



**Council of New York Cooperatives & Condominiums**  
INFORMATION, EDUCATION AND ADVOCACY

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Alfred M. Pollard, General Counsel  
Federal Housing Finance Agency  
4<sup>th</sup> Floor  
1700 G Street North West  
Washington, D.C. 20552

**Submitted via E-mail : [regcomments@fhfa.gov](mailto:regcomments@fhfa.gov)**

**Public Comments on  
Guidance on Private Transfer Fee Covenants No. 2010-N-11**

Dear Mr. Pollard:

The Council of New York Cooperatives & Condominiums, representing over 175,000 families living in housing cooperatives and condominiums, urgently requests a specific exemption from the FHFA Proposed “**Guidance on Private Transfer Fees**” restrictions regarding transfer fees. In its present form this Guidance will be devastating to many of our members.

The proposed “Guidance” would restrict **Fannie Mae, Freddie Mac** and the **Federal Home Loan Banks** from purchasing loans to buyers on properties encumbered by a "Private Transfer Fee Covenant," sometimes called a “flip tax” or “waiver of option” fee.

Housing cooperatives and condominiums are democratically run communities owned by their residents. They often provide home ownership opportunities to individuals who would otherwise have no hope of being owners. One of the ways that many housing cooperatives and condominiums preserve their affordability is by imposing a transfer fee on the sale of units, with the proceed of the fee being paid directly to the cooperative or condominium to fund a building reserve fund.

Unlike the transfer provisions which we understand are directed at developers who imposing covenants on new homes that require all sellers to make future payments to the developer, the transfer fees imposed and collected by housing cooperatives and condominiums go directly to that cooperative or condominium, to fund reserves for the maintenance, repair and replacement of building systems, the upkeep and upgrading of grounds, and then for additional amenities that would otherwise be impossible for the members to afford — a meeting room, a roof garden, an exercise facility, better landscaping, etc. etc.

In the past, FANNIE MAE and FREDDIE MAC have found transfer fees benefiting the cooperative or condominium to be a positive factor in their evaluation of those housing units. The existence of a transfer fee is an indication that strong reserves will be maintained, thus enhancing the marketability of the units in the cooperative.

When a cooperative or condominium has a transfer fee, it was either part of the basic founding documents or was implemented by positive vote of a supermajority of the members. If the proposed Guidance were implemented in its present form, some cooperatives and condominiums might decide that they need to abolish their transfer fee in order to have loans to their members meet FHFA standards. The process would involve obtaining an affirmative vote of a super majority of members to amend existing documents. This would mean persuading homeowners to vote against their own interests --eliminating the source of funds to maintain necessary reserves, thereby agreeing to take on assessments or higher carrying costs. They will be asked to select saleability over affordability; a difficult decision at best. A decision that we respectfully suggest is unnecessary and unwise.

We urge that FHFA reconsider the portion of this Proposed Guidance, so that it will not have the unintended consequence of increasing costs to homeowners in cooperatives and condominium and weakening rather than strengthening the viability of this important form of home ownership.

Sincerely,



Mary Ann Rothman  
Executive Director