

## UNITED STATES DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

WASHINGTON, D.C. 20250

November 19, 1981

SUBJECT: Foreclosure Appeals

TO: All State Directors, District Directors and  
County Supervisors, FmHA

From a review of files in this office in connection with foreclosure appeals, it is apparent that there is some misunderstanding on the part of field personnel as to the purpose of foreclosure appeals and how hearings should be conducted. You and your staff are requested to carefully review FmHA Instruction 1900-B, especially paragraph 1900.57 and Exhibit A, which clearly indicate that the purpose of a hearing is to allow the borrower an opportunity to show why the action proposed by FmHA is incorrect.

If a borrower has no claim that FmHA is in error, the appeal has no merit. Quite often, hearing notes reflect statements by the borrower that they acknowledge FmHA is correct in initiating foreclosure but they want to ask for another chance.

Unless the borrower can show reason why FmHA is in error (usually because of failure to comply with one or more of the 7 items noted below), the hearing officer has no alternative but to deny the appeal. A hearing should not become a further servicing session in which an agreement for continuing with the loan is reached between the borrower and hearing officer. Any offer by the borrower for curing the default after acceleration of the account should be referred to the State Director in accordance with FmHA Instruction 1955-A, paragraph 1955.15 (d)(2)(i)(D).

State Office staff members with responsibility for reviewing foreclosure recommendations should check the files carefully before acceleration of the account to determine:

- (1) That the account has been adequately serviced;
- (2) That supervision and planning have been offered where needed;
- (3) That borrowers were extended all assistance (including interest credit) to which they are entitled;
- (4) That RH borrowers were properly informed of the right to apply for a moratorium as required;
- (5) That when agreements were reached with borrowers, reasonable follow-up was done to attempt to have the borrowers meet the terms of the agreement;
- (6) That the alternatives to foreclosure have been clearly outlined to the borrower; and

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FILING INSTRUCTION: PRECEDING  
FmHA INSTRUCTION 1900-B

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(7) That efforts have been made to have the borrower liquidate voluntarily.

If it is not clearly documented in the file that these items are covered, foreclosure is not appropriate and the case should be returned to the district and/or county office with specific instructions for further servicing



CHARLES W. SHUMAN  
Administrator