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

Dear Mr. Pollard:

On behalf of the Topeka Area Association of REALTORS®, I am writing to express support for the Federal Housing Finance Agency's (FHFA) proposed rule RIN 2590-AA41 on the use of private transfer fees for the Federal Home Loan Banks (FHLBs) and the government sponsored enterprises (GSEs). We fully support the proposed rule that FHLBs and GSEs should not purchase mortgages encumbered by certain private transfer fee covenants and in certain related securities.

A private transfer fee occurs when a developer or existing homeowner adds a covenant to the deed of a new or existing home that requires all future owners of the property to pay a percentage-based fee of the selling price (normally one to two percent) to a designated third-party beneficiary. Even though the amount of the fee paid is based on the selling price of the home, the payment of the fee does not provide any material or tangible benefit to either the homeowner or the burdened property.

Once the offending provision is added to the deed, it is extremely difficult to reverse and remove this burdensome requirement from future owners of the property. In many cases, the fee is attached to the deed for up to 99 years, which means that several subsequent owners of the property would be required to pay a fee when no tangible benefit or service was rendered by the third-party beneficiary.

In our opinion, private transfer fees increase the cost of homeownership by generating revenue for developers and investors while providing absolutely no benefit to the actual owners of the property. The proposed rule appropriately exempts fees paid to nonprofit organizations that are tax-exempt under section 501(c)(3) and (c)(4) in limited circumstances when benefits are provided to the party that is burdened with the private transfer fee.

In 2009, the Kansas Legislature passed legislation (House Bill No. 2092) to prohibit the use of private transfer fees in Kansas. For all the foregoing reasons, we believe there is a strong public policy argument in favor of extending this protection to homeowners in other states and would strongly urge you to adopt the proposed guidance.

Thank you for the opportunity to submit comments on this important matter.

Sincerely,

Stuart Elliott,  
2011 President, Topeka Area Association of REALTORS®



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