

Talking points for a Discussion on CAM Rule Making

Disclosure must be defined, concise, and clear. If ambiguous and general it will allow for disclosure at a level that **will not** provide a basis for challenging fees and assessments. Disclosure must be definitive or it is nothing more than a means to allow the continuation of abusive practices. The idea of disclosure is to protect the consumer.

The HOA home sale transfer fee must be disclosed in HOA contracts and must be supported by specific language as to reason it is being charged, specific language indicating that the fee is not mandatory, what the amount of fee is and specific line item charges must be disclosed in the contract including what is being charged that is not already being paid for by the home owner through HOA fees, the tasks performed warranting the transfer fee, hourly rate and time spent to complete work related to the transfer fee, and wording indicating that such work and expenses incurred are only completed for home sales and not similar to other work completed, defined, and expected through the CAM's contract with the HOA.

The CAM disclosure in the HOA contract must also indicate that the fee is illegal on all residential home sales except in community associations (indicate the law SB 11-234) and such fees must only be assessed to cover extraordinary work a CAM performs in relation to the sale of a home and as such can't include charges such as but not limited to: name changes in records, issuance of security keys/cards, issuing of governing documents/declarations, or the financial standing of a home owner in the HOA (including confirmation that HOA dues are current or delinquent, any outstanding special assessments or fines, or liens on the property by the HOA that are routine administrative and tasks performed as part of monthly or other periodic time frame billing issuance already paid for by the home owner and paid for in the baseline services of the HOA contract with the CAM).

The CAM licensing guidelines must also include a statement that all HOA Transfer Fees charged by a CAM that are found to be not justified by the incurrence of extraordinary expenses in relation to the sale of a home must be returned to the payee plus a penalty of \$100.

Disclosure of HOA Transfer Fees must indicate that such charges by a CAM are neither mandatory nor legally required and that such fees are not charged by all CAMs in all HOAs and such fees when charged can be \$50 less.

Disclosure should indicate that any fees charged to home owners or buyers by a CAM are to be handled independent of the home sale closing transaction and in no way can interfere with the closing process of the home sale.

All fees charged to any home buyer or seller by the CAM must be supported by a physical invoice detailing and justifying the fee as described above no less than 3 days prior to home sale closing.

HOA transfer fees must be disclosed in HOA contracts to indicate that the transfer fee is optional under the law, amount charged is not determined by the HOA, the amount is not a standard fee but unique to the CAM, that the fee is not retained by the HOA or benefiting the HOA, and that home sellers can challenge the justification and amount of the fee and such effort will not impact the home owner's financial status with the HOA or interfere with the home sale transaction.

HOA Boards and CAMs must disclose at a scheduled Board meeting and/or through the community newsletter that the CAM contract indicates a Transfer Fee will be charged, the fee is determined by the and retained by the CAM, the fee is not mandatory but approved by the Board, the Board understands that the fee will only include charges allowable under the law, and that the fee can be contested with DORA without interfering with the home sale.

CAMs must provide in writing to the Board the amount of the transfer and a detailed explanation of the fee and why such fee is in compliance with the law. This is included in the contract and upon the sale of a home in the HOA.

Approval of HOA Transfer Fees in an HOA contract doesn't absolve the CAM of requirements for disclosure as mentioned and ensuring that the fee is in compliance with the law.

If a CAM is aware of a violation of State law or an HOA's governing documents by a Board member(s) or the HOA's lawyer and doesn't attempt to advise the Board of the violation and corrective action this will be considered a violation CAM licensing guidelines and subject the CAM to fines and other penalties.

If a CAM is aware of a violation of State law or an HOA's governing documents by a Board member(s) or HOA lawyer and attempts to advise the Board of the violation and corrective action and the Board refuses to comply the CAM is required to report such incident to DORA for investigation else be subjected to fines and/or penalties.

CAMs are not permitted to use any HOA property, resources, or information to generate personal/business income that isn't approved by and benefitting the HOA.

CAMs are not permitted to independently make decisions on the use, disclosure, or release of HOA resources and information.

CAMs are not permitted to have any business or legal relationship with HOA lawyers.

CAMs are never to represent themselves as independently and legally speaking for the HOA.

The CAM must be in compliance with HOA governing documents in the management of all HOA resources.

Resources for educational classes must not favor any one source and the guidelines/rules should indicate that no membership in a professional organization is required for licensing

The sources and prices for educational classes must be listed on the DORA web site.

Testing and grading must not be completed by any provider of educational classes.

DORA should contact all HOAs about the licensing program and conduct public outreach meetings on this issue.

CAM contracts with HOAs that include any mention of HOA Transfer Fees must also include a statement that such fees can disqualify a buyer from an FHA/HUD loan

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