



GOVERNOR ARNOLD SCHWARZENEGGER

October 14, 2010

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

Attention: Public Comments

Re: Guidance on Private Transfer Fees Covenants [NO. 2010-N-11]

Dear Mr. Pollard,

I am writing today to urge the Federal Housing Finance Agency (FHFA) not to adopt the proposed guidance on Private Transfer Fee Covenants announced in the August 16, 2010 Federal Register Vol. 75 No 157.

You have already heard from multiple agencies within my administration, but the immediacy and reach of this proposal merits further input.

Impact on Housing Market

Preventing Fannie Mae, Freddie Mac and the Federal Home Loan Banks (collectively, Enterprises and Banks) from investing in mortgages encumbered by a private transfer fee would have significant negative impact on the housing market in California.

Our best estimates indicate that approximately 1.3 million homes in California have private transfer fees attached to them. An additional 100,000 homes are in some phase of build-out, with transfer fees also attached to those units.

Given the continued lack of private capital available in the mortgage market and, therefore, the significant role that Enterprises and Banks continue to play in providing liquidity and capital to the housing market, restricting their involvement in mortgages with transfer fees attached would severely limit, if not completely cut off, many potential homebuyers from obtaining new mortgages in California. At the same time, the regulation, as proposed, would appear to have the same effect for current homeowners wishing to refinance their loans. The combination of these two dynamics would likely continue to deflate home prices and significantly stifle the recovery of the housing market in California.

Mr. Alfred M. Pollard, Esq.
October 14, 2010
Page two

Public Benefit Uses

I commend FHFA for taking strides to better protect home owners from questionable, if not unscrupulous, behavior by third-party investors taking advantage of private transfer fees purely for self-serving monetary gain – the “Freehold” model. At the same time, transfer fees utilized for environmental programs, affordable housing and other community-based public benefits deserve recognition. California dealt with both of these issues through the enactment of Assembly Bill 980, which I signed into law on October 14, 2007.

Under California’s private transfer fee statute, potential homebuyers are protected through rigorous disclosure requirements. California’s disclosure law requires that sellers provide buyers with a description of the property, the amount of the fee with examples of how it is calculated, the expiration date of the fee, the purpose of the fee and how it will be used, the entity collecting the fee and contact information of the payee.

In California, transfer fees provide funding for numerous public benefit projects that have a direct positive impact on the environment and living conditions of the local residents. Programs across the state protect wetlands, establish and maintain land conservancies, facilitate public transportation programs, foster community engagement and support numerous local charities.

These programs not only benefit their communities but also the individual families that live within them by improving their overall quality of life within the community and strengthening their home’s value. In today’s economic climate, funding for these programs would likely disappear without the transfer fee revenue stream.

I encourage FHFA to fully reject its transfer fee guidance. I also encourage you to bring together the stakeholders that have found ways to successfully utilize private transfer fees to develop a structure that prohibits questionable behavior while allowing for uses that benefit the greater good.

Sincerely,



Arnold Schwarzenegger