



Pennsylvania
Association of
REALTORS®

*The Voice for Real Estate
in Pennsylvania*

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September 8, 2010

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 Pennsylvania Association of REALTORS® (PAR) to support the Federal Housing Finance Agency's (FHFA'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.

PAR is aware that in Pennsylvania, the practice has been going on in the north eastern portion of the state since 2009. We are currently working with the legislature to pass a bill that will ban all future private transfer fees as well as burden the administrator of the fee with cumbersome disclosure and recording timeframes. If these provisions are not met, the private transfer fee will be null and void.

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. They place an inappropriate drag on the transfer of property. Moreover, there is virtually no oversight on where or how proceeds can be

spent, on how long a private transfer fee may be imposed, or on how the fees should be disclosed to home buyers. Already, one company is negotiating with institutional investors to “securitize” pools of transfer fees, which will essentially create bonds that can be sold on a secondary market, based on the future cash flows.

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 time and consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Roth". The signature is written in a cursive style with a large initial "D" and "R".

Don Roth
President, Pennsylvania Association of REALTORS®