

From: Rich Craig [richardwcraigjr@gmail.com]  
Sent: Friday, October 15, 2010 2:02 AM  
To: !FHFA REG-COMMENTS  
Subject: Guidance on Private Transfer Fee Covenants, (No. 2010–N–11)

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October 14, 2010

The Honorable Alfred M. Pollard

General Counsel

Federal Housing Finance Administration

Fourth Floor

1700 G Street, NW

Washington DC 20552

Dear Mr. Pollard,

Thank you for taking action on the issue of transfer fees (and hope you will include more guidance and recommend eliminations on fee-enabling “restrictive covenants” that afflict detached family homestead property in your guidance).

Consumers are being subjected to serious abuses of these unregulated fees by developers, builders and HOA corporations.

Homeowners across America will rejoice if you decide to allow NO MORE HIDDEN TRANSFER FEES!!

The HOA corporation that controls my property imposed these fees without any vote by the property owners. When I purchased my homestead in 1996 I did not pay any “transfer fees”. I recently discovered that these HOA corporations will now demand hundreds of dollars in transfer fees should I try to sell my land.

I did not agree to these fees and I feel they are fraudulent.

The HOA will not tell me exactly how much the fees are (except that it's in the hundreds of dollars) until the property is at the closing table. Many homeowners reported they added mystery fees and fines to their "fees" at the closing table. These mystery fees were conflicts over silly things such as "unapproved tool shed built in the back yard 5 years ago".

HOA corporations can hold the closing at ransom and demand practically any amount. There is no policy or law to restrain this behavior. They claim "it is a private contract matter".

There were no references to these fees in my original closing documents, but the HOA corporation has re-written these governing documents WITHOUT MY CONSENT. This was done without ANY VOTE or agreement of the owners in any fashion. This infliction of corrupt HOA governing contract re-writing is widespread in America.

The housing industry has deliberately infected most new American neighborhoods with a property-value-degrading disease. Who wants to buy property that causes a mental disease? “According to CSN professor Gary Solomon, homeowners associations do far more than just send you annoying letters about non-compliance—they now cause a new psychiatric anxiety disorder called HOA Syndrome in which sufferers feel “harassed, stalked and threatened” by said HOAs.”

My property is subjected to not one, but TWO of these “governing regimes”. One of them added “transfer fees” and the other one is in the process of adding them. This is just another expense to owning a home in a Mandatory HOA. HOA corporations do not improve property values, they degrade them. I reduced my property values 30% this year. I documented some of the HOA corporation-attributed troubles and showed them to tax value assessors, and they lowered my property values accordingly.

With two HOAs you would think we would have great services and a playground or park or clubhouse or pool. WE HAVE NONE OF THESE AMENITIES but they continue demanding more money every year. Having two HOAs is not “double trouble” – two HOAs with separate boards and separate “governing documents” and separate “closing fee demands” is TROUBLE SQUARED. I own two lots (adjoining, one is vacant) so I have trouble to the fourth power!!

These fees, including “transfer fees” by HOA corporations have become a nightmare for consumers, including me. These fees have been a windfall for unscrupulous predators who withhold “resale certificates” for money at closing

(any amount they name- there is no limit). These fees need to be outlawed, or at least make any property infected with "fee-enabling covenants" un-insurable by any reputable financial corporation in America.

HOA corporations that use tools such as foreclosure on homesteads for seemingly small "dues" are typically the same ones that impose these transfer fees on owners and give back nothing but grief to the homeowners.

"Mandatory Associations Foreclosing in America" makes an appropriate acronym. This is exactly what we are living with as long as these fees are tolerated.

Advocates for the use of transfer fees claim that "if implemented as drafted, this means that associations with such fees may be locked out of the mortgage markets." NOT TRUE Banning transfer fees will dictate to HOA corporations, builders and developers that they need to make changes in their business models and stop "shaking down" the public housing market with their unscrupulous money collection (stealing?) tactics.

I Pray that you force these HOA corporations, builders and developers to be transparent. PLEASE FORCE THEM TO CEASE AND DESIST in these extortionist behaviors.

States will be forced to legislate and make it unlawful to have transfer fees. Thank you for having the strength to stand up to the "all powerful industry" and protect individual homeowners and their lenders.

These unregulated fees have escalated out of control and HOA corporations have no boundaries – they can and do use any and every means imaginable to drain the assets of the American homeowner while the state legislatures, having no will or concern to protect consumers, enact consumer-harmful laws.

HOA corporations have many ways to privately tax their residents, increase assessments, or call for special assessments. Transfer fees are frequently pulled out of thin air, many created by the Board of Directors, imposed upon homeowners without their consent and to their detriment. These hidden transfer fees rarely go back into the HOA corporation and they never benefit the community.

Fees were "created" long after this homeowner purchased his homestead property by an entity that has zero ownership

interest in the property and without this homeowners' consent.

Most of the fees fund purely private streams of income to management companies or for select market participants such the builders or developers and do not benefit homeowners.

One Texas state senator that benefits greatly from these transfer fees is Senator John Carona. Sen Carona participated directly in creating an enabling statute to permit such fees to be imposed upon the property and to be paid to the HOA corporation or its managing agent. Sen Carona owns the largest legion of HOA management companies in the United States. These management companies do not represent the homeowners and are not in any contract with the homeowners.

Nonetheless, management companies demand a "transfer fee" payable to the organization every time any lot in the subdivision changes hands or is refinanced.

You may find that opponents of your proposed rules are often members or employees of the trade-lobby group of HOA management companies. This group fears an abrupt halt to the gravy train they've become accustomed to at the expense of the homeowners and investors in the homeowner's Note.

Further even if the fees are dedicated to homeowners associations, they are not proportional or related to the purposes for which the fees were to be collected. Because these transfer fees are not subject to open records and there is no accountability pertaining to the funds, there is no way to know exactly what accumulated transfer fees fund.

Transfer fees that homeowners are being forced to pay to opportunistic third parties range from hundreds to in excess of \$10K each time the property is sold or refinanced. This illegitimate fee is in addition to title insurance, real estate commissions, and legitimate closing fees.

You have the 'right plan at the right time' to stop subsidizing this insidious practice which benefits only unrelated third parties to the detriment of the homeowner and the Note holder.

Thank you again

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