



NATURAL RESOURCES DEFENSE COUNCIL

Via U.S. Mail and Electronic Mail (RegComments@fhfa.gov)

April 8, 2011

Mr. Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA41
Federal Housing Finance Agency
1700 G Street, NW
Washington, D.C. 20552

RE: RIN 2590-AA41 – Proposed Rule on Private Transfer Fees (PTFs)

Dear Mr. Pollard:

On behalf of the Natural Resources Defense Council (NRDC), a national nonprofit environmental organization with over 1.3 million members and activists, we are writing to urge the Federal Housing Finance Agency to revise the above referenced Proposed Rule to allow for the use of PTFs for community benefit purposes. We believe that PTFs that are used to fund community benefits are an irreplaceable tool for natural resource conservation that benefits the assessed community.

It is essential that non-profits continue to have access to community-benefits PTFs as a long-term revenue source to fund specific programs that benefit the community subject to the fees. These PTFs are used to provide innumerable community benefits, including the acquisition of open space surrounding the community, habitat restoration, stewardship of conserved land, affordable housing, public transportation improvements, community centers, and education programs. NRDC has a great deal of experience with community-benefits PTFs that fund the stewardship of conserved habitat and other valuable environmental and community programs, and we know what a vital need these PTFs serve in sustaining the quality of life in our communities. Without community-benefits PTFs, the ability to provide a long-term source of funding for these critical needs would be drastically reduced.

With this in mind, we strongly urge the FHFA to modify the Proposed Rule to make clear exceptions for community-benefit fees paid to certain categories of entities (*e.g.*, nonprofit organizations including Internal Revenue Code section 501(c)(3) and 501(c)(4) entities, and section 528 community associations), to conform the Proposed Rule to longstanding Internal Revenue Service law, regulations, and regulatory interpretations. We also recommend including in the Proposed Rule recording and notice

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requirements to ensure that homebuyers and title companies are aware of the presence of a transfer fee encumbrance. This will help establish more accurate property values and allow homebuyers to make informed decisions.

In short, we believe that the above approach, rather than the new “direct benefit” test, would achieve the Proposed Rule’s policy goals while continuing to allow non-profits to use community-benefits PTFs to promote and realize important conservation outcomes.

Thank you for your consideration of our comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joel Reynolds". The signature is stylized with a large initial "J" and a long horizontal stroke.

Joel Reynolds
Senior Attorney
Director, Urban Program

A handwritten signature in blue ink, appearing to read "Damon K. Nagami". The signature is written in a cursive style.

Damon Nagami
Staff Attorney