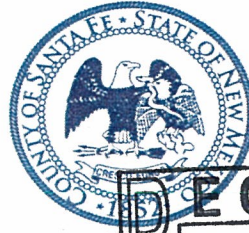


Daniel "Danny" Mayfield  
*Commissioner, District 1*

Virginia Vigil  
*Commissioner, District 2*

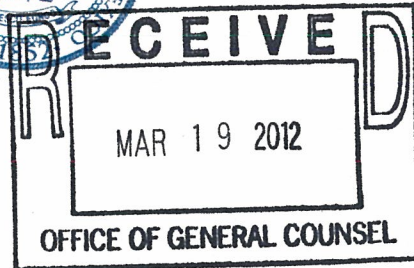
Robert A. Anaya  
*Commissioner, District 3*



Kathy Holian  
*Commissioner, District 4*

Liz Stefanics  
*Commissioner, District 5*

Katherine Miller  
*County Manager*



March 15, 2012

Alfred M. Pollard, General Counsel  
Attention: Comments/RIN 2590-AA53  
Federal Housing Finance Agency  
400 Seventh St. SW, 8<sup>th</sup> Floor  
Washington, D.C. 20024

**RE: Energy Task Force of the City and County of Santa Fe Comments in Support of FHFA Adopting Rules Allowing PACE-Related Special Assessments**

Dear Mr. Pollard:

The Energy Task Force of the City and County of Santa Fe, New Mexico respectfully submits the following comments in strong support of the FHFA adopting rules that facilitate and do not prohibit or hinder local governments from utilizing Property Assessed Clean Energy (PACE) special assessments as a means to create clean energy-related economic development and job creation.

As with the rest of the country, the Santa Fe region has experienced a significant economic downturn since the Great Recession began in the latter part of the last decade. One of the economic sectors hardest hit in our communities is the residential home construction industry. Santa Fe recognizes that financing programs and other incentives that stimulate energy efficiency and renewable energy improvements in the existing residential housing stock can play a critical role in revitalizing at least a portion of the residential construction-related sector.

With that objective in mind, in 2009, Santa Fe County quickly took advantage of a newly adopted state enabling statute by adopting its "Renewable Energy Financing District" ordinance – setting the foundation for developing and implementing a PACE-derived economic development program. After the ordinance was adopted and as the County began to publicize that a PACE financing model would soon be available to homeowners, the County began receiving enormous positive feedback and interest from both the general public and local solar installation businesses. Just a few months before the County was to launch its program, FHFA issued its July 2010 letter stopping Santa Fe County's program in its tracks.

The Task Force believes that FHFA's 2010 letter was both misguided from a local and national economic development/job creation policy perspective and in error with respect to FHFA's legal opinion that PACE assessments were somehow fundamentally different from other local government special assessments, and, therefore, inconsistent with FHFA lending requirements.

PACE assessments are fundamentally no different than other types of local government special assessments that create improvements that promote the general welfare and common good of the community. Local government special assessments have a decades-long precedent of legal and

administrative acknowledgement and approval by the courts and Fannie Mae and Freddie Mac. Contrary to FHFA's opinion, the fact that PACE improvements are voluntary and specific to a particular property does not change this fact or somehow make a PACE assessment become a "loan" (as FHFA erroneously argues). Plenty of assessment districts are voluntary. For example, Virginia has an assessment for septic upgrades and California has one for seismic strengthening. FHFA has appropriately not challenged the validity of those voluntary assessments.

In fact, not only do we believe that FHFA's legal opinion on the nature of PACE assessments is simply in error, the Energy Task Force questions the extent to which FHFA has statutory authority to decide whether local government assessments are valid or not. The Task Force is not convinced that FHFA has the legal authority to unilaterally decide that PACE assessments should not be afforded the same treatment under Fannie Mae and Freddie Mac's standard mortgage (the Uniform Security Instrument) as all other assessments.

FHFA's July 2010 letter appears to be based on the false assumption that PACE assessments create a greater risk that homeowners will default on their mortgage loans. To the contrary, PACE improvements minimize risk to homeowners, local governments, and mortgage lenders for a variety of reasons. This is generally not true for other types of special assessments that have existed for decades with Fannie Mae and Freddie Mac's blessings. Energy efficiency (EE) and renewable energy (RE) technologies reduce homeowners' monthly energy bills and are, therefore, inherently safe investments for homeowners and lenders. Furthermore, EE and RE projects create a fixed long-term hedge against rising energy costs, and numerous studies have proven that EE and RE measures increase a home's value.


In conclusion, the Energy Task Force of the City and County of Santa Fe urges FHFA to allow PACE residential programs to proceed. In the final adopted rule, FHFA-regulated lending entities should be required to establish underwriting standards and purchase mortgages with PACE assessments from programs that conform to the standards established in the PACE Assessment Protection Act (HR2599). This will help safeguard FHFA's appropriate lending integrity concerns while allowing local governments to use PACE assessments as a critical tool to both stimulate local economic development and help citizens keep their energy expenditures manageable well into the future.

Santa Fe's Energy Task Force appreciates FHFA's attention to and consideration of our comments.

Sincerely,



Chris Calvert, Santa Fe City Councilor, Chair of the City/County Energy Task Force



Kathy Holian, Santa Fe County Commissioner, Vice-Chair of the City/County Energy Task Force