk if the property is not placed in convey condition, or approve a lower, reasonable price in which the work can be completed. Both of these solutions would not add unnecessary delays to conveyance.

Some of the M&M contractors are requesting repair bids when the property value does not warrant property repairs. Ms. Laurie Maggiano, Deputy Director, HUD Office of Single Family Assets, agreed that common sense should be a part of the decision and servicers should not expend monies when the property value will not increase following the repairs.

While the pre-conveyance inspections are voluntary, not all of the M&M Contractors will coordinate and complete these inspections. Many servicers proceed to pursue these when extensive damages have been reported and when repairs have been completed. Additionally, the contractor representing the M&M needs to be given authority to sign off on conveyance condition, and it would be equally helpful if they could approve work to be completed in order to place in convey condition.

HUD has a number of mortgagee letters in process and plans to address some of the concerns raised during the session with additional clarification in upcoming releases or through joint training sessions.

Investor/Insurer Updates

Mr. Carl Wasson, Supervisory Loan Specialist with the VA, provided an overview of the phased implementation of the upcoming VALERI system. The system will offer servicers the following enhancements for servicing and claim submission:

- Single portal to enter claims and upload information
- Changes to allow servicers to review liquidation appraisals
- Removing the 3-year warranty that was proposed on conveyed properties
- Reducing the amount and frequency of events reported electronically to VA
- Simplified notifications and identifying interest rates on modifications
- Attorney fee increases for terminations and bankruptcies
- Automatic adjustment for claims when losses are incurred

VA will also be changing its “no bid” policy at foreclosure sale with the roll out of VALERI, to allow servicers to write-off amounts after foreclosure, instead of waiving debt prior to sale.

The VA is also looking to streamline P&P related policies by implementing one national jurisdiction for the assignment of cases. VA will distribute the case load equally amongst the Regional Loan Centers instead of case assignment by state, which will result in new cases being evenly distributed nationally. Additionally, one set of P&P guidelines would be issued nationally, with perhaps varying costs based on region. This would also result in a single web-site for the P&P guidelines and costs as opposed to the ten today.

With the issuance of one set of national P&P policies, VA is considering raising the maximum allowable for monthly inspections, in order for servicers to complete interior inspections where access is possible.

Mr. Wasson explained that servicers can appeal denied claims. Servicers should escalate their documentation justifying the costs to the Loan Administration Officer in the RLC.

Fannie Mae implemented a streamlined approach to approving bid requests by centralizing all bid requests to one email address. Fannie Mae has made a commitment to respond to bid requests within 2 business days if presented with all necessary details and photos up front. Mr. Rob Caire, VP of Credit Loss Management Operations, encouraged servicers to pick up the phone and call for the status of bid requests instead of submitting the form a second time.

Servicers also have an escalation procedure if bids are denied and they feel the request was valid. Servicers can place a call to the specialist that denied the bid, and then escalate to Mr. Clint Chappell, Valuation & Repairs Manager, before final escalation to Mr. Caire. Additionally, Fannie Mae is considering a revision of the bid request form to be more user friendly.

Fannie Mae is reviewing its current P&P guidelines and hopes to receive feedback from the servicers and field service firms prior to implementation. The guidelines are being revised in an effort to provide clear and reasonable directions. With the new guidelines, servicers should expect to complete basic securing and maintenance and minimal repairs due to the pre-foreclosure sale status. Allowables for reimbursement will be updated and unnecessary bids will continue to be denied.

While the maintenance allowables will be updated, Fannie Mae does not expect to raise the allowable for inspections. Despite this, interior inspections may become a requirement due to the added value of early detection of interior damages.

Similar to Fannie Mae, Freddie Mac has created a centralized place for bid requests and they strive to respond within 24 hours. If necessary, servicers can escalate bid request issues or delays to Mr. Michael Foreman, Default Supervisor-Special Assets, Loss Mitigation, Default Asset Management, and then Ms. Robin Toothman, FC/REO Manager. Mr. Foreman also advised that repair bids should be submitted and not general eyeball estimates of damages. Robert Klein, CEO of Safeguard Properties, advised that P&P contractors are not always qualified to provide an itemized estimate of repairs for large damages and that these bids should come from licensed contractors. Servicers do not typically submit repair bids for damages unless the investor asks for a bid, but will include an eyeball estimate of damages with inspection reports.

Mr. Foreman stated that Freddie Mac does not have any plans to issue new P&P allowables or guidance in the near future. However, Freddie Mac did issue its December 5th bulletin advising servicers to resume standard servicing procedures for all borrowers affected by Hurricanes Katrina and Rita.

In response to the increasing foreclosures, Freddie Mac initiated a pilot program delaying foreclosure for up to 30 days and requiring the foreclosure attorney to communicate loss mitigation options to the borrower. The program has been very successful in Ohio, Indiana, Michigan, Georgia and Texas since its roll out in May 2006. Freddie Mac plans to implement the program nationwide in January 2008.

Freddie Mac plans to roll out another pilot program early in 2008 for streamlining the foreclosure bidding process. The pilot was very successful in Colorado, Minnesota, Ohio, Michigan, Indiana, Texas, and Georgia.

REO Session

In recognition of the increasing foreclosures contributing to the decline in sales prices of REO properties, Ms. Caroline Reaves, MCS COO and President encouraged servicers to complete more preservation work in order to be competitive in the market. Ms. Reaves suggested that servicers consider investing as little as $1,000 in the property to clean the carpets, pull weeds, and wipe the counters and cabinets clean. Mr. Robert Klein added that the key to reducing the number of days on the market is to market to homeowners. The panel agreed that working appliances, clean, well-maintained lawns and dust free, clean interiors (Maid Services) will appeal to homeowners and result in an increase in the return on investment.

Mr. Klein added that one rule does not fit all properties and all servicers. Bid requests, repairs and other preservation cost expenditures should be evaluated on a case by case basis depending on the real estate market and comparable properties listed for sale in the area. Mr. Mark Velazquez from First American concurred and suggested servicers "go the extra mile and be creative" in their marketing strategies.

Creative marketing strategies and completing minor repairs to remain competitive in the market is becoming more of a requirement due to the reduction of investors buying properties. Investors may be less interested due to a lack of financing or the profits earned from property flipping instead of renting. Mr. Mike Frueh, Assistant Director for Loan Management with the VA, stated that property flipping would be the result of failing to do the right thing during REO, because the servicer or insurer should have recouped those profits themselves by completing the necessary repairs.

Mr. Frueh also suggests that servicers and investors begin to move in the direction of maintaining property value of the entire neighborhood. Included in preserving neighborhood value is the responsibility of properly pricing the property, looking at non-REO as comparable properties as well. Mr. Doug Leeper, from the City of Chula Vista, stated that well-maintained rental properties add to neighborhood value, thus the need to appeal to investors and homeowners during the marketing stage.

Ms. Marlene Robinson, Principal GTR from HUD, advised that HUD is currently reviewing industry best practices regarding pricing, marketing, and whether to sell their inventory "as is". HUD recognizes the potential of reducing the number of days on the market and increasing sales prices by appealing to home owners instead of investors. Programs, such as 203K streamlining are not appearing to be as effective as initially thought. Ms. Reaves suggested that HUD also consider posting flyers inside the property as a realtor would, which may also help attract buyers.

In response to the growing HUD REOs, Ms. Leslie Bromer added that HUD is considering changing the foreclosure sale bidding process and enhancing the claims without conveyance process. This would attract more third party sales at foreclosure, which would be mutually beneficial for HUD and the servicer. A pilot program is in place and appears to be successful. Wells Fargo is participating in the pilot and Ms. Sherilee Massier likes the process and results of less properties going to REO or requiring conveyance.

Properly preparing for REO prior to foreclosure sale through maintenance and bidding strategies will impact property condition and 3rd party sales. In addition to routine and preventative maintenance, servicers should utilize programs such as cash for keys and deed in lieu programs, both of which are highly under utilized by the industry. Some servicers have seen a higher success rate for cash for keys offers when letters are sent to the occupant from an attorney, while other servicers use their field service providers. Either way, the reimbursable allowables are slightly lower than the offers from the bank-owned portfolios. Servicers see the most success with cash for keys offerings of $1,500-$2,000, depending on region. HUD has an allowable of $1,000, where other investors evaluate the offer on a case by case basis. Ms. Marlene Robinson with HUD agreed that market conditions and costs of moving should be factored into the amount of the offer.

The state of the market with higher concentration of REO volume may warrant servicers and investors to reevaluate the compensation to the realtors and provide performance-based incentives to them. Mr. Mark Velazquez, First American, added that developing good relationships between the brokers and the field service providers will ultimately result in effective checks and balances for the servicer and better services from both. HUD has a similar QC program in place with between the SPY inspectors and the M&M Contractors.

Community Initiatives & Neighborhood Revitalization

Ms. Mary Burkholder, Senior Vice President for Housing and Economic Development Local Initiative (LISC) led the session with an overview of the organization's mission to help nonprofit organizations rebuild distressed neighborhoods into healthy and sustainable communities of choice and opportunity -- good places to work, do business and raise children. LISC is a national organization with program staff in every major metropolitan city.

With the ever increasing amount of properties being abandoned, municipalities are struggling to minimize the effects on their neighborhoods. With mortgage foreclosure being a contributing factor, experts in the field of Community Revitalization have realized the need to open lines of communication with the loan servicing industry. The servicing industry has seen an increase in legislation and punitive actions by municipalities and court systems. Opening dialogue is paramount to define shared goals and possible collaboration to improve neighborhoods throughout the country.

Ms. Burkholder, as with the other panelists from the cities of Cleveland, Memphis, and Baltimore as well as the Enterprise Foundation, shared how their organizations work with municipalities to rehabilitate neighborhoods and the need to reach out to more supporters, including the lending community. These organizations need assistance and monetary resources from the lending community to address the severely distressed properties that are often abandoned by the lender. Due to the increasing volumes of abandoned properties, communities do not have the funds to cover the cost of demolitions when necessary for the safety of the neighborhood.

All of the panelists reiterated the need to reach out to and educate servicers and borrowers on the impact of increasing foreclosures on neighborhoods. As servicers seek innovative loss mitigation techniques, community groups and municipalities seek better foreclosure prevention initiatives. As REO servicers seek creative REO disposition strategies, community groups and municipalities are looking into cooperation with, and ways to provide incentives to servicers regarding gifting of REO properties. Clearly there is common ground that can be a starting point for progress.

This final session stands as a springboard to the opening of the lines of communication, the discovery of common ground, and a cooperative effort to attacking urban blight.