

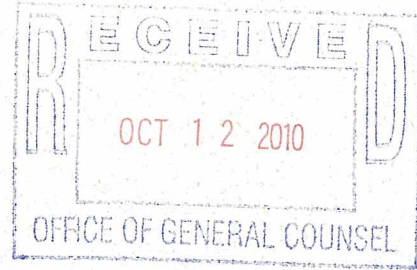
ELK RUN HOMEOWNERS' CORPORATION

DESIGN REVIEW BOARD

TELLURIDE, COLORADO

September 29, 2010

The Honorable Alfred M. Pollard
General Counsel
Federal Housing Finance Administration
Fourth Floor
1700 G Street, NW
Washington DC 20552



RE: *Proposed Guidance on Private Transfer Fee Covenants, (No. 2010-N-11)*

Dear Mr. Pollard:

I am writing on behalf of all owners of real property located in the Elk Run Subdivision located in San Miguel County, Colorado, to express our strong opposition to the Federal Housing Finance Agency's Notice of Proposed Guidance on Private Transfer Fee Covenants published in the *Federal Register* on August 16, 2010. If implemented in its current form, the guidance will have a significantly negative impact on all homeowners living in the Elk Run Subdivision. We respectfully request the proposed guidance be either withdrawn in its entirety or revised to ensure that all property owners within community associations continue to have equal access to mortgage credit.

As is the case with the majority of community associations across the country, the Elk Run Subdivision employs a covenant-based transfer fee to fund critical community operations and to ensure the association is able to sufficiently fund ongoing and unanticipated costs. The elimination of this covenant-based transfer fee will reduce the Elk Run Subdivision's operating budget by approximately \$100,000 each year, or about \$4,000 per lot. This reduction in association income means our homeowners will face higher association assessments, a reduction in the services that attracted them to our community in the first place, or both. Additionally, this loss of income increases the likelihood of special assessments, which often are a significant and unanticipated financial burden on our homeowners.

The Elk Run Subdivision was organized in 1985 and has used a covenant based transfer fee to finance community operations since its inception. The experience of our association is that the fees directly benefit homeowners in the community, as they ensure maintenance of adequate reserves and provide funds for the general obligations of and capital improvements for the association. This protects the values of homes in our community for all residents, which is a considerable additional benefit for the individuals purchasing a home in our community. That is why we are extremely troubled by FHFA's unsubstantiated finding that GSE purchases of investments in "mortgages encumbered by private transfer fee covenants... would be unsafe and unsound practices and contrary to the public mission of the Enterprises and the Banks." From our practical experience, we observe the opposite to be the case. Rather than destabilizing communities by threatening to depress home values, FHFA should support the use of covenant or deed-based transfer fees that benefit homeowners and support home values. Indeed, it is unclear if FHFA contemplated the impact of its proposed guidance on homeowners living in associations with deed and covenant-based transfer fees when developing its proposed guidance. Compliance with FHFA's guidelines as proposed would be cumbersome and in some instances impossible. Covenant or deed-based fees are attached to a property's deed or are contained in the covenant establishing association governance. These fees are, by design and by their nature, difficult to rescind. For the Elk Run

Subdivision, the written approval of 100% of the property owners would be required to merely amend the existing covenants.

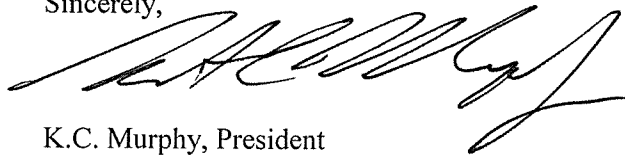
Given the difficulty associations across the country face in removing deed-based restrictions or modifying community covenants, it is likely a significant number of homeowners will no longer have access to mortgage credit if FHFA's proposal is not withdrawn or revised. In its proposed guidance, FHFA suggests the elimination of mortgage financing for properties with a deed-based transfer fee will protect the nation's "still fragile housing markets." Rather than protecting housing markets, this regulatory redlining of healthy associations and creditworthy borrowers will put downward pressure on home values in these communities and cause severe financial hardship on homeowners who have done nothing wrong.

The Covenants Imposing Land Transfer Assessments ("Assessment Covenants") for the Elk Run Subdivision were created in 1985 and recorded in the public records of the San Miguel County, Colorado Clerk and Recorder on July 9, 1985. The Assessment Covenants are separate and distinct from the General Declaration creating the Elk Run community and as such are individually disclosed on all title commitments issued for real property located within the Elk Run Subdivision. A search of the public records will easily disclose the Assessment Covenants. These are not hidden or unknown regulations. All potential buyers, borrowers and lenders can easily determine and obtain the Assessment Covenants by a simple search of the real property records or by accessing the Elk Run website.

Over the years, the Elk Run Assessment Covenants have provided a revenue stream to fund our annual operations as well as the repair and maintenance of our community's roads, water supply system, common area improvements, landscaping and security. The elimination of this income stream would have a devastating impact on our financial health and would necessitate at least a 100% increase in regular assessments and very likely the imposition of special assessments to cover capital improvements for community facilities.

We appreciate the opportunity to comment on FHFA's proposed guidance on private transfer fee covenants, and strongly urge FHFA to reconsider its proposal to ban all covenant or deed-based transfer fees.

Sincerely,

A handwritten signature in black ink, appearing to read "K.C. Murphy", written in a cursive style.

K.C. Murphy, President

cc: Elk Run Board of Directors
The Honorable John Salazar
The Honorable Mark Udall
The Honorable Michael Bennet