

From: Tom Ruch [tomruch@cox.net]
Sent: Wednesday, September 29, 2010 3:13 PM
To: !FHFA REG-COMMENTS
Subject: Guidance on Private Transfer Fee Covenants, (No 2010-N-11)

Dear Sirs,

On August 16, 2010, the Federal Housing Finance Agency (FHFA) announced that it is going to ban certain fees that homeowners associations across the nation (including mine) use to fund maintenance projects and to provide for unanticipated expenses. If FHFA bans these fees, entire communities may be cut off from mainstream mortgage financing and devastated as unsold homes sit for lack of financing.

One out of every five Americans lives in a community or homeowners association. The majority of these associations require new homeowners to make an upfront payment to fund ongoing obligations of the association. These fees are disclosed to homebuyers, along with the rate of regular assessments that all association residents must pay, prior to closing. Presumably the FHFA is considering this action under the mistaken impression that this change will somehow reduce the costs for providing maintenance and services. The reality is that it will only serve to move these costs to other 'buckets' in the form of higher ongoing fees for all homeowners, and at the same time, make the sale of affected homes difficult.

The housing market is weak and has not begun a sustained recovery nationwide. FHFA's proposal to prohibit Fannie Mae, Freddie Mac and the Federal Home Loan Banks (the GSEs) from buying or investing in mortgages on homes in community associations with deed-based transfer fees will only cause further harm. Since the fees are embedded in each property's deed, removing them will require additional cost to homeowners having to rewrite existing deeds and to associations having to rewrite governance documents reflecting these changes. During the transition process, these communities will become off-limits for the GSEs. Without access to credit, these homeowners will suffer - not because they made a bad decision, but because FHFA was trying to "help." A survey of Community Associations Institute's member communities suggests that up to a quarter of the more than 24 million housing units in community associations could be blocked from mortgage financing under this rule.

If FHFA wants to help homeowners rather than harm them, the agency should focus its efforts on examining the impact of fees that are payable to third parties not connected to the underlying property or community association. These fees include title searches, title insurance, surveys, origination points, processing fees, filing fees, and legal fees among others. Where is the focus on these costs? Most of these costs are beyond the control of the homeowner and provide no lasting value as they flow outside the community to financial institutions, third party providers and local governments. Fees that directly support the underlying property, and touch and concern the land in question, have a more than 30-year track record of benefiting communities.

I request that you write FHFA and demand the agency revise or withdraw its ill-conceived GSE mortgage purchasing guidance on transfer fees. Please let me know what you are doing to stop FHFA and help our housing market to recover.

Sincerely,
Thomas L. Ruch