

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0306

In re: Jennifer Draper
Petitioner

Decision and Order

This matter is before me upon the request of Petitioner for a hearing to address the existence or amount of a debt alleged to be due, and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On March 26 2012, I issued a Prehearing Order to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt, and setting the matter for a telephonic hearing.

The Rural Development Agency (RD), Respondent, complied with the Discovery Order and a Narrative was filed, together with supporting documentation RX-1 through RX-4 on March 29, 2012. Petitioner filed her Narrative on April 12, 2011. Following the hearings, RD filed additional documentation on May 2, 2012 showing the amount of the original loan and monthly payment due. RX-5 to RX-7. On April 18, 2012, at the time set for the hearing, both parties were available. Ms. Michelle Tanner represented RD. Ms. Draper was self represented. The parties were sworn.

Petitioner is unemployed and living in transitional housing for Homeless Female Veterans.

On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On June 1, 2000, Petitioner obtained a loan for the assumptions of a mortgage on a primary home in the amount of \$51,513.01 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in Willis, Texas. RX-1.
2. The Borrower became delinquent. The loan was accelerated for foreclosure on March 23, 2003. Narrative, RX-2.
3. The home was sold in a judicial sale on April 6, 2004 for \$50,000.00. RX-3 @ p. 1 of 6.
4. Prior to the sale the Borrower owed \$57,639.44 for principal, plus \$6,079.42 for interest, plus \$3,534.44 for fees, plus \$77.10 for interest on fees, and \$64.16 for late charges for a total of \$67,394.56 to pay off the RD loan. Narrative, RX-4 @ 1 of 4.
5. After application of the judicial sale proceeds, the borrower owed \$17,444.56. RX-4 @ p. 1 of 4.
6. Treasury has collected an additional \$1,297.56 towards the debt. RX-4 @ 2 of 4.
7. The remaining amount due of \$16,147.00 was transferred to Treasury for collection on March 27, 2012. RX-4 @ p.3 of 4.
8. The potential Treasury collection fees are \$4,844.10. RX-4 @ p. 3 of 4.

9. Ms. Draper is unemployed.
10. Ms. Draper raised an issue of whether the mortgage servicer improperly increased her interest rate or alternately retracted her Interest Subsidy agreement. RX-1 @ p. 6 of 6.
11. Ms. Draper was unable to show that she successfully reapplied for the interest subsidy annually or showed that her income still qualified for the subsidy.
12. RD provided an amortization table showing the original loan amount and monthly payments due. RX- 5 – RX-7.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$16,147.00 exclusive of potential Treasury fees for the mortgage loan extended to her.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$4,844.10.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent is NOT entitled to administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. After one year, RD may re-assess the Petitioner's financial position.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's Office.

May 9, 2012

James P. Hurt
Hearing Official

Copies to: Jennifer Draper
Michelle Tanner
Dale Theurer

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