

A Comprehensive Explanation of the HOA Transfer Fee

HOA (home owner's association) Transfer Fees, assessed home sellers by HOA property management companies (PMCs), continue to cost home owners upwards of \$10 million a year. The amount of the fee is determined and retained by the PMC, is not required by law or the HOA, doesn't benefit the HOA and can range from \$50 to over \$1,000 no questions asked. The fee has little to nothing to do with work performed on the sale of a home and if not paid you won't be able to sell your home. Further, the demand for payment is never accompanied by a receipt describing services performed to earn the fee (**no other business can demand payment without a detailed receipt of work performed**). Worst yet, all contended services performed to earn the Transfer Fee have already been paid for with your HOA dues!

Home owners are first aware of the fee on the day of home closing through a one-liner on the home closing statement with the average charge of \$350. Most Realtors can't explain what the fee is for, if it is a legal/mandated assessment like taxes or escrow funds or who determined the amount and retains it but they will tell the home seller to pay it or the home sale ends. Ask the Realtor or closing agent for a detailed receipt explaining the Transfer Fee and you will end up empty handed.

The fee, according to PMCs, is to cover the cost of administrative services to transfer ownership from one party to the other. Strangely, they fully admit (in legislative hearings) they can't identify the work performed in any detail by line item cost but they can readily produce a defined amount of the billing. Further, the PMCs have contended it is too costly to produce a receipt (final billing): would COMCAST, Xcel Energy, your water company or other business get away with demanding payment without a billing receipt?

PMCs will break down (verbally) the charges into two segments: a Status Letter and back office services. The Status Letter is simply a final billing indicating the home seller's financial status with the HOA: any outstanding obligations such as unpaid monthly dues, special assessments, or fines. It doesn't/shouldn't involve and credit background checks or research on liens. The Status letter is provided to the home buyer, Title Company, and/or mortgage company. There is nothing special about a final billing warranting extra charges at home sale time. There is no law requiring a high level certification, credit check, or extensive audit of records. If there are specific demands that are extraordinary they should be identified and charged separately but this is rare. Billing/accounts receivable services are already paid for with HOA dues by the home seller. If you request a billing (your account status) any time during the year it is free except when you sell your home? Thus, the Status Letter billing is nothing more than a duplicate billing for services already paid for by the home seller.

The second part of the Transfer Fee charge is supposedly related to extensive work to change administrative records, security related work, bank accounts for collection of dues, updating directories, issuing parking permits, etc. Don't buy into this as these services have all been paid for with your HOA dues. Think of this, when a person gets married, divorced, passes away, someone moves in or out, changes their name, changes their personal bank account or method in

which they pay their dues, etc. the PMC doesn't charge the home owner to update records as these are ordinary and expected services and paid for via HOA dues. Thus arguing that the same work and costs are extraordinary when a home is sold is just empty. Just like the Status Letter, this represents duplicate billing and a deceptive and unfair business practice.

The PMC might also say they incur charges inspecting properties at time of sale for covenant violations and identifying liens. Covenant violations are monitored throughout the year and fines for violations are an ongoing process. This work is paid for with HOA dues and addressed in the PMCs contract with the HOA. Thus this argument is also empty. The responsibility for identifying liens on the property is not that of the PMC but Title Company.

A PMC might also claim an estoppel (legally certified) Status Letter is required. No such requirement exists. Home owners should not be required to pay for services that are imposed by any PMC to enrich the company and not serve a legal purpose. This is not a practice of all PMCs and thus can easily be identified as an unnecessary and deceptive charge.

It should be noted that many HOAs/PMCs charge “zero” to \$100 or less for what other PMCs charge \$100 up to \$1,000. Ask what is so different among these groups and no justifiable reason is given.

There is no legal requirement to charge a Transfer Fee. The authorization to charge a Transfer must be in the HOAs contract with the PMC. Unfortunately due to weak HOA State laws, the PMC can simply insert a one-liner in the contract without explanation to serve as full disclosure and charge any amount, yes any amount, without challenge (as HOA Boards aren't savvy in contract negotiations and rely on explanations from PMCs). Home owners, and most HOA Board members, are unaware of this clause in a contract until the minute of home closing. Home buyers are informed of HOA monthly dues obligations but not HOA Transfer Fees. Perhaps if PMCs were required to explain in the contracts with the HOA why the fee is charged, what services are performed to justify the Transfer Fee that are not paid for with HOA dues, what are the extraordinary costs incurred by the PMC due to the sale of the home, and state that home owners will be provided a detailed explanation of charges the Fee would get more scrutiny. Note, the explanation of this Fee for decades has only been from the PMC industry with totally misleading justification and no challenge and thus Boards have had no alternative information source to inquire about the fee.

SB 11-234 indicates such fees can only be charged for costs incurred by a PMC related to the sale of a home (that have not been paid to the PMC through their contract with the HOA). No such costs exist except in extraordinary cases. FHA/HUD loans preclude HOA Transfer Fees. Neither SB 11-234 nor FHA/HUD restrictions are mentioned in HOA - PMC contracts or on receipts to home sellers who pay the fee as part of “full disclosure” required under the law. DORA has rejected requests to include this requirement.

The HOA Transfer Fee is also charged to Title Companies. Home closing documents often include a line entry "Administrative Fees" from the Title Company. The home buyer/seller pays this amount. It often represents a PMC fee to the Title Company to provide a copy of the Status Letter and HOA governing documents. Thus the charge for the Status Letter (Transfer Fee

services) is in **triplicate**: home owner dues, Transfer Fee paid for by home seller, and charge to Title Company also paid for by home seller/buyer. Note, the HOA governing documents can be obtained free from most HOA web sites and surely cost but a few dollars for the PMC to place on a CD or send via email. The Administrative charge can range from \$150-200.

PMCs and Realtors have stated it is only \$350" (up to a \$1,000) on a \$400,000 home sale transaction, "what's the big deal" and "do you want to hold up the home sale for this amount of money"? How insulting and disrespectful. The Colorado HOA Forum, the state's largest HOA home owner's advocacy organization, thinks it is a big deal, it is your money not the PMCs to grab, and a home sale should not be a welfare program for the PMC industry. We further believe that any costs incurred as a direct result of a home sale by the PMC otherwise not compensated for should be paid for by the home seller (and such costs identified and documented on a receipt).

HOA Transfer Fees are a big deal affecting the nearly sixty percent of Coloradans that live under HOA governance. HOAs can be great places to live and improving HOA governance and transparency can make HOAs even more appealing.