

FSA office; to complaints made by a farmers' advocate on their behalf to the local USDA office "between 1994 and 1999," and to Vicky Garza's attendance at a House Agriculture Committee hearing in 2002. During an unrecorded telephone conference with counsel September 7, 2004, government counsel represented that one of the Garza couples had been in default since 1996 and the other, since 1999. The foreclosure of the Garza properties about which plaintiffs complain is *fait accompli*. The harm of which the Garzas complain has already been done. Plaintiffs have asked almost as an afterthought that "USDA be ordered to repurchase the property sold and return it to the Garzas thereby restoring the status quo ante," Memorandum at 11, but they cite no authority for such an extraordinary remedy in the absence of fraud or bad faith, and this Court is aware of none.

Whatever USDA's policies are or have been that require suspension of foreclosure actions until a discrimination complaint has been resolved, see Plaintiffs' Memorandum of Points and Authorities at 1-2, they cannot be construed to provide indefinite immunity from foreclosure for every putative class member who now asserts that, at some time in the past, he or she made a verbal complaint about discrimination. Nor could such immunity be granted in advance in the form of injunctive relief where, as here, the plaintiffs have been unable to respond to the government's challenge to "mention any [other] plaintiff by name

or discuss, even anonymously, the factual basis of any plaintiffs' claim of credit discrimination." Government Opposition at 2.

In the case of the Garzas, the motion for preliminary injunction is denied because the likelihood of their success on the merits approaches zero. In the case of the rest of the putative plaintiff class, the motion is denied because of the absence of any concrete demonstration of a threat of irreparable harm.

JAMES ROBERTSON
United States District Judge