

From: Bill Haskett <wphaskett@advantos.net>  
Sent: Monday, April 04, 2011 1:11 PM  
To: !FHFA REG-COMMENTS  
Cc: government@caionline.org  
Subject: Proposed Rule on Private Transfer Fee Covenants, (RIN) 2590-AA41

Dear Mr. Pollard:

I am writing to express my lack of support for the Federal Housing Finance Agency's actions to interfere with transfer fees being charges every time units are sold in planned communities. These fees do help my property and do help my community. FHFA is wrong to prohibit this type of fee and there is nothing "unsafe or unsound" about transfer fees. In addition, nothing about the buying or selling of a unit in an owner's association could be deemed to be of concern to the federal government.

I am also displeased that FHFA doesn't understand the cost and nature of transfer fees. They are not adverse to the real estate market and to homeowners any more than appraisal fees, credit report fees, escrow fees, notary fees, lender's title insurance, reconveyance fees, courier fees, bank processing fees, recording fees, etc are. Those supporting any such ban of these fees are simply people or groups wanting "something for nothing"; e.g. real estate agents, sellers, banks, etc. Transfer fees reimburse those who prepare documents and do work on a time basis required by those selling property and can have an impact to help lower my monthly association assessments and make sure my community is properly managed and maintained by providing revenue to our management company and/or to those preparing these document packages. Associations and management companies have used transfer fees for decades.

It is important for FHFA to understand that residents make up the associations that govern our communities. We hold elections for our association board and vote on budgets and major decisions that affect our homes and community. We often hire professional management and rely on these parties to provide whatever is required by state and local real estate laws. This self-government is important to residents and I take pride that I can participate in deciding how my association is operated.

While I am pleased by FHFA's goal to improve disclosure, there are a number of provisions in the revised draft that are cause for concern. First, I am concerned that FHFA, by limiting the use of community transfer fee funds solely for maintenance and improvements, is taking away my elected board's authority to make operational decisions on how best to spend this money in support of my community. Such actions completely ignore all previous laws and traditions that may exist locally and state wide. FHFA would never restrict reimbursement of costs incurred by lawyers during a real estate transaction. Sometimes community associations use these fees for maintenance, support, operations and the provisions of amenities but mostly use them to reimburse professional managers for the cost of preparing and managing the transfer of a unit. All these functions directly benefit and support the property upon which the fee is charged. FHFA attempts to do too much in its rule banning investor transfer fees by telling associations that those revenues can only be used for some direct-benefit purposes and not for others.

Another concern is that the draft requires that my association allow non-residents use of the common areas and that we must charge a fee for this access. My association if private property owned in common and we may want to charge a fee for the use of our facilities, but this is our decision. Just because my community may vote for a new a transfer fee doesn't mean we give up our right to decide how our common property is used or if and when we allow non-residents access to it.

Finally, FHFA's decision that a community can't vote to have a community transfer fee support property that is more than 1,000 yards from our main property line does not make sense. This limitation interferes with our use of private property and would be especially troublesome for larger communities that may consist of a master association and many smaller sub-associations. If my association owns property, we should be able to maintain, manage, and improve it with association funds. The physical location should not be relevant.

Many States have passed laws to prohibit investor transfer fees while leaving in place fees that are reinvested in communities through their associations. FHFA should follow the States' lead and go after the problem—investor transfer fees. There is no justification to change how associations use transfer fees and FHFA will only cause problems by trying to tell residents how to manage their communities.

I understand that FHFA wants to protect homeowners and purchasers from unethical and undisclosed fees. That is a goal I firmly support; but it should be taken up by state legislators and local communities, not a federal government agency. FHFA does no good banning fees that are paid to people who incur costs associated with the purchase or sale of real estate. In this matter FHFA is not helping.

Most States require all fees paid to an association be disclosed to a purchaser prior to closing. This is a best practice that is adopted across most of the country. If FHFA is concerned that people don't know about the fees that are paid to associations, then perhaps FHFA could consider adopting this State disclosure system.

Sincerely,

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