

Sample Request for Information under RESPA to Obtain Identity of Mortgage Owner

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The form written request copied below can be used to obtain from the servicer of the debtor's mortgage information about the owner of the mortgage. This information is particularly useful in determining the proper party in foreclosure proceedings, for exercising rescission rights, for naming the proper party in bankruptcy lien strip off and claim objection proceedings, and for effectuating service of process on the mortgage owner in litigation matters.

Under regulations implementing 12 U.S.C. § 2605(e) of the Real Estate Settlement Procedures Act, effective January 10, 2014, a written inquiry that seeks information with respect to the borrower's mortgage loan is referred to as "request for information." For most requests for information that do not seek information about the mortgage owner, a servicer will need to acknowledge the request within 5 business days of receipt, and respond within 30 business days of receipt.¹ If the borrower or borrower's agent sends a written request seeking the identity, address or other relevant contact information for the owner or assignee of a mortgage loan, the servicer must respond within 10 business days.²

For a detailed discussion of the RESPA requirements for requests for information, see § 9.2.2 of NCLC's *Foreclosures* (4th ed. and 2013 Supp.).

Advocates should check that the address they use in preparing the sample form is one given by the servicer for requests for information, and not assume that the address used by the client to send monthly payments is the proper designated address.³ If the request is sent by an attorney on behalf of a client, it should include a written authorization from the client similar to that provided below.⁴ Appropriate alterations based on the clients' situation must be made before sending the following sample request:

¹ Reg. X, 12 C.F.R. § 1024.36(c) and (d).

² Reg. X, 12 C.F.R. § 1024.36(d)(2)(i)(A).

³ Borrower written inquiries (including notices of error) under the RESPA must be sent to the "designated" address for receipt and processing of such inquiries, if the servicer has properly designated such an address. *See* Reg. X, 12 C.F.R. § 1024.35(c); § 9.2.2.3 of NCLC's *Foreclosures* (4th ed. and 2013 Supp.). The servicer's website should be checked for the designated address.

⁴ A servicer is required to respond to a request for information that is sent by the borrower or the borrower's agent. 12 U.S.C. § 2605(e)(1)(A). However, a servicer may require that the borrower or agent provide documentation, such as an authorization, that the agent has authority to act on

[*date*]

[*Mortgage servicer*]

[*Address*]

Attn: Borrower Inquiry Department

Re: [*Borrowers' name, address, account number*]

To Whom it May Concern:

Please be advised that I represent [*borrowers*] with respect to the mortgage loan you are servicing on the property located at [*address*]. My clients have authorized me to send this request on their behalf (see Authorization below). As servicer of my client's mortgage loan, please treat this as a "request for information" pursuant to the Real Estate Settlement Procedures Act, subject to the response period set out in Regulation X, 12 C.F.R. § 1024.36(d)(2)((i)(A), and a request under § 1641(f)(2) of the Truth in Lending Act.⁵

Please provide the following information:

1. The name of the owner or assignee of my clients' mortgage loan;
2. The address and telephone number for the owner or assignee of my clients' mortgage loan;
3. The name, position and address of an officer of the entity that is the owner or assignee of my clients' mortgage loan;⁶ and

the borrower's behalf. See Official Bureau Interpretation, Supplement 1 to Part 1024, ¶ 36(a)-1 (effective Jan. 10, 2014); § 9.2.2.4 of NCLC's Foreclosures (4th ed. and 2013 Supp.).

⁵ A similar right exists under TILA. See 15 U.S.C. § 1641(f)(2); National Consumer Law Center, Truth in Lending § 5.15.11 (8th ed. 2012 and Supp.). The primary advantage to sending a RESPA information request over a TILA request is the fixed ten business day response period, whereas no specific deadline is provided under TILA or Regulation Z. Both provisions are privately enforceable, though the availability of statutory damages is subject to different requirements under the RESPA and TILA remedy provisions. For statutory damages under TILA, the borrower does not need to prove a pattern and practice of noncompliance by the servicer. See NCLC, Truth in Lending § 5.15.11.4 (8th ed. 2012 and Supp.).

⁶ For bankruptcy purposes, this information is useful for complying with Bankruptcy Rule 7004(h).

4. Any other relevant contact information for the owner or assignee of my clients' mortgage loan.

Thank you for taking the time to respond to this request.

Very truly yours,

[attorney]

Authorization to Release Information

To: [servicer]

Re: Borrowers: [name of borrowers]
Account No: [account no.]
Property Address: [address]

We are represented by the law office of [name of firm] and attorney [name of attorney] concerning the mortgage on our home located at [address]. We hereby authorize you to release any and all information concerning our mortgage loan account to the law office of [name of firm] and attorney [name of attorney] at their request. We also authorize you to discuss our case with the law office of [name of firm] and attorney [name of attorney].

Thank you for your cooperation.

Very truly yours,

[debtor 1]

[debtor 2]