

March 25, 2012

Mr. Alfred Pollard
General Counsel
Federal Housing Finance Agency
400 7th St., N.W.
Washington, DC 20024

RE: RIN 2590-AA53 Mortgage Assets Affected by PACE Programs; Comments on
Advanced Notice of Proposed Rulemaking and EIS Scoping Comments

Dear Mr. Pollard:

I write as the individual responsible for addressing the high costs and additional societal costs of the waste of energy in our buildings in the Town of Bedford, NY. It's clear to NY State and its local municipalities that we collectively waste 20 to 30% of the energy consumed through insufficient insulation, substandard air sealing and outdated heating and cooling equipment. Not only does this cause undue financial burden on our community but it adds unnecessary air pollution and GHG emissions to our local environment and pointless additional oil and gas import needs. Combined with all the military and other Federal Government funded infrastructure to support this additional oil importation, our tax burden at every level is higher than it should be. State and local governments have recognized this untenable situation and have moved address it with the powers given to them by the Federal and State governments: provide a benefit of financing to facilitate improvements to property to reduce energy waste. Property Assessed Clean Energy (PACE) has a clear public purpose: reducing our reliance on imported fuel, promoting energy security, avoiding the cost of building and maintaining energy infrastructure and protecting the environment. Bedford began work on a PACE financing program in 2008. We recognized its potential to reduce energy use and greenhouse gas emissions, save homeowners money, and make their properties more comfortable, healthier and, as a result, more valuable.

I believe that FHFA's action to unilaterally threaten local government PACE programs and their residents with mortgage default on July 6, 2010 was unwarranted and heavy handed. This rulemaking provides an opportunity to establish a fact-based record and correct misinformation and misunderstandings, to the benefit of all stakeholders: municipalities like Bedford, mortgage lenders, homeowners, and our country as a whole. I appreciate the opportunity, and urge FHFA to look for ways to accommodate these broadly beneficial programs. To this end, I recommend that the FHFA adopt mutually agreeable underwriting standards that ensure local PACE programs are designed to maximize benefit and minimize risk. I am ready to assist all stakeholders to accomplish similar gains in our society's use of fossil fuels as we addressed water quality and fire safety through the provision of public benefits in the early 20th century. My comments are here:

1) PACE assessments are valid - and are not “loans” as asserted by FHFA

FHFA has repeatedly referred to PACE assessments as “loans.” I question this distinction. Whenever Bedford finances a water project or public safety project that benefits some or all of our residents, we are obviously “lending” them money by borrowing on their behalf. PACE assessments are just like other property taxes and assessments we use in Bedford to provide important benefits, services and amenities to our residents, none of which have been subject to the FHFA critique that surrounds PACE. Regarding the validity of PACE, in 2009, Bedford adopted its Climate Action Plan (CAP), which calls for a 20% reduction in carbon dioxide and other greenhouse gas emissions by 2020, and appended it to the Town’s official Master Plan. We chose PACE as the way to accomplish this goal for a number of reasons: 1) it ideally supports our community based goal, 2) it can provide us with unlimited private market capital at a time when other funding sources must be highly subsidized by taxpayers to have interest rates that are attractive to property owners, 3) PACE assessments transfer to new owners upon sale of a property, and 4) PACE financing terms that match the average life of energy efficiency measures mean our homeowners would save money every year, net of their assessment payment with little or no risk to other stakeholders in the Property. Before being stopped by the FHFA’s July 6, 2010 statement, we had acted under specific authorization of New York State law. I therefore flatly reject the FHFA’s assertion that PACE assessments are somehow invalid, or unlike other municipal assessments. In Bedford, many taxes and assessments result from the voluntary will of our residents, who seek community improvements and decide, through a referendum process, to have assessments levied to pay for them.

2) PACE assessments present minimal risks to lenders, investors, homeowners and GSEs

FHFA asserts that PACE presents “significant safety and soundness” concerns. Bedford conducted substantial research and there is long-standing experience, borne out by studies, that energy efficiency and renewable energy improvements reduce homeowners’ energy bills and increase their property’s value, strengthening their financial position and increasing the value of a lender’s collateral. PACE financed improvements allow homeowners to hedge themselves against fuel price spikes and rising fuel costs over time. These factors lessen, if not eliminate, the safety and soundness risk than the FHFA has asserted. Bedford’s PACE program was to have been based on the White House (October 18, 2009) and the Department of Energy (May 7, 2010) PACE guidelines with clear, strong underwriting standards to ensure that homeowners would be able to afford the improvements while including a positive cash flow requirement where the energy improvements must pay for themselves. I call on the FHFA to analyze and weigh in its rulemaking process, the reduction in mortgage default rates that will surely result from increased economic activity and job creation attributable to PACE, and the fuel price hedge and extra cash flow it provides to buildings, that FHFA claims, would be disadvantaged.

3) Proposed Rule:

I strongly urge FHFA to reconsider its blanket opposition to PACE programs and to revise the Statement and the Directive. I recommend that FHFA's proposed rule provide that Fannie Mae, Freddie Mac, and any other mortgage lenders regulated by FHFA (Enterprises) be allowed to buy residential mortgages with PACE assessments that are originated by programs that conform to standards and guidelines such as those established in HR 2599 (The PACE Assessment Protection Act) or the Department of Energy's "Guidelines for Pilot PACE Financing Programs" (May 7, 2010) to protect the interests of local governments, homeowners, mortgage lenders and Government Sponsored Enterprises (GSEs).

4) EIS Scoping Comments

The Proposed Action in FHFA's Environmental Impact Statement (EIS) should be changed to provide that the Enterprises *may* purchase mortgages subject to a first-lien PACE obligation or that could become subject to first-lien PACE obligations so long as the applicable PACE program conforms to standards and guidelines such as those established in HR 2599 (The PACE Assessment Protection Act) or the Department of Energy's Guidelines. An alternative should be revisions to the FHFA's July 6, 2010 Statement and February 28, 2010 Directive to provide that the Enterprises are permitted to purchase mortgages subject to a first-lien PACE obligation or that could become subject to first-lien PACE obligations so long as the applicable PACE program conforms to standards and guidelines such as those established in HR 2599 or the DOE Guidelines.

Thank you for your consideration in this most important matter.

Sincerely,

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