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Sent: Tuesday, October 12, 2010 4:12 PM
To: !FHFA REG-COMMENTS
Subject: Guidance on Private Transfer Fee Covenants, (No. 2010-N-11)

As an attorney that represents community associations throughout NJ, the proposed rule on private transfer fees is, in my opinion, misguided. As as been said many times before, there is an enormous difference between Private Transfer Fees paid to third parties that provide no benefit to the property being bought into by the purchaser and those that are charged by community associations who use the funds to better maintain the property or improve it.

Further, the rule imposes a penalty on innocent purchasers who bought homes in community associations in good faith where the PTFs were already in effect. The lenders who funded those purchases indicated no objection to the PTFs. Now, however, they could suffer significant loss in an already fragile housing market because buyers would not be able to obtain traditional financing to purchase their home. In some instances, this may lead to further foreclosures as the devaluation of homes through this rule will eliminate all equity in the home. The lack of traditional financing will have a further negative impact on the value of their home when they can least afford it.

Further, some of the PTFs exist in covenants that pre-existed the recording of the governing documents of the condominium or planned unit project. As such they are un-amendable by the current homeowners. In other instances, amendments require supermajority votes from 67% to 100%. These thresholds are extremely difficult to obtain and in some cases impossible.

If the rule were limited to only third party PTFs and was applicable only to those communities created after the rule is implemented, it might be workable. As it stands now, however, the rule should be withdrawn.

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