From: Grant Bybee [grantbybee@gmail.com]
Sent: Wednesday, October 13, 2010 11:10 AM
To: !FHFA REG-COMMENTS
Subject: Guidance on Private Transfer Fee Covenants No. 2010-N-11
Alfred M. Pollard, General Counsel
Federal Housing Finance Agency
1700 G Street NW., Fourth Floor
Washington, DC 20552
Via: regcomments@fhfa.gov
Attn: Public Comments

Re: Guidance on Private Transfer Fee Covenants No. 2010-N-11

Dear Mr. Pollard,

I have recently been made aware of the above referenced proposed guidance on Transfer Fee Covenants.

I am wondering why this is suddenly becoming an issue. Transfer Fee Covenants have been used by home owner's associations and others for years with no deleterious effect on the real estate market or the properties being sold and bought. Usually when an issue such as this pops up unexpectedly, especially when the process has been used for years, it is the result of a special interest trying to change something to enhance their own financial position.

In this case it appears to be the real estate agents which assume that the existence of a transfer fee covenant will cause the price for a piece of property to be lowered and therefor diminish their commission. This is probably an accurate statement, but hardly a good reason for changing a process that has worked well for years.

Another interest group against transfer fees are the title insurance people. They see these as additional work for which they assume they will not receive additional pay, but which will increase their liability. Again, probably accurate, but that's why they are in business. It's their job to research title issues.

In reality, covenants that affect the value of property and which must be discovered and disclosed at a closing have been around for many years. Easements, water rights, and mineral rights just to name a few. By the current logic, any property with recorded mineral rights owned by a third party should disqualify the mortgage on that property from being purchased through Fannie Mae and Freddie Mac.

But what are the positive aspects of transfer fee covenants? These covenants create a long term income stream which has a net present value. Through the sale of that income stream, a developer is provided with a source of capital to finance the infrastructure of the development when there are currently very few other conventional sources that are responding to their needs. It provides sort of a development bond if you will.

By financing early development costs in this manner, the developer is able to lower the cost of the finished product, allowing the costs of those improvements to be spread out over many purchasers, rather than placing the entire cost upon the initial buyers in a project.

In our current economic situation, providing developers with this source of financing will allow them to jump start projects which have been interrupted by banks which have chosen to no longer fund their outstanding loan commitments. This in turn will create a large number of permanent private sector jobs in the housing sector, which has always been a bellwether for recovery. As an economist, I could calculate the number of probable jobs this would create, but take my word for it, it is in the millions.

For all of the above reasons I would ask that you reject the above referenced proposed guidance.

Sincerely,

Grant Bybee