



October 12, 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 write to express my 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 could have a significantly negative impact on all homeowners living in the Dunes West Community in Mount Pleasant, SC. I respectfully request the proposed guidance be either withdrawn in its entirety or be revised to ensure that the one in five American households living in a community association continue to have access to mortgage credit.

As is the case with many community associations across the country, Dunes West is considering employing a covenant or deed-based transfer fee to provide an on-going funding source for a reserve fund to ensure the Association's ability to maintain its roads, drainage, and other infrastructure (all owned by the Property Owners Association) at current levels and standards. The elimination of this option by government fiat would remove one of the most viable funding options available to us, which could adversely affect the Association's ability to provide for the future of its infrastructure. This could lead to a deterioration of our roads and drainage, and ultimately result in a reduction in the services that attracted our property owners to our community in the first place. This would undoubtedly lead to a reduction in property values – one of the very things the guidance claims it will prevent. Additionally, this potential loss of such a viable funding source increases the likelihood of special assessments, which would be a significant and unanticipated financial burden on our homeowners.

There are certain deed-based transfer fees that I believe do not serve a legitimate purpose and FHFA identified one such fee in its proposed guidance. Fees that are paid at closing directly to a third party that makes no investment in the association serve no other purpose than to enrich the fee recipient at the expense of homebuyers. This is why several state legislatures have considered legislation to void or require disclosure of private transfer fees that solely benefit unrelated third parties. This is the appropriate venue to address private transfer fees, as property law and the practices governing real estate transactions are in the purview of state and local governments. State and local governments are familiar with local real estate markets and are, therefore, able to craft solutions to policy problems appropriate to housing in that state. Finally, deed restrictions and covenants constitute a binding legal agreement between two parties that may only be voided in certain circumstances by Act of Congress or state law. FHFA's attempt to restrict the use of all private transfer fee covenants through guidance does not have the force or effect of

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law. As a result, the guidance will accomplish little more than to create substantial uncertainty in the community association housing market, which includes one out of every five homeowners nationwide.

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

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Courville". The signature is written in a cursive, flowing style.

Jennifer Courville
President, Dunes West Property Owners Association