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John Engler, Governor

Department of Consumer & Industry Services
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June 29, 1998

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Dear YYY:

I am writing in reply to your April 2, 1998 letter in which you outline the reasons for your client's claim of exemption from the Mortgage Brokers, Lenders, and Servicers Licensing Act (MBLSLA) and the Secondary Mortgage Act (SMA). I am happy to inform you that the Bureau concurs with your conclusion that your client, ZZZ qualifies for exemption from the MBLSLA and SMA--though not for the reasons you cited in your letter.

The Bureau's position is based on the statement from Neighborhood Reinvestment Corporation Deputy General Counsel, Robin Barnes Shell, that the NeighborWorks registered service mark used by ZZZ is available for use only by chartered neighborhood housing services programs and her further statement that "ZZZ . . . is such a program established pursuant to the [Neighborhood Reinvestment Corporation] Act."

A plain reading of the MBLSLA and SMA in conjunction with the Neighborhood Reinvestment Corporation Act (see attachment) leads to the clear conclusion that the Neighborhood Reinvestment Corporation and Neighborhood Housing Services programs are the only entities "established pursuant to the Neighborhood Reinvestment Corporation Act" and therefore eligible for exemption from the MBLSLA and SMA. As the Neighborhood Reinvestment Corporation has confirmed that ZZZ is a Neighborhood Housing Services program, it is eligible for the exemptions granted in sections 25 of the MBLSLA and 29a of the SMA.

If you've further questions in this regard, please contact me at (517)373-7107.

Sincerely,

/s/

Gary K. Mielock
Chief Deputy Commissioner

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Statutory Basis for Determination of Exemption

The MBLSLA exemption in question provides, in pertinent part:

"Sec. 25. This act does not apply to the following:

. . .

(n) A nonprofit corporation established pursuant to the neighborhood reinvestment corporation act, title VI of Public Law 95-557, 42 USC 8101 to 8107." MCL 445.1675(n); emphasis added

The SMA provides a similar exemption.

"Sec. 29a. (1) This act does not apply to a nonprofit corporation established pursuant to the neighborhood reinvestment corporation act, title VI of Public Law 95-557, 42 U.S.C. 8101 to 8107." MCL 493.79; emphasis added

The Neighborhood Reinvestment Corporation Act (NRCA) provides specifically for establishment of two types of organizations. First, § 8102 of the NRCA establishes the Neighborhood Reinvestment Corporation.

"(a) Establishment. There is established a Neighborhood Reinvestment Corporation (hereinafter referred to as the "corporation") which shall be a body corporate and shall possess the powers, and shall be subject to the direction and limitations specified herein." 42 USCS § 8102(a)

Having established the Neighborhood Reinvestment Corporation, the NRCA then granted the corporation authority to establish Neighborhood Housing Services programs.

"§ 8105. Powers and duties of corporation

(a) Continuance of work of Urban Reinvestment Task Force regarding neighborhood housing services programs and preservation projects.

(1) The corporation shall continue the work of the Urban Reinvestment Task Force in establishing neighborhood housing services programs in neighborhoods throughout the United States, . . ." 42 USCS § 8105(a); emphasis added

In the enumeration of the range of powers granted the Neighborhood Reinvestment Corporation, Congress gave the corporation authority to establish only Neighborhood Housing Services programs. It is clear, then, that the exemptions in question under Michigan law are limited to the Neighborhood Reinvestment Corporation and corporation-established Neighborhood Housing Services programs.

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June 9, 1998
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