

The problem:

“the Court system as a process for HOA dispute resolution is a pay-to-play venue that works well for HOA and property management companies 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”

1.5 Million Colorado HOA Homeowners Believe Their HOA Governing Documents and State Laws Protect Their Rights: Maybe!

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 fees, 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!

*Write the Colorado HOA Information Office and Resource Center and your State Representatives about your concerns with your HOA, this does help!!
Visit our web site for easy to use tools/links to communicate your concerns:
www.coloradohoaforum.com*

**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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“out of court binding mediation doesn’t require giving up anyone’s rights to due process, if the Court system is inaccessible and too costly for homeowners to resolve their disputes, then using an out of court solution is giving up something you never in reality had”,

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 have your friends 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.

2011 – 2012 Legislative Sessions

Frustration characterizes citizen efforts to improve HOA (Homeowners Association) legislation. HOA efforts in Legislative sessions 2011 and 2012 focused on defining what records HOAs must retain and release to homeowners, guidelines to prevent conflicts of interest among HOA Board members, an effort to regulate and license HOA property management companies, and the opening of the HOA Information Office and Resource Center. This work mostly reiterated and clarified what was already in State HOA law. It also, unfortunately, replicated the flaws in all previous HOA laws. Specifically, failure to address any effective, accessible, and affordable enforcement processes making the law basically unenforceable.

It's back to the future with the 2011-2012 legislative effort with little support for Colorado's 1.5 million HOA homeowners. Actually, Colorado doesn't need more HOA legislation. We need to make current legislation more effective. HOA law already clearly, effectively, and fairly addresses HOA governance and homeowner's rights. To make it work for homeowners, it needs to be modified to include enforcement and penalty processes other than our Court system. The Courts are expensive, timely, and complicated making this means of enforcement basically ineffective and inaccessible to 99% of homeowners. It's like the poll tax which only allowed those who could pay to vote enjoy the benefits of voting rights. In the HOA legal and legislative world it is a totally pay-to-play environment if you want to pursue your rights. An out-of-court binding mediation process for most HOA disputes would allow for effective, accessible, affordable, and fair enforcement of HOA law. Why is this so difficult? Our homeowner advocacy group, Colorado HOA Forum, www.coloradohoaforum.com, applauds the legislative effort on HOA reform but is disappointed with the results.

One bright spot was the creation of the Colorado HOA Information Office and

Mandating Term limits for HOA Board members (when others are willing to serve), will bring open governance and transparency to HOA affairs.



Resource Center. This Office is an administrative entity with the primary purpose of recording and reporting HOA homeowner complaints. While it has no mediation or enforcement authority, it did provide valuable insight into the types and high number of homeowner complaints against HOA Boards and property management companies.

Another positive may be related to HB 12-1237. This bill initially had a clause in it that would allow any and all homeowner requests for records to be denied if the HOA believed such a request could result in legal action. This would provide an HOA an excuse to deny records access. We protested this clause, as I am sure others did, and it now appears it has been removed. The bill still doesn't address enforcement and penalty issues but at least it doesn't make difficult things worse related to records access.

Also addressed was the issue of licensing and regulating property management companies. This has been delayed and will be re-visited during the next legislative session. This effort is long overdue to protect homeowner's rights and their financial resources from questionable practices that have bankrupted many HOA's.

The solution to improving HOA legislation and homeowner rights is not more legislation. Future legislative efforts should be directed at modifying current law to include an out-of-court dispute resolution process such as binding arbitration/mediation. Until this change takes place no homeowner should assume their rights stated in State legislation or in their HOA governing documents are protected and enforceable in our pay-to-play Court system.

HOA Town Hall Meetings

We plan to participate in several HOA Town Hall Meetings to be conducted by State representatives this year (either on a panel or as audience participants). Our discussions with several representatives who have been sponsors of HOA legislation in the past indicate interest on their part. We hope the Town Hall sessions will involve the State representative hosting the meeting, a representative from the property management trade group (not their lawyer), possibly a person from the Colorado HOA Information Office and Resource Center, and, of course, a member of our organization. We will discourage the participation on the panel of lawyers representing industry groups, real estate developers, and others who are non-homeowner-centric. We do invite these interest groups to attend as participants in the audience and they may ask questions along with all other audience attendees. The topics we intend to promote/discuss include what the State representatives intend on submitting to the legislature for consideration pertaining to HOA laws, the 2011 report from the Colorado HOA

Town Hall Meetings Continued

Information Office and Resource Center, licensing and regulation of property management companies, the abusive practice of excessive fees on HOA delinquent accounts, developing an out of court dispute resolution process for homeowner complaints, HOA foreclosure processes, and other issues as suggested.

Dates of Town Hall Meetings will be posted on our web site. We encourage you to contact your State representative and ask for their participation or conducting a similar Town Hall Meeting in their district.

Regulating and Licensing Property Management Companies

Although efforts to license and regulate HOA property management companies have been shelved until later this year, it appears the time is now. DORA did receive a proposal from the property management trade group, CAI, on this matter. Of course it was tailored to their interests but did provide a good foundation for future and good legislation. The good news is DORA and the legislature didn't accept the proposal as written.

The CAI proposal was basically comprehensive but directed this reform too much for their own self-interest such as the golden opportunity to promote what they do best for their own self-interest such as selling educational courses (that's what they do based on what is on their web site) vs. workable enforcement and dispute resolution for homeowners. This group opposes an out of court dispute resolution process and favors more of a lawyer and cost-centric courts venue. However, if regulatory oversight does take place it would seem as though homeowner complaints would be settled via DORA or some other out of court venue: a win for homeowners. What we don't need is for this group to police itself as that simply has never worked in favor of or in fairness to the consumer/homeowner.

State Legislator Survey on HOA Issues

"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"

We still 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 understand that the likelihood of legislators responding will be low but want to share with the public those representatives that care enough about HOA issues to at least answer a brief survey.

We urge our members and all HOA homeowners to use this information when casting their ballot this November. What issue could more or equally important to you than your rights as a homeowner?

How to Clean-up the HOA Dilemma



HOA's can be a delightful, property value enhancing, and amenity filled experience. People who move into HOA's understand they must pay dues, obey covenants and by-laws, and that State laws protect their homeowner's rights. Over 1.5 million people live in Colorado HOA's. So what is the big complaint about HOA's. It's normally people who manage the HOA: Board members and property management companies. It's the little realized fact that HOA governing documents and State laws are mostly unenforceable from the homeowner's perspective: they find out about it when it's too late. The Colorado HOA Information Office and Resource Center, virtually unknown to the public, has received over 500 homeowner complaints in 2011 documenting the need for HOA reform. Yes, an HOA governance problem exists.

A good beginning to cleaning up the abusive and disruptive practices that irk HOA homeowners:

HOA dues. You agreed to them, so pay them, if not, you should pay a reasonable collection/penalty fee. Legislation is needed to cap excessive collection and legal fees. Your Board should modify governing documents to preclude excessive fees.

Foreclosures: An HOA can foreclose your home for any amount due. This should be a last resort (or banned for amounts due under \$5,000 and less than one year in arrears). Conditions of foreclosure should be defined in your HOA governing documents. Reasonable collection fees should be assessed for delinquent debt, a lien filed as applicable, and collection upon sale of the home.

HOA Boards of Directors: Too many HOA's have residents who have served on the Board since the beginning of time. This ensures absence of open governance and transparency. HOA's should mandate term limits (when others are willing to serve).

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>

How to Clean-up the HOA Dilemma, Continued

Enforceable HOA legislation and HOA governing documents: HOA law is like a poll tax. If you can pay to vote you have your voting rights. HOA law enforcement is via our Court system: litigious, costly, complicated, and unfriendly confines for HOA homeowners. HOA's (and lawyers) understand most homeowners can't afford the court system so abusive HOA's and property management companies can basically ignore governing documents and State law with impunity. The court system is also a pay to play process: you can pursue your rights if you can pay to prosecute. The solution is an out-of-court process involving independent mediators: low cost, based on HOA law and governing documents, and quick resolution. This solution doesn't require any homeowner to give up their right to due process. If in reality the Court system is not available to homeowners then it can be argued you can't give up something you don't have.

HOA homeowner dispute resolution concerning compliance with HOA governing documents and State law for disputes in amounts less than \$5,000 and/or non-felony issues don't belong in our Court System. Binding mediation/arbitration is a process that can work for both the HOA and homeowner. This process is paid for by the homeowner via filing fees, mediator costs paid for by litigants, it allows cases to be heard in a timely manner, is fair and impartial, is low cost and accessible to all homeowners, and involves no lawyers.

HOA home buyer education: Home buyers must be mandated to review the HOA's governing documents and financial soundness. Also, home buyers should meet with a Board representative to answer their questions prior to finalizing their purchase of a home.

Implement the above and you will resolve 95% of the problems homeowner's have with their HOA's.

Our group, Colorado HOA Form (www.coloradohoaforum.com) , works for Colorado HOA legislative reform and to educate the public on HOA issues from a homeowner's perspective.