



Federation of New York Housing Cooperatives & Condominiums

Devoted to the Interests of all Cooperatives and Condominiums

61-20 Grand Central Parkway - Suite C1100 • Forest Hills, New York 11375

Tel. (718) 760-7540 • Fax (718) 699-5618

Email: info@fnyhc.coop

Web Site: fnyhc.coop

October 1, 2010

Alfred M. Pollard, General Counsel

Federal Housing Finance Agency, 4th Floor

1700 G. Street North West

Washington DC 20552

Submitted via E-mail: recomments@fhfa.gov

RE: Public Comments on "Guidance on Private Transfer Fee Covenants, (#2010-N-11)"

Dear Mr. Pollard:

The Federation of New York Housing Cooperatives & Condominiums (FNYHC) represents over 100,000 families living in housing cooperatives and condominiums. WE, urgently request a specific exemption from the Federal Housing Finance Agency's (FHFA) proposed "Guidance on Private Transfer Fees" restrictions regarding transfer fees. The proposed covenants are a shot gun approach to solve a limited problem which would yield unexpected consequences. In its present form it will be devastating to our members, particularly lower income buildings who already have a hard time obtaining funds.

The proposed "Guidance" would restrict Fannie Mac, 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 a 'waiver or option fee';

The vast majority of FNYHC members were formed and built under FHA Section 213 program. This program insisted that in the underlying cooperative documents the "waiver or option fee" be written into these document and could only be changed by a super majority (75%) of the shareholder residents. The fees collected in this way have been a significant factor in preserving the affordability of these cooperatives.

Unlike the transfer provisions which we understand to be the true target of the FHFA to stop developers from imposing 99-year covenants on new homes that require all sellers to make a payment to the developer, the transfer fees collected by housing cooperatives and condominiums go directly back to that cooperative or condominium to fund reserves for the maintenance, repair and replacement of building systems and all the necessities of a well maintained buildings.



Lending institutions have always looked at cooperatives and condominiums' reserve funds as a barometer of how healthy the building may be. A surely unintended consequence of this guidance would be to greatly reduce the reserve funds income stream of many cooperatives and condominiums. In the past Fannie Mae and Freddie Mac have strengthened cooperative and condominium lending practices with the experience leading to only a very small percentage of foreclosures.

Again, for many cooperatives or condominiums that have transfer fees, it was either part of the basic founding documents of the cooperative or was implemented by positive vote of a supermajority of the members. To undo what has been a practice for almost sixty (60) years will not be an easy task and a costly one as a matter of fact.

We urge the FHFA to reconsider the Proposed "*Guidance on Private Transfer Fee Covenants*" to exempt housing cooperative and condominium transfer fees, so that it will not have the unintended consequence of increasing costs to homeowners in cooperatives and condominiums and weakening rather than strengthening the viability of these important forms of home ownership.

Thanking you in advance.

Cooperatively yours,


Gregory J. Carlson
Executive Director