DALE SLINKARD ARCHITECT

Architecture Urban Planning Development

September 15, 2010

FHFA's Guidance on Private Transfer Fee Covenants No. 2010-N-11

Re: **Hidden TRUTH About FHFA's Guidance on Private Transfer Fee Covenants No. 2010-N-11**

Dear Sir:

My name is Dale Slinkard, and I am a registered Architect and licensed Real Estate Broker in the State of Texas. I have helped buyers, sellers, builders, developers, and financial institutions execute real estate transactions and provide real estate development solutions for over 40 years. My family has built over 600 houses in the San Antonio area and I have participated in the development and planning of numerous communities, all of which have contributed to the economic growth in San Antonio. It is my opinion that government should be aiding developers, builders, and financial institutions in obtaining capital to revitalize our economy and prevent collapse of the real estate industry. Developers, Builders, and Financial Institutions are the **Economic Engine** for growth. They build our infrastructure. They provide millions of jobs for everyone associated with their endeavors, like architects, engineers, construction workers, advertising agencies, realtors, title companies, material suppliers, surveyors, and planners. They build our schools. Our parks. Our neighborhoods. Our cities. Without their production there is no growth.

It may surprise you to discover that **FHFA's Guidance on Private Transfer Fee Covenants No. 2010-N-11** actually takes money out of the mouths of blue collar workers who are employed in the development trades, like plumbers, electricians, framers, concrete companies, painters, realtors, title companies, and a hundred more working class people who actually build our country. This guidance would severely prohibit the developers and builders of our country from employing Future Conveyance Fees as a means to capitalize their stalled projects and the ability to restart their endeavors and bring jobs back to the work place. With restricted lending practices currently entrenched; the builders and developers have limited means to turn to finance their projects. Future Conveyance Fees would allow those in the development trades a chance to go back to work. This proposed regulation would prohibit Fannie Mae, Freddie Mac, and the Federal Home Loan Banks from buying mortgages on homes in communities with private transfer fees.

From a Big Builder News article dated September 13, 2010: "**Without Fannie and Freddie behind the mortgages, its pretty much 'game over**,' say industry experts. Currently Fannie Mae and Freddie Mac, together with the Federal Housing Administration (FHA), make up approximately 90% of the secondary mortgage market. If they stop investing in mortgages on homes with these private transfer fees attached, primary mortgage lenders will refuse to underwrite the mortgages. Consequently, these homes will be utterly unmarketable and housing values are likely to suffer."

Clearly we should be helping the economic engine for growth in our country, and increase job growth!

<u>FCF - Future Conveyance Fees</u>

A Future Conveyance Fee is the right to receive from future sellers a conveyance fee equal to a percentage of the sales price, typically 1%, for the property for a defined period of time through a covenant, which is recorded in the County the property is located in, and paid at closing. Future Conveyance Fees make properties more affordable to purchase because the developer is able to more fairly and evenly apportion-out the expenses for infrastructure and other long-term improvements without having to encumber the entire debt burden on the first buyers. Future Conveyance Fees also make properties more affordable to maintain because with less expensive purchase prices owners are able to enjoy less expensive down payments and less expensive mortgage payments. Furthermore Future Conveyance Fees, help homeowners avoid foreclosure because a less expensive property at time of purchase is easier to pay for during the entire term of ownership and can be sold for a lower price and still enjoy the same rate of appreciation as another similar property which had to sell for more in order for that developer to recoup its necessary infrastructure expenses. This economically efficient and equitable arrangement reduces the burden on first time buyers, decreases transaction costs and, through a subsequent sale of the conveyance fee instruments, can increase developer liquidity, which means more **JOBS** for our Country.

Future Conveyance Fees are an invaluable tool for prospective property owners, which enable a seller to sell their property at a lower price today, in return for a **voluntary** payment by the persons enjoying the benefits of the property in the future. And Future Conveyance Fees enables a buyer to postpone paying for a portion of the property (and all the attendant expenses) until they are ready to sell it. Future Conveyance Fees make homes more affordable and should tend to reduce incidents of foreclosure. Future Conveyance Fees are the most equitable solution available.

The developer is able to help fund the public improvements, reduce their lending requirements, and provide the **ECONOMIC ENGINE** necessary to enhance the community's growth, provide jobs, increase improvements, and provide for the general welfare for the community. Future Conveyance Fees are good for the economy and good for job growth.

From a Big Builder News article dated September 13, 2010: "***One developer, Ted Thieman, founder of the real estate developer Thieman Enterprises in Vandalia, said: "People are going bankrupt out here, and there's no cash flow in our developments anymore***."

In an email to *Big Builder Online*, Meghan Sherman of Glover Park Group wrote, "***transfer fees are similar to development bonds that spread the cost of the infrastructure amongst all the parties that will enjoy the benefits of these infrastructure elements over the 99 year period. It is in no way a royalty payment or a windfall.***"

From Builder Online dated June 23, 2010 titled: "**House Bill Wants Feds to Guarantee AD&C Loans For Builders":**

North Carolina congressman who introduced the legislation is most concerned about the industry's job drain.

As builders struggle to get financing for land development and construction, a North Carolina congressman has called on the federal government to step in and guarantee loans for viable building projects, particularly in markets where lending has dried up the most.

"**We've gone from indiscriminate lending to indiscriminate refusal to lend, and it's killing jobs**," says Brad Miller (D-N.C), who with two other Democrats—Joe Baca of California and Steny Hoyer of Maryland—introduced HR 5409, known as the Residential Construction Loan Guarantee Program. "**We can't tell 16% of the [Gross Domestic Product] to just hang around and wait for a while**," says Miller, referring to the housing industry and its economic output.

This bill calls for $15 billion to be appropriated to the Treasury Department over three years to guarantee loans for land and building. HR 5409 is an amendment to another bill moving through Congress that, if passed, would extend $30 billion to small banks for small business loans.

In a telephone interview with BUILDER on Tuesday afternoon, Miller, speaking from the U.S. Capitol in Washington, D.C., quoted NAHB estimates, which suggest that restrictive lending practices have been partly responsible for new-home inventory sinking to their lowest level in 42 years. (*The Wall Street Journal* reported on Monday that NAHB had sent letters to members of the House of Representatives urging them to support ”the Miller/Baca amendment,” which was added to the larger bill by a vote of 418 to 3.)

Miller also cited the jobs lost in the construction field because builders and developers can’t secure financing to get their projects off the ground. “These are Americans with real skills that aren’t transferable outside of construction.” He sounded particularly concerned about the plight of North Carolina contractors and subs that are out of work with few prospects in sight.

A Message on the AD&C Loan Crisis From NAHB Chairman Bob Jones

NAHB
June 21, 2010

“This spring, we have seen encouraging signs of a housing recovery starting to take root, with home sales and starts slowly and erratically beginning to register encouraging gains from the steep decline of recent years. Despite what you might have been seeing in the national data, many local housing markets are poised for a return to normalcy, and the hardest-hit parts of the country appear to have seen the worst of a devastating housing downturn.

But there can be no long-lasting housing or economic recovery as long as the home building industry continues to experience severe credit problems for acquisition, development and construction (AD&C) loans. The lack of access to capital especially puts small and medium-sized builders at a disadvantage, making them uncompetitive in their markets and even threatening the viability of their businesses.

Ending the freeze in home building credit that is jeopardizing countless home building firms across the nation is our association’s top priority.

Under intense pressure from bank examiners to reduce their exposure to development and construction loans to builders and curtail their outstanding portfolio of real estate loans, many lenders are refusing to make loans for viable new housing projects and cutting off the funding for performing loans, or calling them. This is causing unnecessary foreclosures and losses on these loans. Performing loans are also being reappraised, reducing the value of the collateral and forcing borrowers to come up with large amounts of cash to keep their loans current.”

Many developers throughout the land are struggling today for access to credit. Financing for the production of housing and housing communities is critical not only for they’re languishing businesses, but also for the full-fledged housing upturn that is needed to boost consumer confidence and create jobs.

AD&C Crisis Standing in the Way of Five Million New Housing-Related Jobs

NAHB
June 21, 2010

The ongoing crisis in acquisition, development and construction lending has choked off credit for home building and is taking an enormous toll on the nation’s economic activity and the health of its job market, NAHB told a May 18 hearing before the House Financial Services Committee on initiatives to promote small business lending, jobs and economic growth.

“The problems in the housing sector have had a significant impact on the nation’s economy,” NAHB said. “The sharp decline in home building from the 2005 peak — a drop of one million units — has translated into 1.4 million lost jobs for construction workers and the loss of $70 billion in wages.

The damage from the sharpest housing decline since the 1940s extends further, NAHB said:

Industries that provide materials to homebuilders have lost more than 560,000 jobs and $25 billion in wages. This includes makers of products such as lumber, concrete, windows, doors, plumbing, flooring and appliances. More than 580,000 jobs and $32 billion in wages have been lost by service providers to housing, including lenders, architects, real estate agents, lawyers, support staff and others. The total loss of the housing slump has been more than three million jobs and $145 billion in wages in all housing-related industries. “The ongoing credit problems for home builders will further inflate these totals,” NAHB warned.

“Home builders cannot keep their doors open and provide jobs in their communities if they cannot get credit to build even pre-sold homes,” it said. “And builders in the middle of viable projects cannot pay subcontractors and other materials and services providers if lenders will not grant routine loan extensions or if banks require payment-in-full before homes can be finished and delivered.”

The credit crunch also will inflict longer-term economic damage, NAHB said, because the development process is lengthy, taking years from the acquisition of land to the completion of homes.

“With lenders refusing to finance lot development, the pipeline of ready-to-build-on land will drain dry,” NAHB said.

“This will result in a major delay in meeting demand for new homes when consumers return to the marketplace in more significant numbers. In cases where federal permits are also required, expirations of these permits will force builders to start the approval process anew, adding at least several years to the pipeline,” according to NAHB.

“The effect will be most severe in markets that have not suffered the boom-bust extremes and would otherwise be poised for more rapid recovery,” it said.

NAHB estimates that over the next decade there will be a need for an average of at least 1.7 million additional homes annually, translating into the creation of five million jobs and significant economic activity.

“Without increased AD&C lending,” however, “this future demand will not be met, job loss will occur and job creation will suffer,” the congressional panel was advised.

In addition, **FHFA’s Guidance on Private Transfer Fee Covenants No. 2010-N-11** is clearly an attack on Individual Rights. No one is making a consumer buy a house in these developments. Consumers should have freedom of choice, and the Builders of our country should have a clear opportunity to provide economic and job growth. The FHFA is saying that the individual is not able to make a decision without the government telling them what to do. If a consumer does not want to pay a Future Conveyance Fee then don't buy in these developments. Buy somewhere else. Some consumers will want to buy at a reduced price and pay their one time assessment when they sell. Let those consumers make there own minds up.

The transfer fees should be disclosed to the consumer. The major title companies have issued policy statements stating that the consumer shall execute a full disclosure document at closing that the Buyer fully understands that this property is subject to a resale assessment due when the Buyer sells the property. Issue guidance, like the State Of California, stating all properties with a Future Conveyance Fee shall be fully disclosed.

The key issue right now is cost. How do you reduce the offering prices on construction projects and compete with foreclosures. **FHFA's Guidance on Private Transfer Fee Covenants No. 2010-N-11** will make it tougher for families with children to afford a home.

FHFA's Guidance on Private Transfer Fee Covenants No. 2010-N-11 is a deterrent to the creation of viable neighborhoods and businesses that can help us recover to a more prosperous economy. The Realtors and Title companies are directly behind this initiative. How does my 6% sales commission help the economy when a 1% transfer fee pays for roads, utilities, streetlights, and bridges? Shame on them. The FHFA proposal is a direct, intentional, petty, big-brother, full-frontal attack on developers, builders, lenders, and non-profit entities. Let the free market decide.

I urge you, in the strongest language possible, to cancel this regulation.

PLEASE GIVE THIS YOUR UTMOST ATTENTION.

Respectfully,

Dale Slinkard
Architect & Real Estate Broker
San Antonio, Texas