

Killian, Chris

From: Killian, Chris  
Sent: 17 May 2013 14:30:20 +0000  
To: Pollard, Alfred  
Cc: Dorfman, Richard  
Subject: FW: FHA Staff Questioned on Eminent Domain at House Hearing  
Hello, Alfred,

Hope things are well... I thought you might be interested to see this.

Also, let me know if you would like to talk at some point about the work of the Uniform Foreclosure Committee. Have a good weekend.

-Chris

Chris Killian

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**From:** Killian, Chris  
**Sent:** Friday, May 17, 2013 10:26 AM  
**To:** Killian, Chris; Chamberlain, Kim; Cameron, Tim  
**Subject:** FHA Staff Questioned on Eminent Domain at House Hearing

**To:** **SIFMA Eminent Domain WG**  
**Eminent Domain Industry Coalition**

All,

As you know many of the groups in our coalition have been working to raise awareness of concerns with the use of eminent domain in Washington.

We thought you might be interested to see this clip from a hearing held in the House Financial Services Committee yesterday where Congressman Ed Royce questioned Charles Coulter, Deputy Assistant Secretary for Single Family Housing at FHA regarding the use of FHA as the exit strategy for MRP's eminent domain plans. While we must of course recognize that this is the speech of staff and not the Secretary, we think this is a positive development as it goes towards a municipalities level of confidence in the exit strategy promoted by MRP.

Here is a selection from an unofficial transcript of the hearing; the video covers the second half of this. I've highlighted some of the most interesting parts below.

Please share this with anyone you think might be interested.

**Unofficial transcript:**

LUETKEMEYER: So by doing that, you, FHA, are gonna be the default and in fact in the business plan of the groups that are pushing this they highlight the role of FHA. So my question to you is: Does the current leadership of FHA share former Commissioner Stevens' view that FHA should not be in the business of insuring loans acquired through eminent domain?

COULTER: **The issue of eminent domain -- I think the secretary has spoken on this. And he's very -- he's expressed a high degree of concern around it.** I wasn't aware of the GSE -- of the GSE

statement in terms of they won't finance properties acquired through eminent domain. **We'll certainly take a look at it and consider doing something similar. I -- I'm reasonably confident that that would be supported up through the secretary.**

LUETKEMEYER: OK. Well, what -- what are your -- you know, are you going to give us a written statement, then, with the position on where you're going to stand on this?

COULTER: Sorry? Ask the question again.

LUETKEMEYER: Well, are you -- you've deferred my question here. I want a yes or no. And if I can't get a yes or no, can you get me a written answer to my question?

COULTER: I would be happy to give you a written answer, yes.

LUETKEMEYER: OK. Thank you very much.

....

ROYCE: Well, thank you, Mr. Chairman. I'd like to return to this eminent domain question, and maybe get a little bit more concrete answer from you on that question.

I originally raised this question with FHA Commissioner Dave Stevens. And he, of course, made that point, as has been reiterated here, that FHA should be barred from refinancing loans acquired through eminent domain. We've got a situation in California, of course, where a number of municipalities are exploring what is likely unconstitutional, and that's the new use of eminent domain to seize residential mortgages.

And the point that I would make to you is that with Fannie and Freddie not being in the program, then such a program if it's done just by FHA would represent a cost ultimately borne by taxpayers and we would, under that scenario, be leaving the FHA open to adverse selection as the only conduit for loans seized this way.

And the other point I would make, and maybe you could comment on this, but the group pushing this approach has highlighted the role of the FHA in their -- in their business plan. So you had commented that the secretary has spoken on this. If the secretary has spoken on it, could you give us what the secretary expressly said about it?

COULTER: Well, to my knowledge, eminent domain has not occurred -- or no governmental entity has enforced eminent domain at this point in time. There is...

ROYCE: Yeah, at this point in time, but this is about the future.

COULTER: And what I'm telling you is in terms of a future what FHA will or won't do in the future, I'm not going to make policy on the fly. I will, however, come back to you in writing and...

(CROSSTALK)

ROYCE: OK. Well, then let me put it this way. Maybe I can be more precise with an exact question that you could answer at this time. Does the current leadership of FHA share former Commissioner Stevens' view that FHA should not be in the business of insuring loans acquired through eminent domain?

**COULTER: We absolutely share those concerns. And I think the secretary has been clear on that. And I would further add that...**

ROYCE: You share those concerns. You share that view. That was the question. You share the view. As I understand it, what you're saying is the FHA should not be in the business of insuring loans acquired through eminent domain. You share that view. Those were his words, and I was trying to see if those are your...

**COULTER: So, my words are we share the concerns about a government entity taking eminent domain -- taking properties through eminent domain. The policy that you're articulating is a policy that the GSEs have out. We have not evaluated that policy to determine what, if anything, FHA would do prospectively. It would be highly improbable, I believe, for FHA to put itself in a position where we would be the only insurer on those types of refinance transactions.**

ROYCE: Because of the adverse selection problems and everything else, I assume. And maybe because of the unconstitutionality of it on the face of it. But what do you think about the fact that the group pushing this approach has highlighted the role of the FHA in their business plan? Could I have your commentary?

**COULTER: I think their highlighting a principle that has not been vetted, endorsed, reviewed by Single Family Housing, FHA, or I believe HUD.**

ROYCE: Well, my time has expired. Mr. Chairman. Thank you very much.

**NEUGEBAUER: I thank the gentleman.**

**Video of Royce:** <http://www.youtube.com/watch?v=z3nhFnSbX-k&feature=youtu.be>

**Chris Killian**  
Managing Director / Securitization  
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