



October 1, 2010

Edward J. DeMarco  
Acting Director  
Federal Housing Finance Agency  
1700 G Street, NW, 4th Floor  
Washington, DC 20552

Dear Mr. DeMarco:

I am writing to you on behalf of the more than 15,000 members of the South Carolina REALTORS® in support of the Federal Housing Finance Agency's (FHFA's) proposed guidance on the use of private transfer fees for the Federal Home Loan Banks (FHLBs) and the government sponsored enterprises (GSEs) Fannie Mae, Freddie Mac. We fully support the FHFA guidance that states the FHLBs and the GSEs should not purchase mortgages encumbered by private transfer fees and that such purchases are not prudent or safe or sound investments.

As you know, a private transfer fee commonly occurs when a developer agrees to add a covenant to the deed of each new home, or a homeowner agrees to add a covenant to an existing home's deed, that requires future owners of the property to pay a percentage of the selling price to a designated beneficiary. While the percentage fee paid is tied to the home price, it does not correlate with any tangible benefit received by the home buyer. The transfer fee rule is a covenanted mandate so it is extremely difficult to reverse the requirement once it is in place. In many cases the fee is attached to the deed for up to 99 years meaning several subsequent buyers may pay a fee where no service was rendered or benefit received.

Private transfer fees increase the cost of homeownership, do little more than generate revenue for developers or investors and provide no benefit to homebuyers. They place an inappropriate drag on the transfer of property. Moreover, there is virtually no oversight on where or how proceeds can be spent, on how long a private transfer fee may be imposed, or on how the fees should be disclosed to home buyers. Already, one company is negotiating with institutional investors to "securitize" pools of transfer fees, which will essentially create bonds that can be sold on a secondary market, based on the future cash flows.

The Federal Housing Administration (FHA) recognizes the impact of private transfer fees. The US Department of Housing and Urban Development (HUD) General Counsel has confirmed that private transfer fees clearly violate HUD's regulations which prohibit legal restrictions on conveyance and require lenders to convey clear marketable title.

South Carolina REALTORS® have a number of concerns with regard to private transfer fees, including housing affordability, the uncertainty of the legal validity of private transfer fee covenants, reduction of transparency, increased complexity, higher closing costs, and lost equity. We are so troubled by these private transfer fees that we will be supporting



legislation banning these fees in the coming 2011-12 session of the South Carolina General Assembly and have made it a priority legislative agenda item for our Association.

Thank you for your time and consideration of this matter. Please do not hesitate to contact me if I may be of any assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "J.D. Rinehart, Jr.".

J.D. Rinehart, Jr.  
2010 President  
South Carolina REALTORS®

