

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS

In the Matter of:

Diana Mendez,

Petitioner.

21-VH-0065-AO-004

7-21017244A

January 26, 2022

ORDER OF DISMISSAL

In 24 C.F.R. §§17.69 (b) and 26.4 (c) it provides, in general, that failure by the Petitioner to submit evidence within 60 calendar days from the date of the Department's Notice of Intent will result in a dismissal of Petitioner's request for review by the HUD Office of Hearings and Appeals.


On February 5, 2021, Petitioner filed a *Request for Hearing* to review HUD's determination that Petitioner owed the subject debt. While Petitioner submitted a *Statement* along with evidence that included copies of communications from Carrington Mortgage and Bank of America; a full reconveyance from Carrington Mortgage; and a Preliminary Report for the primary mortgage from Old Republic Title Company, such evidence was insufficient as proof that Petitioner was actually issued a written release directly from HUD that reflected payment in full of the subject debt. There is no evidence in the record that supports Petitioner's claim that the subject debt is not in default or was paid off.

To date, Petitioner has failed to comply with subsequent *Orders* issued by the Court on February 9, 2021 and July 2, 2021 to produce such additional evidence that may have proven more sufficiently that HUD issued Petitioner an actual written release from the subject debt. The *Order to Show Cause* issued by the Court to Petitioner on September 29, 2021 specifically stated "**Failure to comply with this Order shall result in sanctions being imposed by the Court pursuant to 24 C.F.R. § 26.4 (c) and (d), including judgment being entered on behalf of the opposing party or dismissal of this action.** (Emphasis added). Petitioner again failed to comply as ordered. The lapse of time since February 2021 has provided Petitioner with a number of opportunities to comply with the Court's *Orders* for more sufficient evidence but without response. As a result, the Court is unable to determine the credibility of Petitioner's argument in the absence of such evidence.

Consistent with the provisions of 24 C.F.R. §§ 17.69 (b) and 26.4 (c) and (d), Petitioner's appeal is **DISMISSED WITH PREJUDICE** *sua sponte* due to Petitioner's non-compliance with the Court's *Orders*.

The stay of proceeding issued on February 9, 2021 is hereby **VACATED**.

SO ORDERED.



Vanessa L. Hall
Administrative Judge