



# SERVICING

## A Recipe for Successful Repair Administration, Part II

By Sydney Godbehere



### Things to know when working toward a satisfactory property repair

In Part I, I likened the process for great repair administration to following a proven recipe for success. In Part II, we'll address questions surrounding what happens when issues arise that are outside of the servicer's control.

As a servicer, we would love if all repairs were completed prior to the deadline. Unfortunately, there are borrowers who are unable to complete repairs in a timely manner. In these cases, when the deadline is reached and all possible extensions are exhausted, the servicer is required to place the loan into default.

Does it matter how many or how few repairs remain? In compliance with ML 2015-10, a servicer must refer a loan to be called due and payable within 30 days from the loan "becoming eligible"



(which means the Repair Rider due date, plus any HUD-approved time extensions that have expired), regardless of the extent of the repairs needed or the funds withheld in the Repair Set-Aside. Borrowers still claim they are caught

unaware despite the letters and phone calls from their servicer. The home they have been living in is required by HUD guidelines to move toward foreclosure proceedings and they can no longer wait to complete the repairs.

**WHY** might a borrower not complete repairs in a timely manner? We hear a wide array of reasons why **A BORROWER IS** unwilling or unable to complete the repairs. Here are a few:

#### ONE

**A borrower cannot locate a contractor willing to complete the work without an upfront deposit.** We

encourage borrowers to talk with family members, friends or neighbors to see if they know someone who can complete the repairs. Often, simple repairs like scraping and painting can be completed without the assistance of a licensed contractor requiring a deposit.

#### TWO

**The borrower has been temporarily out of the home due to illness.** In these instances, we attempt to locate an authorized alternate contact or Power of Attorney for the borrower, who may be able to assist with the completion of the repairs, so the borrower can focus on the restoration of their health.

#### THREE

**The borrower does not think the repairs are necessary.** In these instances, the servicer reviews the repairs with management to determine if any fall under one of the three categories HUD has provided guidance for in the Waiver Process of a Repair Set-Aside. How do you recognize a repair that can be waived? Could the repairs be waived with a lead-based paint waiver? Are the repairs unnecessary? Do we have a licensed contractor stating the repairs are not needed or cannot be completed? If it is determined the required repairs fall into one of these categories, the owner of the loan may be able to waive certain repair requirements, which also requires them to document their reasoning (for audit trail purposes).





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**Can a borrower prevent their loan from moving to foreclosure once it has been called due and payable?** The same scenario applies for any loans that have been called due and payable. For example, a borrower can provide proof of financing to obtain a new loan or provide proof the house is listed for sale in order to request an extension during the due and payable process. The cure for delinquency on a loan deemed due and payable because of incomplete repairs is actually completing the repairs. A HUD-certified inspector must then confirm the repairs have been completed to FHA standards and document this within their inspection report.

**When will the loan be referred to foreclosure?** Each servicer has a timeframe, proprietary procedures and processes for when a loan will need to be referred to an attorney in order to meet the deadline. The deadline associated with HUD guidelines is the date on which the first legal action in the foreclosure must be completed (which is 180 days from the date the loan was

called due and payable, plus any HUD-approved time extensions). One specific point difficult for borrowers to understand is that even if the loan is referred to an attorney to begin the foreclosure process, it does not mean the property has been foreclosed on. The borrower still has time to complete the repairs prior to the property going to sale.

**How can you help the borrower?** Completing the repairs is just as important as keeping taxes and insurance current—and borrowers have a very short window after the Repair Rider due date before the loan must be called due and payable (per ML 2015-10). Previously, a servicer would have the leniency to allow more time if the borrower was progressing with the repairs. Whether the taxes are not paid or the repairs are not complete, the loan must follow the same HUD

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guidelines with regard to defaulted loans. One way the industry can help is through consumer and industry education. The more originators, loan officers, underwriters and counselors understand the repair administration process (and the consequences of not

completing the required repairs), the better. Err on the side of caution; it is better to give borrowers too much information than not enough! Borrowers must understand that completing repairs is a requirement, not an option.

Making sure the borrower has a clear understanding when walking away from closing helps eliminate the negative product and industry consequences that ensue when borrowers claim they were not fully informed. Serving up a great repair administration experience is great for the borrower and great for building positive product and industry perception. ■

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