

From: Peter Paden [peterpaden@clctrust.org]
Sent: Thursday, October 14, 2010 2:31 PM
To: !FHFA REG-COMMENTS
Subject: Guidance on Private Transfer Fee Covenants, (No. 2010-N-11)

Dear Mr. Pollard:

I am writing to urge you to reject the proposed guidance No. 2010-N-11 relating to private transfer fees as it is currently written.

I am the Executive Director of the Columbia Land Conservancy, a not-for-profit land trust based in Columbia County, New York that works to protect the farmland, forest, wildlife habitat and rural character of an area exceptionally rich in conservation values. Among other things, we hold perpetual conservation easements on almost 21,000 acres of privately owned property, easements that owners have chosen to create in order to conserve their land. As such, we have a substantial obligation to monitor and steward those easements, and we devote considerable staff time every year to this aspect of our work. In order to ensure that we will have the financial capacity to carry on this work, we require easement donors at closing to pay a fee into a dedicated stewardship easement endowment.

One option we provide to fund the cost of this effort is to impose a transfer fee on the re-sale of the properties. The transfer fee remains in effect until a fixed sum has been set aside for each easement. This option has been chosen by a number of easement donors as the most practicable means of funding the stewardship costs associated with the creation of an easement. (The other option involves a considerably higher up front fee.)

We understand the proposed rulemaking is aimed at abusive practices of using transfer fees for purely private gain that have come into use. We urge you to consider that such practices can be curtailed without disturbing the legitimate use of transfer fees, such as ours. As proposed, the guidance would have a severe negative impact on the operations of conservation organizations such as ours that have a compelling need to raise funds to which the mechanism of a transfer fee is very suitable. It is our understanding that there are many honorable and legitimate uses of a transfer fee structure in circumstances that benefit homeowners or communities, such as use by homeowners associations (HOAs), non-profit organizations, or governmental agencies to build and maintain community enhancements or promote important community benefits such as open space, affordable housing, and transit improvements.

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 dealing another blow to homeowners at a time when the markets are struggling to recover.

Approval of this guidance as written is ill-advised and should be rejected. The FHFA should instead adopt transfer fee standards that protect community benefits while prohibiting abusive fees that are used solely for private gain.

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 your consideration.

Peter R. Paden

Executive Director

Columbia Land Conservancy

P.O. Box 299, 49 Main Street

Chatham, NY 12037

Tel. 518-392-5252 (ext. 213); fax 518-392-3099

peterpaden@clctrust.org

www.clctrust.org

Conserving Rural Landscapes and Connecting People to the Land

Confidentiality Notice: This communication and any accompanying document(s) are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon the communication is strictly prohibited. If you have received this communication in error, please contact us at (info@clctrust.org) or by telephone at 518-392-5252. Thank you.