

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

In the Matter of:

GENHOME MORTGAGE CORPORATION,  
  
Respondent.

25-AF-0222-MR-001

June 30, 2025

**ORDER DENYING MOTION TO DISMISS AND RESCHEDULING HEARING**

This matter, which is currently stayed, arises from Respondent's request for review of a decision by the U.S. Department of Housing and Urban Development ("HUD") to withdraw Respondent's FHA (Federal Housing Administration) approval. Currently before the Court are HUD's request to reschedule the hearing and Respondent's motion for dismissal.

I. Background

On January 13, 2025, HUD's Mortgagee Review Board ("the Board"), which is empowered to withdraw a mortgagee's FHA approval due to serious or repeated violations of FHA requirements, see 12 U.S.C. § 1708(c); 24 C.F.R. §§ 25.4, 25.5, voted to withdraw Respondent's FHA approval.

On January 17, 2025, the Board issued a Notice of Immediate, Permanent Withdrawal of FHA Approval ("Notice of Administrative Action"), which serves as the *Complaint* in this matter, stating that it had withdrawn Respondent's approval effective immediately upon Respondent's receipt of that notice.<sup>1</sup>

When the Board withdraws a mortgagee's FHA approval, it must provide an opportunity for a hearing on the record, which is held before an Administrative Law Judge of this Court. See 12 U.S.C. § 1708(c)(4)(B); 24 C.F.R. §§ 25.9, 25.10. In this case, Respondent submitted a hearing request on February 14, 2025. The Court promptly scheduled an expedited hearing to take place in March 2025 in accordance with 12 U.S.C. § 1708(c)(4)(B). On February 25, 2025, the Court continued the hearing to July 2025 at Respondent's request.

On April 2, 2025, the parties filed a *Joint Motion for Stay of Proceedings* requesting a 60-day stay of this matter on grounds that "[s]ince January 20, 2025, a new Board has been

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<sup>1</sup> The Notice of Administrative Action also stated that the Board had voted to impose a civil money penalty pursuant to 12 U.S.C. § 1735f-14 and 24 C.F.R. Part 30 and that a formal complaint seeking civil money penalties would be served "in due course." See 24 C.F.R. § 30.35 (describing Board's authority to impose civil money penalties).

convened and will revisit the matter.” The Court granted the stay and ordered the parties to submit a status update by June 10, 2025.

On June 10, 2025, the parties submitted competing status updates. HUD states that the Board has met only once since this matter was stayed, and that it did not consider Respondent’s present case at the meeting. Because HUD leadership is still waiting for Senate-confirmed nominees to be seated on the Board, HUD believes that an additional six-month stay of the instant case would be appropriate. However, because Respondent will not agree to a stay, HUD instead requests an order rescheduling the hearing.

Respondent, by contrast, opposes rescheduling the hearing or allowing this matter to languish under a stay order. Respondent asserts that HUD lacks authority to continue prosecuting the case because the Board has not approved it. On June 12, 2025, Respondent filed a *Motion to Dismiss* arguing that HUD cannot proceed without Board approval, that it is inappropriate for HUD counsel to seek a new hearing date when HUD leadership has instructed counsel to pause the case until the Board can reconsider it, and that the Court should therefore dismiss this matter.

On June 17, 2025, the Court held a conference call with counsel for both parties present to discuss the status reports and *Motion to Dismiss*. Counsel for Respondent reiterated Respondent’s position that HUD lacks authorization to proceed. Counsel noted that, in March 2025, HUD affirmatively represented that the Board “will be revisiting” this matter. Counsel further noted the apparent incongruence between HUD’s representations that a new Board has not yet been constituted since the change in administration of the federal government, but that the Board has held meetings since then and has instructed HUD counsel to pause this proceeding.

Counsel for HUD explained that the Board is currently comprised of acting officials whose positions will eventually be taken by Senate-confirmed nominees, although it is not clear when that will occur. See 12 U.S.C. § 1708(c)(2) (identifying HUD officials who sit on Board); 24 C.F.R. § 25.4 (same). Counsel represented that their instructions to seek a stay of this proceeding came from HUD’s Principal Deputy General Counsel, based on his understanding that the Board intended to revisit all actions previously voted on but not yet implemented. In this case, the withdrawal of Respondent’s FHA approval has already been implemented, but the Board has also voted on a related civil money penalty action that has not yet been implemented against Respondent. Counsel for HUD emphasized that the January 13 vote has been the only Board action in this matter; that the Board has not rescinded its withdrawal of Respondent’s FHA approval; and that the Board has not authorized counsel to dismiss this matter.

## II. Ruling on Motion to Dismiss

Respondent moves for dismissal of this matter based on HUD’s alleged inability to prosecute this matter. Specifically, Respondent claims the Board has not authorized HUD counsel to proceed with this matter, and Respondent will be prejudiced if forced to litigate an unauthorized prosecution. Respondent further claimed during the status conference that a stay of this proceeding would burden Respondent with having the pending administrative action

looming over it. For that reason, Respondent reiterated that dismissal, even without prejudice, is the appropriate relief.

This matter is before this Court upon Respondent's appeal of the Board's Notice of Administrative Action. Pursuant to the Notice of Administrative Action, the withdrawal of Respondent's FHA approval was immediate. See also 24 C.F.R. § 25.5(e)(2)(i). Moreover, the immediate and permanent withdrawal of Respondent's FHA approval was the last action of the duly constituted Board in this matter. Although HUD counsel requested a stay of this proceeding so that the newly appointed Board, once appropriately confirmed, could *potentially* revisit the decision to impose an administrative action, there has been no directive from the Board to halt this litigation or withdraw the Notice of Administrative Action.<sup>2</sup> Therefore, the withdrawal of Respondent's FHA approval was the last action of the duly constituted Board in this matter and remains operative.

As a result, dismissal would not afford Respondent the relief it seeks, which is reinstatement of its FHA approval. Rather, the dismissal would apply to Respondent's request to appeal, which would leave the Board's withdrawal of Respondent's FHA approval in effect. See e.g., 24 C.F.R. § 25.10(a) ("If the mortgagee fails to request a hearing within 30 days after receiving the notice of administrative action, the Board's action shall become final.")

The Board's regulations authorize this Court to "commence a de novo hearing" but state that the Board's Notice of Administrative Action cannot be disturbed unless the Court's decision becomes a final agency action. See 24 C.F.R. §§ 25.10(b), 25.11. The hearing procedures applicable to these proceedings provide that the Administrative Law Judge shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the relief granted. 24 C.F.R. § 26.50(a). This initial decision does not become a final agency action unless no appeal is timely filed with the Secretary of HUD, or the Secretary fails to act upon a timely appeal of the initial decision within 90 days. Id. §§ 26.50(c), 26.52(k)(1). Therefore, the adjudication of this matter cannot be accomplished by a dismissal on procedural grounds and Respondent's *Motion to Dismiss* is **DENIED**.<sup>3</sup>

### III. Third Notice of Hearing and Order

The stay of this proceeding expired on June 10, 2025. Accordingly, the hearing in this matter is rescheduled as follows:

1. **RESPONSE.** Respondent shall specifically respond to the violations set forth in the Notice of Administrative Action. This response should be received by the Docket Clerk on or before July 11, 2025;

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<sup>2</sup> HUD counsel requested the stay based on their understanding that the acting officials who comprise the current Board are planning to revisit actions that have not yet been implemented – this would include a related Civil Money Penalty action against Respondent – but the Board has not addressed this matter specifically or rescinded the Notice of Administrative Action.

<sup>3</sup> The Court recognizes that it may dismiss an action or issue a decision against a party for failing to prosecute or defend an action. See 24 C.F.R. § 26.34(d). However, the record does not demonstrate a failure on the part of HUD to prosecute the claims alleged in the Notice of Administrative Action or to defend the administrative action itself.

2. **TIME AND DATE OF HEARING.** The hearing in this matter will be held commencing at 10:00 a.m. ET on December 8, 2025, in Washington, D.C., in the Courtroom of the Office of Hearings and Appeals, located at 409 3<sup>rd</sup> Street, SW, Suite 201.<sup>4</sup> The parties shall confer and advise the undersigned by July 10, 2025, if another location is preferred for the hearing or if the parties prefer a remote hearing.<sup>5</sup> The hearing is scheduled to proceed to conclusion on the same date, unless the parties indicate, on or before July 11, 2025, more time is required;
3. **DISCOVERY.** The parties shall be free to conduct discovery in accordance with 24 C.F.R. § 26.42(a);
4. **DISCOVERY DISPUTES.** Discovery requests and documents produced in response to discovery requests shall be filed with the Docket Clerk only if a party seeks an order compelling discovery in this matter. Instead, each party shall file a *Notice of Discovery Request* with the Docket Clerk, when discovery is sought, listing the type of discovery being propounded and from whom the discovery is being sought (individual being deposed, answering party for interrogatories, etc.);
5. **WITNESSES.** On or before July 28, 2025, the parties shall exchange lists of witnesses expected to be called at the hearing, except for impeachment or rebuttal, together with a brief statement following each name describing the substance of the testimony to be given;
6. **DOCUMENTS.** On or before July 28, 2025, the parties shall exchange documents and other items to be offered as exhibits at the hearing. Each document and exhibit shall be numbered for identification (with the prefix “GOV #” for the Government’s exhibits and “RES #” for Respondent’s exhibits);
7. **FORMAT AND SUBMISSION OF EXHIBITS AND WITNESS LISTS.** For receipt by the Docket Clerk on or before November 24, 2025, each party will submit (1) a list of the witnesses the party intends to call, with a summary of testimony for each witness; (2) a list of the exhibits the party intends to introduce; and (3) a copy of the exhibits in electronic (pdf) format.
  - a. Electronic copies in .pdf format must be processed with an optical character recognition (OCR) tool and saved onto an attached CD-ROM;

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<sup>4</sup> An expedited hearing is mandated by 12 U.S.C. § 1708(c)(4)(B) and 24 C.F.R. § 25.10(b), unless an extension of time is requested by the Respondent mortgagee, for good cause shown. Respondent has already requested a continuance of the originally scheduled hearing date. Considering the current status of the proceeding, and the Court’s availability for a hearing, the Court determines this date to be the earliest practicable hearing date. The only other available hearing date would be July 29, 2025, which is unlikely to afford the parties sufficient time to prepare. The parties may confer and advise the Court by July 2, 2025, if the earlier date is preferred.

<sup>5</sup> The Court has the capability to conduct remote hearings via videoconference on the Microsoft Teams platform. If the hearing is held in person, Microsoft Teams will still be available for use to facilitate the display of exhibits and secure the participation of witnesses not able to attend in person.

- b. To avoid duplication of exhibits, the parties will coordinate and submit JOINT EXHIBITS. These exhibits will be designated “JNT #.” The Government counsel will coordinate this effort. The other party(s) is expected to cooperate fully with the Government’s efforts in this regard; and
  - c. During the hearing, the parties shall be prepared to present exhibits by displaying them via Microsoft Teams or through other electronic means;
- 8. **OBJECTIONS.** Any party objecting to any known exhibit and/or witness to be presented at the hearing must file a written objection, stating the legal reasons for the objection, to be received by the Docket Clerk no later than November 28, 2025. The party attempting to introduce the exhibit and/or witness must file its response, to be received by the Docket Clerk no later than December 1, 2025. The parties must email (or fax) these objections and responses to such objections to each other immediately upon filing;
- 9. **PRE-HEARING STATEMENTS.** Each party shall each file a pre-hearing statement, to be received by the Docket Clerk on or before December 1, 2025, briefly setting forth the following:
  - a. The issues involved in the proceeding;
  - b. Facts stipulated by the parties, together with a statement that the parties have made a good faith effort to stipulate to the greatest extent possible;
  - c. Anticipated witnesses and a summary of testimony for each witness;
  - d. Estimated time required for presentation of the Party’s case;
  - e. Facts in dispute;
  - f. Applicable law; and,
  - g. Conclusions to be drawn;
- 10. **MOTIONS.** Any motion filed before the Court **must be accompanied** by a **separate, clearly labeled** Memorandum of Points and Authorities in support of said motion. The Memorandum of Points and Authorities must contain a thorough analysis of the issues presented along with the concordant application of law to facts;
  - a. **Dispositive Motions.** Any motion, the granting of which could result in the disposition of any or all (or portion of thereof) of the Counts contained in the Complaint, or alleviate the need for a hearing, should be filed as soon as practicable, but must be received by the Docket Clerk no later than November 7, 2025;

- b. **Motions in Limine.** Motions directly affecting the conduct of the hearing (other than those already specified herein) should be filed as soon as practicable, but must be received by the Docket Clerk no later than December 1, 2025;
11. **OTHER MATTERS.** Issues including accessibility for the disabled, the need for interpreters, etc., must be brought to the attention of the Docket Clerk at least two (2) weeks prior to the start of the hearing; and,
12. **PROCEDURE.** The Hearing proceedings shall be conducted in accordance with 24 C.F.R. Part 26.

So **ORDERED**,



ALEXANDER FERNANDEZ-PONS  
CN = ALEXANDER FERNANDEZ-  
PONS C = US O = U.S. Government  
OU = Department of Housing and Urban  
Development, Office of the Secretary  
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Alexander Fernández-Pons  
Administrative Law Judge