



Council of New York Cooperatives & Condominiums

INFORMATION, EDUCATION AND ADVOCACY

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Mr. Alfred Pollard, General Counsel
Federal Housing Finance Agency
1700 G Street NW, Washington, D.C. 20052

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

Dear Mr. Pollard

The Council of New York Cooperatives & Condominiums is a membership organization for housing cooperatives and condominiums. A substantial number of its members have transfer fees which are collected as each unit is sold. These funds are used to mitigate the cost of maintaining the buildings and grounds, thus keeping them more affordable to residents. The existence of these fees is fully disclosed to all shareholders or unit owners; they benefit from the infusion of funds while they live in the cooperative or condominium, and they know that they will make a predictable payment back to the association when they leave. The funds collected are used to bolster reserves to pay for needed building upgrades, systems replacements, compliance with city law, and, then, perhaps for amenities. No remote third party pockets any of these funds; quite the contrary, they are used to benefit the cooperative or condominium community.

The proposed Guidance on Private Transfer Fee Covenants (No 2010-N-11) has caused great dismay among CNYC members. In its present form, this Guidance could make it impossible to obtain loans for the purchase of units in buildings with transfer fees. Unless the Guidance is amended to explicitly allow the continued purchase of loans in communities that devote any such fees exclusively to maintaining and improving their cooperative or condominium or home owners association, to, the boards of affected communities will be faced with a terrible dilemma. If they seeking a vote to rescind the transfer fee in order to ensure salability of apartments, they lose an important source of funding, and will almost certainly have to increase carrying charges to keep pace with the costs of maintaining the property and showing sufficient reserves to remain acceptable to lenders. If they keep their transfer fee and the affordability that it ensures, they will have accept the concept of reduced marketability and reduced prices for units in the building.

To gain a better understanding of the scope of the problem, CNYC asked members to provide information about the transfer fees that they have. Information quickly rolled in from more than 400 cooperatives and condominiums, the majority (345) in Manhattan, but substantial numbers from Brooklyn (29) and Queens (18) and the Bronx (10), plus one from Staten Island and four from Long Island.

Transfer fees take many forms. Most are straightforward, but fourteen buildings reported multi-stepped rates, consistently geared to reward longevity in the building and impose high resale fees on people whose stay was limited to a year or two. In two cases, the transfer fee reduces to zero, one at

the end of 12 years of occupancy, the other after 20 years. Sometimes the fee was to be calculated in two ways, generally with the greater amount to be paid, though some leave the choice to the departing shareholder or unit owner, and one cooperative assesses the lesser of the two amounts.

Only nine of the respondents charged a flat fee, and these ranged from \$1000 to \$20,000. Two cooperatives base their fees on room count and one charges \$9 per square foot.

65 of the cooperatives responding reported a per-share transfer fee. These ranged widely in amount, but, since we had not asked about the approximate number of shares attributed to a typical apartment, it is not possible to draw quantitative conclusions concerning these fees.

29 buildings reported formulas based on profit, not all of which were described in detail. Some simply state that profit is sales price minus purchase price and fees (attorney and broker); others refer to deducting the cost of improvements, etc. The fees reported ranged from 0.5% of profit to 15% of profit and averaged about 5%.

By far the greatest number of transfer fee formulas are based on sales price, 245 to be precise. They range for the most part from 1% to 10%, with 39 at 1%, 104 at 2% and 30 at 3%

Of course there are many cooperatives and condominiums that do NOT have transfer fees. Sixty of those responding had none. It was particularly generous of these buildings to take the time to respond to this request, and some of them went further, offering to write letters or sign petitions even though their own buildings were not affected. To be realistic in interpreting this data, we must assume that the percentage of cooperatives and condominiums without transfer fees is higher than what is reflected here.

PLEASE RECONSIDER THIS GUIDANCE

As the comment period on Guidance on Private Transfer Fees Covenants (No. 2010-N-11) comes to a close, CNYC strongly urges FHFA to reconsider the enormous adverse impact that this Guidance will have and to modify it to protect the affordability of resident owned housing with transfer fees that benefit the community.