

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

Steven Bellone
SUFFOLK COUNTY EXECUTIVE

September 12, 2012

Mr. Alfred Pollard, General Counsel
Attn: Comments/RIN 2590-AA53
Federal Housing Finance Agency, Eighth Floor
400 Seventh Street, SW.
Washington, DC 20024

Dear Mr. Pollard:

In the ruling of August 9, 2012 granting California's motion for summary judgment on its APA claim while denying FHFA's motion, Federal District Judge Claudia Wilkens, wrote, "*Pollard did not attest that the FHFA had considered alternatives to its blanket prohibition against the purchase of PACE-encumbered mortgages or that it had considered the impact on the public interest of blocking the PACE programs, other than minimizing risks for the Enterprises.*" Herein lays the crux of the matter: FHFA calls for increasing magnitudes of data while the Agency, for its part, provides no quantitative evaluation, offering no more than what they "believe" in a list of "opinions" and "judgments," absent data.

Fact: sealing up leaky houses reduces loss of conditioned air and would save homeowners significant money across America.

Result: over 1,000 homeowners have expended less than \$10,000 retrofitting their leaky houses through the Long Island Green Homes program via a ten-year, benefit assessed obligation that pays back in less than nine years.

Response: FHFA continues to set insurmountable hurdles, invoking endless 'what-ifs' while eschewing any reasonable recourse. If FHFA demanded comparable certainty in property appraisals and purchaser creditworthiness, very few mortgages would be underwritten. In the recent request for comments that the Federal court obliged FHFA to conduct, even so elemental a data point of building efficiency as the savings-to-investment ratio (SIR) was summarily dismissed by the Agency: "*SIR is an assumption driven estimate that, in FHFA's judgment, does not adequately reflect changes that a PACE-funded project may cause in the borrower's ability to repay.*"

At some point, institutional prerogative, flying under the flag of 'moral hazard,' will cede to resolution that is truly in the interest of homeowners and the 'safety and soundness' of the 'mortgage product.' To

this end, the wisdom of Judge Wilkens will take root: *“The parties {PACE plaintiffs and FHFA defendants} agree that the paramount goal of the Safety and Soundness Act is to protect the stability and ongoing operation of the residential mortgage market and the interests of the state and municipalities depend on its stability. California and its municipalities have created a system of state and local laws and assessments, and they establish budgets that hinge on a functional real estate market. A healthy mortgage market is a foundational element of the real estate market.”* As municipal PACE program aspirants throughout the nation see it, enhancing housing value through waste reduction that decreases operational expenses combined with the enhanced earning power of mortgage-holding tradesmen will only strengthen the real estate market.

In order for large numbers of homeowners and tradesmen to benefit as they did from Long Island Green Homes, the traditional first lien status of municipally-sponsored programs must be recognized. As Judge Wilkens pointed out, *“Defendants acknowledge that Barclays Capital has explained to PACE advocates that bonds backed by PACE liens without first-lien priority likely would be rated ‘as non-investment grade and therefore will have limited buyer appeal while also demanding high interest rates.’”*

The country awaits FHFA’s epiphany on measures that will only contribute to the safety and soundness of middle-class America’s greatest asset. The nation will be better off and more prosperous place when that day arrives.

Sincerely,

A handwritten signature in black ink, appearing to read 'S.B. 11', written in a cursive style.

STEVEN BELLONE
County Executive