



LCLT

LOPEZ COMMUNITY
LAND TRUST 

Building a Sustainable Island Community

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October 14, 2010

Alfred M. Pollard, Esq.
General Counsel
Federal Housing Finance Agency
1700 G Street, NW, 4th Floor
Washington, DC 20552

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

Dear Mr. Pollard:

The following comments are submitted to the Federal Housing Finance Agency's (FHFA) proposed "Guidance on Private Transfer Fees" and the Notice of Proposed Guidance as filed in the Federal Register (Vol. 75 No. 157 on Monday August 16th 2010).

The Lopez Community Land Trust (LCLT) serves low-income households on Lopez Island. We are members of the National Community Land Trust Network. The Network represents over 240 CLTs in over 40 states, many of which would experience significant adverse impacts from the proposed Guidance on Private Transfer Fees as it is currently written.

CLT homeowner mortgages did not contribute to the current housing and economic crisis and do not need to be placed outside the reach of the Government Sponsored Entities (GSEs). The foreclosure rate for CLT homeowners is 1/8 the national rate. CLT homeownership is a proven, effective way of helping low-income households become and remain successful homeowners. After 5 years of homeownership 90% of CLT owners are still homeowners, compared to 50% for other first-time homeownership programs. Not allowing the GSEs to deal in mortgages on properties encumbered by private transfer fees that are used to provide public benefits such as affordable housing would significantly impede our ability to serve low-income families.

We strongly recommend that the FHFA take the following actions with respect to the proposed Guidance:

A. Exemptions. The Guidance should contain well crafted exemptions for transfer fees payable to community associations, 501(c)(3) charitable organizations, or that are otherwise imposed by or payable to government entities. State legislatures, including North Carolina's, have passed legislation prohibiting the enforceability of transfer fees. This legislation contains exemptions to minimize unintended negative consequences.

B. Disclosure. Concerns about title transparency should be addressed by disclosure requirements. For example, the FHFA could require through its supervised entities that the existence of the transfer fee be identified in a bold legend on the first page of the covenants.

C. Not Retroactive. The Guidance should only apply to transfer fee covenants established after the effective date of the Guidance. It should not be retroactive. This will avoid adverse effects of the proposed Guidance on unit owners who could not reasonably have predicted the FHFA's new regulations.

We support FHFA's efforts to address the "liquidity, affordability and stability in the housing finance market". This effort should not only help the housing finance market, but also help to strengthen our communities by supporting successful homeownership for low income families.

Sincerely,
Sandy Bishop
Executive Director
Lopez Community Land Trust