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FHFA's Ed DeMarco: Kissing the Ass of the Banking Class

Posted: 08/08/2013 9:46 pm

President Obama has already fired Ed DeMarco, acting director of the Federal Housing Finance Agency (FHFA), but before he leaves DeMarco is handing an early Christmas present to his friends in the banking industry.

DeMarco is a renegade regulator who has failed to do his job to protect homeowners. Instead, he sees his job as protecting banks and investors.

DeMarco -- a Bush appointee who runs the agency that oversees Fannie Mae and Freddie Mac -- has opposed government efforts to help homeowners hurt by the Wall Street mortgage meltdown and the dramatic plunge in housing values.

So nobody should be surprised that on Wednesday the FHFA issued a statement warning that it would consider "legal challenges to any local or state action that sanctions the use of eminent domain to restructure loan contracts that affect FHFA's regulated entities."

Last week Richmond, California initiated a plan to use eminent domain to purchase mortgages of residents who owe more than their homes are worth and refinance homeowners into new loans with lower principal and interest.

The city sent letters to the holders of over 600 underwater mortgages, asking them to sell the loans to the city at the current fair market value.

Wall Street is up in arms and fighting back. Lobbyists from the Securities Industry and Financial Markets Association (SIFMA) and other Wall Street influence-peddlers have tried to intimidate local officials in Richmond and elsewhere, threatening to sue them and to withhold credit if they go ahead with their plans.

Wells Fargo and Deutsche Bank have already initiated lawsuits on behalf of major investors who purchased mortgages as part of a pool, called a "private label security."

And now DeMarco has joined forces with Wall Street, which didn't take much heavy lifting for a man who has consistently sided with banks over homeowners.

Community groups have long criticized DeMarco for his obsessive opposition to encouraging banks to rewrite mortgages for "underwater" homeowners -- a strategy called "principal reduction."

Activists have protested in front of DeMarco's home and disrupted his testimony before Congress to draw attention to his misguided policies.

Earlier this year, 45 members of the House of Representatives and eight state Attorneys General wrote to Obama urging him to replace DeMarco with someone who will support aggressive steps to help struggling homeowners avoid foreclosure. Nobel Prize-winning economist and *New York Times* columnist Paul Krugman called on Obama to fire DeMarco in his blog on July 31, 2012.

Many other economists, including Joseph Stiglitz and Mark Zandi, believe that principal reduction is the best solution. If underwater mortgages were reset to fair-market values of homes, it would help homeowners and communities alike, and pump about $102 billion into the economy annually, according to a Home Defenders League report.

In Richmond, a blue-collar Bay Area city of 103,000 people where home prices have plummeted by 58 percent since the 2007 peak, thousands of homeowners have lost their homes to foreclosure, and about 12,000 families -- half of all homeowners with mortgages in the city -- are underwater, their homes worth much less than their mortgages. Richmond homeowners lost over $264 million in wealth last year alone. The city government, which has lost millions of dollars in property tax revenues, has cut funds for road repairs and significantly reduced the number of municipal employees, including librarians. Meanwhile, it has had to spend scarce funds to deal with abandoned buildings, crime and drugs, and other problems caused by the foreclosure epidemic.

If banks reset Richmond's underwater mortgages to fair market value, homeowners would save an average of over $1,000 per month on their payments. If those savings were spent on local goods and services, it would generate about $170 million in economic stimulus and create at least 2,500 jobs.

The Richmond plan would work like this: A home purchased ten years ago for $300,000 might only be worth $150,000 now. Richmond would offer to buy the loan from the lenders for its current market value, as determined by an independent appraiser. If they refuse, the city would go to court and get permission to use eminent domain to purchase the loan, paying the current loan investors the market value. With the help of investors, the city would offer to help the homeowner refinance into a new 30-year mortgage backed by a government agency. The homeowner would wind up paying a much lower monthly mortgage payment. The city, the investors, and a private company running the program would get a portion of the proceeds.

Many legal experts, including Cornell University Law School professor Robert Hockett, agree that using eminent domain for this purpose is perfectly legal. Cities routinely use eminent domain to purchase property from private owners for sidewalks, infrastructure, school construction and other projects. Mortgages, legal scholars say, are simply another type of property, and using eminent domain to eliminate blight and restore a city's fiscal health has longstanding precedents.

Reacting to the suits by the banks and Freddie Mac's threat, Robert Hockett told the *Wall Street Journal:* "This is a bluff. It's meant to scare city officials into saying, 'Oh, who are we to argue with the big guns.' "

Cities have resorted to this strategy because neither the banking industry nor the federal government have been much help to homeowners who, through no fault of their own, lost much of their wealth when Wall Street crashed the economy and housing values came tumbling down. Homeowners who have asked banks to modify their mortgages typically get a cold shoulder or a bureaucratic runaround. So far, the Obama administration and Congress have been unwilling to require intransigent banks to reset loans.

"We're not going to be intimidated by these Wall Street folks," said Richmond Mayor Gayle McLaughlin, a former teacher who has been Richmond's mayor since 2006 and was heavily lobbied by SIFMA representatives trying to convince her to drop her support for eminent domain . "It is pretty outrageous to hear them opposing this. They're the ones who caused this crisis in the first place. And they don't have a solution. The city has every right to do this."

"It's the responsibility of banks to fix this, and they haven't, so we're taking it into our hands," said McLaughlin

Mayor Andre Quintero of El Monte, California near Los Angeles -- a working class suburb which is expected to soon move forward with its own eminent plan -- echoed similar sentiments. "It is a little frustrating," Quintero told the *Los Angeles Times*. "Wall Street got a lot of the bailouts and benefits, and you are seeing the market has really shot back to life in really a huge way, but Main Street is still suffering."

A number of other cities in California and elsewhere -- including Seattle, Newark, and North Las Vegas -- are considering the eminent domain strategy.

According to Brad Miller, a former Congressmember from North Carolina who is now a senior fellow at the Center for American Progress, explained:

"It is hard to see how FHFA is harmed by Richmond's or any city's use of eminent domain to buy mortgages at market value that aren't Fannie's or Freddie's. FHFA has had monopoly power in the mortgage market for more than five years, but has done little to address the foreclosure crisis or reform mortgage servicing. FHFA should not now stand in the way of local leaders who want to do more to help homeowners."

Last year Peter Goodman, a former business writer for the *New York Times* who now reports for *Huffington Post,* explained DeMarco's views this way:

"If DeMarco were fire chief and your house became engulfed in flames, you could forget about calling 911. By his reasoning, the taxpayer would be best served by keeping the fire engines in the station, lest they get damaged in the line of duty. It would not matter whether the flames licking your windows were the result of your recklessness or the product of an explosion at, say, the methamphetamine lab down the street. He would not run up the municipal water bill by saving your block."

DeMarco has consistently overstepped FHFA's authority to act aggressively against cities that try to limit the damage caused by banks' predatory lending binges. In April 2012 it threatened to redline Chicago for passing an ordinance fining banks that did not maintain foreclosed properties that they owned. In 2006 it did the same to Atlanta when Georgia passed an anti-predatory-lending law.

DeMarco's bogus argument is that these local ordinances will somehow hurt Fannie Mae and Freddie Mac's portfolios because one of the rating agencies will downgrade mortgage-backed securities.

It is just this kind of thinking that caused the Wall Street crash in the first place. Federal regulators looked the other way while banks and private mortgage companies indulged in risky loans and speculative investments and ratings agencies like Moody's and Standard & Poor's went along for the ride.

The Home Defenders League, a coalition of community groups that have been pushing for principal reduction and other steps to protect homeowners, issued a statement Thursday calling upon Obama and the FHFA to "immediately repudiate the lawsuit filed by Wells Fargo and Deutsche Bank against the City of Richmond, and cease interfering with municipalities exercising their rights to attempt to ameliorate the housing crisis with local solutions. The FHFA should support all efforts to provide meaningful relief to homeowners instead of encouraging big Wall Street banks to sue taxpayers. If the FHFA had not been asleep at the wheel for the past five years, then cities like Richmond would not need be to taking these steps today."

DeMarco's current ploy is clearly a political maneuver. The legal threat is just a smokescreen to protect the bank accounts of billionaires. Like is allies in Wall Street banks, securities firms, and the real estate industry, DeMarco wants to scare other cities from following Richmond's example.

DeMarco has frequently clashed with the Obama administration, but he has remained in his job because White House officials thought they'd have a hard time getting any replacement approved. In May, Obama finally announced that he had nominated Rep. Mel Watt (D-N.C.) to replace DeMarco.

But Watt still has to be confirmed, and until then, DeMarco is keeping his job. Until he walks out the door, DeMarco plans on doing as much as he can to kiss the ass of his Wall Street pals, who might have a nice job for the guy once he's no longer a government employee.

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