

From: John Riddle [john@johnriddle.info]  
Sent: Tuesday, September 14, 2010 2:30 PM  
To: !FHFA REG-COMMENTS  
Subject: Guidance on Private Transfer Fee Covenants No. 2010-N-11

Mr. Pollard-

I ask that you reject the proposed guidance, for the following reasons:

1. Despite widespread use of transfer fees for decades, there is no evidence of harm to consumers or lenders. In California, Mello Roos taxes are used instead of transfer fees. They are often charged at a rate of 1% per year plus normal property taxes. Transfer fees accomplish the same thing without a large financial impact.
2. Passing the guidance will negatively impact millions of homeowners, who will find their property ineligible for low-cost financing.
3. Transfer fees are voluntary. No one is forced to pay the fee and they are easily recognizable through proper disclosure. The fiduciary duty of a title company is to disclose these fees. All major title companies have approved these fees in writing.
4. Developers use capital recovery fees to spread infrastructure costs. There is nothing unfair or inequitable about this practice. It is analogous to using road bonds to pay for roads.
5. Developers sell off the income stream (e.g. a development bond), and use the proceeds to PAY OFF LOANS, REDUCE NEGATIVE EQUITY, and RESTART FAILED PROJECTS - CREATING JOBS. In return, homeowners pay less up front.
6. HOAs use transfer fees to lower quarterly dues. Non-profits use the income to provide important community benefits.
7. These fees are embedded within deed restrictions, and cannot be easily removed in most cases - if at all. Some fees (to charity) run in perpetuity.
8. If the issue is protecting Fannie and Freddie, there is no basis for eliminating the use by subdivision developers. Lender liability bears no relationship to the ultimate use of the fee.
9. The guidance is being pushed almost exclusively by two special interest groups well known for lobbying hard for lax lending standards and sub-prime loans in pursuit of profits.
10. The guidance will not stop developers from using the fee. It will simply saddle homeowners with higher interest payments.

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