

**THE IMPACT OF DUAL TRACKING ON
COMMUNITIES OF COLOR**

Presented at

“Field Hearing on Mortgage Policy”

Submitted to
Consumer Financial Protection Bureau

Submitted by
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January 17, 2013

Good morning. My name is Lot Diaz, and I am Vice President of Housing and Community Development at the National Council of La Raza (NCLR). NCLR is the largest national Latino civil rights and advocacy organization in the U.S. For more than 20 years, I have worked in the community development field on behalf of low-income families. I work to grow the NCLR Homeownership Network (NHN) which serves nearly 60,000 families annually through a network of more than 50 community-based providers. I would like to thank Director Cordray and the Consumer Financial Consumer Protection Bureau for the opportunity to speak today. NCLR appreciates the Bureau's new servicing standards. This is a clear effort to meet homeowners' needs by addressing failings in the system and we thank you for your responsiveness.

We are pleased to note that, based on NCLR's feedback and that of others, the Bureau made improvements to the rules it proposed last October, particularly on the matter of dual tracking—the practice of pushing a family through foreclosure while they are simultaneously considered for a loan modification. Most promising is the provision that servicers must not file for foreclosure until a mortgage loan account is more than 120 days delinquent. Many Latinos and other communities of color have disproportionately lost their homes to needless foreclosure and we hope that with proper enforcement this rule will stifle dual tracking.

At the onset of the foreclosure crisis, consumer and civil rights advocates called to put an end to dual tracking entirely. We know from experience, however, that while the national settlement proposed to eliminate this practice, it continues to be a problem. Based on a survey of 285 housing counseling groups nationwide, 73 percent of respondents gave servicers a “fair” or “poor” performance rating in complying with “dual-track rules.” Counselors also observed a propensity of servicers to go through dual track when the servicer did not own the mortgage loan.

NCLR gathered recent cases of dual tracking in the video we submitted with our formal comments to the Bureau last October. We collaborated with our California affiliates to document families' recent challenges. To cite one example, Kathy Morua was being considered for a loan modification while also being processed through to foreclosure. Despite best efforts, she lost her house and when her son returned from military service as a disabled veteran, he no longer had his childhood home—an asset that would have been passed off to him and generations to follow. We are glad to see that such stories motivated the CFPB to improve the proposed rule and hope to see strong outreach, data collection, and enforcement efforts to make the provision effective.

We hope that the Bureau will consider today's standards to be a work in progress with room for further analysis. We feel this is a substantial improvement, but are not entirely clear on how it will impact the nature of appeals and timelines. In nonjudiciary states, for example, how will this play out where many homeowners will not know about a sale date until after the 37-day mark; many sales are scheduled later than that. Should we recognize challenges here or substantial gaps in outreach and enforcement, we urge the Bureau to amend its rules. We appreciated the Bureau's willingness to amend portions of its remittance rule and recommend similar considerations if needed.

Thank you for offering NCLR this opportunity to share our views. I would be happy to answer any questions.