

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWG]
Donna J. Tash, f/k/a)	Docket No. 11-0443
)	
Donna J. Evans)	
)	
Petitioner)	Decision and Order

1. The hearing was held by telephone as scheduled, on November 8, 2011. Ms. Donna J. Tash, formerly known as Donna J. Evans, the Petitioner (“Petitioner Tash”) participated, representing herself (appearing *pro se*).

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and was represented by Ms. Mary Kimball. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
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4300 Goodfellow Blvd
St Louis MO 63120-1703

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Issue

3. The issue is whether Petitioner Tash owes to USDA Rural Development a balance of **\$18,844.64** (as of October 5, 2011, *see* RX 6), in repayment of a United States Department of Agriculture / Farmers Home Administration loan made in 1988, the balance of which is now unsecured (“the debt”). Petitioner Tash borrowed to buy a home in New Mexico.

Summary of the Facts Presented

4. USDA Rural Development Exhibits RX 1 through RX 7 are admitted into evidence, together with the Narrative, Witness & Exhibit List (filed October 13, 2011), and the testimony of Mary Kimball.
5. Petitioner Tash's Hearing Request and all accompanying documents (filed September 29, 2011) are admitted into evidence, together with the testimony of Petitioner Tash.
6. The balance of the debt is **\$18,844.64**. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on of **\$18,844.64** would increase the balance by \$5,276.50, to \$24,121.14 (as of October 5, 2011). RX 6.
7. Petitioner Tash testified that in 1995 she left the home (she and the co-borrower were divorcing; he kept the home and responsibility to pay the debt). She testified that she thereafter took a copy of the Quitclaim Deed of the home, which conveyed her interest to the co-borrower (included in her Hearing Request documents), to the USDA / Farmers Home Administration County Supervisor in Alamogordo, New Mexico, Dale Woods, requesting a release of liability. Petitioner Tash testified that she made clear to Dale Woods what her new address was, 97 River Front Road, Tularosa NM, to emphasize to him that she had no further connection to the home.
8. Petitioner Tash testified that the loan payments were most likely current when she met with the USDA / County Supervisor in Alamogordo. The loan had originally been \$47,000.00, borrowed in 1988. She testified that there was always an interest subsidy on the loan (1% interest), because the co-borrower was quadriplegic on disability and SSI. The home had been built handicapped-accessible specifically for the co-borrower. She testified that repairs and some re-construction due to shoddy building had been costly, but that she and the co-borrower had paid such expenses. Petitioner Tash testified that Dale Woods told her the only way she could be released from liability on the debt would be if the debt were refinanced.
9. About 3 years later, the co-borrower, Darel W. Evans, reamortized the loan, on October 2, 1998. This was not refinancing. *See Narrative*. The loan had become delinquent, and the reamortization made the loan current, by adding the amount delinquent to the principal balance. The principal amount due became \$40,240.71. The reamortization did not change the amount owed. *See Narrative*. The co-borrower, Mr. Evans did not keep

the loan current. A USDA Notice of Acceleration dated March 27, 2000 demanded payment in full of the entire debt. RX 4. Petitioner Tash did not receive that Notice. RX 4, p. 4.

10. A foreclosure sale was held on March 15, 2001. RX 5. By then, between \$49,000.00 and \$50,000.00 was owed. After the sale proceeds were posted, \$21,129.21 was still owed. No interest has accrued since the foreclosure sale.

11. USDA Rural Development sent a letter dated June 3, 2002 to the co-borrower and Petitioner Tash, informing them of the remaining balance and the repayment options available. RX 7. The address used was that of the property that had been foreclosed on more than a year before. Petitioner Tash did not receive the letter and thereby lost the opportunity to negotiate.

Discussion

12. Petitioner Tash may choose to encourage the co-borrower to contact the Treasury collection agency to ask to be considered for a *financial hardship discharge* of the debt. The toll-free number for him to call is **1-888-826-3127**. He may wish to include someone with him in the telephone call when he calls to negotiate.

Findings, Analysis and Conclusions

13. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Tash and USDA Rural Development; and over the subject matter, which is repayment of a USDA / Farmers Home Administration loan made in 1988.

14. Petitioner Tash **does not owe** the debt described in paragraph 6, as I explain in paragraph 15.

15. In the office of the USDA / Farmers Home Administration County Supervisor in Alamogordo, New Mexico, Petitioner Tash, in person, timely provided USDA with her change of address, as she and the co-borrower were divorcing, and she was seeking release from liability and delivered a copy of the Quitclaim Deed. About 6 years later, when USDA Rural Development sent her the letter dated June 3, 2002, containing debt settlement options (RX 7), addressed to the foreclosed property address instead of the address Petitioner Tash had timely provided, USDA Rural Development impaired its opportunity to collect from Petitioner Tash.

16. I am **NOT**, however, ordering any amounts already collected prior to implementation of this Decision, whether through *offset* or garnishment of Petitioner Tash's pay, to be returned to Petitioner Tash.

Order

17. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with any further collection of the debt from Petitioner Tash. 31 C.F.R. § 285.11.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 10th day of November 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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