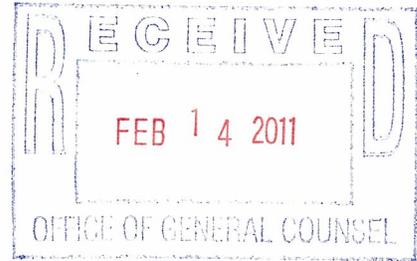




WESTERN UPSTATE  
ASSOCIATION OF REALTORS®



February 9, 2011

Alfred M. Pollard  
General Counsel  
Federal Housing Finance Agency  
1700 G Street, NW  
Washington, DC 20552

Dear Mr. Pollard:

We are writing on behalf of the Western Upstate Association of REALTORS® to support the Federal Housing Finance Agency's (FHFA's) proposed rule RIN 2590-AA41 on the use of private transfer fees for the Federal Home Loan Banks (FHLBs) and the government sponsored enterprises (GSEs) Fannie Mae, Freddie Mac. We fully support the FHFA proposed that restricts the FHLBs and GSEs from dealing in mortgages on properties encumbered by certain types of private transfer fee covenants and in certain related securities.

As you know, a private transfer fee commonly occurs when a developer agrees to add a covenant to the deed of each new home, or a homeowner agrees to add a covenant to an existing home's deed, that requires future owners of the property to pay a percentage of the selling price designated beneficiary. While the percentage fee paid is tied to the home price, it does not correlate with any tangible benefit received by the homebuyer. The transfer fee rule is a covenanted mandate so it is extremely difficult to reverse the requirement once it is in place. In many cases the fee is attached to the deed for up to 99 years meaning several subsequent buyers may pay a fee where no service was rendered or benefit received.

Private transfer fees increase the cost of homeownership, do little more than generate revenue for developers or investors and provide no benefit to homebuyers. They place an inappropriate drag on the transfer of property. Moreover, there is virtually no oversight on where or how proceeds can be spent, on how long a private transfer fee may be imposed, or on how the fees should be disclosed to homebuyers. Already, one company is negotiating with institutional investors to

“securitize” pools of transfer fees, which will essentially create bonds that can be sold on a secondary market, based on the future cash flows.

FHFAs proposed rule appropriately recognizes that, in very limited such fees should be excepted when paid to nonprofit organizations that are tax exempt under section 501(c)(3) or (c)(4) and provide direct benefits to the encumbered party. An exception for these organizations, where such fees are expected and familiar to many homeowner association members, can help fund capital reserves, capital improvements, upgrades and major repairs. Implementation of the rule prospectively ensures that homes already encumbered with such fees will not be adversely impacted by adhering to rules that were not in existence at the time of the original purchase.

Thank you for you time and consideration of this matter.

Sincerely,

A handwritten signature in black ink that reads "David T. Phillips". The signature is written in a cursive style with a large, looping initial "D".

David T. Phillips, Chairman of the Board  
Western Upstate Association of REALTORS®