

# Expanding HOA Home Sale Disclosure

Proposal by the Colorado HOA Forum  
Presented by the [www.coloradohoaforum.com](http://www.coloradohoaforum.com)  
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## Introduction:

HOA home sale disclosure is more complicated and demanding than that of a non-HOA community home. What makes it more demanding is that the HOA home buyer has a contractual relationship with the HOA whereby the home buyer gives up certain property rights, commits to financial obligations, must comply with community restrictions and covenants, and accepts oversight of the community to an elected Board. Non-HOA communities don't get involved in most of these disclosures. Home buyers are mostly unaware of some very important information that will impact their living experience once a resident in their new HOA community. Even when provided such information it is difficult to find or understand in an 80-page packet presented to the home buyer during home closing. "Post purchase blues" are a regular experience for the buyer that can result in confrontation with the HOA and costly legal challenges. Home Sale Disclosure is mostly supportive information to the contract signed between each homeowner and the HOA. Home Closing Disclosure should be expanded to be beyond a legal procedure but an educational, informative and guide for the home buyer in the HOA buying experience.

## Overview:

Current HOA home sale disclosure (HSD) requirements are determined by DORA and documented on the Contract to Buy and Sell Real Estate. The seller delivers this documentation to the buyer to allow for an informed buying decision. Too often the HSD provides this information in a less than usable form, in not enough detail and is not as inclusive as needed. The result of incomplete or missing disclosure can be costly post-purchase litigation for the HOA and homeowner that could have been avoided with improved disclosure.

The HOA has the data/information to meet additional HSD requirements in this proposal. No additional costs will be imposed on HOAs, homeowners or businesses to comply with these new requirements. Most effort and changes involved in meeting new requirements concern one-time, administrative start-up costs. There will be no cost to provide this information to the requestor. Rush-fees will not be permitted. Compliance would be completed through DORA. These requirements to become standard for all registered HOAs. DORA would develop and/or update the HSD form(s) to reflect new requirements.

A fiscal note on this Bill would be zero.

Legislation is required to ensure HCD includes new requirements and the method to present the aforementioned information to the home buyer. DORA will develop a standard-document-delivery-process for all registered HOAs and change the Contract to Buy and Sell Real Estate to reflect new requirements. DORA can expand the list of HCD requirements.

## **Requirements: the below items are listed to ensure and not to be left to an individual decision by DORA thus ensuring they will be in the home closing documentation requirements**

- 1) DORA to update home closing forms to include new disclosure requirements under this Bill
- 2) DORA will determine how and in what format the HSD information will be presented to the requestor of information except as mandated in this proposal.

- 3) HOAs and/or their property management company (PMC) will provide information to the requestor (home buyer, seller or authorized agents) on the following items as stated below:
- 4) HOA vs HO maintenance responsibilities: A separate document listing what the HOA covers vs the homeowner will be presented to the home buyer. DORA will develop a standard form listing in detail maintenance responsibilities.  
[Suggested/Example format.](#)  
Insurance coverage through the HOA community policy (explained) and suggested type and amount of homeowners insurance.  
Copy of Condominium [reviews and inspection listed in pamphlet](#)  
Metro District debt: how much and impact on future assessments  
[Condominium issues](#) list guided by pamphlet.  
Home Sale Transfer Fee amount: supported by an invoice detailing what work was done and when completed, line-item cost and an explanation of how the fee is extraordinary and unique to the home sale transaction and not already paid for through the HOA homeowner assessment. Any part of the transfer fee billing related to providing documentation is not allowed.  
Copy of most current reserve fund study and balance and any planned assessments to replenish the fund  
Any outstanding and ongoing litigation against the HOA or being pursued by the HOA along with a brief explanation of litigation and the projected financial on the HOA.  
Planned capital improvements and financial burden on HOs  
Active and planned special assessments  
Rentals allowed and if: percentage of homes under rental agreements, number of homes being rented and indicate how many are long term and short-term rentals.  
Anticipated public utility work in the community and impact on HO.  
Water usage responsibilities
- 5) Require both the home buyer and their buyer's agent (if any) to confirm the receipt of HSD information mentioned in item "1" no later than 7 days prior to home closing. The confirmation also indicates that the HB has had all their questions answered.
- 6) The HOA can be non-monetarily penalized by DORA/HOA Office for non-compliance with requirements in this proposal.
- 7) Any charges to the HO or HB by the HOA or PMC will be approved by the HOA Board and be accompanied by an invoice indicating what special services were completed, when completed and line-item cost with a statement that such charges have been approved by the HOA Board and are unique and extraordinary to the sale of the home for which the PMC has not been reimbursed.
- 8) A line item on any home closing document will not satisfy the requirement to provide the payee/seller with an invoice and explanation of any charge
- 9) HOA documentation provided to the home buyer from the PMC or HOA will contain the effective date of the documents. when prepared and indicate that it is the most current and can be used and trusted in the home sale process.
- 10) HOAs to maintain only one official data base with HOA governing documents, financial records, personal information and other information required under CCIOA. This information can and will be the same information used in providing home buyers with HOA home closing documents/information. Access to HOA documents/information for home closing available to all homeowners and their approved agents upon request at no cost

- 11) A denial of access to HOA documents can result in non-monetary penalties against the HOA as determined by DORA/HOA Office. Requests for HOA documentation and information by the seller or their authorized agent will be provided to the requestor no later than three days after the HOA or its property management company receives the request. "Rush Charges" for late requests for documents not to exceed \$35.
- 12) Providing HOA home closing documentation/information to a Title Company will be at no cost to the home seller or Title Company either directly or indirectly.
- 12) Disclose latest pass/fail inspection results from a fire safety examination or investigation and plans and related costs to repair or gain compliance with findings of such audits.
- 13) Any charge from a Title company to a home seller relating to HOA home closing documentation is not permitted.
- 14) Any charge from a Title company to a home seller relating to HOA home closing documentation is not permitted.
- 15) Disclose if the HOA is listed on any "Black List" maintained by Fannie Mae (involved in the home financing industry: Fannie Mae, which is under the conservatorship of the Federal Housing Finance Agency (FHFA) has developed a secret Blacklist of condominiums, HOA's and Co-Op's which are ineligible for "conventional financing", i.e. loans that can be sold on the secondary market. It will be difficult for owners in these Blacklisted condominiums to either sell or refinance their units.
- 16) Home buyers will be notified through the home closing process of discloser on latest pass/fail on the fire safety examination, latest "envelope study" for condominiums and the HOAs disaster planning efforts.
- 17) Any HOA or its' management company that knowingly provides a home seller with inaccurate, incomplete or misleading information will be subject to penalties as determined by DORA and involve a monetary penalty up to \$10,000
- 18) The seller will inform the buyer of the fees to the HOA Master Association and if they belong to one or more sub-associations and financial obligations to the Master or sub-association.
- 19) The HOAs firearms rules and restriction will be disclosed
- 20) HOA restrictions on home ownership and amenities such as "must be 55 years old or older", "no dogs", no children, number of cars and trucks and/or commercial vehicles, restrictions on use of amenities (pool, tennis courts, club house, etc.) or other activities prohibited.
- 21) Indicate if a gated community and other HOA security measures.
- 22) Does the HOA comply with ADA mandates and last audit for compliance
- 23) Indicate trash pickup services such as garbage, recyclables and other related information and who pays for the service.
- 24) Indicate if mail is delivered to the individual house, a locked box, or other.
- 25) What baseline services are paid for via regular assessments and optional usage fees.
- 26) Snow removal and landscaping maintenance: included with assessment or not and schedule of when completed.
- 27) Explanation of who pays for damaging water events, pipe leaks, mold and electrical issues.
- 28) Community internet and cable tv services: provided by the HOA?
- 29) History of construction defects on the home for sale or the community at large and are the issues settled?
- 30) If in a golf course community: does HOA own golf course and do assessments support golf course activities and/or a restaurant?
- 31) Any HO assessment income forwarded to or forfeited to another entity such as a local government, metro district, developer or other persons.
- 32) Date of last audit of financial condition of the HOA accompanied by the Auditors report.

- 33)Who is responsible for repairs of roads, sidewalks and driveways within the community
- 34)Provide to HS and/or buyer HOA rules that are not in the CCRs but in addition to CCRs.
- 35)Age of A/C and furnace
- 36)Are there any windows/storm windows cracked, if so who repairs?
- 37)A home inspection by the buyer is required from a professional service
- 38)Number of foreclosures in past year and pending.
- 39)HOA home buyers will be provided a home buying guide, developed by DORA, that guides the buyer through best practices in identifying the questions to ask and documents to obtain.

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