

HOA Transfer Fees Can Be Excessive & Benefit Management Company, Not the HOA

As an active real estate agent, I am shocked and amazed at the often excessive fees charged by many HOA management companies in the sale of members' homes. These fees are not regulated in any way by the state. Worst of all, the fees collected don't benefit the HOA or its members, but are merely a profit center for the management company hired by the HOA.

Such fees, while they can be excessive, are legal, as long as they are authorized in the contract between the HOA and its management company. Since the state legislature has proven reluctant to institute any controls over fees, thanks to the influence of the Community Association Institute (CAI), your only recourse as an HOA member is making sure that any authorization for such fees is eliminated or modified when your HOA's management contract is up for renewal.

It is entirely possible that the excessive fees being charged by many management companies are not in fact authorized, but they're getting away with collecting them because they are not being challenged about them. Urge your HOA board to examine its management contract for such authorization and to instruct their management company not only to cease charging unauthorized fees but also to refund fees previously collected.

Golden Real Estate Buys a Second Moving Truck

One of Golden Real Estate's exclusive services is its free moving truck, which is made available to our buyers and sellers as well as to local non-profits. This summer we expanded this service with the purchase of another truck, shown here.

When we represent buyers submitting offers on homes with multiple offers, we can offer free use of the truck to the other agent's client as an inducement for them to accept our buyer's offer. Sometimes we even offer free labor and gas. This has helped buyers to win bidding wars in this seller's market.

In addition, we provide our clients with free moving boxes, packing paper and bubble wrap. We have a storage shed behind our office solely for the storage of these materials, which we collect afterward for reuse.

As you may know, Golden Real Estate accepts polystyrene (aka "Styrofoam") for recycling. We have a "Styrofoam Corral" behind our South Golden Road office where the public can drop off clean, white polystyrene 24/7. Once that corral gets full (which it does every 3-4 weeks), we fill one of our trucks with that material and take it to a polystyrene factory in Denver for reprocessing, keeping over 200 cubic yards of polystyrene out of the landfills each year.



How excessive can these fees be? There are three primary fees which I see imposed on a transaction. The first fee is for a "status letter" which tells the title company whether the seller is current or past due on HOA dues or fines. The title company requires such a letter because unpaid HOA dues or fines can be a lien against the property, and the title company's job is to provide clear title to the buyer. Typically the charge for a status letter is around \$75, but I have seen fees over \$100.

The second fee is for the provision of state-required HOA documents, which include financial statements, reserve studies, board meeting minutes, bylaws, rules & regulations, etc. Some HOAs post these documents on their public website, where they can be accessed free by any visitor or just by HOA members who have password-protected access to that website. Recently I saw an HOA website where all these documents contained a prominent watermark stating "This document alone does not constitute Full Resale Disclosure, as required by Colorado Law," inferring that the requesting party needs to pay the management company's \$155 fee to obtain the full set of documents. In fact, all the documents required in a transaction are on the website, each one bearing the statement that it "alone" does not satisfy the requirement.

I used to be under the impression that members were entitled to all HOA documents without charge, and that the document fee was only charged when the request came from a Realtor or title company. But that's not true, and it's not illegal — if those fees are

authorized in the HOA's management contract.

The last fee charged by the management company is for transfer of ownership. You would be shocked, as I am, to hear that some management companies charge \$400 or more for this clerical change, and I haven't found any that charge less than \$150. Legally, management companies can charge whatever they want, because there is no law restricting them. Again, check to see if it's authorized in the management contract with your HOA.

As I mentioned above, the trade association for the management companies (CAI) lobbies successfully against every legislative bill to restrict the fees charged by their member firms. For example, there was a bill put forth in 2011 on the federal level which said all fees had to benefit the property burdened by the fee. The CAI convinced Congress to broaden the definition of "benefit" to include administration costs. They could thus argue that any fees collected by the management company go toward administration of the HOA.

Back in March 2014, a grassroots organization was created called Colorado HOA Forum LLC, whose mission is to counter the influence of CAI and fight for legislative reform favoring HOA members. The reigning in of transfer fees is one of its signature issues. You can read about that and other HOA topics, with useful information on how to file complaints, at their website, www.ColoradoHOAForum.com. So far, their website has had over 38,000 visitors.

Smaller HOAs — ones with under 50 members — are often self-managed, and administration is handled by the board itself. These HOAs typically don't charge any of these fees when members sell their homes.

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By **JIM SMITH, Realtor®**

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South Golden Ranch Just Listed by David Dlugasch



This home at **1608 Utah Street**, just a few blocks from a South Table Mountain trailhead, is definitely a fixer-upper. Originally it was a 3 bedroom on the main level. A wall was removed to make one larger bedroom. The basement has another non-conforming bedroom and a half bath. It has an extra wide 1-car garage, as you can see in the picture. The home needs lots of TLC. The house is being sold as is and is priced to sell. It has a very nice back yard. **Open House Saturday 10-2** or call **David Dlugasch** at **303-908-4835** for a showing.

Jim Smith
Broker/Owner



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