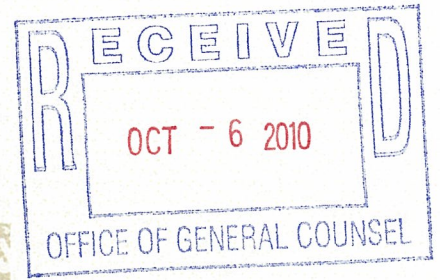


Telluride Mountain Village  
Owners Association

113 Lost Creek Lane, Suite A  
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September 28, 2010

The Honorable Alfred M. Pollard  
General Counsel  
Federal Housing Finance Administration  
Fourth Floor  
1700 G Street, NW  
Washington DC 20552

**RE: *Proposed Guidance on Private Transfer Fee Covenants, (No. 2010-N-11)***

Dear Mr. Pollard:

I am writing on behalf of all owners of real property located in the Telluride Mountain Village, a common interest community located in the Town of Mountain Village, San Miguel County, Colorado, to express our strong opposition to the Federal Housing Finance Agency's Notice of Proposed Guidance on Private Transfer Fee Covenants published in the *Federal Register* on August 16, 2010. If implemented in its current form, the guidance will have a significant negative impact on all property owners within the Telluride Mountain Village. We respectfully request the proposed guidance be either withdrawn in its entirety or revised to ensure that all property owners within community associations continue to have equal access to mortgage credit.

As is the case with the majority of community associations across the country, the Telluride Mountain Village Owners Association ("TMVOA") employs a covenant-based transfer fee to fund critical community operations and to ensure the association is able to sufficiently fund ongoing and unanticipated costs, in particular the operation, maintenance and repair of a gondola transportation system. The elimination of this covenant-based transfer fee would reduce TMVOA's operating budget income by approximately \$3,000,000 to \$5,000,000 each year. This reduction in association income means our property owners will face drastically higher association assessments, a reduction in the services and amenities that attracted them to our community in the first place, or both. Additionally, this loss of income increases the likelihood of special assessments, which often are a significant and unanticipated financial burden on our property owners.

The Telluride Mountain Village was organized in 1984 and has used a covenant-based transfer fee to finance community operations and improvements since its inception. The experience of our association is that these covenant-based transfer fees directly benefit property owners in our community, as they ensure maintenance of adequate reserves and provide funds for the general obligations of and capital improvements for TMVOA. This protects the values of properties in our community for all residents, which is a considerable additional benefit for the individuals purchasing property within

Telluride, Mountain Village. That is why we are extremely troubled by FHFA's unsubstantiated finding that GSE purchases of investments in "mortgages encumbered by private transfer fee covenants... would be unsafe and unsound practices and contrary to the public mission of the Enterprises and the Banks." From our practical experience, we observe the opposite to be the case. Rather than destabilizing communities by threatening to depress property values, FHFA should support the use of covenant or deed-based transfer fees that benefit property owners and support property values. Indeed, it is unclear if FHFA contemplated the impact of its proposed guidance on property owners living in associations with deed and covenant-based transfer fees when developing its proposed guidance. Compliance with FHFA's guidelines as proposed would be cumbersome and in some instances impossible. TMVOA is contractually prohibited from eliminating the transfer assessment imposed through our governing documents, as the transfer fees have been pledged as collateral in connection with the construction of a gondola transportation system that provides a critical transportation link for our property owners.

Given the difficulty associations across the country face in removing deed-based restrictions or modifying community covenants, it is likely a significant number of homeowners will no longer have access to mortgage credit if FHFA's proposal is not withdrawn or revised. In its proposed guidance, FHFA suggests the elimination of mortgage financing for properties with a deed-based transfer fee will protect the nation's "still fragile housing markets." Rather than protecting housing markets, this regulatory redlining of healthy associations and creditworthy borrowers will put downward pressure on home values in these communities and cause severe financial hardship on homeowners who have done nothing wrong.

The Real Estate Transfer Assessment ("RETA") covenants for Telluride Mountain Village are part of the General Declaration which originally created our community. The General Declaration was recorded in 1984 in the public records of the San Miguel County, Colorado Clerk and Recorder. These are not hidden or unknown covenants. All potential buyers, borrowers and lenders can easily determine and obtain the RETA covenants by a simple search of the real property records or by accessing the TMVOA website ([www.tmvoa.org](http://www.tmvoa.org)).

Over the years, the RETA covenants have provided a revenue stream to fund our annual operations, as well as the gondola transportation system, common area improvements, and other capital projects that substantially benefit the property owners. If TMVOA eliminated this income stream, the regular assessments imposed upon our owners would have to be increased by at least 300% to 400%. In addition, it is almost certain that special assessments would be required to fund capital operations and improvements for community facilities such as the gondola.

We appreciate the opportunity to comment on FHFA's proposed guidance on private transfer fee covenants, and strongly urge FHFA to reconsider its proposal to ban all covenant or deed-based transfer fees.

Sincerely,

  
Jeff Proteau, President

cc: TMVOA Board of Directors  
The Honorable John Salazar  
The Honorable Mark Udall  
The Honorable Michael Bennet