



May 7, 2010

The Honorable Joseph R. Biden, Jr.
Vice President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Vice President Biden,

On May 5th, Fannie Mae and Freddie Mac published Lender Letters containing guidance that will effectively eliminate Property Assessed Clean Energy (PACE) programs. The national PACE effort that was successfully championed by your office is at risk. This is especially shocking given that your task force designed thoughtful guidelines that virtually eliminate the risk to the GSEs. Those guidelines are now being incorporated into PACE programs across the country. The following actions must be taken immediately to prevent the elimination of PACE programs:

- **The Administration must act immediately to have the Lender Letters rescinded or revised to protect homeowners in PACE communities**
- **Final underwriting criteria for PACE programs must be approved by all parties (including GSEs and FHFA)**
- **Conforming PACE programs must be exempted from GSE adverse action**

If this situation is not addressed immediately, the Fannie Mae and Freddie Mac Lender Letters will have the following catastrophic consequences:

- The Lender Letters may impact the relationship of homeowners and their lenders to the detriment of the homeowner
- Federally authorized and supported PACE programs across America will shut down, employees will be laid off, and our nation will lose the ability to tap an innovative new means to retrofit homes and buildings
- A significant and troubling precedent will be set by allowing a GSE to curtail the authority of local governments to levy taxes in pursuit of a public purpose. PACE programs utilize tax assessments, not loans. By law, tax assessments have senior lien status to mortgages.

Last year, your office and the White House Middle Class Task Force endorsed PACE financing as a means to create jobs, reduce energy bills and cut greenhouse gas emissions. The White House Policy Framework for PACE programs was released concurrently to guide the development of programs that protect homeowners and lenders. Spurred in part by your announcement, 19 states and the District of Columbia have now passed PACE enabling legislation. **PACE best practices were designed with the clear knowledge of the challenging times for homeowners, mortgage lenders, and the GSEs. The net result is that programs following White House best practices are designed to increase borrower strength while creating no significant risk for mortgage holders.**

The Fannie Mae and Freddie Mac letters appear to assert that homeowners are in default of their mortgages if they finance energy improvements with PACE. These Lender Letters were extraordinarily surprising since Federal, state, and local governments have engaged in a dialogue with lenders and other stakeholders over the past year to eliminate undue risk. Most programs are using federal ARRA funds and incorporating the White House Policy Framework – which help ensure that the borrower’s cash flow increases so that mortgage default risk is reduced. Analysis of these programs has found that PACE financing creates less than \$200 of seniority risk per home for the GSE’s.

We stand ready to work with you to help fulfill the promise of PACE financing and to do so in a manner that helps our nation, homeowners and that provides the proper safeguards for mortgage lenders. We have attached a list of existing and pending PACE programs as well as a partial list of those that are supporting PACE. **Please feel free to contact us through Jeffrey Tannenbaum – jeff@firtree.com or 212-659-4917.**

Sincerely,

Jeffrey Tannenbaum
Founder, PACE NOW

Greg Hale
Senior Financial Policy Specialist
National Resources Defense Council

Phil Teng
Assessor-Recorder
City and County of San Francisco, CA

Clay G. Nesler
Vice President, Global Energy and Sustainability
Johnson Controls, Inc

Adam Browning
Executive Director
Vote Solar

The Honorable Rod Dole
Treasurer-Tax Collector
Sonoma County, CA

Cisco DeVries
President
Renewable Funding, LLC

Bob Epstein
Co-Founder, E2

David Modi
Vice President, Government Affairs
Trane

The Honorable Cindy Domenico
Chair, Board of County Commissioners
Boulder County, CO

cc: Secretary Steven Chu, U.S. Department of Energy
Secretary Shaun Donovan, U.S. Department of Housing and Urban Development
Secretary Timothy Geithner, U.S. Department of the Treasury
Carol Browner, Director of the White House Office of Energy and Climate Change

Programs Impacted by Lender Letters

Municipality	State	Program Launch Date
Palm Desert	CA	October 2008
Babylon, NY	NY	August 2008
Sonoma County, CA	CA	March 2009
Boulder County, CO	CO	April 2009
Placer County, CA	CA	April 2010
Yucaipa, CA	CA	Q1 2010
San Francisco, CA	CA	April 2010
Santa Barbara County, CA	CA	May 2010
Annapolis, MD	MD	Q3 2010
Santa Fe, NM	NM	Q3 2010
Los Angeles County, CA	CA	Q3 2010
San Diego City, CA	CA	Q3 2010
Alameda County, CA	CA	Q4 2010
Fresno County, CA	CA	Q4 2010
Kern County, CA	CA	Q4 2010
Monterey County, CA	CA	Q4 2010
Sacramento County, CA	CA	Q4 2010
San Benito County, CA	CA	Q4 2010
San Diego County, CA	CA	Q4 2010
San Luis Obispo County, CA	CA	Q4 2010
San Mateo County, CA	CA	Q4 2010
Santa Clara County, CA	CA	Q4 2010
Santa Cruz County, CA	CA	Q4 2010
Solano County, CA	CA	Q4 2010
Ventura County, CA	CA	Q4 2010
Yolo County, CA	CA	Q4 2010
New Orleans	LA	Q4 2010
San Antonio, TX	TX	Q4 2010
Albuquerque, NM	TX	2010
Montgomery County, MD	MD	Q3 2010
Madison, Wisconsin	WI	Q4 2010
Milwaukee, Wisconsin	WI	2010
Cincinnati, OH	OH	2010
New York City, NY	NY	2010
Westchester County, NY	NY	2010
Binghamton, NY	NY	2010
Austin, TX	TX	Q1 2011
Pitkin County, CO	CO	Q3 2010
Eagle County, CO	CO	Q2 2010
Gunnison County, CO	CO	Q3 2010
Ann Arbor, MI	MI	Q1 2010
Orange County, CA	CA	Q4 2010
Riverside County	CA	Q4 2010

Partial List of PACE Supporters

Organized Labor:

International Association of Heat and Frost Insulators and Allied Workers

International Brotherhood of Teamsters

International Union of Painters and Allied Trades (IUPAT)

Laborers International Union of North America (LIUNA)

International Association of Heat and Frost Insulators and Allied Workers

NGO's:

Alliance to Save Energy

American Institute of Architects (AIA)

Americans for Clean Energy

Apollo Alliance

Bipartisan Policy Center

Center for American Progress

Carbon War Room

California Energy Commission

Center for Sustainable Energy

Climate Communities

Clinton Global Initiative

Environmental Defense Fund

Jack D. Hidary Foundation

Living Cities

Milken Institute

National Association of Real Estate Investment Trusts (NAREIT)

Natural Resources Defense Council (NRDC)

Polyiso Insulation Manufacturers Association (PIMA)

Real Estate Roundtable

Renewable and Appropriate Energy Laboratory, University of California, Berkeley

Vermont Energy Investment Corp.

The Vote Solar Initiative

Sierra Club

Solar Energy Industries Association (SEIA)

Stewards for Affordable Housing for the Future (SAHF)

Sustainable Buildings Industry Council

Corporate:

Barclays Capital

Citicorp

Hannon Armstrong

Johnson Controls Inc.

Jonathan Rose Companies

Jones Lang LaSalle Inc.

Lime Energy

Masco Home Services

ProLogis

Renewable Funding LLC

Royal Bank of Canada

Serafix Corp

Siemens Corp

Simon Properties Group

Tishman Speyer

Trane

Wells Fargo

Government:

County of Alameda, CA

Association of Bay Area Governments

City of Berkeley, CA

County of Boulder, CO

City of Palm Dessert, CA

City of San Diego, CA

City of San Francisco, CA

City of San Jose, CA

County of Sonoma, CA –

Office of the Attorney General, State of California

Governor Arnold Schwarzenegger, State of California

Governor's Energy Office, State of Colorado

Governor Bill Richardson, State of New Mexico

United States Senator Bernard Sanders

United States Senator Jeff Merkley

United States Senator Michael Bennet

United States Senator Jeff Bingaman

United States Senator Mark Begich

United States Representative Steve Israel

