

April 23, 2014

The Honorable Carol Galante
Assistant Secretary for Housing – Federal Housing Commissioner
US Department of Housing and Urban Development
Washington, DC 20410

Dear Commissioner Galante:

We understand that the Federal Housing Administration (FHA) may issue a proposed rule on transfer fee covenants that will apply to FHA-insured mortgages. Previously, we have urged FHA to harmonize its regulatory treatment of transfer fee covenants with the Federal Housing Finance Agency (FHFA). We continue to believe that FHFA's final rule on transfer fee covenants establishes a clear, national standard to protect homeowners from equity-stripping private transfer fees while preserving the preeminence of State and local governments over land use standards. FHA should accept a mortgagee's compliance with FHFA's transfer fee covenant regulation as compliance with relevant FHA mortgage insurance program rules, guidelines and requirements. Any additional and potentially conflicting federal standard on transfer fee covenants by FHA will cause confusion in the housing market and require community associations to amend governing documents. Amendments to community association covenants, conditions, and restrictions can be difficult to execute and by statute generally require legal counsel and the approval of at least a supermajority of owners.

The majority of existing State statutes permit transfer fee covenants where proceeds are delivered to a community association or nonprofit and provide a direct benefit to the property. These covenants can increase the value of the homeowners' property by ensuring adequate reserve funds and covering the cost of desirable services and amenities. By contrast, states and FHFA have rejected the purely equity stripping private transfer fee covenants where proceeds are delivered to a third party with no continuing interest in the burdened property.

Fees that increase the costs of housing can disenfranchise those who wish to obtain the American dream; however, fees that provide a direct benefit to homeowners and improve the property are legitimate and should be permitted. Prohibiting purchases in communities with these types of fees will greatly disadvantage the millions of homeowners living in community associations, making it much harder for them to sell their homes. FHFA gave thoughtful consideration to this issue, reviewing more than 4,000 comments. We urge you to mirror FHFA's rule, and prohibit only those fees that don't benefit the homeowner and association where they live.

Thank you for your time and consideration of this matter. If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

American Land Title Association
Community Associations Institute
Institute of Real Estate Management
Mortgage Bankers Association
National Association of Home Builders
National Association of REALTORS