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October 13th, 2010

The Honorable David Price
88 Vilcom Center
Suite 140
Chapel Hill, NC

Representative Price:

Chapel Hill has been a national leader providing affordable housing opportunities to median and low income families. A critical element in our tool box to ensuring an equitable housing policy are transfer fees used in the mortgages of market rate units in new developments that place funds into a dedicated account designed to grow and maintain our affordable housing stock. Through our Special Use Permit process and Inclusionary Zoning Ordinance, the Chapel Hill Town Council requires 15% of new units developed in Town be accessible to lower income earners. The Community Home Trust, a 501(c)(3) nonprofit that works in conjunction with Chapel Hill to offer affordable housing, takes these monies from the dedicated account to offset the cost of building affordable units and to care for their long term maintenance needs. Chapel Hill, in partnership with the Community Home Trust and developers like East West Partners, has utilized transfer fees successfully in recent developments including: East 54, Greenbridge, Woodmont, and Bridgepoint.

It has come to my attention that the Federal Housing Finance Agency is working on a proposal that seeks to prohibit transfer fees on mortgaged properties. Although I understand this proposal is written with the best of intentions, I write in strong opposition to language that would limit the use of transfer fees in Chapel Hill as they are foundational to our affordable housing strategy. As a result, I support Roger Perry and Robert Dowling's recommendation that the FHFA take the following actions with respect to the proposed guidance:

1. 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, governmental 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.
2. 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 transfer fee be identified in a bold legend on the first page of the covenants.
3. 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 the ambush effect of the proposed Guidance on unit owners who could not reasonably have

predicted the Federal Government's move to make mortgages available to them, and which would cripple development like East 54 where the developer, Community Home Trust, and the Town could have planned differently if given the opportunity.

Thank you for your representation and all your efforts on behalf of our community. I hope you will make this a priority and ensure Chapel Hill can remain a leader in affordable housing policy.

In appreciation,

A handwritten signature in black ink, appearing to be 'Mark Kleinschmidt', with a long, sweeping horizontal line extending to the right.

Mark Kleinschmidt
Mayor

Cc: Federal Housing Finance Agency, Alfred M. Pollard, Esq.