

From: Reynold Weidenaar [reynold@magneticmusic.ws]
Sent: Monday, October 04, 2010 1:50 PM
To: !FHFA REG-COMMENTS
Subject: Guidance on Private Transfer Fee Covenants, (No. 2010-N-11)

I am treasurer of a 20-unit co-operative apartment building located at 20 Jane St., New York, NY. Only one unit here is still owned by the sponsor; the other 19 units are owned by individual shareholders. This proposed regulation on transfer fees is the worst news I have heard in quite some time. It would be deleterious to our finances, while it would do nothing to counter the abuses it is aiming to combat. In 2004 our shareholders, by a majority vote using written secret ballots, representing 71% of the outstanding shares, voted to establish a 2.5% transfer fee. This was enacted as an amendment to our Proprietary Lease. It is fully disclosed to shareholders and buyers. Yes, we voted to tax ourselves because it was for the good of the finances of our co-op. And what good will be accomplished by the FHFA's undoing of this?

Commonly called a "flip tax," this transfer fee is paid to the corporation that owns the apartments (NOT to the sponsor or any third party) when the shares of a unit are transferred to a new owner. Our shareholders discussed and debated this issue for many months, and most of them came to the conclusion that it was fair to share a portion of their sometimes very appreciable capital gain, upon selling their shares, with the corporation. Many of our unit owners today enjoy valuations in excess of 200%-300% of what they paid for their apartments. It is difficult to concur with the FHFA's characterizations of losing a small slice of this profit as "not a reasonable amount" and being "a burden".

It is true that someone who bought their apartment a year or two ago, might be looking at a diminished valuation if selling today, in which case the flip tax would be unwelcome. However, we are looking for long-term ownership and stability at our building. If we can discourage short-term buy-and-sell transactions by means of our flip tax, that is a net positive. And buyers are in fact, it turns out, attracted to a co-operative with a flip tax. Thinking long-term, they apprehend that they will be a beneficiary of transfer fees collected from a number of units in turn over the years, before it comes their time to sell.

In our building, during the last 10 years, there has been an average of one unit transfer every two years. The amount of the flip tax has averaged between \$5,000 and \$8,000. In the context of a \$155,000 annual budget (2010), receiving the proceeds of a flip tax in a particular year helps to pay for maintenance and/or capital items for that year. It enables us to keep assessments and monthly-maintenance charges lower than they would otherwise be. In this context, it seems paradoxical that the FHFA asserts that a transfer fee "increases the cost of homeownership." Rather, it redistributes very slightly the cost of homeownership over the short term; over the long term the costs are the same and the equitable distribution as well. If real estate prices rise steadily and smoothly (as they generally do when there are no buyer/realtor/lender/securitizer/ratings agency/regulatory/legislative abuses), the unit that turns over once every 20 years will yield 4 times the transfer fee of the unit that turns over every 5 years. It all evens out.

Deborah Lipscomb, our lender at National Cooperative Bank, shares my view that the flip tax enhances the liquidity, affordability, and stability of our apartments, making them financially safe and sound investments. Yet the FHFA, incomprehensibly, is articulating exactly these goals in support of removing the flip tax.

I hope the foregoing has been helpful and informative. I would be pleased to discuss this matter further. Thank you for your kind consideration.

Sincerely,

Reynold Weidenaar

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