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## **Lennar mortgage arm had high delinquency rate with FHA before DOJ subpoena**

By Brian Bandell, Senior Reporter

Lennar Corp.'s mortgage subsidiary had a "serious delinquency" rate with the Federal Housing Administration of more than twice the program's average in the years before the company received a subpoena from the U.S. Department of Justice, according to FHA records.

The Miami-based homebuilder (NYSE: LEN) disclosed in its annual report on Jan. 25 that its Eagle Home Mortgage subsidiary received a subpoena from the DOJ regarding the adequacy of certain underwriting and quality control processes related to FHA loans. The company has not been notified about any claim for damages or penalties.

With Lennar set to become the nation's largest homebuilder when it acquires CalAtlantic Homes in February, its Eagle Home Mortgage could play an even bigger role in helping the company sell homes across the country. About one-in-five loans originated by Lennar subsidiaries in 2016 and 2017 were FHA loans, which have lower down payments and mortgage insurance.

According to FHA records, Eagle Home Mortgage originated 12,852 loans for the FHA in 2016 and 2017 – and 4.44 percent of them were classified as "seriously delinquent." The "seriously delinquent" rate for all FHA loans originated during those years was 2.01 percent. The FHA considers a loan seriously delinquent if it is delinquent for at least 90 days.

When looking at all lenders in the FHA program nationwide, Eagle Home Mortgage had the 60th highest "seriously delinquent" rate for those years. However, most of the lenders with higher rates than Eagle Home Mortgage were relatively small, with less than 500 loans made over two years. Only one other lender with a higher delinquency rate than the Lennar subsidiary made more than 5,000 loans: Paramount Residential Mortgage Group, with a rate of 6.69 percent.

A Lennar spokesman didn't respond to a request for comment.

When a large lender has a higher than usual delinquency rate with the FHA, the DOJ may examine them to determine whether the lender followed proper underwriting standards and lending guidelines, said Aaron Tandy, a commercial litigation attorney with Pathman Lewis who previously defended Bank of America against lawsuits over mortgages packaged and sold as bonds.



Attorney Aaron Tandy,  
Pathman Lewis

"This situation clearly piqued the interest of someone at the DOJ because they had a higher than normal delinquency rate for a high-volume lender," Tandy said. "They are giving the company an opportunity to explain whether or not the delinquency rate is related to outside forces, or if it's really an internal problem at the company because they failed to comply with critical underwriting or quality control standards."

Just because the DOJ is investigating an FHA originator doesn't mean it will find improper behavior. A high delinquency rate could have been caused by other factors, Tandy said, such as

borrowers dying or layoffs by a major employer in a community where the originator made a lot of loans.

The FHA insures loans, but it relies on loan originators to follow its underwriting guidelines, such as verifying borrower income, appraising the home, and gathering all the documentation. If a loan originator did not follow those guidelines, then the DOJ can file a lawsuit under the False Claims Act, arguing that the originator submitted false information to the government, Tandy said.

The False Claims Act has been utilized by the DOJ to gain major settlements against FHA originators in recent years. Since 2016, Wells Fargo Bank agreed to pay \$1.2 billion, Branch Banking & Trust Co. agreed to pay \$83 million, and PHH Corp. agreed to pay \$75 million for submitting faulty loans in order to settle DOJ lawsuits.

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