

HOA Constitutional Government

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Comments on CAI opposition to FHFA ban on HOA transfer fees - Notice 2010-N-11

Community Associations Institute, CAI, distributed its Oct 10, 2010 release in opposition to HOA transfer fee ban by the Feds — disguised as a generic appeal for the desperate need for property transfer fees to help mismanaged HOAs. That's "mismanaged" and mis-educated by the national educator of HOA boards, homeowners, government and everybody else — CAI.

It's surface argument, designed to create fears in the minds of unknowing readers, is that the transfer fee gives HOAs much needed income, and the ban will take away what is a right of the private business HOA. The proposed Fed regulation would ban mortgage lenders from dealing with property sales subject to transfer fees. Implied is that the HOA, like public government, must not be allowed to fail.

Here are a number of questionable statements from the national educator, controlled by lawyers.

1. For HOAs to comply with the ban on fees in order to get mortgage lenders, CAI claims that the CC&Rs would need to be modified by the "standard" 2/3 vote, a near impossibility. Well, not so. Most HOAs just take this on as a board decision, defending themselves by declaring that the CC&Rs allow the board may charges fees. Period. And if the CC&Rs were modified to include the new transfer fees, what's the problem? What say you, CAI?

2. That these fees have been helped to fund reserve accounts is another CAI claim. I say, What reserves? I say, What "reserves for bad debts" standard AICPA procedures has been taught by CAI and used by HOAs to protect against income shortfalls? None! (See [Using Bad Debt Accounting in HOA Budgets](#)). So, poorly managed HOAs by boards with defective and incomplete education resort to "socking it to them," the sellers who will receive no consideration for the fee,. It goes to the HOA and the seller receives no benefit, except for the "payoff" to be able to sell his home. Furthermore., some HOAs have been advised to stick it to the buyer by placing this payment as one that the buyer must pay into the sales agreement. WOW!! Where does the HOA get the nerve to impose on third-parties a cost of buying into the HOA, when there is no contract beyond buyer and the HOA?

3. And CAI offers the "carrot" to existing homeowners, as if they are not subject to the fee. CAI states that it will help *"financially strapped community associations keep monthly assessments low."*

4. With this release, CAI continues to promote the **New America of HOA-Lands** with its authoritarian, undemocratic private governance operating outside Constitutional protections for homeowners. See



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5. CAI should be investigated for a pattern of activity that supports subversive local governments that deny constitutional protections, sold under questionable methods – the lack of informed consent and information about life in HOAs.

Ref:

[Notice of Proposed Guidance on Private Transfer Fee Covenants \(75 FR 49932\)](#)

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