



October 13, 2010

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

Via E-mail: regcomments@fhfa.gov

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

Dear Mr. Pollard:

We urge you to reject the *Proposed Guidance on Private Transfer Fee Covenants No. 2010-N-11* relating to private transfer fees as it is currently written. The prohibition of Private Transfer Fees on mortgages funded by Fannie Mae and Freddie Mac would remove a critical funding mechanism for environmental conservation. Our respective charitable organizations work to protect nature and open spaces throughout Massachusetts and New Hampshire, and have observed firsthand the environmental and community benefits transfer fees can provide, particularly as a means to fund conservation easement and conservation land stewardship.

The practice of using transfer fees for private gain can be curtailed without disturbing the legitimate use of transfer fees for public and charitable conservation benefits. As proposed, this guidance would have a severe negative impact on the operations of conservation organizations such as ours that rely on these disclosed fees for our operations. Contrary to for-profit private application, our use of Transfer Fees is based on an important recognition of reciprocal benefit between the property encumbered and the conservation mission of the organization benefited. As validated by market data, private property encumbered by a transfer fee is enhanced significantly by virtue of our presence of our conservation lands in the community. The income provided through this mechanism provides our organizations the capacity to continue providing those benefits to the encumbered property and the host community at large.

With a high percentage of mortgages (by some estimates 90 percent) insured or backed by Freddie Mac or Fannie Mae, this proposal would effectively preclude the use of transfer fees for community benefits, removing a critical tool for building strong communities, and achieving long term community conservation goals. .

We request that the Federal Housing Finance Agency reject this guidance and instead adopt transfer fee standards that protect environmental and community benefits while prohibiting abusive fees that are used solely for private gain. Similarly, we would support an exemption to the prohibition for tax exempt charitable organizations.

At a minimum, the comment period should be delayed and extended for a significant time to allow for the thoughtful and transparent consideration of the impacts of such a change.

Thank you for considering these comments.

Sincerely,

John J. Clarke, Director of Public Policy and Government Relations
Mass Audubon

Paul A. Doscher, Vice President for Land Conservation
Society for the Protection of New Hampshire Forests

cc: Massachusetts Congressional Delegation
New Hampshire Congressional Delegation