



IREM Institute of Real Estate Management

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October 14, 2010

Edward J. DeMarco
Acting Director
Federal Housing Finance Agency
1700 G Street, NW
4th Floor
Washington, DC 20552

Re: Federal Register Notice 2010-N-11 Private Transfer Fee Covenants

Dear Mr. DeMarco:

I am writing on behalf of the Institute of Real Estate Management (IREM) to provide our input on the Federal Housing Finance Agency's (FHFA's) proposed guidance on the use of private transfer fees for the Federal Home Loan Banks (FHLBs) and the government sponsored enterprises (GSEs) Fannie Mae, Freddie Mac.

The Institute of Real Estate Management is the only professional real estate management association serving both the multi-family and commercial real estate sectors. IREM represents more than 18,000 property management professionals.

IREM understands the opposition to private transfer fees, as described in this proposal. This type of a private transfer fee commonly occurs when a developer agrees to add a covenant to the deed of each new home, or a homeowner agrees to add a covenant to an existing home's deed, that requires future owners of the property to pay a percentage of the selling price to a designated beneficiary. While the percentage fee paid is tied to the home price, it does not correlate with any tangible benefit received by the home buyer. The transfer fee rule is a covenanted mandate so it is extremely difficult to reverse the requirement once it is in place. In many cases the fee is attached to the deed for up to 99 years meaning several subsequent buyers may pay a fee where no service was rendered or benefit received.

However, many other fees are disclosed and are used to the benefit of the residents. We believe limiting the use of such fees could limit the amenities and benefits available to residents. Therefore, IREM recommends that FHFA include an exemption for those associations who fully disclose their fees, and who utilize those fees for the direct benefit of the community.

Exception language may read "any fee, charge, assessment, fine, or other amount payable to a homeowners', condominium, cooperative, mobile home, or property owners' association pursuant to a declaration or covenant or law applicable to such association, including, but not limited to, fees or charges payable for estoppel letters or certificates issued by the association or its authorized agent, so long as no portion of the fee or charge is required to be passed through to a third party designated or identifiable by description in the document or another document referenced therein."

In addition, IREM has concerns about properties with existing covenants that would fall under this prohibition. We believe that imposing this prohibition on existing properties may curb the ability of homeowners to sell their homes. This could hurt condominium and homeowners' associations' ability to collect fees and dues that are necessary to operate the property. In addition, our housing markets are already troubled; this would only further disrupt real estate markets. We therefore urge you to grandfather such existing covenants from this prohibition.

Thank you for your time and consideration of this matter. If you have any questions or concerns, or if we may be of



service to you, please do not hesitate to contact us.

Sincerely,

Randy Woodbury, CPM
2010 President, Institute of Real Estate Management

