

Colorado HOA Forum
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HOA Transfer Fee Fact Sheet 2 (page 1 of 2) \$15+ Million Cost to Home Buyers/Sellers Yearly

2014 LEGISLATIVE BILL

REASONS JUSTIFYING THE HOA TRANSFER FEE FALL SHORT ON FACTS

The work related to transfer fee expenses requires highly skilled, specially trained, and high wage workers that warrants the unrestricted fee amount FALSE: The work is completed by staff completing other administrative and financial work and requires no special education or certifications.

Property Management Companies (PMCs) incur additional labor costs to complete transfer fee work FALSE Transfer fee work is sporadic/periodic and no companies hire a part time or full time person or pay overtime to complete this task.

PMCs procure costly, proprietary, and single use hardware and software to complete this work.: FALSE: Hardware and software used to complete routine company work is the same to complete transfer fee tasks, it exists regardless of how little or much transfer fee work is completed. There is no specific “transfer fee software” or hardware to complete this work.

PMCs must procure costly liability insurance to complete transfer fee work: FALSE: There is no such thing as “transfer fee” insurance. The company carries liability insurance regardless of whether they complete transfer fee work. Transfer fee work doesn't affect insurance rates.

Transfer fee work, mostly a Status Letter and updating HOA records, involves extraordinary and non-routine work resulting in material expenses to the PMC upon each home sale FALSE This work is routine and neither time consuming or adding to staffing levels. Expenses are already paid to PMCs through HOA dues/contract payments to the PMC from the HOA. Status Letters are routinely issued for no fee or for \$50 or under by PMCs. The work related to updating HOA records is no different than when divorce, marriage, or a death occurs and no fees are assessed for these events (updating records is routine and an expected service of homeowners through their monthly dues).

HOA TRANSFER FEE QUICK FACTS 2 (page 1 of 2)

REASONS FOR JUSTIFYING THE HOA TRANSFER FEE FALL SHORT ON FACTS

The **cost of HOA contracts will increase** if transfer fee income is not collected or is limited in amount. **FALSE** No evidence exists that this will occur. Many PMCs charging \$50 to 100 are successful and don't rely on \$350 – 1000 transfer fees for each home sale. Those PMCs charging excessive amounts will have to become more efficient, develop a business model that doesn't rely on transfer fees for success, and adopt best practices in the industry to remain competitive.

Transfer fee income is legally authorized and there is **nothing wrong with the way PMCs collect the fee FALSE:** The fee was authorized to recover extraordinary costs related to the sale of a home in the HOA serviced by the PMC. However, the fee is not related to work performed and is illegally used by many PMCs to underbid and win HOA contracts with the anticipation of subsequent transfer fee income.

The transfer fees benefits the HOA FALSE The fee is charged by, amount determined by, and retained by the PMC. The HOA is not involved in the transaction. HOA expenses are not reduced by the fee and home owners, who are the HOA, are harmed.

Transfer fees are assessed home owners so **other residents don't have to pay for the costs involved in issuing the Status Letter or changes to records. FALSE** These services are already paid for and expected by home owners through their dues and none of this work is non-routine or warrants a fee of over \$100.

HOA's must pay one way or the other for transfer fee work either through the fee to the seller or higher contract costs **FALSE** The work effort is packaged as complex, costly, and laborious all of which are false arguments never defended by any PMC or the CAI. A minimum allowable charge of \$50 to 100 in documented extraordinary expenses is reasonable.

HOA Transfer Fee Fact Sheet 2 (Page 2 of 2) \$15+ Million Cost to Home Buyers/Sellers Yearly

JUSTIFICATION FOR THE HOA TRANSFER FEE FALLS SHORT ON FACTS

Developing rules, restrictions, and limits on the use of the transfer fee is interfering in the business of business. FALSE If the transfer fee was a service that is accepted, shopped for, and/or negotiated by and with the home seller then setting a limit on the amount would interfere with business. The opposite is true. This is not a free market service but an involuntary fee imposed that can't be disputed with penalties if not paid (can't sell the home). This is totally unlike real estate commission fees or Title Insurance for which the home seller can shop the market and understands the work completed. Although the transfer fee is not a legal requirement it must be paid making oversight mandatory to mitigate abuse. The transfer fee is more imposing than any tax: it has no rules or regulations defined; home sellers have no rate structure to determine amount owed or agreed to; home owners can dispute tax bills but not transfer fee assessments; and penalties for non-payment are severe and non-contestable. When such authority is granted to a private firm to impose a fee (tax) there must be oversight and rules and in this case work related to charges. Thus transfer fees are outside the norm of commerce in which products and services are competitive and shopped for by consumers and require oversight and limits. When fees and assessments and taxes are levied upon citizens they lawfully require justification, rules, review for reasonableness, and remedy for abuse or a venue to dispute assessments **and transfer fees have none.**

All property managers **rely on the transfer fee for success and consider it an ethical business practice:**
FALSE. Mostly large PMCs use the fee illegally to low bid contracts with the anticipation of transfer fee income making up the difference. Many property managers, especially small businesses that can't gamble on transfer fee income to low bid, find the fee abusive, excessive and any amounts over \$50 – 100 unnecessary and unjustified. In their own words, the “fee is highway robbery”, “used to supplement income and profits”, “is not in relation to work performed”, and “opportunity income”. Furthermore, SB 11-234 does not authorize the use of this fee for other than reimbursement for extraordinary expenses resulting from the sale of a home. Clearly, the unauthorized use of this fee is pervasive.

