August 26, 2010

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: Guidance on Private Transfer Fee Covenants (No. 2010-N-11)

Dear Director DeMarco-

Regarding FHFA's proposal to restrict Fannie and Freddie from acquiring mortgages encumbered by a private transfer fee, as a Ph.D. land economist who has studied this issue extensively, I believe that this is the wrong plan, presented at the wrong time, for the wrong reasons.

Development projects have stalled nationwide, leading to widespread foreclosures, layoffs and bank failures. Despite government efforts, funding is not available on commercially reasonable terms and job losses persist. In many cases, property values have dropped below the existing loan amount, resulting in negative equity.

When negative equity exists, the lenders hands are tied, the borrowers hands are tied, and the end result is foreclosure. The primary strategy being employed today to deal with negative equity is often referred to as "extend and pretend", while hoping for economic recovery. However, hope is not a strategy, and absent a real solution, and the creation of new equity, the ultimate result will be more foreclosures, job losses, a downward spiral in property values, and a lack of liquidity for small businesses and consumers.

> **When development projects fail, it creates a ripple effect throughout the community. Banks fail, jobs disappear, and property values are further depressed. Transfer fees cannot solve the problem, but they can definitely help.**

For decades developers have looked for viable ways to spread infrastructure costs. As the *California Building Association* noted during the 2007 California debate over private transfer fees, *"You can't put all of the costs on homebuyers and still sell at an affordable price."*

Solutions have ranged from Mello-Roos to public improvement districts, all of which involve assessing a fee *in order to repay the developer for multi-million capital improvements made to the project.* Capital recovery fees (also called transfer fees) have gained in popularity because they offer several advantages over Mello-Roos and similar fees, the primary advantage being that a transfer fee does not saddle homeowners with recurring debt payments. As the *California Building Association* correctly observed:

> **"Transfer fees represent an alternative to other financing mechanisms that can affect home affordability."**

Construction activity accounts for a significant portion of the jobs that have disappeared, and private transfer fees can help recover a substantive number of those jobs. When developers can spread development costs, and reduce home prices, projects become viable and construction trades go back to work. This is a very direct way of dealing with negative equity. I encourage FHFA to reject the proposed guidance.

Sincerely,

Tom McPeak, Ph.D.

Dr. Tom McPeak, Ph.D.
Atlanta, Georgia

Bio: In 2000 I began teaching at one of the nation's top business schools, the Terry College of Business at the University of Georgia. I received my Ph.D. in Resource Development (Land Economics) from Michigan State University. I have studied, and written extensively about, private transfer fee covenants for several years, including:

- The Economics of Private Transfer Fee Covenants

- Private Transfer Fee Covenants Give Buyers a Choice About How To Pay for Rising Infrastructure Costs

- A Balance Sheet Solution to the Economic Crisis