

## Colorado Legislature Rejects Consumer/HOA Home Owner Recommendations



### **Comments Contributed by the Colorado HOA Forum Colorado's largest and most recognized HOA home owner's advocacy organization**

#### **Sunset Review Community Association Manager Licensing Program**

The Colorado HOA Forum, Colorado's largest and most recognized HOA home owner's advocacy organization, provides its' tepid support for continuing the CAM licensing program. We recognize that the program that we advocated for years prior to its inception provides a more competent, professional and informed work force and consumer protections. However, the program must be improved and responsive to public comment and its' rules clarified and strengthened to improve consumer protections and CAM accountability.

We offer the following suggestions for improvement. I must note these comments are derived from our over 1,000+ members residing in hundreds of HOAs and have previously been sent to DORA over the past several years, suggested in documentation to the entity completing the CAM Sunset Review, and discussed in public hearings. None of these suggestions cost the taxpayer and most if not all can be completed by rules changes developed, implemented, and enforced by DORA.

1. The DORA web site is poorly designed, anything but "user friendly". A program's web site and its' resources that are difficult to navigate and use and doesn't allow for meeting consumer needs for information doesn't serve the public interest. This has been reported to DORA and publicly recognized by the Sunset Review Team but not addressed in the report. The best response to this criticism is the "user can figure it out for themselves". Navigating the site, interpreting data, extracting information and filing complaints are at best cumbersome and awkward. Our organization has created a user manual that is often used to file complaints due to this deficiency.
2. Reports should be available on the web site such as the names of companies with violation by type and all attributes of the CAM, the number of HOAs for which a CAM is responsible, the number of homes under management by a CAM, etc. all of which help HOAs make contracting decisions.
3. Internal controls and rules must be in place to ensure a CAM losing their license can't reorganize or be part of another licensed CAM in either a primary or secondary capacity.
4. DORA should put a little effort into managing the relationship between CAM licensing and HOA data bases ensuring that the CAM managing an HOA is licensed, when an HOA is registered they have a licensed CAM, identifying the number of HOAs and homes related to any one CAM, etc. Integrating the two data bases under control of DORA is quite easy and very low one time cost and most helpful to the consumer and HOAs.
5. DORA rules are weak and/or require clarification and they refuse to respond to public comments on this topic thus leading to ambiguities and non-enforcement e.g. 1) rules should be clearer and more demanding on CAM fees assessed home owners that are not included in HOA fees. There is little control over fees for accountability, justification, and legality. DORA refuses to specify that all such fees should be explained to the home owner by way of a receipt, like all other businesses in Colorado, identifying the work completed to earn the fee, when completed, and line item costs with no assumptions but facts. Home sellers and buyers could use this receipt for tax purposes and ensure that no such CAM fees are simply duplicate charges for that already paid for with HOA dues and such fees are also not similarly charged to other entities such as Title Companies. DORA refuses to support documentation and full disclosure in its' rules other than one liners on closing documents and in contracts with HOAs that explain and justify anything leaving the consumer to continued vulnerability.

6. DORA needs to annually coordinate a review of all educational material sources from vendors listed on their site to ensure they are current with legislation and other law and publish when this was completed and post changes made to material.
7. Public and HOA awareness of the licensing law ranges between misunderstood and not even knowing CAM's are licensed. Similar to the State HOA Office there needs to be a better job of "getting out the word" to ensure program existence and awareness and consumer protections.
8. The CAM licensing law continues to be flawed and consumer protections weak in important areas requiring legislative attention. e.g. 1) the legislative exemption on time share homes that pay hundreds of millions in CAM fees are mostly exempt and subject home owners to fees assessment abuse by CAMs 2) DORA CAM rules on accessing CAM HOA Home Sale Fees allows for unlimited and non-challenging amounts to be assessed home owners for undocumented, unjustified, and in some cases illegal fees that if not paid the home will not be sold. This costs home owners upwards of \$10 million+ a year. DORA refuses to require detailed documentation beyond an unexplained one liner on closing documents with no documentation or fails to require a CAM to explain in their contract with the HOA what the fees consist of, how justified and what is not part of HOA dues, to provide home owners with a detailed receipt ensuring services done and for use by home owners for tax receipt, and to ensure there is no duplicate billing. This requirement cost neither the HOA or CAM, the rule needs to be changed.
9. The costs assessed and paid by the smallest CAMs managing 5-15-25 homes to acquire and retain a license are equal to those of a CAM involved in managing 25,000 homes. The result has been to push managers out of business or to operate outside the licensing program to avoid licensing costs that in some cases can equal six months income. The State HOA registration fees considers size in registration fees amounts why isn't this the case for CAM licensing?
10. The rules and/law should limit the number of HOAs and/or homes a CAM can be held responsible for at any one time: it can be 1 or 20,000. An HOA should know this in their hiring and contract renewable process. DORA can and should address this issue in their rules.
11. DORA refuses to enhance and clarify a rule indicating **a violation exists if the CAM knowingly acts in violation of the HOA by-laws and/or State law** and here is the flaw that leaves home owners out in the cold: include the following: **or when it observes a violation of such laws and it doesn't advise the HOA and if available HOA legal counsel of the violation in writing and its' suggested corrective action and if such advice is not implemented it must be reported to DORA and, if available, to the HOA legal counsel, to protect home owners and to evidence that the CAM is acting in a fiduciary and proper capacity and will further protect the CAM from being held liable for legal action or damages resulting from their tolerance of such illegal behavior. DORA should be apprised of the periodic status of violation by the CAM.**
12. The CAM licensing program legislation has too much influence from the Community Association Institute (CAI). The organization and its' membership represents property managers and HOA legal interests. This is not a home owner centric organization as is too often portrayed in our legislature and media. The licensing legislation was so significantly influenced by the industry that in an unprecedented action the law directly promoted CAI for-profit educational courses and subsequent amendments promoted benefits to time share managers and shielded abusive HOA home sale transfer fees from any restrictions costing home owners tens of millions of dollars in unrestricted fees. The DORA CAM web site continues to promote and highlight CAI classes rendering all other approved educational providers to a secondary classification in a separate list. This is totally inappropriate and in most cases the CAI courses cost more and the portrayal of available courses suggests one is better than the other limiting choice. DORA should take off the special and highlighted promotion and advertising of these courses on their web and simply provide a combined list of approved courses with the cost of each course.

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