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Flipping out over Flip Tax

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A guidance proposed by the Federal Housing Finance Agency will have a negative impact for New York City co-op and condo buyers.

The "Guidance on Private Transfer



JONATHAN DURST

Fee Covenants" would prohibit Fannie Mae and Freddie Mac from purchasing loans in buildings where there is a Private Transfer Fee or Flip Tax, as it is referred to in New York.

It is our understanding that the primary purpose of the Guidance is to end the practice in which a private transfer fee covenant is attached to real property, frequently by the owner/developer of the property, and provides for a transfer fee to be paid to an identified third party (such as the owner/developer or its trustee) upon resale.

The fee is typically stated as a percentage, such as one percent of the property's sale price, and often survives for 99 years. This type of tax has been occurring in other parts of the country.

By having such a broad rule to address this issue, it will have a negative impact on our co-op condo market in which the proceeds of the Flip

Tax goes toward a reserve fund to make capital improvements in buildings. The Flip Tax has been in existence for sometime in NYC with beneficial results.

We believe the proposed Guidance to address this concern, namely that Fannie Mae and Freddie Mac should not purchase or invest in any mortgages encumbered by private transfer fee agreements or securities backed by such mortgages, would have an adverse impact on the New York City housing market and undermine the liquidity, efficiency and stability in the market.

In a joint research paper prepared a few years back by New York University and Miller Samuel, it was found that almost half the co-op buildings in New York impose a Flip Tax. More importantly, the paper noted that the existence of a Flip Tax was associated with a 1.9% increase in value.

New York City has a diversity of owner-occupied housing types — single-family homes, co-operative and condominium apartments. Over the last ten years — as we moved from the brief recession at the beginning of the decade, through the boom period in mid-decade, and the Great Recession as the decade comes to an end — there has been a generally comparable movement in transactions and price among all these housing types.

This market movement suggests that the Flip Tax which exists in a large number of co-op buildings and not in single family homes had no discernible market impact.

During the mid-1980s in New York City when residential conversions occurred



more often than today, the Flip Tax increased the capital reserve fund of these older residential buildings. This tax increased the reserve fund of these formerly rent

regulated buildings, providing the capital for important and necessary improvements. This additional investment in our housing stock helped to stabilize and improve neighborhoods.

The structure and purpose of the Private Transfer Tax in New York City has had a positive impact on the housing market. To prohibit Fannie Mae from purchasing mortgages on property with a Private Transfer Tax would jeopardize the liquid and stability in the market that the FHFA is trying to protect with this Guidance.

Stay tuned for more on this in the weeks to come.

34th Street Transitway Talks Continue

REBNY is following the progress and potential impact of changing the traffic pattern on 34th Street for the proposed project called the 34th Street Transitway.

The Department of Transportation, property owners and REBNY representatives recently met and discussed various options for the project.

A number of interested property owners attended the meeting and had insightful questions about the potential impact of change to the traffic pattern to the businesses along 34th Street, as well as traffic impact to the surrounding streets. DOT announced that a detailed traffic analysis is in the works that would provide answers to these questions.

Three options are being considered for the project.

For one, vehicles would be banned entirely on the block between Fifth Avenue and Avenue of the Americas, creating a pedestrian plaza bookended by the Empire State Building and Herald Square.

The balance of the street would be split in two. Lanes would be one-way eastbound only, east of Fifth Avenue and one-way westbound only, west of Sixth Avenue.

Buses would be able to travel in both directions and through the plaza, but in lanes separated from passenger cars by a barrier.

The next option, would call for no pedestrian plaza, two-way bus lanes, and traffic lanes one-way eastbound only, east of Fifth Avenue and one-way westbound only, west of Fifth Avenue.

While the third option, plans for no pedestrian plaza, traffic lanes one-way eastbound only for the full corridor and two-way bus lanes.

REBNY will continue to help with public outreach and keep you informed on any updates.

In other REBNY news:

Don't miss the Member's Luncheon featuring, "The Market: What's Really Happening" on Tuesday, Oct. 5, 2010 at the Hilton Hotel, 1335 Avenue of the Americas.

Panelists are Jonathan Durst, The Durst Organization; Chris LaBlanca, president RCG Longview and David Schectman, principal, senior director, Eastern Consolidated.

The moderator is Glen Weiss, senior vice president, director of leasing Vornado Realty Trust. Refreshments start at 11:45 am. Program and lunch is 12:15 pm-2 pm.

To register, go to REBNY.com and click on the event calendar.