

From: Martin Stein <marty.stein@sgsattorneys.com>
Sent: Sunday, April 03, 2011 1:50 PM
To: !FHFA REG-COMMENTS
Subject: Attention: "Public Comments Guidance on Private Transfer Fee Covenants (No. 2010-M-11)"

General Counsel Pollard,

Regarding: Notice of Proposed Rulemaking RIN 2590-AA41
Pertaining to Private Transfer Fee Covenants

Mr. Alfred Pollard:

Please REJECT the recently proposed Rule concerning private transfer fees as proposed by the FHFA.

We appreciate the effort of FHFA to address the abusive use of private transfer fees - specifically those that primarily provide benefits to private developers. However, in this attempt to address this abuse, the Proposed Rule goes too far and will eliminate the legitimate use of such fees for uses that benefit the community.

Furthermore, we are not certain why this issue has become such an important issue for the FHFA and there has been little evidence to demonstrate why this is such a big problem. Based on the number of comments received on the original draft guidance document, there was ample evidence submitted indicating the positive use of such fees and very little if any evidence indicating a problem for financial markets, the development community or homebuyers.

While it appears that the proposal will allow exceptions for HOAs and other non-profit organizations, the reality is that the Proposed Rule is too broad, will cause confusion, is unclear, and would have a severe negative impact on the operations of homeowners associations, environmental groups and affordable housing programs and other such important programs that rely on these disclosed fees for their operations. Furthermore, we are not certain who will decide whether or not such fees even comply with the rule - the Title Company, the banks, the County recorder, the FHFA, States? Surely this level of uncertainty will further complicate sale transactions and will likely have a chilling impact on an already beleaguered housing market.

A transfer fee has a real value to a community when used in specific circumstances that benefit the homeowner or the community, such as used by homeowners associations (HOAs), non-profit organizations, or governmental agencies to build and maintain community enhancements including community parks and emergency services facilities or to promote important community benefits such as open space, affordable housing, and transit improvements.

Because so many mortgages are insured by Freddie Mac or Fannie Mae, this proposal would effectively preclude the use of transfer fees for community benefits, removing a critical tool for building strong communities and dealing another blow to homeowners at a time when the markets are struggling to recover.

We strongly urge the FHFA to REJECT the Proposed Rule as drafted and should instead adopt transfer fee standards that protect community benefits while prohibiting abusive fees that are used solely for private gain.

Sincerely,

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