

From: Charles Penn [CPENN@BARBHAM.COM]
Sent: Wednesday, September 08, 2010 12:04 PM
To: !FHFA REG-COMMENTS
Subject: "Guidance on Private Transfer Fee Covenants, (No. 2010-N-11)

Edward J. DeMarco

Acting Director

Federal Housing Finance Agency

1700 G Street, NW

4th Floor

Washington, DC 20552

Dear Mr. DeMarco:

I am writing on behalf of the Birmingham Area Association of REALTORS® to support the Federal Housing Finance Agency's proposed guidance on the use of private transfer fees for the Federal Home Loan Banks (FHLBs) and the government sponsored enterprises (GSEs) Fannie Mae, Freddie Mac. We fully support the FHFA guidance that states the FHLBs and the GSEs should not purchase mortgage encumbered by private transfer fees and that such purchases are not prudent or safe or sound investments.

As you know, a private transfer fee commonly occurs when a developer agrees to add a covenant to the deed of each new home, or a homeowner agrees to add a covenant to an existing home's deed, that requires future owners of the property to pay a percentage of the selling price to a designated beneficiary. While the percentage fee paid is tied to the home price, it does not correlate with any tangible benefit received by the home buyer. The transfer fee rule is a covenanted mandate so it is extremely difficult to reverse the requirement once it is in place. In many cases the fee is attached to the deed for up to 99 years meaning several subsequent buyers may pay a fee where no service was rendered or benefit received.

Private transfer fees increase the cost of homeownership, do little more than generate revenue for developers or investors and provide no benefit to homebuyers. The Federal Housing Administration (FHA) recognizes the impact of private transfer fees. The US Department of Housing and Urban Development (HUD) General Counsel has confirmed that private transfer fees clearly violate HUD's regulations which prohibit legal restrictions on conveyance and require lenders to convey clear marketable title.

Thank you for your consideration of this matter.

Sincerely,

Charles Penn, CEO
Birmingham Area Association of REALTORS®, Inc.

Birmingham Area Multiple Listing Service, Inc.

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The road to success is uphill, not downhill.