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The problem:

“the Court system as a venue for HOA dispute resolution is a pay-to-play venue that works well for HOA and property management companies with plentiful financial resources but is too costly, complicated, and litigious for most homeowners.”

“using our Courts for HOA homeowner dispute resolution is like the poll tax, you could vote if you could pay, most couldn’t, homeowners can take their complaint to Court if they have the money, but most don’t, this environment makes our HOA legislation ineffective from the homeowner’s perspective”

The solution:

“mandatory out-of-court binding arbitration (mediation) using professional, unbiased arbitrators for most homeowner complaints is effective, efficient, affordable, and fair ...it can provide a conflict resolution process that is accessible, affordable, and timely for both homeowner and HOA ...make this part of all HOA legislation and you make HOA legislation effective”

We don’t need more HOA legislation, we need existing HOA legislation to include:

- Stronger enforcement and penalty provisions
- Mandate out-of-court binding mediation for most homeowner complaints
- Regulate property management companies
- Cap fee, fines, legal costs, and administrative add-ons on HOA debt
- End foreclosure of homes for most HOA debt

Colorado HOA Forum Newsletter

www.coloradohoaforum.com

We love HOA’s but dislike abusive HOA Boards and Property Management Companies!

Vote for a State representative that supports your HOA homeowner rights, it’s a SMART vote!
See how your representative answered our HOA survey www.coloradohoaforum.com

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"mandatory out-of-court binding arbitration (mediation) using professional unbiased arbitrators is effective, efficient, affordable, and provides an accessible, affordable, and fair conflict resolution venue for homeowner dispute resolution"

The Colorado HOA Forum is an advocacy group for HOA homeowner's rights. We recognize the need for HOA legislative reform to ensure good HOA governance. We identify areas of concern and offer solutions that don't interfere with or distract from the benefits and expectations of living in an HOA. Our suggestions don't hinder or make serving on an HOA Board anything but the altruistic and giving experience as intended. Our efforts are directed at ensuring HOA Boards and property management companies simply abide by their own covenants, controls, and restrictions, State HOA laws and guidelines, and an HOA's by-laws. We also are strong advocates of HOA dispute resolution providing homeowners a feasible, affordable, and fair hearing through mandatory out-of-court binding arbitration/mediation.

Contact us and write your State Rep

You can always contact us at: www.coloradohoaforum.com or email us at coloradohoaforum@hotmail.com

Please join our effort by signing up on our web site. All our articles, reference information, tools to help you write your legislator, and current events are posted on the web site.

You are encouraged to write us, your Colorado legislator, and the Colorado Information Office and Resource Center about any concerns you have regarding HOA governance and your homeowner rights. Our web site makes all this very easy with links to State Representatives and the HOA Office.

HOUSE BILL 12-1237: Unintended Consequences

Here we go again. (Re: Denver Post, "Getting Up to Code", Feb 28).

HB 12-1237 is nearing approval by our legislators. Along comes HB-1237 reiterating and clearly defining homeowner's rights on this issue. So shouldn't HOA homeowners applaud this effort? The problem is that this bill, like others in the past, provides no viable remedy or dispute resolution venue for homeowners when denied access to HOA records. Now an even more serious impact on your HOA homeowner's rights. HB-1237 includes clauses that indicate what doesn't have to be released to homeowners. Specifically, an HOA may withhold records from inspection (access by a homeowner) if such records concern pending, potential, or threatened litigation, mediation, or arbitration. Therefore, if you as a homeowner suspect wrong doing and want to review the HOA books and receipts and the HOA Board suspects (based on your findings) they may be susceptible to legal problems they can simply deny your request. Thus, this can be an excuse for denial of any and all requests to inspect records! This bill provides an HOA and PMC justification they never had before to deny records access based on their contention of potential legal problems from your findings. The good intentions of the authors of this bill to strengthen records access rights stated in CCIOA and HB- 1237 have been unintentionally negated with the stated exceptions in this law.

Our group, the Colorado HOA Forum (www.coloradohoaforum.com) will seek to remove/modify this exception for denying records access. We will also continue our efforts to provide homeowners a venue to resolve their disputes with their HOA/PMC that is affordable, doesn't involve lawyers, is easy and understandable, unbiased, doesn't hinder HOA governance. A process that has a proven track

“the current Court system for HOA dispute resolution works well for the HOA and property management companies but is too costly, complicated, and litigious for most homeowners.”

record in other areas of our society in dispute resolution: out-of-court binding arbitration using independent professional mediators.

This is a good example of a legislative effort with good intentions resulting in unexpected consequences.

HOA Town Hall Meetings



Our goal is to hold HOA Town Hall events in several locations throughout Colorado. We intend to invite other HOA advocacy groups, members from property management companies, a member from the professional mediator society, and our State legislators.

We need to identify facilities/meeting places and gain some commercial sponsors for the events. We are also contacting the news media to gain exposure.

We are aware that some State legislators are also planning such Town Hall meetings concerning HOA's and we may be

able to partner with their efforts. Your ideas on this matter are appreciated and we encourage your attendance.

HOA Won't Enforce Governing Documents, Try This!

At the Colorado HOA Forum (HOA homeowner advocacy group, www.coloradohoaforum.com) we often hear about problems with non-compliance and enforcement of covenant, rules, restrictions, and the HOA's by-laws from the homeowner's perspective. Please don't jump to the conclusion that because something is stated in State legislation or in your HOA's governing documents you can expect it to be followed. So, other than taking the HOA to court which is costly and generally isn't successful in most HOA vs homeowner disputes, what's a person to do?

Let's not forget that local laws, zoning, health standards, and building codes are not invalidated or made unenforceable by your HOA's governing documents. If your request for action is ignored by the HOA Board or property management company pursue the issue as applicable with your local government. The downside of going this route is your HOA could end up with violations which means fines. Therefore, your being part of the HOA means if you win you lose. However, this action could be a wake-up call to homeowners about an HOA Board that simply wants to pick and choose which requests for their attention they want to pursue and which they simply ignore: your HOA governing documents were never meant to be optional for the Board or for you. A few examples.

HOA Won't Enforce Governing Documents, Try This! Continued

A homeowner wanted the sidewalk area in front of his home repaired because it posed a safety hazard. A tree blocked the sight of a stop sign at an intersection. Water leaked into the community clubhouse in the area of the kitchen where food was prepared and mold was building. A homeowner wanted electrical outlets at the clubhouse repaired as several people had been shocked. A homeowner asked that a neighbor be issued a notice(s)/fines concerning an area on the side of the house used as a toilet for their dog and it reeked. All these problems were ignored by the HOA Board. A homeowner should thus contact the local health, safety, or zoning office to report the violations noting the HOA refused to respond to requests for corrective action and that all violations were on HOA community property: liability to the HOA. This works. The homeowners may one day get tired of paying fines and vote in a new and responsive Board.

These aren't problems that belong in Court but currently this is your only recourse to get done that which you expect of the governing Board. Our group advocates modifying Colorado legislation to mandate out-of-court binding arbitration/mediation for such disputes: easy, effective, impartial, no lawyers, and much, much less costly than our Courts. So use your local government services to get remedy in dealing with HOA Boards or property management companies that want to pick and choose their responsibilities: it works.

Use a building inspector, zoning laws, or your health department when your HOA won't listen

HOA Homeowners "may" Win in Regulating and Licensing Property Management

Re: Denver Post, Feb 13, "HOA house may get put in order".

"To suggest the Court system works for HOA homeowner dispute resolution is like saying the poll tax didn't block certain groups from voting. If you had the money you could vote, if you have deep financial pockets the Court system works well for homeowners"

Losing one's home due to delinquent HOA fees, fines, and excessive administrative charges brings the issue of abusive practices by HOA's and their property management companies (PMC) to the forefront. HOA fees and add-on charges to small homeowner debt can turn out to be unlimited, oppressive, and abusive. Even the smallest amount of delinquent debt can end up with an HOA/PMC foreclosing your home! The money machine for HOA debt collection is out of control with no protection for homeowners. Regulation of the PMC industry has been pursued by our advocacy group, the Colorado HOA Forum (www.coloradohoaforum.com), for years. Now, the Community Association Institute (CAI), State legislators, DORA (Department of Regulatory Agencies), and the Colorado HOA Information Office and Resource Center are actively pursuing regulation. This is overdue. Is this really good news?



DORA (Department of Regulatory Agencies) has completed its' review of a proposal by the CAI to license and regulate PMC's. DORA's recommendation is to regulate PMC's but not the CAI individual property manager. Good news. The details of "how" to implement this reform still need to be worked out. Trade groups such as the CAI, however, seem to be attempting to: 1) monopolize training, certification, and continuing education requirements that will drive up costs and 2) make it mandatory for dues to be paid to their organization for license retention/recognition. Clearly missing in the CAI proposal is discussion of restricting/limiting fees and add-ons to HOA debt and ending foreclosures related to most debt. Also missing is any recommendation on a workable venue for homeowners to complete dispute resolution other than the current pay-to-play Court system.

Our most important concern is how this law will be enforced. Hopefully, this piece of legislation will not repeat the weakness and ineffectiveness of all Colorado HOA legislation: weak and ineffective means for enforcement from the homeowner's perspective. In this case, DORA, not any trade group or lawyers, should process complaints, enforcement, and penalties. Alternatively, a process for mandatory binding out-of-court mediation for most disputes. This keeps dispute resolution out of interest group/peer review processes that are biased. Most importantly, this allows homeowners to avoid our Court system that is out of the financial reach of most homeowners.

No doubt about it the property management industry is in dire need of clean-up. Doing the right thing is now in the hands of our legislators to ensure homeowner's rights are the priority.

State Legislator Survey on HOA Issues

We plan to send every Colorado State legislator an email survey with six questions to solicit their support of HOA homeowner issues. This will be completed later this year. The results will be posted on our web site. We urge our members and all HOA homeowners to use this information when casting their ballot this November. What could more or equally important to you than your rights as a homeowner?

Read the Reports (links on our web site)
www.coloradohoaforum.com

DORA Recommends Regulating HOA Property Management Companies
<http://www.dora.state.co.us/opr/archive/2012HOAManagerSunrise.pdf>

Colorado HOA Information Office and Resource Center Annual Report
<http://www.coholaw.com/uploads/file/2011%20Annual%20Report%20of%20the%20HOA%20Information%20Office.pdf>

Featured Article

HOA Fees and Assessments: Limitless?

HOA's and their interest groups have done a masterful job of gaining exclusion from State and/or Federal consumer protection and foreclosure laws. The sky is the limit for compounding a simple debt into an unbearable amount due to interest, administrative, legal, and handling fees. Your home can be foreclosed for the smallest amounts due.

HOA governance is involved in maintaining community standards through covenant and restriction enforcement and ensuring resident HOA dues are paid to support community business. Violators are assessed fines. HOA's have no interest in using fines and delinquent accounts to increase income, none. Residents, of course, have no agenda to withhold their payment. However, in tough financial times some may become delinquent. Most reasonable residents understand the concept of late charges and administrative fees on amounts due but are outraged when reasonable turns to abuse and profiteering.

A case in Gunnison County, Colorado (posted on our web site) should alarm all HOA homeowners concerning HOA collection practices. It should also prompt HOA homeowners to contact their State representatives and/or the Colorado HOA Information Office and Resource Center to ask for their support on HOA reform preventing abusive collection practices (go to our web site www.coloradohoaforum.com for easy guidance on how to complete these tasks). In brief, an HOA originally brought action against a homeowner for 5 covenant violations. The HOA offered the homeowner the opportunity to attend a hearing before the HOA Board of Directors. The homeowner refused to present their case to the Board as there was at that time only one Board member who was the same person involved in issuing the violations complaint. Four months later, the HOA filed a lien against the

homeowner's property for, sit down when you read this, \$601,000. This amounted to a fine of \$1,000 per day per violation plus interest. I can't make this stuff up and this is why HOA legislative reform is needed NOW!

For reasons unknown, the fine was reduced to \$100 per day per violation totaling \$116,000.

Something is wrong with this picture. Next, the HOA presented the case to Court with the new and abusive total of \$263,000.

The outcome of this case ended with all sides losing. If the HOA had not erred in recording/filing its' declaration (creating the HOA as a legal entity under State law/CCIOA (Colorado Common Interest Ownership Act)) negating the enforcement of the covenant violations, we don't know how the Court may have decided this case and what fines and HOA legal costs may have been levied against the homeowner. The homeowner ended up paying a \$100 fine and must have also paid thousands, most likely tens of thousands, of dollars in legal fees and other costs. The HOA incurred their legal costs. Everyone lost. No telling what would have happened to our homeowner if they had not had the financial resources to fight this in Court. The best case scenario might have been correcting the covenant violations and paying the lesser fine of \$116,000. Most likely they would have lost their home and been liable for the fine of upwards to \$263,000. All this could have been avoided with reasonable HOA legislation.

Colorado HOA law should make fees and assessments reasonable and with limits (this isn't difficult to figure out) and in accordance with mandates under the Consumer Protection laws. There should be a means to negotiate such HOA conflict resolution out-of-Court through binding arbitration: this is quick, easy to understand, less costly, can normally be completed without the assistance of a lawyer(s) and works in other areas of jurisprudence in society.