

Triplicate Billing Tolerated With HOA Transfer Fees

Not that one needs another reason to dislike Homeowner's Associations (HOAs), but try this one: paying for the same services three times. The abusive and illegal practice of charging HOA Transfer Fees on the sale of a home in an HOA is well known to our legislators, the press, Title Companies, Realtors, property managers, and home owners. Except for home owners all others ("tacit enablers") turn a blind eye to this deceptive practice that costs home owners upwards of \$10 million a year in Colorado. Here's how it works and why it is also illegal:

a) HOA home owners pay monthly dues. The dues cover such community expenses as snow removal, landscaping, and expenses for maintenance of common areas. They also pay for administrative costs such as the HOA directory, billings and collections, covenant enforcement, routine legal costs, maintaining a web site, posting HOA governing documents on the web site, administrative staff, and other operational costs. In most cases the money is well spent contributing to the aesthetics and positive property values.

b) When an HOA home is sold the HOA property management company (PM), charges the buyer a Transfer Fee. The fee doesn't benefit the HOA but is pocketed by the PM. The fee amount is determined by the PM without any justification required or need to provide a receipt to the payee, it ranges from \$0 to over \$1,000, has little if any relation to "claimed" work performed, and if not paid the home can't be sold. The "claimed" justification is that the sale of the home caused the PM extraordinary and uncompensated expenses. The "claimed" expenses specifically relate to updating administrative and financial records, providing a copy of the HOA governing documents to the buyer, and issuing a Status Letter to the buyer indicating the financial status of the home seller with the HOA on the date of sale (are HOA dues current, any owed special assessments or fines, or other obligations). Average Transfer Fee in Colorado: \$350. Here's is the problem and why this is a duplicate billing:

1. Updating administrative records doesn't result in additional charges to the home owner. Think in terms of divorce, marriage, death, someone moving in or out, changing a bank account for payments, change of contact information, etc. A home sale is not unique or extraordinary in this respect thus no fee is justified.

2. The Status Letter in any other business is referred to as a final billing. This is no different than what one receives when terminating their TV cable service, utilities, or health club membership: it's called the final bill, is routine, has all the detail and is official, no charge to the customer, and already paid for with HOA dues.

3. Providing HOA governing documents to the buyer? These are mostly available free of charge on the HOA web site. The PM doesn't maintain these legal documents nor are they changed upon the sale of a home. The cost provide these to a home buyer or Title Company via email or compact disc is no cost to nearly unmeasurable and considered routine services paid for via HOA dues.

c) When a home is sold in an HOA the Title Company is required to provide the buyer with a Status Letter and a copy of the HOA governing documents. The PM charges the Title Company that passes the charges onto the buyer/seller: average \$175. See items "a" and "b" above.

d) HOA Transfer Fee can only be legally charged if such charges are justified to compensate the PM for uncompensated work in relation to the sale of a home: SB 11-234. The HOA Transfer Fee fails this test.

Thus the HOA Transfer Fee represents a triplicate fee for services rendered as described in items a, b, and c. All true and never refuted by the PM industry. Why does such a deceptive and illegal business practice continue to be met with silence by the "tacit enablers"? It's called legislative lobbyists with the prize to the PM industry of \$10 million a year.