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October 15, 2010

Alfred M. Pollard, Esq.
General Counsel
Federal Housing Finance Agency
1700 G Street, NW, 4th Floor
Washington, DC 20552

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

Dear Mr. Pollard:

The following comments are submitted to the Federal Housing Finance Agency's (FHFA) proposed "Guidance on Private Transfer Fees" and the Notice of Proposed Guidance as filed in the Federal Register (Vol. 75 No. 157 on Monday August 16th 2010).

While I commend the FHFA for its concern about protecting consumers from private transfer fees that are abused to "reimburse developers for their initial outlays", I very much want to support and protect transfer fees that are used to provide public benefits such as affordable housing, schools, environmental mitigation and community amenities. Appropriate transfer fees are among the best practices for local affordable housing programs across the country to help cover the cost of long-term asset management or stewardship that allows homes to remain affordable for future generations. The proposed guidance is far broader than necessary and will have unintended negative consequences for efforts to create sustainable affordable homeownership in the midst of this economic crisis.

In particular, I strongly argue that the FHFA's final regulation should exempt transfer fees payable to 501(c)(3) charitable organizations, community associations, or that are payable to or imposed by governmental entities. Many state and municipal governments have been forced to reduce funding for affordable homeownership programs and are seeking ways to create public/private partnerships that can leverage public dollars with private contributions to more efficiently to help more families buy homes today and tomorrow.

A successful example of such a strategy is being used in our redevelopment of the City of Austin's Mueller Airport www.muelleraustin.com . We have formed the Mueller Foundation www.muellerfoundation.org whereby 100% of the Community Assessment Fee "the transfer fee" goes to the non-profit which excluding me has an independent Board of Directors. The Board then decides on which organizations will receive grants and/or donations. All of the funds are held at the Austin Community Foundation www.austincommunityfoundation.org .

I strongly recommend that the FHFA take the following actions with respect to the proposed Guidance:

A. 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 government entities.

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B. 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 the transfer fee be identified in a bold legend on the first page of the covenants. As a note we include clear disclosures in contracts and deed restrictions and also require the same from builders when they ultimately sell the house.

C. 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 adverse effects of the proposed Guidance on unit owners who could not reasonably have predicted the FHFA's new regulations.

I support FHFA's efforts to address the "liquidity, affordability and stability in the housing finance market". This effort should not only help the housing finance market, but also help to strengthen our communities by supporting successful homeownership for low income families.

Sincerely,

Greg Weaver
Managing Director
Catellus Development Group
(512) 703-9207

cc: mercedes.m.marquez@hud.gov