

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

In the Matter of:

AMANDA BEARCROFT,

Petitioner.

24-VH-0199-AO-034
(Claim No. 7-210238910A)

July 21, 2025

DECISION AND ORDER

This matter is before the Tribunal upon a *Hearing Request* filed by Amanda Bearcroft (“Petitioner”) on March 27, 2024. In the *Hearing Request*, Petitioner claimed she should not be responsible for a debt allegedly owed to the United States Department of Housing and Urban Development (“HUD” or “the Secretary”) that HUD was seeking to collect via administrative offset under 31 U.S.C. § 3716.

APPLICABLE LEGAL PRINCIPLES

Administrative Offset. The Debt Collection Improvement Act of 1996 authorizes federal agencies to use administrative offset as a mechanism for the collection of debts owed to the United States government. See 31 U.S.C. §§ 3716, 3720A. An administrative offset is the mechanism for withholding funds payable by the United States to a person to satisfy a claim. 31 U.S.C. § 3701(a)(1).

Hearings. The Office of Hearings and Appeals has jurisdiction to determine whether Petitioners’ alleged debt is past due and legally enforceable. See 24 C.F.R. §§ 17.61 *et seq.* The debtor has the right to review HUD’s records related to the debt and to present their own evidence. Id. This Tribunal will then review the written record of the proceeding to determine whether, by a preponderance of the evidence, all or part of that debt is past due and legally enforceable. Id. at § 17.69(c). Thereafter, the Tribunal must issue a written decision that constitutes the final agency decision with respect to the past due status and enforceability of the debt. Id. § 17.73(a).

FINDINGS OF FACT

In 2019, Petitioner and her then-husband James Bearcroft faced foreclosure on their home in [REDACTED], because their HUD-insured primary mortgage was in default. To prevent the foreclosure, HUD advanced funds to Petitioner’s lender to bring the primary mortgage current. In exchange for foreclosure relief, on May 17, 2019, Petitioner and Mr.

Bearcroft executed and delivered to the Secretary a Promissory Note (“HUD Note”) in the amount of \$36,402.00.

The terms of the HUD Note required payment by June 1, 2049, or earlier when the first of the following events occurs:

- i. Borrower has paid in full all amounts due under the primary Note and related mortgage, deed of trust, or similar Security Instruments insured by the Secretary; or
- ii. The maturity date of the primary Note has been accelerated; or
- iii. The primary Note and related mortgage, deed of trust, or similar Security Instrument are no longer insured by the Secretary.

The HUD Note required that payment be made to the Secretary, as the lender, at “Office of Housing FHA-Comptroller, Director of Mortgage Insurance Accounting and Servicing, 451 Seventh Street, SW, Washington, DC 20410 or any such other place as Lender may designate in writing by notice to Borrower.” The HUD Note also explicitly states, “If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed.” The HUD Note goes on to state, “Lender may enforce its rights under this Note against each person individually or against all signatories together. Any one person signing this Note may be required to pay all of the amounts owed under this Note.”

In February 2023, Petitioner and Mr. Bearcroft separated. They agreed that Mr. Bearcroft would refinance the debt on their home and pay Petitioner \$50,000 or half the equity in the home in exchange for Petitioner relinquishing her interest. On February 17, 2023, Petitioner and Mr. Bearcroft executed a Warranty Deed granting Mr. Bearcroft full interest in the property.

Mr. Bearcroft refinanced the home in March 2023. Through that process, Petitioner’s primary mortgage was paid in full on March 7, 2023, and the FHA mortgage insurance was terminated by the lender. Pursuant to the terms of the HUD Note, Petitioner’s debt to the Secretary became immediately due and payable.

Although the primary mortgage was paid, the refinance did not result in the HUD Note being satisfied as expected. As a result, Petitioner’s debt to HUD became delinquent. On February 19, 2024, HUD issued a Notice of Intent to Collect by Treasury Offset (“Notice”) to Petitioner at an address in Amsterdam, NY. HUD has attempted to collect on the claim from Petitioner, but has been unsuccessful.

Therefore, the Secretary alleges Petitioner is indebted to HUD in the following amounts:

- i. \$36,402.00 as the unpaid principal balance as of August 31, 2024;
- ii. \$970.64 as the unpaid interest on the principal balance at 4.0% per annum through August 31, 2024;
- iii. \$183.80 as the unpaid penalties and administrative costs as of August 31, 2024; and

- iv. interest on said principal balance from September 1, 2024, at 4.0% per annum until paid.

DISCUSSION

Petitioner stated in her *Hearing Request* dated March 22, 2024, “I believe only James Bearcroft should be responsible for this debt. He is the sole owner of the home, and resides in it.” Petitioner also produced evidence that she transferred her ownership interest in the property to Mr. Bearcroft and that she filed a complaint with the NYS Division of Financial Services, because she believes Mr. Bearcroft’s refinance was not handled correctly as their debt to HUD was not satisfied.

In response, HUD states in the *Secretary’s Statement* that the debt is past-due and Petitioner has failed to demonstrate that HUD has released Petitioner from her obligation to repay it.¹ In support of its position, HUD produced a copy of the HUD Note bearing Petitioner and Mr. Bearcroft’s signatures, and the sworn Declaration of Brian Dillon (“Declaration”), who is the Director for the Asset Recovery Division of HUD’s Financial Operations Center.

The evidence submitted by the parties demonstrates the existence of a loan in the amount of \$36,402.00 between HUD, as the lender, and Petitioner and Mr. Bearcroft, as the borrowers. The HUD Note sets forth when the debt would become due and to where the debtors are required to make payment. In addition, the HUD Note explains that Petitioner and Mr. Bearcroft can be held jointly and severally liable for the obligation created by HUD Note.

The evidence also establishes that the FHA-insured primary mortgage was paid in full in March 2023 resulting in the HUD Note becoming immediately due and payable. And, although Petitioner claims Mr. Bearcroft’s refinance should have included funds to satisfy the debt owed to HUD, Petitioner provides no evidence that payment to HUD occurred. The Declaration also confirms that HUD has not received payment as required. Accordingly, the Tribunal finds Petitioner’s debt to be past due and enforceable. See e.g. *In re Gonzalez Figueroa*, HUDOHA No. 24-AF-0015-AO-003 (Dec. 6, 2024) (Proof that a debtor is no longer liable for a debt includes a release in writing explicitly relieving the debtor’s obligation or valuable consideration accepted by the lender indicating an intent to release.).

With regard to Petitioner’s statement that Mr. Bearcroft should be responsible for the debt, the Tribunal points to the terms of the HUD Note to which both Petitioner and Mr. Bearcroft agreed. Pursuant to those terms, HUD, as the lender, is permitted to seek repayment of the full debt from either Petitioner or Mr. Bearcroft (or both). Petitioner has not presented evidence to persuade this Tribunal that an agreement between Petitioner and Mr. Bearcroft should supersede HUD’s authority to collect on the HUD Note.²

¹ On May 2, 2025, the Secretary moved to substitute counsel in this matter. That request is **GRANTED**.


² The issue of whether Petitioner has a common law cause of action against Mr. Bearcroft for failing to satisfy this debt pursuant to their agreement is not material to this decision nor is it within this Tribunal’s jurisdiction to adjudicate.

ORDER

For the reasons set forth above, the Tribunal finds the debt that is the subject of this proceeding is legally enforceable against Petitioner in the full amount claimed by the Secretary. Accordingly, it is **ORDERED** that the Secretary is authorized to seek collection of this outstanding obligation by means of administrative offset in the amount claimed.

It is **FURTHER ORDERED** that the Order imposing the *Stay of Referral* of this matter to the U.S. Department of the Treasury for administrative offset, issued on April 8, 2024, is **VACATED**.

SO ORDERED,

A handwritten signature in black ink, appearing to read 'Sandra W. Gluvna', is written over a horizontal line.

Sandra W. Gluvna
Administrative Judge

Finality of Decision. Pursuant to 24 C.F.R. § 17.73(a), this constitutes the final agency action for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C. § 701 *et seq.*).