

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 11-0227

In re: Sylvia Borjon

Petitioner

Decision and Order

This matter is before me upon the request of Sylvia Borjon, 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 June 3, 2011, a Prehearing Order was entered 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-12 on June 9, 2011. The Petitioner filed her financial statement on June 24, 2011 (which I now label as PX-1) including her monthly expense statement for her household expenses. She stated her husband was not working and was receiving disability benefits and advised that her share of the household expenses were half of each category listed. Petitioner has been employed for less than a full year and thus will not be subject to a wage garnishment at this time.

Ms. Mary Kimball represented RD. The parties were sworn.

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 February 7, 1992, Sylvia Borjon assumed a home mortgage loan in the amount of \$35,000.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in 10** Peach St. Floresville, TX 78###¹.

RX-1, RX-2.

2. At the time of the RD loan, borrower also obtained a loan and signed a Deed of Trust for \$4,500.00 for the same property. RX-4.

3. Ms. Borjon became delinquent and was sent a Notice of Default on April 5, 2000.

RX-8.

4. The borrower entered into a “short sale” on October 23, 2000 where the property was sold for \$32,099.76. RX-9.

5. The principal loan balance for the both RD loans prior to the short sale was \$48,997.15. The Principal balance for Act. # 2874929 was \$33,450.15, plus \$4,817.33 for accrued interest, plus \$4,282.90 for fees for a total of \$42,550.38. Narrative, RX-10.

6. RD received \$30,600.00 from the short sale. The second loan (Act. # 2874916) was paid in full and RD released the lien on borrower’s property; however the underlying debt remained as an unsecured debt. Narrative, RX-10.

7. The balance due of the remaining debt is \$18,397.24 - exclusive of potential Treasury fees. Narrative, RX-10.

8. The remaining potential fees from Treasury are \$5,151.23. RX-11.

¹ The complete address is maintained in USDA files.

9. Ms. Borjon states that she has been gainfully employed with her current employer for 7 months.

10. Ms. Borjon states that her husband is disabled and receives benefits.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$18,397.24 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 \$5,151.23.

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 five months, 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.

July 11, 2011

James P. Hurt
Hearing Official

Copies to: Sylvia Borjon
 Mary Kimball
 Dale Theurer

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776