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AARP Files Another Reverse Mortgage Suit

By *RON LIEBER*

In recent months, AARP Foundation Litigation [has prodded](#) the United States Department of Housing and Urban Development to reverse a rule change that had made it harder for some surviving spouses of reverse mortgage holders to stay in their homes. Now, the foundation is turning to the financial institutions that own and service the mortgages.

This week, the foundation, along with the law firms Mehri & Skalet and Kerr & Wagstaffe, filed a class action suit against both Wells Fargo and Fannie Mae on behalf of reverse mortgage holders and their heirs. The dispute is over what should be a simple question: Should heirs to a home that has an outstanding reverse mortgage pay the lender the remaining balance on the loan to clear the debt? Or should they merely write a check or get a new mortgage for the (often much smaller, nowadays) market value if they want to keep the home?

It's yet another dispute born of the collapse in housing prices in some areas of the country, though it has a few twists because of the unique rules of reverse mortgages.

[Reverse mortgages](#) allow you to take equity out of your home without having to make monthly payments back to the bank, as you would with a home equity loan. How much you get depends

on your age (you have to be at least 62) and the equity you have in your home in the first place, among other things.

AARP argues that upon death of a reverse mortgage borrower, say a single person, heirs are supposed to have a choice between paying off the loan, paying 95 percent of the home's fair market value or giving the home to the lender in order to satisfy the loan. But Wells Fargo, acting as a servicer for Fannie Mae, told one of AARP's named plaintiffs that he had no choice but to pay the full amount of the loan, even though the home was worth much less than that at the time he inherited it.

The root of the confusion about who owes what in these circumstances may lie in differing interpretations of the breadth of the HUD rule that AARP beat back a couple of months ago. It's hard to say for sure though; a Fannie Mae spokeswoman declined my request to comment on the suit, citing the company's policy of not talking about pending litigation. A Wells Fargo spokeswoman said that company was still reviewing the complaint and could not comment by the time this post went up.

Whatever your view of the law, however, an AARP lawyer, Jean Constantine-Davis, says that logic would suggest letting the heir buy the home at the fair market value. Given that most heirs couldn't get a new standard mortgage from a bank for the actual reverse mortgage balance if that balance was more than the home's actual market value, why wouldn't Fannie Mae sell the home to the heir for fair market value? The alternative is to go through the trouble of foreclosing on it, listing it for sale and then selling it for that same fair market value to someone else.

In fact, Ms. Constantine-Davis notes, the heirs may pay more than fair market value, given their sentimental attachment to the family home.

Ms. Constantine-Davis's point is a pretty good one, and she said she was unable to get Fannie Mae to respond to her and the other lawyers' inquiries. So now we have another lawsuit.

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