

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

THE FEDERAL NATIONAL MORTGAGE )  
ASSOCIATION (“FANNIE MAE”); THE )  
FEDERAL HOME LOAN MORTGAGE )  
CORPORATION (“FREDDIE MAC”); and, )  
THE FEDERAL HOUSING FINANCE )  
AGENCY, in its capacity as an agency of the )  
federal government and in its capacity as )  
Conservator of Fannie Mae and Freddie Mac, )

Civil Action No.:

Plaintiffs,

v.

BRIAN HAMER, in his official capacity as )  
Director of the Illinois Department of Revenue; )  
JOHN J. ACARDO, in his official capacity as )  
DeKalb County Clerk and Recorder; KAREN )  
A. STUKEL, in her official capacity as Will )  
County Recorder; NANCY MCPHERSON, in )  
her official capacity as Winnebago County )  
Recorder; DAWN YOUNG, in her official )  
capacity as Whiteside County Recorder; )  
DEBBIE GILLETTE, in her official capacity as )  
Kendall County Recorder; SANDY WEGMAN, )  
in her official capacity as Kane County )  
Recorder, )

Defendants.

**COMPLAINT**

Plaintiffs Fannie Mae, Freddie Mac (together, the “Enterprises”), and the Federal Housing Finance Agency in its capacity as Conservator of the Enterprises (“FHFA” or the “Conservator”), for their Complaint against the defendants named herein (“Defendants”) allege as follows:

## INTRODUCTION

1. This action arises from actions of certain Illinois County officials to impose liability on the Enterprises for Illinois state and county transfer taxes -- taxes owed at the time the Enterprises record real estate deeds. Because Congress has expressly exempted the Enterprises and the Conservator from all state and local taxation with a single exception that is inapplicable here, the Enterprises are immune from liability for those taxes. To resolve the actual controversy as to the application of Plaintiffs' federal statutory immunity, Plaintiffs are entitled to a judgment declaring that they cannot be liable for the taxes Defendants seek to collect.

2. The Enterprises are government-sponsored enterprises established by federal charters, which imbue them with congressionally-mandated missions and express obligations and privileges to help further those missions. Congress chartered Fannie Mae to "establish secondary market facilities for residential mortgages," to "provide stability in the secondary market for residential mortgages," and to "promote access to mortgage credit throughout the Nation." 12 U.S.C. § 1716. Congress similarly chartered Freddie Mac to "provide stability in the secondary market for residential mortgages," to "provide ongoing assistance to the secondary market for residential mortgages," including "mortgages on housing for low- and moderate-income families" by "increasing the liquidity" of the market, and "to promote access to mortgage credit throughout the Nation." *Id.* § 1451 note.

3. Congress included provisions in the federal statutory charters of Fannie Mae and Freddie Mac, as well as the Conservator's organic statute, expressly exempting the Enterprises and the Conservator from "all [state and local] taxation" with the sole exception of direct, non-discriminatory taxes on real estate. *Id.* §§ 1452(e) (Freddie Mac), 1723a(c)(2) (Fannie Mae); 4617(j)(2) (Conservator).

4. Notwithstanding these federal statutory provisions exempting the Enterprises and the Conservator from “all [state and local] taxation” other than taxes on their real estate, Defendants Acardo, Stukel, MacPherson, Young, Gillette, and Wegman (the “County Recorders”) have indicated that they will impose and collect state and county excise taxes — specifically Illinois State real property transfer taxes pursuant to 35 ILCS 200/31-1 *et seq.* (“State Transfer Tax”) and Illinois County property transfer taxes pursuant to 55 ILCS 5/5-1031 (“County Transfer Tax”) (collectively the “Transfer Taxes”) — on transactions transferring property to or from the Enterprises. *See* Letter from John J. Acardo, DeKalb County Clerk and Recorder (Apr. 16, 2012) (“County Recorders’ Letter”) (attached as Ex. 1); Memorandum from Debbie Gillette, Kendall County Clerk & Recorder to Kendall County Title Companies (Jan. 19, 2012) (“Kendall County Memorandum”) (attached as Ex. 2); Memorandum from Sandy Wegman, Kane County Recorder, to Kane County Title Companies (Jan. 3, 2012) (“Kane County Memorandum”) (attached as Ex. 3)

5. Specifically, County Recorders Acardo, McPherson, Young, and Stukel (the “Demand Defendants”), wrote the Enterprises to demand payment of state and county excise taxes on completed transactions involving the transfer of property to or from the Enterprises. *See* Ex. 1. These defendants have stated that they will reject instruments reflecting transactions where one of the Enterprises is a party to the property transfer if an exemption is claimed and the state and county transfer taxes are not paid. *See id.* Moreover, should the Enterprises and/or the Conservator not *promptly* and *voluntarily* render payment for the Transfer Taxes allegedly owed on transactions that involved the transfer of property to or from the Enterprises and that occurred in the preceding five years, Demand Defendants have threatened to compel payment of “*all past*

*due amounts under applicable statute of limitations*” through litigation and other available coercive means. *Id.* (emphasis added).

6. Other County Recorders, Kendall County Recorder Gillette and Kane County Recorder Wegman (the “Rejection Defendants”), have separately issued memoranda stating that they would reject instruments presented by the Enterprises for recordation without payment of these state and county transfer taxes. *See* Ex. 2; Ex. 3. The Kendall County Memorandum states that “[b]eginning on March 1, 2012, Kendall County will begin rejecting Illinois Real Estate Transfer Declarations . . . that list Freddie [Mac] and Fannie [Mae] as exempt” because they are “charters” rather than “defined as governmental entities.” Ex. 2. The Kane County Memorandum states that “Kane County will continue rejecting instruments of recording that list Freddie [Mac] and Fannie [Mae] as ‘b’ - Exempt on the Illinois Real Estate Transfer Declaration.” Ex. 3.

7. The Transfer Taxes, and additional real estate transfer taxes imposed by counties and municipalities under home rule, are imposed on a party’s exercise of the “*privilege of transferring title to real estate*” located in Illinois. 35 ILCS 200/31-10; 55 ILCS 5/5-1031; 55 ILCS 5/5-1031.1 (“Home Rule County Transfer Tax”); 65 ILCS 5/8-3-19 (“Municipal Transfer Tax”). Thus, the Transfer Taxes, the Home Rule County Transfer Tax and the Municipal Transfer Tax are not taxes on real property. Revenue generated by the State Transfer Tax is deposited into the state treasury. 35 ILCS 200/31-35. Revenue generated by the County Transfer Tax and the Home Rule County Transfer Tax remains with the county. Revenue generated by the Municipal Transfer Tax remains with the municipality. The demand of County Recorders that the Enterprises pay the Transfer Taxes, as well as their actual and threatened rejection of instruments presented for recordation without payment of the taxes, contravenes the

Plaintiffs' federal exemption statutes. Under the Supremacy Clause of the U.S. Constitution, those federal statutes are "the supreme law of the land," and Defendants therefore cannot lawfully impose the taxes at issue upon the Enterprises, the Conservator, or their transactions.

8. The United States Treasury and the Conservator (acting on behalf of the Enterprises) entered into preferred stock purchase agreements pursuant to which Treasury provides funding, under certain conditions, to eliminate deficits in each Enterprise's net worth. As of June 2012, Treasury had infused \$116.1 billion into Fannie Mae and \$71.3 billion into Freddie Mac pursuant to the stock purchase agreements. In substance, U.S. Taxpayers are funding the Enterprises' operating losses, which Defendants' continued unlawful imposition and collection of the Transfer Taxes exacerbate.

9. Plaintiffs therefore bring this action to obtain declaratory relief against the Defendants and respectfully ask this Court to declare that the express federal statutory exemptions bar the imposition of the Transfer Taxes on the Plaintiffs to prevent any unlawful assessment and collection of the Transfer Taxes on the recordation of deeds for transactions transferring property to or from the Enterprises, regardless of whether such transactions have already occurred or will occur in the future.

#### **JURISDICTION AND VENUE**

10. This action seeks declaratory relief under the Federal Declaratory Judgment Act, 28 U.S.C. § 2201.

11. Jurisdiction of this Court is founded on 28 U.S.C. § 1345, which gives federal courts original jurisdiction over claims brought by FHFA, including in its capacity as Conservator of the Enterprises.

12. This Court also has jurisdiction pursuant to 28 U.S.C. § 1331 because the claims asserted arise under the Constitution and laws of the United States.

13. This Court also has jurisdiction pursuant to 12 U.S.C. § 1452(f) which provides that “[n]otwithstanding . . . any other provision of law, . . . [Freddie Mac] shall be deemed to be an agency” for the purposes of 28 U.S.C. § 1345 and 28 U.S.C. § 1442, and “all civil actions to which [Freddie Mac] is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value . . . .”

14. Venue lies in the Northern District of Illinois, Western Division, pursuant to 28 U.S.C. § 1391 because at least one of the Defendants resides in the Northern District of Illinois, and a substantial part of the events or omissions giving rise to the claims occurred in this District. Further, there are common questions of law and fact with regard to all Defendants.

### **PARTIES**

15. The Enterprises are government-sponsored enterprises chartered by Congress with the mission to provide liquidity, stability and affordability to the United States housing and mortgage markets, including by establishing secondary market facilities for residential mortgages and by promoting access to mortgage credit throughout the Nation. 12 U.S.C. §§ 1716, 1451 note. Fannie Mae is located at 3900 Wisconsin Avenue, N.W. in Washington, D.C. Freddie Mac is located at 8200 Jones Branch Drive in McLean, Virginia.

16. FHFA is an independent federal agency located at 400 Seventh Street, S.W. in Washington, D.C. FHFA was created on July 30, 2008, pursuant to the Housing and Economic Recovery Act of 2008 (“HERA”), Pub L. No. 110-289, 122 Stat. 2654, codified at 12 U.S.C. § 4617 *et seq.*, to oversee the Enterprises and the Federal Home Loan Banks. FHFA is the

exclusive federal supervisory regulator of the Enterprises. Recognizing the vital role the Enterprises play not only in the health and stability of the Nation's housing market but also in the availability of affordable housing, Congress created FHFA and granted it broad powers, including the authority to place the Enterprises in conservatorship or receivership. 12 U.S.C. §§ 4501; 4617(a).

17. The financial crises of 2008, which witnessed the rapid deterioration of the mortgage markets, left the Enterprises in severe financial distress. On September 6, 2008, the Director of FHFA placed the Enterprises into conservatorship and appointed FHFA as Conservator. In that capacity, FHFA has the authority to exercise all rights, powers, and privileges of each Enterprise, including, but not limited to, the authority to bring suits on behalf of and/or for the benefit of either or both. *See* 12 U.S.C. § 4617(b)(2). FHFA brings this action in its capacity as Conservator of each Enterprise.

18. Defendants are the Director of the Illinois Department of Revenue and county officers charged with allocating and administering the revenue the Transfer Taxes generate, and calculating, assessing and collecting the Transfer Taxes. Defendants are sued in their official capacities.

19. Brian Hamer is the Director of the Illinois Department of Revenue. The Department of Revenue is located at 101 West Jefferson Street, Springfield, IL. The Department of Revenue is responsible for the administration and collection of the State Transfer Tax along with county recorders. *See* 35 ILCS §§ 200/31-15, 200/31-60, 200/31-70, 735/3-1 *et seq.* Defendant Hamer is sued in his official capacity.

20. The County Recorders oversee the calculation, assessment and collection of the State Transfer Tax and the County Transfer Tax for transactions transferring real estate located in their respective counties. Each County Recorder is sued in his or her official capacity.

21. John J. Acardo is the DeKalb County Clerk and Recorder, and the Office of the Clerk and Recorder for DeKalb County is located at 110 East Sycamore Street, Sycamore, Illinois.

22. Karen A. Stukel is the Will County Recorder, and the Office of the Recorder is located at 302 N. Chicago Street, Joliet, Illinois.

23. Nancy McPherson is the Winnebago County Recorder, and the Office of the Recorder is located at 404 Elm Street, Room 405, Rockford, IL.

24. Dawn Young is the Whiteside County Recorder, and the Office of the Recorder is located at 200 E. Knox Street, Morrison, IL.

25. Debbie Gillette is the Kendall County Clerk and Recorder, and the Office of the Clerk and Recorder is located at 111 West Fox Street, Yorkville, IL.

26. Sandy Wegman is the Kane County Recorder, and the Kane County Recorder's Office is located at 719 Batavia Avenue, Building C, Geneva, IL.

**THE FEDERAL STATUTORY EXEMPTION OF THE ENTERPRISES  
AND THE CONSERVATOR FROM STATE AND LOCAL TAXATION**

27. To further the Enterprises' important public mission of providing a secondary market for residential mortgages and promoting access to mortgage credit for low- and moderate-income families, Congress granted the Enterprises and the Conservator broad exemptions from materially "all taxation" imposed by any state or county, with a single, narrow carve-out that permits direct, non-discriminatory taxation of their real property. 12 U.S.C.



§§ 1723a(c)(2) (Fannie Mae), 1452(e) (Freddie Mac), 4617(j)(2) (Conservator). That carve-out does not apply here because the Transfer Taxes are not taxes on real property.

28. Fannie Mae's charter provides:

The corporation, including its franchise, capital, reserves, surplus, mortgages or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent as other real property is taxed.

*Id.* § 1723a(c)(2).

29. Freddie Mac's charter contains a materially identical provision:

The Corporation, including its franchise, activities, capital, reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by . . . any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed

*Id.* § 1452(e).

30. FHFA, in its capacity as Conservator, is also exempt from all state and local taxation except for taxes assessed on its real property. HERA provides that the Conservator

Including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the [Conservator] shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed . . . .

*Id.* § 4617(j)(1), (2). By HERA's express terms, this exemption for state and local taxation applies to the property and business of the Conservatorship, which includes the property

and business of the Enterprises, to which the Conservator has succeeded as a matter of law. 12 U.S.C. § 4617(b)(2)(A).

31. Under the Supremacy Clause of the U.S. Constitution, the federal statutory exemptions granted the Enterprises and the Conservator must be given preemptive effect over any conflicting state law. U.S. Const. art. VI, cl. 2.

32. Therefore, Transfer Taxes imposed on transactions transferring property to and from the Enterprises are preempted.

### **THE ILLINOIS TRANSFER TAXES**

33. Acting pursuant to their congressionally-mandated missions, the Enterprises have purchased significant volumes of residential mortgages on the secondary market.

34. In the recent housing crisis, an increasing number of these mortgages went into foreclosure.

35. As part of the foreclosure process, the deed for an underlying property is ultimately transferred from the borrower to the Enterprises. As part of this transfer, the deed must be recorded in order to protect the Enterprises' ownership interest in the property and to secure clear chain of title.

36. Foreclosed property may subsequently be transferred to a third-party purchaser. Such transfers require another deed to be recorded.

37. 35 ILCS 200/31-1, *et seq.* establishes and governs the State Transfer Tax.

38. 35 ILCS 200/31-10 levies a mandatory privilege tax of \$0.50 per every \$500.00, or fraction thereof, of assessed real property value on transactions in which real property located within Illinois is transferred. All of Illinois's 102 counties collect the State Transfer Tax levied under Section 200/31-10. Deeds issued to a "holder of a mortgage . . . pursuant to a mortgage

foreclosure proceeding or pursuant to a transfer in lieu of foreclosure” are “exempt from” the transfer taxes. 35 ILCS 200/31-45(l). Transactions where the transferred real property is “acquired by any governmental body or from any governmental body” are also “exempt from” the transfer taxes. 35 ILCS 200/31-45(b). Revenue generated by the State Transfer Tax is deposited into the State Treasury. 35 ILCS 200/31-35.

39. 55 ILCS 5/5-1031 permits and empowers the County Board of each of Illinois’s 102 counties to levy an additional excise tax of up to \$0.25 for each \$500.00, or fraction thereof, of the real property’s assessed value on transactions in which real property located within that county is transferred (“County Transfer Tax”). The exemptions provided in 35 ILCS 200/31-45, including the exemptions for transfers involving a foreclosure proceeding or where a “government body” is a party to the transaction, apply to the County Transfer Tax. 55 ILCS 5/5-1031(a) (“All deeds and trust documents exempted in Section 31-45 . . . shall also be exempt from any tax imposed pursuant to this Section.”). The County Boards in all of Illinois’s 102 counties have exercised this power and levied a County Transfer Tax pursuant to 55 ILCS 5/5-1031. The revenue generated by the County Transfer Tax remains with the county.

40. 55 ILCS 5/5-1031.1 permits and empowers home rule counties to levy an additional excise tax at a rate determined by the home rule county, or increase the rate of a transfer tax the home rule county has already levied, on transactions in which real property located within that county is transferred, absent an applicable exemption (“Home Rule County Transfer Tax”). The tax may be imposed on the buyer, seller, or buyer and seller of the real property being transferred. County officials must “give public notice of and hold a public hearing on” the intent “to submit the question to referendum” “[b]efore adopting a resolution” to impose a new real estate transfer tax or increase the rate of an existing real estate transfer tax. 55

ILCS 5/5-1031.1(b). The revenue generated by the Home Rule County Transfer Tax remains with the county.

41. 65 ILCS 5/8-3-19 permits and empowers home rule municipalities to levy an additional excise tax at a rate determined by the municipality, or increase the rate of an existing transfer tax the municipality has already imposed, on transactions in which real property located within that municipality is transferred, absent an applicable exemption (“Home Rule Municipality Transfer Tax”). The tax may be imposed on the buyer, seller, or buyer and seller of the real property being transferred. Municipal officials must “give public notice of and hold a public hearing on” the intent “to submit the question to referendum” “[b]efore adopting a resolution” to impose a new tax or increase the rate of an existing tax. 65 ILCS 5/8-3-19(b). The revenue generated by the Home Rule Municipality Transfer Tax remains with the municipality.

### **THE CONTROVERSY AND PLAINTIFFS’ STANDING**

42. On April 16, 2012, the Demand Defendants wrote Fannie Mae and Freddie Mac, asserting that the Enterprises are not exempt from paying the Transfer Taxes. Ex. 1. That letter does not mention the federal statutes that exempt the Enterprises and Conservator from the Transfer Taxes. Nor does the letter acknowledge that, under the Supremacy Clause, the State and its counties may not impose on the Enterprises Transfer Taxes that are barred by federal law. Instead, the Demand Defendants asserted that the Enterprises were claiming an exemption “as a government entity which is factually erroneous,” presumably under the “government body” exemption in 35 ILCS 200/31-45(b). Ex. 1. The Demand Defendants instructed their agents, effective April 16, 2012, “that all documents” evidencing the transfer of real estate to or from the Enterprises “will be rejected” if the “[Transfer T]axes are not paid.” *Id.* Their letter also demands prompt payment from the Enterprises of Transfer Taxes for transactions that occurred

within the past *five years* transferring property to or from the Enterprises. Absent prompt, voluntary payment, the Demand Defendants stated that they intend to engage in litigation to “*seek all amounts due under the applicable statute of limitations, plus penalties, attorneys’ fees and costs.*” *Id.* (emphasis added).

43. Similarly, the Rejection Defendants have made clear that they will not treat the Enterprises as exempt, and likewise focus on the government body exemption in 35 ILCS 200/31-45(b). On January 3, 2012 Rejection Defendant Wegman issued a public statement asserting that “Kane County will continue rejecting instruments of recording that list Freddie [Mac] and Fannie [Mae] as ‘b’ - Exempt on the Illinois Real Estate Transfer Declaration,” purportedly because those entities “are charters; they are not defined as governmental entities.” Ex. 3. On January 12, 2012, Rejection Defendant Gillette issued a public statement asserting that “[b]eginning on March 1, 2012, Kendall County will begin rejecting Illinois Real Estate Transfer Declarations . . . that list Freddie [Mac] and Fannie [Mae] as exempt” because they are “charters” rather than “defined as governmental entities.” Ex. 2. Rejection Defendants’ statements do not mention the federal statutes that exempt the Enterprises and Conservator from the Transfer Taxes. Nor do they acknowledge that, under the Supremacy Clause, the State and its counties may not impose on the Enterprises Transfer Taxes that are barred by federal law. *See* Exs. 2, 3.

44. The County Recorders have clearly and unambiguously threatened to coerce or have required the Enterprises to pay the Transfer Taxes for transactions transferring property to or from the Enterprises by refusing to record the deed at issue unless the Transfer Taxes are paid.

45. Federal law establishes that Defendants cannot lawfully collect Transfer Taxes on the transfer of property to or from the Enterprises. The County Recorders nevertheless have

stated their intention to collect or have collected significant revenues by unlawfully assessing and collecting Transfer Taxes on such transactions.

46. The payment of the Transfer Taxes would divert funds from the Enterprises' congressionally mandated missions, which include to assist in resolving the Nation's housing crisis. Regardless whether the Enterprises or the purchasers ultimately bear the cost of the tax in each transaction, the imposition of the tax burdens the Enterprises' work by increasing the transaction cost for each transfer to and from the Enterprises.

47. Defendants' clearly articulated demands, intentions, and threats to exact moneys to which the Enterprises are rightfully entitled will injure Plaintiffs absent the relief Plaintiffs seek.

48. Declaratory relief will redress the injury that Plaintiffs otherwise will suffer.

49. In its capacity as the Enterprises' Conservator, FHFA has the power to bring this action for the Enterprises' benefit. 12 U.S.C. § 4617(b)(2).

### **CLAIM FOR RELIEF**

#### **COUNT I -- AGAINST ALL DEFENDANTS**

#### **DECLARATORY RELIEF—THE LEVY AND COLLECTION OF THE TRANSFER TAXES VIOLATES THE ENTERPRISES' AND CONSERVATOR'S STATUTORY EXEMPTIONS FROM ALL STATE AND LOCAL TAXES**

50. Plaintiffs reassert and incorporate herein by reference the allegations contained in paragraphs 1–49 above, as though fully set forth herein.

51. Defendants' imposition of the Transfer Taxes on transactions transferring property to or from the Enterprises violates the Enterprises' and the Conservator's statutory exemptions from state and local taxation.

52. Pursuant to 28 U.S.C. §§ 2201–02, Plaintiffs are entitled to a declaratory judgment that Defendants cannot lawfully impose Transfer Taxes on transactions transferring property to or from either Enterprise or the Conservator.

WHEREFORE, Plaintiffs request that this Court enter an order:

(a) declaring that pursuant to 12 U.S.C. §§ 1452(e), 1723a(c)(2), and 4617(j)(2), the Enterprises, the Conservator, and their transactions are exempt from State and/or County and/or Municipal transfer taxes under 35 ILCS 200/31-1 *et seq.* 55 ILCS 5/5 1031, 55 ILCS 5/5 1031.1, and 65 ILCS 5/8-3-19;

(b) declaring that Defendants may not lawfully require payment of State and/or County and/or Municipal transfer taxes under 35 ILCS 200/31-1 *et seq.* 55 ILCS 5/5 1031, 55 ILCS 5/5 1031.1, and 65 ILCS 5/8-3-19 on the recordation of transfers of property to or from the Conservator, Fannie Mae, or Freddie Mac;

(c) granting Plaintiffs such other relief as this Court deems just and proper.

Dated: June 22, 2012

Respectfully submitted,

By: /s/ Robert J. Emanuel  
*One of Plaintiffs' Attorneys*

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\* pro hac vice applications to be filed



**INDEX OF EXHIBITS TO COMPLAINT**

<b>Ex. No.</b>	<b>Description</b>
1	Letter from John J. Acardo, DeKalb County Clerk and Recorder (Apr. 16, 2012) (“County Recorders’ Letter”)
2	Memorandum from Debbie Gillette, Kendall County Clerk & Recorder to Kendall County Title Companies (Jan. 19, 2012) (“Kendall County Memorandum”)
3	Memorandum from Sandy Wegman, Kane County Recorder, to Kane County Title Companies (Jan. 3, 2012) (“Kane County Memorandum”)

# Exhibit 1



OFFICE OF THE CLERK AND RECORDER  
DEKALB COUNTY, ILLINOIS

**John J. Acardo**  
Clerk & Recorder

110 East Sycamore Street  
Sycamore, Illinois 60178

815.895.7149 | office  
815.895.7148 | facsimile  
www.dekalbclerk.com

April 16, 2012

05-07-12 P04:31 IN  
Mack; Townsend

To Whom It may Concern:

Pursuant to Illinois statute, 35 ILCS 200/31-1 *et seq*, the grantor in a real estate transaction is to pay the recorder or registrar of titles of the county in which the property is situated a real estate transfer tax for the privilege of recording various documents with the County (the "Transfer Tax").

The undersigned are County Recorders and it has come to our attention there are numerous instances in which (Fannie/Freddie) has not paid the Transfer Tax as required by law. In these instances you have claimed an exemption as a government entity which is factually erroneous. Moreover, there are numerous instances throughout the State where you have in fact paid the Transfer Tax evidencing the inappropriateness of the claimed in exemption.

Based on the foregoing, we hereby demand payment of the unpaid Transfer Taxes for the last five years as set forth below. While we believe the statute of limitations in this matter may be longer than five years, for the purposes of resolving this error short of litigation we have agreed to a five year period. If this matter isn't promptly resolved we will seek all amounts due under the applicable statute of limitations, plus penalties, attorney's fees and cost.

**(See attached document for a listing of all unpaid accounts)**

**Please note the order is DeKalb Co. Data/Winnebago Co. Data/Whiteside Co. Data**

Moving forward, we have notified agents that effective immediately all documents where taxes are not paid from your entity will be rejected.

We look forward to your prompt response.

/s/ John J. Acardo  
DeKalb County Clerk & Recorder

/s/ Nancy McPherson  
Winnebago County Recorder

/s/ Dawn Young  
Whiteside County Recorder

/s/ Karen A. Stukel  
Will County Recorder

## Freddie and Fannie - Exempt under "B" 2011-2007

DATE	DOCUMENT NUMBER	ACTUAL SALE PRICE	STATE PORTION	COUNTY PORTION	TOTAL REVENUE	DAILY STATE	RECAP COUNTY
1	2011000488	\$ 147,390.00	\$ 147.50	\$ 73.75	\$ 221.25		
2	683	\$ 178,125.00	\$ 178.50	\$ 89.25	\$ 267.75		
3	685	\$ 112,000.00	\$ 112.00	\$ 56.00	\$ 168.00		
4	686	\$ 213,967.00	\$ 214.00	\$ 107.00	\$ 321.00		
5	1871	\$ 155,000.00	\$ 155.00	\$ 77.50	\$ 232.50		
6	2678	\$ 300,000.00	\$ 300.00	\$ 150.00	\$ 450.00		
7	3175	\$ 290,749.00	\$ 291.00	\$ 145.50	\$ 436.50		
8	3176	\$ 199,900.00	\$ 200.00	\$ 100.00	\$ 300.00		
9	3416	\$ 84,600.00	\$ 85.00	\$ 42.50	\$ 127.50		
10	3417	\$ 120,298.00	\$ 120.50	\$ 60.25	\$ 180.75		
11	3695	\$ 96,634.00	\$ 97.00	\$ 48.50	\$ 145.50		
12	4327	\$ 177,378.00	\$ 177.50	\$ 88.75	\$ 266.25		
13	4328	\$ 45,479.00	\$ 45.50	\$ 22.75	\$ 68.25		
14	4329	\$ 324,034.17	\$ 324.50	\$ 162.25	\$ 486.75		
15	4330	\$ 75,000.00	\$ 75.00	\$ 37.50	\$ 112.50		
16	4340	\$ 279,200.00	\$ 279.50	\$ 139.75	\$ 419.25		
17	4446	\$ 78,000.00	\$ 78.00	\$ 39.00	\$ 117.00		
18	5301	\$ 128,000.00	\$ 128.00	\$ 64.00	\$ 192.00		
19	6341	\$ 136,000.00	\$ 136.00	\$ 68.00	\$ 204.00		
20	7171	\$ 332,720.00	\$ 333.00	\$ 166.50	\$ 499.50		
21	7384	\$ 134,690.00	\$ 135.00	\$ 67.50	\$ 202.50		
22	7968	\$ 133,000.00	\$ 133.00	\$ 66.50	\$ 199.50		
23	8347	\$ 155,000.00	\$ 155.00	\$ 77.50	\$ 232.50		
24	8348	\$ 145,023.00	\$ 145.50	\$ 72.75	\$ 218.25		
25	8349	\$ 225,000.00	\$ 225.00	\$ 112.50	\$ 337.50		
26	8645	\$ 46,067.00	\$ 46.50	\$ 23.25	\$ 69.75		
27	9889	\$ 94,506.00	\$ 95.00	\$ 47.50	\$ 142.50		
28	10705	\$ 320,000.00	\$ 320.00	\$ 160.00	\$ 480.00		
29	12079	\$ 113,147.00	\$ 113.50	\$ 56.75	\$ 170.25		
30	12080	\$ 152,717.00	\$ 153.00	\$ 76.50	\$ 229.50	\$ 4,999.00	\$ 2,499.50

1	2010	2010001067	\$	130,739.00	262	\$	131.00	\$	65.50	\$	196.50
2		1370	\$	227,723.00	456	\$	228.00	\$	114.00	\$	342.00
3		1503	\$	177,600.00	356	\$	178.00	\$	89.00	\$	267.00
4		1980	\$	154,000.00	308	\$	154.00	\$	77.00	\$	231.00
5		2703	\$	216,978.00	434	\$	217.00	\$	108.50	\$	325.50
6		2704	\$	280,037.00	561	\$	280.50	\$	140.25	\$	420.75
7		2854	\$	139,588.00	280	\$	140.00	\$	70.00	\$	210.00
8		4822	\$	70,875.00	142	\$	71.00	\$	35.50	\$	106.50
9		4937	\$	144,000.00	288	\$	144.00	\$	72.00	\$	216.00
10		5037	\$	427,093.19	855	\$	427.50	\$	213.75	\$	641.25
11		5038	\$	179,102.00	359	\$	179.50	\$	89.75	\$	269.25
12		5197	\$	170,000.00	340	\$	170.00	\$	85.00	\$	255.00
13		5198	\$	198,346.00	397	\$	198.50	\$	99.25	\$	297.75
14		5363	\$	123,500.00	247	\$	123.50	\$	61.75	\$	185.25
15		5476	\$	187,034.00	375	\$	187.50	\$	93.75	\$	281.25
16		5477	\$	296,504.00	594	\$	297.00	\$	148.50	\$	445.50
17		6484	\$	150,901.00	302	\$	151.00	\$	75.50	\$	226.50
18		7215	\$	58,000.00	116	\$	58.00	\$	29.00	\$	87.00
19		7404	\$	92,137.00	185	\$	92.50	\$	46.25	\$	138.75
20		7405	\$	139,110.00	279	\$	139.50	\$	69.75	\$	209.25
21		7768	\$	225,643.00	452	\$	226.00	\$	113.00	\$	339.00
22		7769	\$	150,000.00	300	\$	150.00	\$	75.00	\$	225.00
23		8041	\$	139,000.00	278	\$	139.00	\$	69.50	\$	208.50
24		8128	\$	216,338.00	433	\$	216.50	\$	108.25	\$	324.75
25		8376	\$	142,326.00	285	\$	142.50	\$	71.25	\$	213.75
26		8962	\$	160,000.00	320	\$	160.00	\$	80.00	\$	240.00
27		8963	\$	261,510.00	524	\$	262.00	\$	131.00	\$	393.00
28		9273	\$	292,094.00	585	\$	292.50	\$	146.25	\$	438.75
29		9274	\$	139,915.00	280	\$	140.00	\$	70.00	\$	210.00
30		9514	\$	98,800.00	198	\$	99.00	\$	49.50	\$	148.50
31		9622	\$	214,044.00	429	\$	214.50	\$	107.25	\$	321.75
32		9623	\$	263,599.00	528	\$	264.00	\$	132.00	\$	396.00
33		9624	\$	100,319.00	201	\$	100.50	\$	50.25	\$	150.75

34	9945	\$	267,800.00	536	\$	268.00	\$	134.00	\$	402.00	
35	10093	\$	158,663.00	318	\$	159.00	\$	79.50	\$	238.50	
36	10316	\$	70,757.00	142	\$	71.00	\$	35.50	\$	106.50	
37	10318	\$	211,930.00	424	\$	212.00	\$	106.00	\$	318.00	
38	10619	\$	183,457.00	367	\$	183.50	\$	91.75	\$	275.25	
39	10850	\$	226,693.00	454	\$	227.00	\$	113.50	\$	340.50	
40	10911	\$	89,795.00	180	\$	90.00	\$	45.00	\$	135.00	
41	11288	\$	124,000.00	248	\$	124.00	\$	62.00	\$	186.00	
42	11597	\$	243,660.00	488	\$	244.00	\$	122.00	\$	366.00	
43	13216	\$	461,717.00	924	\$	462.00	\$	231.00	\$	693.00	
44	13643	\$	201,752.00	404	\$	202.00	\$	101.00	\$	303.00	
45	13904	\$	42,393.00	85	\$	42.50	\$	21.25	\$	63.75	
46	14804	\$	143,265.00	287	\$	143.50	\$	71.75	\$	215.25	
47	15057	\$	195,000.00	390	\$	195.00	\$	97.50	\$	292.50	
48	15581	\$	85,500.00	171	\$	85.50	\$	42.75	\$	128.25	\$ 4,341.75
1	2009000550	\$	110,000.00	220	\$	110.00	\$	55.00	\$	165.00	
2	1755	\$	101,700.00	204	\$	102.00	\$	51.00	\$	153.00	
3	3989	\$	170,000.00	340	\$	170.00	\$	85.00	\$	255.00	
4	4747	\$	52,500.00	105	\$	52.50	\$	26.25	\$	78.75	
5	4909	\$	102,152.00	205	\$	102.50	\$	51.25	\$	153.75	
6	4910	\$	80,000.00	160	\$	80.00	\$	40.00	\$	120.00	
7	4911	\$	203,778.00	408	\$	204.00	\$	102.00	\$	306.00	
8	5005	\$	201,316.00	403	\$	201.50	\$	100.75	\$	302.25	
9	6086	\$	181,000.00	362	\$	181.00	\$	90.50	\$	271.50	
10	7738	\$	96,455.00	193	\$	96.50	\$	48.25	\$	144.75	
11	8052	\$	100,000.00	200	\$	100.00	\$	50.00	\$	150.00	
12	9763	\$	180,000.00	360	\$	180.00	\$	90.00	\$	270.00	
13	11654	\$	226,000.00	452	\$	226.00	\$	113.00	\$	339.00	
14	12129	\$	270,891.00	542	\$	271.00	\$	135.50	\$	406.50	
15	12288	\$	197,721.00	396	\$	198.00	\$	99.00	\$	297.00	
16	12561	\$	280,070.00	561	\$	280.50	\$	140.25	\$	420.75	
17	12988	\$	183,350.00	367	\$	183.50	\$	91.75	\$	275.25	
18	13101	\$	194,337.00	389	\$	194.50	\$	97.25	\$	291.75	

19		13180	\$	134,527.00	270	\$	135.00	\$	67.50	\$	202.50
20		14129	\$	115,000.00	230	\$	115.00	\$	57.50	\$	172.50
21		15410	\$	185,385.00	371	\$	185.50	\$	92.75	\$	278.25
22		15612	\$	44,990.00	90	\$	45.00	\$	22.50	\$	67.50
23		16501	\$	49,900.00	100	\$	50.00	\$	25.00	\$	75.00
24		16588	\$	176,933.00	354	\$	177.00	\$	88.50	\$	265.50
25		17025	\$	90,500.00	181	\$	90.50	\$	45.25	\$	135.75
26		17065	\$	134,163.00	269	\$	134.50	\$	67.25	\$	201.75
27		17454	\$	119,337.00	239	\$	119.50	\$	59.75	\$	179.25
28		17752	\$	88,910.00	178	\$	89.00	\$	44.50	\$	133.50
29		17754	\$	168,000.00	336	\$	168.00	\$	84.00	\$	252.00
30		17935	\$	114,750.00	230	\$	115.00	\$	57.50	\$	172.50
31	<b>2009</b>	18563	\$	178,546.00	358	\$	179.00	\$	89.50	\$	268.50
										\$	4,536.50
										\$	2,268.25
1	<b>2008</b>	2008000074	\$	218,686.71	438	\$	219.00	\$	109.50	\$	328.50
2		941	\$	175,000.00	350	\$	175.00	\$	87.50	\$	262.50
3		1166	\$	108,500.00	217	\$	108.50	\$	54.25	\$	162.75
4		2978	\$	353,005.00	707	\$	353.50	\$	176.75	\$	530.25
5		3962	\$	147,560.00	296	\$	148.00	\$	74.00	\$	222.00
6		4205	\$	130,500.00	261	\$	130.50	\$	65.25	\$	195.75
7		4372	\$	79,993.00	160	\$	80.00	\$	40.00	\$	120.00
8		4373	\$	162,000.00	324	\$	162.00	\$	81.00	\$	243.00
9		5745	\$	268,350.00	537	\$	268.50	\$	134.25	\$	402.75
10		6309	\$	89,643.00	180	\$	90.00	\$	45.00	\$	135.00
11		6477	\$	126,900.00	254	\$	127.00	\$	63.50	\$	190.50
12		7835	\$	113,168.00	227	\$	113.50	\$	56.75	\$	170.25
13		8094	\$	152,814.00	306	\$	153.00	\$	76.50	\$	229.50
14		9282	\$	165,000.00	330	\$	165.00	\$	82.50	\$	247.50
15		10292	\$	160,000.00	320	\$	160.00	\$	80.00	\$	240.00
16		10582	\$	130,000.00	260	\$	130.00	\$	65.00	\$	195.00
17		11447	\$	85,500.00	171	\$	85.50	\$	42.75	\$	128.25
18		11619	\$	110,000.00	220	\$	110.00	\$	55.00	\$	165.00
19		11762	\$	138,179.00	277	\$	138.50	\$	69.25	\$	207.75
20		12485	\$	331,622.00	664	\$	332.00	\$	166.00	\$	498.00





## FANNIE MAE & FREDDIE MAC

2006 125 Documents

S- \$6823.25

C- 3,412.00

T- \$10,235.00

2007 138 Documents

S- \$8,058.50

C- 4,029.25

T- \$12,087.75

2008 166 Documents

S- \$11,606.00

C- 5,803.00

T- \$17,409.00

2009 153 Documents

S- \$9,880.00

C- 4,940.00

T- \$14,820.00

2010 135 Documents

S- \$8,991.00

C- 4,495.50

T- \$13,486.50

2011 153 Documents

S- \$7,636.50

C- 3,818.25

T- \$11,454.75

Totals 870 Documents 01/01/2006 thru 12/31/2011

S-\$52,995.25

C-\$26,498.00

T- \$79,493.00

**Dawn M. Young**  
**Recorder**  
**Whiteside County**  
**200 East Knox Street**  
**Morrison IL 61270**  
**815.772.5192**  
**[dyoung@whiteside.org](mailto:dyoung@whiteside.org)**

April 4, 2012

**FANNIE MAE/FREDDIE MAC**  
**DOCUMENTS EXEMPT UNDER PAR "B"**

2006	All transfers exempt	
2007	Some transfers paid revenue stamps Total considerations exempt	\$903,615
2008	No transfers paid revenue stamps Total considerations exempt	\$803,625
2009	Most transfers paid revenue stamps Total considerations exempt	\$271,400
2010	Most transfers paid revenue stamps Total considerations exempt	\$275,800
2011	Only 1 transfer exempt	\$ 34,500
2012	All transfers paid revenue stamps	

# Exhibit 2



*Debbie Gillette*  
Kendall County Clerk & Recorder

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January 19, 2012

To: Kendall County Title Companies

From: Debbie Gillette, Kendall County Clerk & Recorder

Re: Freddie and Fannie Exempt Status

Beginning on March 1, 2012, Kendall County will begin rejecting Illinois Real Estate Transfer Declarations, (PTAX) that list Freddie and Fannie as exempt. Pursuant to Public Law No. 91-351, 84 Stat. 450, Kendall County will begin rejecting instruments of recording that list Freddie and Fannie as 'b' – Exempt on the Illinois Real Estate Transfer Declaration, (PTAX).

The listed exemption affords deeds to or trust documents relating to property acquired by governmental bodies or property interest transferred between governments, or property acquired by any non-taxable entity.

The above listed organizations are charters; they are not defined as governmental entities.

Should you have any questions or concerns, please contact the Recorder's Office at 630-553-4112.

# Exhibit 3



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## Memorandum

DATE: January 3, 2012

TO: Kane County Title Companies

FROM: Sandy Wegman, Recorder

RE: Freddie and Fannie Exempt Status

Persuant to Public Law No. 91-351, 84 Stat. 450, Kane County will continue rejecting instruments of recording that list Freddie and Fannie as 'b' - Exempt on the Illinois Real Estate Transfer Declaration (PTAX)

The listed exemption affords deeds to or trust documents relating to property acquired by governmental bodies or property interest transferred between governments, or property acquired by any non-taxable entity.

The above listed organizations are charters; they are not defined as governmental entities

Should you have any questions or concerns, please do not hesitate to contact the Recorder's Office at 630-232-5935

719 S. Batavia Ave, Building C  
Geneva, IL 60134

Phone: 630-232-5935  
Fax: 630-232-5945