



Legal Information Lines - Frequently Asked Questions **Private Transfer Fee Obligation**

Christal Park Keegan, Legal Information Line Attorney

Q: What is a Private Transfer Fee Obligation as provided on the mandated Seller's Real Property Disclosure Form (SRPD) (see Page 2 of 5, Q. 17, of revised version 07/25/2017), and would an homeowners' association (HOA) transfer fee fit under this definition?

A: Nevada's statutes define a private transfer fee obligation under NRS 111.845, and to cut through the legalese, it is any fee or payment required to be paid to a seller at closing each time a property is sold. Per Nevada law, seller's are required to disclose a private transfer fee (NRS 113.085). In effort to promote public policy, after 2011 Nevada prohibited new private transfer fees obligations from being created and legal counsel can be consulted to advise on the viability of getting rid of existing private transfer fees:

https://www.leg.state.nv.us/Session/76th2011/Bills/AB/AB271_EN.pdf.

Regarding HOA transfer fees, those are typically costs that the HOA incurs when transferring the ownership records from the seller to the buyer, such as documents prep and distribution, updating information in databases, changing access codes to various common areas and amenities, and other administrative costs. Per NRS 111.840(2)(g), a private transfer fee does not include a "[f]ee, charge, assessment, fine or other amount payable to an association of property owners.... common-interest community..." and so an HOA transfer fee does not seem to apply under that item on the SRPD. **BUT** with that said, if this is something that materially affects the property's value, a best practice would be to use Page 3 and make that disclosure on the provided blank lines for explanations. Further, NRS 116.4109(1)(e) requires the resale package to include "[a] statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit" and the seller should check that that information is included in the package.

Resources:

National Association of REALTORS Private Transfer & Development Fees:

<https://www.nar.realtor/private-transfer-development-impact-fees>

Nevada Real Estate Division's Presentation on Sale of a Unit in a Common-Interest-Community:

http://red.nv.gov/uploadedFiles/rednv.gov/Content/CIC/Program_Training/Presentations/SaleofaUnitinaCIC.pdf

Residential Disclosure Guide (Page 18, Private Transfer Fee Obligation):

http://red.nv.gov/uploadedFiles/rednv.gov/Content/Publications/References/RDG_oct2015.pdf

Statements made by the Nevada REALTORS® Legal Information Line attorneys on the telephone, in emails, or in legal eNews articles are for informational purposes only. Nevada REALTORS® staff attorneys provide general legal information, not legal representation or advice regarding your real estate related questions. No attorney-client relationship is created by your use of the Legal Information Line. You should not act upon information you receive without seeking independent legal counsel. Information given over the Legal Information Line or in these articles is for your benefit only. Do not practice law or give legal advice to your clients! Inform your clients they must seek their own legal advice.