

From: Jeff_Strole <Jeff_Strole@aspensquare.com>
Sent: Wednesday, April 11, 2018 11:09:19 AM
To: Trey Price; Marisa Button
Subject: Public Comment "Bona Fide Contract"

Dear Mr. Price & Ms. Button – I am writing regarding FHFC’s desire to formalize the Qualified Contract Process to eliminate uncertainty for all involved. Specifically, Aspen Square Management is very supportive FHFC’s effort to objectively define “bona fide contract” as it relates to the QCP process.

Absent a substantial non-refundable earnest money deposit, an offer is nothing more than an option to purchase and should not be deemed “bona fide”. At the very least, to be deemed bona fide, a deposit of the lesser of 5% of the purchase price or \$500,000 should be required. And the deposit should be non-refundable except in the event of seller default. We understand that buyers will need access to the property under consideration to be comfortable posting such a non-refundable deposit. Aspen Square would be happy to enter into access agreements granting the potential purchaser time to perform due diligence before posting the non-refundable deposit.

I am aware of situations where “buyers” have tried to extract leverage or some other types of consideration from property owners using the threat of submitting a qualified contract application. As it currently stands, offers can be made without impunity b/c there is no consequence for walking away from a transaction under contract. Simply put, failing to require non-refundable earnest money allows unscrupulous buyers the opportunity to manipulate the system.

In a typical multifamily transaction, the seller has the opportunity to review a buyer’s credentials – its financial wherewithal, its history of performing as required per its contractual obligations, and its reputation as a buyer. None of these safeguards are in place for the

seller in the QCP process. Requiring a non-refundable deposit is the one way to give the seller the comfort that the buyer is “real” and serious about closing the transaction.

Thank you for the opportunity to be heard on this critical issue.

Sincerely,

Jeff Strole

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