

TEXAS HOUSE OF REPRESENTATIVES

HOUSE COMMITTEE ON HUMAN SERVICES
CHAIRMAN



HOUSE COMMITTEE ON JUDICIARY AND
CIVIL JURISPRUDENCE

RICHARD PEÑA RAYMOND

STATE REPRESENTATIVE
DISTRICT 42

April 11, 2011

Alfred M. Pollard, General Counsel
Federal Housing Finance Agency, Fourth Floor
1700 G Street NW.
Washington, DC 20552
via: regcomments@fhfa.gov
Attn: Public Comments

Re: RIN 2590-AA41, Private Transfer Fee Covenants.

Dear Mr. Pollard-

For more than 16 years it has been my privilege to serve in the Texas legislature. I am writing to express my strong opposition to the proposed FHFA Rule related to private transfer fee covenants.

The economy is struggling, and the real estate sector has been hit particularly hard. Here in Texas, construction unemployment is rampant, banks are struggling with distressed loans, and developers are looking for ways to develop their projects, pay down their debt and put people back to work. A private transfer fee may not solve the problem, but I have looked at the issue carefully, and have met with opponents and supporters alike, and have come to the conclusion that private transfer fees have the potential to help spread development costs, reduce negative equity, and make homeownership more affordable.

As a legislator, and a member of my community who sees others suffering, I want to look carefully at any tool that may provide relief. I also have tremendous respect for private property rights, and I am reluctant to interfere with those rights, particularly when there has been no evidence of harm.

One of the things I have learned as a legislator is that allegations are not facts. Allegations about private transfer fees abound, and certain groups are pushing hard for bans. However, neither my staff nor I have found any basis to the accusations and reasons given in support of a ban. The fees seem to be disclosed in the typical manner, we can find no evidence of buyer complaints, and the studies I have seen seem to

strongly indicate that the market will adjust to the fee, making homeownership more affordable. I also support giving arming consumes with the facts and allowing them to make choices, particularly when, as here, the alternative presented by a transfer fee seems to offers consumers a path to homeownership. I do support additional disclosure and reasonable controls, mainly as preventive measures. However, I do not support taking away private property rights based on mere speculation, and in my opinion this would be the impact of the FHFA proposed rule.

I am also troubled by technical aspects of the proposed rule. I see numerous problems with the scope of the rule and the proposed language, and I am concerned that adoption of the proposed rule would create tremendous uncertainty, disputes and disruption in an already fragile housing and lending environment.

As I recommended in my prior submittal in response to the proposed guidance, I encourage FHFA to reject the proposed rule or, in the alternative, to revise the rule to limit GSEs to purchasing mortgages where a disclosure document is signed at closing. This process would ensure that homebuyers across the country are well informed of the existence of the transfer fee, but would avoid destroying the usefulness of this important solution to some of the challenges facing the real estate sector today.

Sincerely,

A handwritten signature in black ink that reads "Richard Pena Raymond". The signature is written in a cursive style with a large initial "R" and "P".

Richard Pena Raymond