

Private Transfer Fee Job Aid

General Information

Private Transfer Fee (also known as Community Enhancement Transfer Fees) are agreements that run with the land and may render the property ineligible for financing. These agreements are recorded on title and may contain verbiage such as:

“By its acceptance of a deed with respect to any residential unit, the owner of such unit is hereby deemed to acknowledge and agree to the requirement that any owner transferring title to such unit shall pay to the association a Community Enhancement Fee in the amount not to exceed one-fourth of one percent (0.25%) of the gross sale price of the unit. By its acceptance of a deed with respect to any residential unit, the owner of such unit is hereby deemed to acknowledge and agree to the requirement that any owner transferring title to such unit shall pay to the association such Community Enhancement Fee.”

Some areas that these transfer fees are common are: Ladera Ranch, Talega and San Clemente. We have also seen them in Temecula, Murrieta, and Phoenix. It is important to review the preliminary title report carefully for specific easements or items that have been recorded against the property that include Community Enhancement Fees on Transfer.

Below is an example of what you might see on the Prelim:

Matters Contained in the Certain Document

Entitled: Agreement Imposing Community Enhancement Fee on Transfers

Dated: This will show the date of the document or may state “Not Set Out”

Executed by: This will show the Community or HOA information and the builder information

Recording date: This will show the recording date of the document

Recording number: This will show the official record recording number

1 st Lien Type	Requirement
FHA	<p>Notwithstanding the policy of free assumability with no exceptions contained in 24 CFR § 203.41, properties with private transfer fee covenants created on or after February 8, 2011 are acceptable provided such covenants are Excepted Transfer Fee Covenants as provided in 12 CFR §1228.</p> <ul style="list-style-type: none"> Note: Excepted transfer fee covenant means a private transfer fee covenant that requires payment of a private transfer fee to a covered association and limits the use of such transfer fee exclusively to purposes which provide a direct benefit to the real property encumbered by the private transfer fee covenants. Follow Fannie / Freddie requirements below.
Fannie / Freddie	<p>The lender is responsible for representations and warranties for the life of the loan that pertain to clear title and first lien enforceability.</p> <p>Properties encumbered by community or private transfer fee covenants that were created on or after February 8, 2011 must meet the following:</p> <ul style="list-style-type: none"> Cannot hinder foreclosure or other enforcement of the note holder’s rights under the loan documents and acquisition of good and marketable title to the underlying security property without incurring any expenses or delays as a result of any matters affecting title to the property, including legal or land use restrictions or other defects relating to the land or location of the improvement. <ul style="list-style-type: none"> Document cannot prevent the lender from foreclosing. Foreclosing lender must be exempt from such transfer fee upon sale. Private transfer fees paid to homeowner associations, condominiums, and certain tax exempt organizations that use private transfer fee proceeds to benefit the property are acceptable and Appraiser must address the transfer fee, and the affect if any on marketability.

VA	<p>If there are any transfer fees on title the following must be met.</p> <ul style="list-style-type: none">• Provide copy of underlying document describing the transfer fee and any exclusion's to the transfer fee.• VA must be excluded from fee upon foreclosure, deed in lieu or any other reason VA would take over title to the property. (if VA is not excluded the following must be met)<ul style="list-style-type: none">○ Addendum to the contract eliminating VA from the fee for any reason.• The borrower must sign a document disclosing they are aware that when they sell the property they will be responsible to pay a transfer fee that cannot be waived and what percent of the sales price will be charged. <p>NOTE: If the above is not met the item must be permanently deleted from title, or the property is not eligible for VA financing.</p>
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