

From: Neil Cunningham [ncunningham@tmrfoundation.com]
Sent: Tuesday, October 12, 2010 4:22 PM
To: !FHFA REG-COMMENTS
Subject: Guidance on Private Transfer Fee Covenants, (No. 2010-N-11)

Attachments: image001.jpg

Alfred M. Pollard

General Counsel, Federal Housing Finance Agency

Fourth Floor

1700 G Street, NW

Washington, DC 20552

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

Dear Mr. Pollard,

As the Executive Director of the Tahoe Mountain Resorts Foundation, I am writing you to oppose the proposed FHFA guidance on private transfer fee covenants.

I need to point out the extremely detrimental effect a blanket guidance will have on the health, welfare and financial viability of the communities and organizations we support. Our Foundation is funded solely thru Community Benefit Fees which would fall under your definition of Private Transfer Fees. The purpose of the TMR Foundation as outlined in our articles of incorporation is:

"To provide for the educational opportunities in recreational, performing arts programs, local libraries, civic and cultural programs, historical preservation, and other initiatives to promote health and welfare of citizens. This includes providing educational opportunities to local schools in environmental and conservation matters, providing funding and volunteer resources to maintain and improve the quality of local wetland, open space and stream area and to promote habitat and vegetation preservation in the communities."

Over the last seven years our Foundation has given over \$ 1.1 Million to our community directly to organizations that provide for the welfare of children, senior citizens, and medical research. In addition, over \$278,000 has been given to develop and promote educational programs as well as over \$ 170,000 towards college scholarships that have enabled many deserving high school graduates that may not have had the opportunity to attend college. This only represents a fraction of the community benefits provided when we consider close to

\$ 50 million in donated property that has resulted in the construction of a much needed Community Center, low income housing, a church and many other community additions.

The bottom line here is that none of this would have existed without the Community Benefit Fees. I recognize that there are some cases where the transfer fees are not used to benefit the community and are misused. The misuse of non-community PTFs needs to be addressed, however, the FHFA policy must distinguish between community-benefits fees and abusive fees that support only the developer. I would like to propose that the FHFA modify the proposed guidance to allow continued support of communities and non profits thru community-benefits fees as well as support reasonable Community Benefit Fee Standards that includes disclosure and payment of community benefits fees to a homeowners association or other qualified non-profits that provide benefits to the community. Here in California, we faced a similar threat to the use of Community Benefit Fees about three years ago. Thru reasonable discourse and evaluation a State Assembly Bill was passed that allowed the fees to continue but provided safeguards most of which would address the PTF concerns in this FHFA guidance.

I am not suggesting that something should not be done to address the abuse of PTF's. Simply reevaluate this guidance to focus on the abuse and not include nonprofits and other organizations that directly benefit the community.

Sincerely,

Neil P. Cunningham
Executive Director
Tahoe Mountain Resorts Foundation

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