

TOWN OF BEDFORD
OFFICE OF THE SUPERVISOR

Lee V. A. Roberts
Supervisor

Peter Chryssos
Deputy Supervisor

Marcy W. Marchiano
Secretary to Supervisor



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David Gabrielson

March 20, 2012

Alfred Pollard
General Counsel
Federal Housing Finance Agency
400 7th Street, NW
Washington, DC 20024

re: RIN 2590-AA53 Mortgage Assets Affected by PACE Programs; Comments on Advanced Notice of Proposed Rulemaking and EIS Scoping Comments

Dear Mr. Pollard,

Property Assessed Clean Energy (PACE) is a groundbreaking state and local government innovation with a clear public purpose: reducing our reliance on imported fuel, promoting energy security, avoiding the cost of building new power plants and transmission systems, and protecting the environment. Bedford began work on a PACE financing program in 2008. We recognized its potential to reduce energy use and greenhouse gas emissions, save homeowners money, and make their properties more comfortable, healthier and, as a result, more valuable.

We believe that FHFA's action to unilaterally halt local government PACE programs on July 6, 2010 was unwarranted. This rulemaking provides an opportunity to establish a fact-based record and correct misinformation and misunderstandings to the benefit of all stakeholders: municipalities like Bedford, mortgage lenders, homeowners and our country as a whole. We appreciate the opportunity and urge FHFA to look for ways to accommodate these broadly beneficial programs. To this end, we recommend that the FHFA adopt reasonable underwriting standards that ensure local PACE programs are designed to maximize benefit and minimize risk, as described below.

1) PACE assessments are valid - and are not "loans" as asserted by FHFA

FHFA has repeatedly referred to PACE assessments as "loans." We question the value of this semantic distinction. Whenever Bedford finances a project that benefits some or all of our residents, we are obviously "lending" them money by borrowing on their behalf. PACE assessments are just like other property taxes and assessments we use in Bedford to provide important benefits, services and amenities to our residents, none of which have been subject to the controversy that surrounds PACE. Regarding the validity of PACE, in 2009 Bedford adopted its Climate Action Plan (CAP), which calls for a 20% reduction in carbon dioxide and other greenhouse gas emissions by 2020 and has been appended to the Town's official Master Plan. We chose PACE as our preferred financing vehicle for a number of reasons: 1) it ideally supports our community-based, trusted source program, 2) it can provide us with unlimited private market capital at a time when other funding sources must be highly subsidized by taxpayers to have interest rates that are attractive to property owners, 3) PACE assessments transfer to new owners upon sale of a property, and 4) PACE financing terms that match the average life of energy efficiency measures mean our homeowners would save money every year, net of their assessment payment. Before being stopped by the FHFA's July 6, 2010 statement, we had acted under authorization of New York State law, under specific provisions in the State's Town Law. We therefore flatly reject the FHFA's assertion that PACE assessments are somehow invalid or unlike other municipal assessments. In Bedford, many taxes and assessments result from the

voluntary will of our residents who seek community improvements and decide through a referendum process, to have assessments levied to pay for them.

2) PACE assessments present minimal risks to lenders, investors, homeowners and GSEs

FHFA asserts that PACE presents “significant safety and soundness” concerns. We call upon the FHFA to present data to support this assertion. Bedford conducted substantial research, and there is long-standing experience, borne out by studies, that energy efficiency and renewable energy improvements reduce homeowners’ energy bills and increase their property’s value, strengthening their financial position and increasing the value of a lender’s collateral. PACE financed improvements allow homeowners to hedge themselves against fuel price spikes and rising fuel costs over time. These factors lessen, if not eliminate, the safety and soundness risk than the FHFA has asserted. Bedford’s PACE program was to have been based on the White House (October 18, 2009) and the Department of Energy (May 7, 2010) PACE guidelines with clear, strong underwriting standards to ensure that homeowners would be able to afford the improvements. We call on the FHFA to analyze and weigh, in its rulemaking process, the reduction in mortgage default rates that will surely result from increased economic activity and job creation attributable to PACE and the hedge it provides against rising or spiking energy costs. Unpaid future PACE assessments, like all municipal assessments and unlike unsecured lending, survive a foreclosure sale. We call on the FHFA to analyze and weigh in its rulemaking process, the benefit to the financial system, including mortgage lenders, of this specific feature that PACE provides.

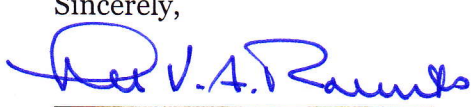
3) Proposed Rule:

We strongly urge FHFA to reconsider its blanket opposition to PACE programs and revise the Statement and the Directive. We recommend that FHFA’s proposed rule provide that Fannie Mae, Freddie Mac and any other mortgage lenders regulated by FHFA (Enterprises) be allowed to buy residential mortgages with PACE assessments that are originated by programs that conform to standards and guidelines such as those established in HR 2599 (The PACE Assessment Protection Act) to protect the interests of local governments, homeowners, mortgage lenders and Government Sponsored Enterprises (GSEs).

4) EIS Scoping Comments

The Proposed Action in FHFA’s Environmental Impact Statement (EIS) should be changed to provide that the Enterprises *may* purchase mortgages subject to a first-lien PACE obligation or that could become subject to first-lien PACE obligations so long as the applicable PACE program conforms to standards and guidelines such as those established in HR 2599 (The PACE Assessment Protection Act) or the Department of Energy’s “Guidelines for Pilot PACE Financing Programs” (May 7, 2010) (DOE Guidelines). If FHFA does not alter the Proposed Action, one of the alternatives analyzed in the EIS should be revisions to the FHFA’s July 6, 2010 Statement and February 28, 2010 Directive to provide that the Enterprises are permitted to purchase mortgages subject to a first-lien PACE obligation or that could become subject to first-lien PACE obligations so long as the applicable PACE program conforms to standards and guidelines such as those established in HR 2599 or the DOE Guidelines.

Sincerely,



Lee V.A. Roberts
Supervisor



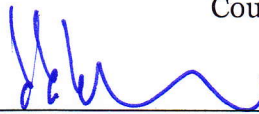
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Francis Corcoran
Councilman



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Councilman



David Gabrielson
Councilman