

HOA Home Sale Transfer Fees A Comprehensive Analysis Background, practice, solutions By Colorado HOA Forum www.coloradohoaforum.com

Each year HOA (homeowners association) home owners pay upwards of \$10 to \$12 million a year in home sale transfer fees. The fee ranges from \$150 to \$1,000 per home sale. At issue is whether this fee is earned, legal, required by the HOA or by law or **is simply an income enhancement scheme involving [duplicate billing for services by property management companies](#) (PMCs) already paid for with homeowner HOA dues.**

This [comprehensive explanation](#) of the transfer fee identifies the fee as a costly scam on homeowners and how our legislature can provide consumer protections at no cost to businesses, HOAs, or taxpayers. **Understand the fee and you knowledgeably understand this costly scheme.**

The **transfer fee is accepted as normal operating cost of doing business** but questions remain: What exactly are the fees? Why are you paying them? Are they required by law? Who authorized the fee? Who receives the money? Why the high cost?

You most likely thought it was required by law or the HOA to pay for extraordinary work related to the sale of your home. You accepted the fee as simply another HOA assessment and part of the HOA rules, similar to HOA dues (but were never told about it). Most home sellers believe the amount is determined and retained by the HOA to benefit the HOA. You may have even thought your Title Company required this charge for research on your HOA account or to ensure the HOA had no liens on the property. Is the PMC legally required to completed costly certifications?

Ask your real estate agent about the fee and they can't explain it; he/she simply asks you to pay it so the sale is not held up. Then there is the attitude of "just pay it" -- "it isn't that much when considering the total home sale price" or "everyone pays it, so let's get on with the closing." That's a very cavalier attitude with your money.

Here's the problem: None of these assumptions is true. ([Reference a list of the "dirty dozen" reasons HOA home sale transfer fees should be reined in.](#)) The transfer fee is an income enhancement scheme by HOA property management companies and home owners are the victim.

Consider these quick facts:

- 1) Transfer fees are determined and retained by the HOA property management company (PMC) **not the HOA**, aren't required by law or the HOA, don't benefit the HOA, there is no limit on the amount that can be charged, and there is no relationship between the fee and **contended** services performed to earn the fee.
- 2) Not all, but most, PMCs charge a transfer fee and some HOAs disallow transfer fees as all **contended** services and costs related to tasks of selling a home are already paid for by homeowners through their HOA dues.

3) PMCs charge a transfer fee to enhance income "because they can" and if they didn't there is **no evidence** the cost of their [contract with the HOA would increase](#).

4) HOA boards never challenge the legitimacy of the fee, Boards rarely even know it is being charged, and with volunteer board members mostly having no experience in managing a PMC or the HOA, they accept any explanation of the fee from the PMC. Note, PMCs NOT Boards generally manage HOAs and it is this relationship that can cause financial problems for the HOA in fees assessment, awarding contracts, financial management, etc. and the need to rein in abuse with licensing PMCs.

5) Almost all home sales transfer fees [represent duplicate and triplicate charging for services already paid for by HOA dues](#).

6) Transfer fee charges to home sellers related to producing copies of governing documents and by-laws and home seller Status Letters (simply a copy of the final billing) are available upon request at no extra cost to the home seller, paid for with HOA dues, and/or available at no cost on the HOA website -- in other words, the fees are flagrant duplicate billing. Costly certification charges of these documents via transfer fees by PMCs is not required by law and simply represents "invoice padding of charges."

7) Charges by PMCs related to researching liens and litigation are completed by the Title Company and should not be any part of any Transfer Fee.

8) Home sellers who are not provided a receipt for the fee don't know who is charging the fee and what services were performed to earn the fee, they just pay it.

9) By State law, the fee can only be assessed for work completed by the PMC unique to a home sale and charges comprising the transfer fee don't abide by this requirement.

10) The existence of this fee can preclude HUD/FHA loan approval. Thus, this fee is not justified by work completed that is unique and extraordinary to the sale of a home. In other words, it's a scam.

11) **No other service such as utilities, cable tv, or water assess such charges to the home seller.**

12) Home sale closing procedures include explanations and documentation of legally required funding for taxes and escrow, home insurance, home appraisal, Title insurance, etc. and identification of existing liens and other encumbrances legally filed against the property by government and other entities. **Unpaid private billings such as cable TV, utilities, and water are not part of the closing process and each of these has a product delivered/documented as evidence of services performed.** No detailed invoice is provided for this abusive fee.

Then there is the **HOA home sale transfer fee** that appears as a one liner on closing documents (average \$350) but there is no receipt or documentation of what the fee represents, who is charging it or receives it, what services have been completed to earn the fee, when completed, no itemized costs of services to justify the fee and worst no one in attendance actually understands what this assessment is all about (not the real estate agent, home seller, or Title Insurance person or person supervising the home closing session).

The fee represents a transaction between the homeowner and a private company and does not involve a lien or other encumbrance or carry forward debt on the property. Thus, it has no place in a home closing. But if it's not paid the home closing will not continue. No other vendor can use the home closing process as a collection agency/process except the PMC industry with the HOA Transfer Fee.

Zillow, the online real estate website, defines an HOA home sales transfer fee:

- **Home Owners Association Transfer Fees:** The Seller will pay for this transfer which will show that the dues are paid current, what the dues are, a copy of the association financial statements, minutes and notices. The buyer should review these documents to determine if the Association has enough reserves in place to avert future special assessments, check to see if there are special assessments, legal action, or any other items that might be of concern. Also included will be Association by-laws, rules and regulations and CC & Rs.

What Zillow doesn't mention or understand: 1) These services come at no additional cost to homeowners when requested/performed at any time except when a home is sold. The services have already been paid for via HOA dues or are otherwise available at no cost on the HOA website.

2) The so-called Status Letter is simply a final billing similar to that which a homeowner receives when disconnecting service with cable TV, utility companies, or cellphone/telephone service. Homeowners can obtain anytime for no additional cost. No special certification or legal review is required. The Status Letter simply states that the financial status of the home seller with the HOA as of a certain date is being provided and includes current or delinquent HOA dues and outstanding obligations related to fines and special assessments (all routine information and no charge upon request from the home owner). 3) HOA financial statements, minutes of meetings, and copies of governing documents are provided and paid for as part of HOA dues and available upon request for no cost to the home seller upon request (other than a minimal cost to reproduce in hard copy or on a CD) 4) Zillow also fails to indicate the fee is not determined, required, or retained by the HOA, it is a PMC charge and 5) Zillow enables the home closing process to act as a collection agent for the PMC as mentioned above.

So how and **why does this scam continue and what action is needed to rein in this abusive practice?** First and foremost, understand that most HOAs are managed by PMCs. HOA Boards are volunteers that rely on PMC expertise to help make decisions about community management and most Boards simply concede without questioning the actions of PMCs. PMCs have contracts with HOAs to perform community maintenance and administrative services. The contracts (mostly due to requirements under the PMC licensing law that will end July 2019 unless the legislature extends the law) include mention that a transfer fee will be charged. Boards readily accept this as normal operating business. The transfer fee statement is **purposely ambiguous** allowing a PMC to charge what they want without accountability or justification or challenge by a Board, Realtor, or Title Company. Home owners are completely unaware of the transfer fee until the day of closing on their home: no explanation, just pay it. Next, the fee is charged as it has been institutionalized over the years by PMCs, Realtors, and the legislature. It has become standard operating procedure, no questions asked, and if not paid the home sale will be held up by the home sale closing agents for no other reason that "it must be paid". Bills have been introduced to the legislature to require oversight and accountability of this fee but all killed by lobbyist. State law restricting transfer fees to only unique and extraordinary costs incurred and not reimbursed to the PMC by the HOA are ignored and not enforced. Then there is what our organization,

Colorado HOA Forum, calls the "big lie" about the fee that is promoted by the PMC industry in the legislature and media: it is required to gain reimbursement of unique and material expenses when a home is sold but they fail and fight legislation to document such work on a detailed receipt. The fee is an income enhancement scheme and charged "because it can" and is furthermore is a duplicate billing scam. There are **no required** and unreimbursed services performed by the PMC that are extraordinary, caused by, and unique to the sale of a home that should result in a transfer fee other than administrative duplicating and mailing charges that should not exceed \$50 (not on average \$350).

The **simple and fair solution to rein in this abusive fee** and [not place any financial burden on management companies or HOAs](#) will require legislative action. The following actions are required in a legislative proposal:

- All HOA contracts with PMCs will include: a statement whether a home sale transfer fee will be charged; that the fee will only be assessed for the PMC to gain reimbursement for unique and extraordinary expenses incurred due to the sale of a home not reimbursed through the PMC's contract with the HOA; that all such costs have not been paid for through HOA dues and not routinely completed throughout the year as a routine contractual service; that any such transfer fee charges are required under the law: charges are required to clear the home seller from HOA accounts and set-up the buyer; and all transfer work is extraordinary and unique due to the sale of the home and not otherwise performed under the contract; that the transfer fee charges and services only occur because of a home sale and are dissimilar to other services performed by the PMC throughout the year; and the home seller/payee of the transfer fee will be provided a receipt documenting the exact services performed to earn the fee, when such services were performed, and line item cost and all such charges are reasonable and in compliance with State law HB 12-1237 related to reproduction and distribution of HOA records. A statement that no other entity such as a Title Company will be charged for services that are paid for through the home seller transfer fee. A statement that charging of a transfer fee can inhibit the ability to gain loan approval of FHA/HUD loans.
- Home owners must be apprised of the transfer fee by the Board of Directors sharing the verbiage in the HOA's contract with the PMC. The transfer fee should be incorporated into the HOA governing documents and approved by home owners as it is an ongoing and permanent financial obligation of home owners.
- Any special request by an HOA for the PMC to complete specific/optional work upon the sale of a home that is not covered under the contract with the PMC must be clearly defined in the contract, noted why such work is completed and the benefit to the HOA, the negative impact on the HOA if such work is not completed, when such work is to be completed, indicate that such work is not required under the law or HOA by-laws but at the option of the HOA and apprise home owners of this work.
- Explanation that all such extraordinary home sale transfer fee charges to the home seller are confirmed NOT to be completed by any other entity as part of the home closing process such but not limited to clearing the title on the home, home lien searches, debt collection services, home inspection, and identifying outstanding covenant violations that are paid for under the PMC contract with the HOA.

- Limiting the HOA Transfer Fee to no more than \$100 with supported documentation of detailed expenses incurred to justify the billing.
- Identify what services are **mandatory** but not paid for via HOA dues to close out the seller and enter the buyer into the HOA records and what is optional and not part of the duties and work defined in the PMCs contract with the HOA.

Our White Papers explain how [home owners are double and triple charge for services through transfer fees](#), provide a case study based on practices in a [community in Colorado](#), and provide a [highly comprehensive discussion on this fee.](#)

Legislative reform on the transfer fee is required.