



Colorado HOA Forum HOA Homeowner Advocates

Promoting Reform in HOA Governance www.coloradohoaforum.com



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Dec — Feb 2014

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[Write Your Representative About the CAI and Transfer Fees](#)

CAI KILLS HOA TRANSFER FEE REFORM: ALARMING LEGISLATIVE INFLUENCE!

TRANSFER FEES WILL CONTINUE UNABATED AND COST COLORADO HOA, MOBILE HOME PARK, TIMESHARE HOME OWNERS OVER \$15 MILLION A YEAR IN THIS UNJUSTIFIED FEE

THIS IS NOT OVER, WE'RE BACK AGAIN NEXT YEAR TO EXPOSE THIS ABUSIVE FEE

- **LEGISLATOR CAVES-IN TO CAI PROPOSALS ON TRANSFER FEE
- **CAI DIRECTS REWRITE OF TRANSFER FEE BILL TO ENSURE NO CHANGE
- **STILL NO JUSTIFICATION FOR CONTINUING THE FEE OTHER THAN "IT CONTINUES BECAUSE IT CAN"
- **LEGISLATORS HAND HOME OWNERS \$15 MILLION TRANSFER FEE BILL
- **ANTI-TAX/FEE LEGISLATORS SILENT ON TRANSFER FEE
- **COLORADO ASSOCIATION OF REALTORS TACITLY SUPPORTS TRANSFER FEES

Next Issue: Update on Dispute Resolution, Town Halls & Home Buying Seminars, and more

HB 14-1254: lobbyist influence changes Bill from transfer fee reform to an empty, unenforceable, and deceptive "disclosure law"

The CAI's successful misinformation campaign to use DORA as a solution in transfer fee abuse

Ten facts on why DORA can do nothing about transfer fee abuse

CAI very light on justifying HOA Transfer Fees other than "because it can" and legislative influence

The amount and use of the transfer fee has LITTLE TO NOTHING to do with work performed and its' authorized use in SB 11-234 that justified it

The transfer fee is mostly used by larger CAM's to supplement income/profits and allows for under bidding on HOA contracts by anticipating future transfer fee income: this is an anti-competitive practice harming small businesses and is illegal

Transfer Fees ranging from \$50 to \$1,150 are assessed for work mostly compensated to CAMs through their contracts with the HOA

The transfer fee is unlimited in amount, can't be negotiated like REALTOR commissions or Title insurance, is retained by the CAM (not the HOA), provides no benefit to homeowners\HOA, and if not paid you can't sell your home



CAI continues to craft legislation for its' financial benefit: first with the CAM licensing Bill (HB 13-1277) to promote the selling of its' for profit courses and now with HB 14-1254 to ensure there is no challenge to its' collection of \$15 million a year in unwarranted, excessive, and unauthorized transfer fees from home sellers?

Contact us at: www.coloradohoaforum.com or email us at coloradohoaforum@gmail.com

Join our effort by signing up on our web site. The web site contains articles, reference information, current events, and tools to help you [write your legislators and State offices](#).

Write the [Colorado Information Office and Resource Center](#) about your concerns with HOA governance and homeowner's rights. **THIS DOES HELP!!**



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MOST HOME OWNERS DON'T KNOW WHAT A TRANSFER FEE IS, THEY PAY IT WITHOUT RECEIVING AN EXPLANATION OR INVOICE DESCRIBING CHARGES, THEY DON'T REALIZE IT IS NOT A LEGAL REQUIREMENT, AND THEY INCORRECTLY BELIEVE IT IS A STANDARD AMOUNT DETERMINED BY LAW AND RETAINED BY AND BENEFITS THEIR HOA.

CAI brags about directing legislative sponsors of the Transfer Fee Bill to re-write it on their terms so no change occurs.

[All Transfer Fee Articles](#)

The CAI did their typical bullying of the legislature. In this case they got the whole transfer fee bill rewritten with their authorship to ensure home owners get no relief from this abusive, excessive, and illegally used fee. Rep Labuda, the House sponsor, just didn't bend but broke on any principle of the original transfer fee Bill. She allowed it falsely present a solution: disclosure. Remember, the impetus for this Bill was to place limits and justifications on fee charges and to preclude the unauthorized use of this fee. This "disclosure" Bill simply means that somewhere, somehow home owners will now be told they are being extorted with the transfer fee to make them feel better about paying \$500 for \$50 worth of work. Property managers can continue with the \$400, 700, or even \$1,000 fee, don't have to justify it, home owners can't contest the fee, and it is "pay it or you can't sell your home". Now that's reform CAI style!

Note, this Bill was not compromise but cave-in. Compromise would have been allowing for a fee of \$100—150 vs no fee and in defining what charges were applicable. Compromise is give and take and this Bill was all one-sided in favor of property managers. A bit of advice to legislators from the home owner perspective: it is better to have no Bill than one that is insulting to home owners and wastes taxpayer's money to review and implement this Bill.

The CAI article subtly mocks and ridicules the legislature for their inability to stick by principles. They also brag about their ability to basically write legislation, disguise it as a home owner bill, and turn it into a "made for lobbyists" disclosure Bill intended to ensure nothing changes. Let's face it, good work by the CAI.

This so-called transfer fee disclosure bill has no enforcement behind it, no means for home owners to dispute a fee that would result in a refund or reduction, and no ability by DORA to do one bit of substantive oversight. Once again the CAI has directed our legislators to follow

their deceiving arguments and get another empty HOA Bill passed.

Note, just as in 2011 when this fee was authorized for continuance, the CAI doesn't even attempt to justify the fee based on merit. They simply direct our legislators to do something and the fee now continues because it can.

[FULL ARTICLE: excerpt below full, click here](#)

Proposed Transfer Fee Bill Rewritten to Require Transparency

While folks were understandably concerned about an onerous transfer fee bill proposed by Representative Jeanne Labuda (D-Denver), and some even publicly announced that introduction and passage of the bill was a foregone conclusion, CAI's Colorado Legislative Action Committee ("CLAC") is pleased to announce that Representative Labuda has completely rewritten her proposed transfer fee bill

<http://www.cohoalaw.com/from-capitol-hill/legislation-proposed-transfer-fee-bill-rewritten-to-require-transparency.html>

Why the disparity in Transfer Fee Amounts?

A Transfer Fee of \$50 or \$1,1150 Why the disparity in Transfer Fees?

The fee has little to nothing to do with work performed. There are no rules or limits or definitions on fees.

CAMs independently determine the unchallenged amount and mostly charge what they need to make up for their low bidding on HOA contracts.

The fee can't be shopped for in the market.

Fees can't be disputed by home owners, it's pay it or you don't sell your home.



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Colorado HOA Forum's Survey of Community Association Managers (CAMs) (also known as HOA property managers) on the Use and Abuse of the HOA Transfer Fee reveals excessive and unauthorized use of fee.

The [Colorado HOA Forum's survey of CAMs](#) is intended to solicit the opinions of CAMs on their use of the Transfer Fee (TF) and their general opinions how it is used in the industry. Responses are all documented and include the respondent's name, email address, and company information (letterhead). All documentation is available for legislator review upon request. The responses support/validate our efforts to reform Colorado HOA law (SB 11-234) that made transfer fees illegal on all residential property except HOA's, mobile home parks, and timeshares. Specifically, CAMs shared their views on how the fee is used, the abuse of use, and how the transfer fee is used as supplemental income to allow for low bidding of HOA contracts with the anticipation of high transfer fee income. This is candid discussion from those in the industry.

A first brief note: We work to limit the use, abuse, and amount of the transfer fee without adding any financial burden to those CAMs/HOAs that appropriately use the fee. Those CAMs assessing a transfer fee to recover unique and uncompensated costs related to the sale of a home will not be affected (which is the intended purpose of the transfer fee). HOA operational costs will not increase as a result of capping this fee even for those HOA's whose CAM is inappropriately using the transfer fee to supplement their income and profits (they will now have to become more efficient and competitive). HOA Transfer Fees cost Colorado home sellers/buyers nearly \$15 million a year in unjustified and excessive in home closing costs.

[See the full report with CAM comments](#)

[Summary of collected comments by category/question:](#)

Where are the conservative, anti-tax, anti-fee, and anti-assessment legislators hiding on the transfer fee issue?

We heard it all the time when we contacted conservative legislators. They are against unwarranted and excessive taxes, fees, and assessments. Some called the transfer fee extortion. We can agree with that. However, when it came to sponsoring a transfer fee Bill or working with Rep Labuda on gaining support for the original transfer fee Bill they were missing in action. The final votes in the House and Senate on HB 14-1254 have not been completed as of the writing of this newsletter. We will publish the votes of all legislators.

If you are one of our many conservative leaning members, ask your legislator why they ignored this issue and continued to support handing home owners a \$15 million a year bill with these fees. All your representatives were emailed information about this issue from our group and individuals. Our members visited and called these legislators. Not one of them can claim ignorance on this issue.

We will be pursuing the transfer fee issue again next legislative session and will seek sponsors. We ask everyone to write your "anti-tax" legislator and demand a response as to their silence. Ask them to get on Board early to sponsor this Bill next year.

**Ask Your Neighbors to Join our Effort
Use our web site**

HOA Home Buying Seminars Coming in Mar - Apr



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Transfer Fee Fact Sheets 1 and 2: never disputed never refuted by the CAI

The homework is done on outing the HOA Transfer Fee. [Our web site has our two fact sheets on this issue.](#) To date, nothing on these documents has been refuted by the CAI, DORA, Colorado Association of Realtors, or any legislator. This is the information we will use next year to pursue limiting the fee and its unauthorized use.

Transfer Fee or Taxes: I'll Take a Tax Any Day of the Week

If you are against excessive and unjustified taxes, fees, and assessments and would be infuriated to see this power extended to a private company please consider the comments below when discussing the HOA Transfer Fee Bill.

Governments at all levels can legally levy taxes, fees, and assessments on citizens, services, and things. All such actions must be defined legislatively as to application and purpose and how the levy is computed. Taxes and fees must be applied consistently and their use well defined. Penalties for non-compliance are defined. This powerful tool of government must be selectively, cautiously, and judiciously used and periodically reviewed for relevance, need and continuance. This authority over commerce and citizens should be limited to government entities and not extended to private companies.

NOW CONSIDER THE HOA TRANSFER FEE (TF). IT EXTENDS THIS TAXING POWER OF THE GOVERNMENT TO HOA PROPERTY MANAGEMENT COMPANIES AND MAKES TAXATION LOOK BENIGN. AN OUTRAGEOUS STATEMENT BUT PLEASE READ ON..

SB 11-234 made it legal for a property management company (also known as a Community Association Manager (CAM)) with a contract with a Homeowners Association (HOA) to charge the home seller a TF upon the sale of their home. It doesn't make the TF a legal requirement nor does it extend a legal right for the CAM to force this fee upon a home seller without their acceptance. I doesn't authorize the CAM to impose penalties upon the seller if the amount is not paid (by precluding sale of the home).

The real estate home closing environment, however, enables a CAM to act as a tax agent. It enables the CAM to execute a self assigned authority to compute and collect a TF with mandated payment and penalties for non-payment.

The process precludes those being assessed no ability to challenge the assessment. This all done by the CAM with: 1) no oversight, rules, limits on amounts assessed, or consistency in levying the fee, 2) no statutory/legal authority to impose a TF without acceptance by the consumer and 3) no authority to impose a penalty on the seller if they object to the TF (if they don't pay the sale is suspended) and 4) approval of the real estate industry.

So, why do CAMs essentially have taxing authority over HOA home sales? The legislature found this de facto taxing authority illegal on all residential home sales except HOAs in SBF 11-234. No justification, it just allowed the exception.

This exceptional and questionable power extended to CAMs is and has been open to abuse and misuse. TFs range from \$50 to over \$1,000 with charges having little if anything to do with the described use of the TF in the law and work completed.

It is time to limit the ability of CAMs to act in the capacity of taxing agents and rein in the use and abuse of TF's. If one had to choose between a tax and a transfer fee, choose a tax as at least you know the rules to play by and can understand the why's, what's, and amounts involved in the financial obligation: NOT SO WITH TRANSFER FEES.

Property Manager Taxing Authority to Continue in Colorado: : Denver Post YourHub

So you think only government entities have taxing authority? Thank the Colorado legislature and the Community Association Institute (CAI) for bestowing this authority on HOA property management companies (PMCs). The definition of a tax is "a compulsory contribution to state revenue, levied by the government on workers' income and business profits or added to the cost of some goods, services, and transactions". Similarly, PMCs have the authority to levy a compulsory "exit tax", better known as a transfer fee, on the sale of homes in HOAs. for no other reason than "because they can". Making this worse, this is a no questions asked fee, no rules or amount limits, sellers can't shop for a better rate, no means for home sellers to protest the tax because if you don't pay you can't sell, the fee is used by private companies (PMCs) to enhance profits, and no one in or out of government has oversight authority over the abusive use of the fee: worse than any tax. This taxing authority to a private firm is unprecedented and ignored by our legislature costing home owners \$15 million a year. This year HB 14-1254 attempted to rein in this abusive practice but the CAI (trade group for PMCs) not only road blocked the Bill but re-wrote it to ensure the transfer fee continues unabated. When will our legislators end this extraordinary and improper practice?



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HOA Transfer Fee Bill Offers Rude Civics Lesson in Legislating

It's not like the legislature and State Agencies aren't aware of HOA issues its' just that they listen to a sole source (lobbyists from the CAI) that is the root of problems. The State HOA Office has received thousands of HOA complaints against HOA Boards and property management companies. This legislative session is once again exemplary of the fallacy of people power in getting HOA reform.

Our group and other HOA home owner advocacy organizations have sent literally thousands of emails, made hundreds of phone calls, and completed personal visits to legislators this session concerning one issue: HOA Transfer Fees. This is the fee imposed on all HOA home sellers at the will and without dollar limits by property management companies: you don't pay it you don't sell your home. We home owners worked hard to find legislative sponsors to end the abusive use of this fee that costs home owners \$15 million a year. We interviewed scores of realtors, property managers, and home owners and collected official closing documents on home sales to support reform. A Bill was actually sponsored to limit this fee and mitigate the illegal and abusive use of the fee. That took months. Two weeks of presence at the Capitol by Colorado and Virginia lobbyists from the CAI and large property management companies spreading misinformation (there's a better word for it) got the sponsors of the Bill to flip and basically allow them to rewrite the legislation. The next time someone complains about voter apathy or lack of involvement by citizens in their government let them know how their government really works with this as an example.



Channel 4 New Denver Airs Story on HOA Transfer Fees While Others Ignore the Issue

[Channel 4 News in Denver aired a story on the HOA Transfer Fee issue.](#) Thank you Channel 4 for recognizing an issue that affects two thirds of all Colorado residents. Note in this story the CAI again doesn't give any specific details on why the transfer fee should exist. Generalities are the name of their game mixed with lobbyist influence. They get away with this!

Denver Post Runs Article on HOA Transfer Fee Abuse

[The Denver Post ran a story on HOA Transfer Fee Abuse.](#) Thank you Denver Post. Guess what specifics the folks at the CAI had to offer? None. Generalities are the name of the political game and justifying the fee through back door tactics, Capitol lobbyist, misinformation, and their legislative allies works all the time for this anti-home owner outfit.

HOA Home Owner's Voices are beginning to surface and influence after several decades of having the CAI serve as the SOLE SOURCE of input for improving HOA governance. This extraordinary influence by the CAI explains why all HOA legislation and HOA governing documents have been absent of enforcement from the home owners perspective. HOA legislation to date has been protective of the financial interests HOA lawyers and property managers over home owner rights. Organizations like the Colorado HOA Forum provide legislators and the media with an alternative viewpoint to get balance in HOA issues. We home owners aren't going to take it anymore.

Ask Your Neighbors to Join our Effort
Use our web site

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DORA: a false solution to transfer fee abuse

HB 14-1254 has been stripped of all meaningful verbiage and the intentions originally pursued by the House sponsor. This Bill was intended to rein in the abusive use of the HOA Transfer Fees including: financial limits on the fee (that range from \$50-\$1000+ with no relationship to work performed); defining what the fee is specifically to be used for and what not; and addressing the illegal use of this fee by property managers to under bid on HOA contracts (anti-competitive and harms small businesses). This Bill was allowed to be rewritten by lobbyist including large property management companies (PMCs) and the CAI whose members pocket \$15 million a year in fees without having to justify work performed. The rewrite ensures NO changes to the abusive use of this fee. I

The Bill promotes a solution to have DORA (Department of Regulatory Agencies) resolve the transfer fee issue but it is merely a solution disguised to ensure the abusive practices with transfer fees continues unabated.

[Our article \(click here\) about the Big Lie concerning DORA and reining in transfer fees.](#)

[Visit our web site for this article](#) and [all articles concerning Transfer Fees.](#)

Why so much attention on the CAI? This group represents the interests of property managers, lawyers, and HOA Boards. They have been involved in obstructing and watering down HOA home owner centric legislation in Colorado and throughout the U.S. for decades. This group has served as the primary source of information for improving HOA governance by our legislatures until very recently. You name the HOA legislation in the past decade and we'll tell you how they made it mostly ornamental. Too many are misled to believe the CAI represents home owners.. Let's get the truth out.

CAI Justification for Transfer Fees Falls Short, Again because it can

The CAI and large property management companies presented a lame effort to justify the transfer fee. To say they fall short is an understatement. To say there is any substance in these arguments is a stretch. However, too many **legislators seem to believe it if said by the CAI especially since the CAI remains for many the sole source of information on HOA issues.** **The following is a CAI justification for the fee:**

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. [Full article Fact Sheet 2](#)

Colorado Association of Realtors (CAR): Shamefully Remains Silent on Transfer Fee

The Colorado Association of Realtors (CAR) has been oddly **silent on a Bill before the legislature that would benefit the folks that pay their salary: home sellers and buyers.** **These folks forgot who puts bread on their tables.** When interviewed by the Denver Post they evaded addressing the question about the use, misuse, and amount of this fee. We have many members who are realtors and none have expressed a favorable opinion on transfer fees. CAR is out of touch or spineless against the CAI in standing up for their customers. CAR is also complicit in advocating this abusive fee as they remain silent at home closing to imply the fee is mandatory and amounts reasonable for services performed. You can bet CAR has never been involved in attempting to get the CAI to justify this fee, limit the fee, and ensure the proper use of the fee. Does this organization have so little respect for home buyers/sellers as to go along with this abusive fee? There silence on this issue is simply unacceptable.

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