

Applicability of CCIOA to post 1992 and pre 1992 Common Interest Communities

Determining the applicability of CCIOA to a specific (community/HOA) association that has not expressly elected treatment thereunder (see CCIOA section 38-33.3-118) can be a complex question, as several variables must be considered, including but not limited to the date in which the community was created; the type of community (i.e. co-op, condo, planned community); the size of the community; and, the amount of expenses the community incurs.

A question arises: “do I live in an HOA (common interest community, CIC)” is broad and more information is needed. To begin to answer, one should obtain the HOA’s governing documents. The Declaration should lay the groundwork for declaring the development/housing as meeting the requirements of a community interest community (and hence for our discussion an HOA) and date created (pre or post July 1 1992). It will address a few mandatory items to qualify as an HOA (common interest community): (generally but not mandatory) common areas owned by the association/home owners, requirement that home owners pay fees to maintain common areas, and that membership in the is mandatory. In a CIC, the homeowner generally owns the house and the land it sets, and any areas beyond the home site as defined in the governing documents. If the basics in the Declaration are met, generally, the community has legally declared itself to be an HOA (community association) and subject to CCIOA (State HOA law) if created post July 1992. If created prior to July 1992 the HOA could opt to be covered under CCIOA. The differences between being governed under CCIOA or not are addressed in the below reference material but in general the differences are not significant. Such differences address budget approval process, conducting meetings, insurance and financial matters, etc. as described in reference material below. The aforementioned is presented as a general guideline and not a legal document.

References to information that will help in determining whether a common interest community’s governance falls under the provisions in CCIOA and what a common interest community is or isn’t.

Relevant sections of CCIOA:

- 38-33.3-201. Creation of common interest communities.
- 38-33.3-115. Applicability to new common interest communities.
- 38-33.3-116. Exception for new small cooperatives and small and limited expense planned communities.
- 38-33.3-116.3. Large planned communities - exemption from certain requirements.
- 38-33.3-117. Applicability to preexisting common interest communities.
- 38-33.3-118. Procedure to elect treatment under the "Colorado Common Interest Ownership Act".
- 38-33.3-119. Exception for small preexisting cooperatives and planned communities.

For more information on the applicability of CCIOA, please see:

- [Application of CCIOA in Subdivisions and Condominium Communities](#) by the Office of Legislative Legal Services
- [Understanding Colorado "Common Interest Communities"](#) by Jerry Orten, Esq. - Orten Cavanagh & Holmes, LLC
- [Community Association 101](#) By Winzenburg, Leff, Purvis & Payne, LLC

