

From: Cort Chalfant [cort@ranchosahuarita.com]
Sent: Thursday, September 09, 2010 9:28 PM
To: !FHFA REG-COMMENTS
Subject: Proposed Guidance on Private Transfer Fee Covenants, (No. 2010-N-11)

September 9, 2010

The Honorable Alfred M. Pollard
General Counsel
Federal Housing Finance Administration
Fourth Floor
1700 G Street, NW
Washington, DC 20552

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

Dear Mr. Pollard,

On behalf of Rancho Sahuarita, a master-planned community of 12,000 people in Tucson, Arizona that uses Private Transfer Fee's ("PTF's"), I am writing to express our opposition to the proposed FHFA Guidance regarding PTF's and to share evidence of how PTF's are used to pay for legitimate operating costs and community enhancements that directly and proportionately benefit our homeowners. Since the motivation for proposing the Guidance seems rooted in the notion that only the Freehold Capital's of the world, or unrelated third parties, derive benefit from the imposition of PTF's, I hope the arguments and evidence presented here will add perspective to the alarming consequences that your rule would impose on millions of unsuspecting people across the country.

As you know, if the proposed Guidance is adopted as written, it would restrict Fannie Mae, Freddie Mac and the Federal Home Loan Banks ("GSE's") from investing in mortgages with private transfer fee (PTF) covenants. Since roughly 90% of the new and refinance mortgages are purchased by GSE's, the effect of this Guidance would:

- Cripple residential sales and refinancing opportunities for millions of homeowners in communities, condominiums, and co-op's across the country;
- Eliminate donations to 501 (c) entities that use PTF's to fund non-profit causes such as Habitat for Humanity, aid for the homeless, and environmental conservation;
- Force homeowners associations (HOA's) to raise assessments on unsuspecting homeowners to offset lost PTF revenue;
- Force property management companies to increase fees on HOA's;
- Remove the source of funds for working capital accounts in many homeowners associations.

These are but some of the unintended consequences of imposing the new rule. There are also legal questions as to how, or whether, existing covenants could be removed in order to prevent the predictable freeze on new and existing home sales as well as mortgage refinancing opportunities in thousands of communities across the country. In many cases, it will be nearly impossible to lift the covenants because super-majority votes of HOA members would be required and finger-pointing and chaos would ensue. In our case, we would have to somehow convince 5,000 homeowners that raising their monthly dues to replace PTF revenue is a good idea at a time when they are already struggling with the threat of lost jobs and declining wages.

Given the prospect of shutting down home sales and raising monthly HOA dues on millions of unsuspecting homeowners, this proposed Guidance appears to have been a rush to judgment by the FHFA. In any event, the FHFA Guidance would cause horrendous consequences for affected homeowners looking to refinance their mortgage, purchase or sell a home, or who are already stressed to the max by the burden of monthly expenses.

Speaking strictly from our experience, Rancho Sahuarita has been the best-selling community in Arizona for each of the past two years, and a top selling master planned community nationally for almost a decade. During 2009, it captured a 15% share of the new-home market in the metro-Tucson area. Rancho Sahuarita Village Program Association, the non-profit HOA, covers over 12,000 residents living in about 5,000 homes. In Rancho Sahuarita's case, 100% of the PTF's are paid to the HOA and are used to fund resident related operations and community amenities for the sole benefit of homeowners.

Since the latter part of 2001, there have been 1,246 residential re-sales and over 5,000 new home sales in Rancho Sahuarita. PTF's were collected on every resale, title insurance has never been a problem, and no sale has ever been cancelled or delayed as a result of PTF's. In contrast to the FHFA's position, Rancho Sahuarita has demonstrated that PTF's are an important source of revenue for HOAs. They are used to pay for legitimate operating costs and community enhancements that directly and proportionately benefit Rancho Sahuarita homeowners. Moreover, while the average price of residential re-sales in Arizona has dropped by 8.2% over the past year, they have dropped by less than half that rate in Rancho Sahuarita, as a result of the amenities and lifestyle that PTFs have partially funded for residents to enjoy.

PTF's are described in the FHFA Guidance as "adverse to liquidity, affordability and stability in the housing finance market." However, Rancho Sahuarita, which has enjoyed nearly unparalleled success and considerably outperformed the market, has demonstrated that PTFs can be properly utilized to enhance liquidity, affordability and stability for homeowners at all income levels.

Rancho Sahuarita has been able to develop a sense of place and community that is attractive to people of all ages, with home values that have been relatively protected as a result of a lifestyle partially funded by PTF's. If the new FHFA rule is adopted, our residents will be talking about why they can't sell or refinance their homes instead of the great lifestyle they enjoy. When they call me to desperately look for solutions, I will make sure they have your number.

For more information about Rancho Sahuarita and the amenities funded in part by PTF's, we invite you to visit www.ranchosahaurita.com or to contact me directly.

Sincerely,

Cortlandt (Cort) Chalfant
Senior Vice-President
Rancho Sahuarita Companies
4549 E. Fort Lowell
Tucson, AZ 85712
Work: (520) 299-8766
Mobile: (520) 275-4496
Fax: (520) 529-3137
Email: cort@ranchosahuarita.com