

COMMITTEE ON  
FOREIGN AFFAIRS

CHAIRMAN  
WESTERN HEMISPHERE  
SUBCOMMITTEE

OTHER SUBCOMMITTEES:

ASIA, THE PACIFIC, AND THE  
GLOBAL ENVIRONMENT

MIDDLE EAST AND SOUTH ASIA

COMMITTEE ON  
ENERGY AND COMMERCE

SUBCOMMITTEES:

HEALTH

ENERGY AND ENVIRONMENT

ASSISTANT DEMOCRATIC WHIP



Congress of the United States  
House of Representatives

**ELIOT L. ENGEL**

17th DISTRICT, NEW YORK

2161 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-3217  
(202) 225-2464

DISTRICT OFFICES:

3655 JOHNSON AVENUE  
BRONX, NY 10463  
(718) 796-9700

6 GRAMATAN AVENUE  
SUITE 205  
MOUNT VERNON, NY 10550  
(914) 699-4100

261 WEST NYACK ROAD  
WEST NYACK, NY 10994  
(845) 735-1000

WEBSITE: <http://engel.house.gov>

October 14, 2010

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

Re: Public Comments "Guidance on Private Transfer Fee Covenants, (No. 2010-N-11)"

Dear Mr. Pollard:

I write to comment on the Federal Housing Finance Agency's Proposed Guidance on Private Transfer Fee Covenants, published in the Federal Register on August 16, 2010. My concern, and the concern expressed to me by many of my constituents, is that the language of this proposed rulemaking is too broad and could have negative consequences for the New York real estate market.

As you know, the proposed guidance would prohibit Fannie Mae, Freddie Mac and federal home loan banks from investing in mortgages that carry private-transfer-fee covenants. A private transfer fee is a fee or payment required by deed or covenant to be paid to a third person at the time of a property sale.

The FHFA is right to be concerned with the practice by some investors and developers to impose deed-based transfer fees that allow a third party with no ownership stake or interest in a property to continue collecting revenue from that property for generations.

However, the problem with the proposed regulation is that it would eliminate transfer fees used in housing cooperatives and other homeowner associations throughout the country. There is a need to distinguish the onerous private transfer fees being targeted by the FHFA, from the beneficial cooperative and community transfer fees that have been widely used in New York and elsewhere for more than 30 years. Cooperative and community transfer fees directly benefit homeowner associations and individual homeowners by funding reserves, capital improvement projects, and ongoing association obligations, while helping to keep monthly maintenance fees affordable.

I am hopeful that FHFA's final rule will recognize that private transfer fees are distinct from cooperative and community transfer fees, and will make allowances for the legitimate transfer fees that benefit millions of Americans.

Thank you for your attention to this matter, and I look forward to your favorable response.

Sincerely,

  
Eliot L. Engel  
MEMBER OF CONGRESS