

HOA State Office for Dispute Resolution: stop the lies, it works, it avoids legal costs
20 Issues in Support of an Out of Court Dispute Resolution Process
And a Legislator's Guide to Support HOA Reform
An Article by the Colorado HOA Forum www.coloradohoaforum.com

A second study completed by the State of Colorado in 2019 concerning HOA's (home owners associations) recommends the State implement an out of court binding dispute resolution process. Previous legislative attempts by HOA home owner's advocacy organizations have been killed by well-funded lobbyists of the legal and property management industry. There is plenty of evidence that HOA home owner complaints continue in abundance and go unresolved due to no affordable and accessible venue for dispute resolution. Thus home owner's rights under State law and HOA governing documents are mostly unenforceable from the home owner's perspective.

The 2020 legislative session will consider a Bill to implement an out of court dispute resolution process within the State HOA Office. Legislators will be confronted again by outright lies and distortions from lobbyists to kill any such effort. Let's look at the issues involved, specifics on how it would work and responses to the opponents of implementing this process:

1. A new Office or bureaucracy would have to be created to implement an out of court dispute resolution process within the State HOA Office: False. The State HOA Office already exists and already accepts home owner complaints. This process expands the Office's authority to investigate and render decisions.
2. Taxpayer dollars would be required to implement: False. The system would be funded by HOA registration fees and supplemented by a reasonable-low cost complaint filing fee. [A study on how to implement this system.](#)
3. The cost to HOAs and home owners would be burdensome: False. The increased cost to HOAs in registration fees would amount to pennies, yes pennies, per year per household. The cost savings to HOAs and home owners in avoiding court costs would conservatively be in the millions per year.
4. The State would be implementing a program in which it has no experience and the learning curve would be steep. False. DORA has decades of experience in managing dispute resolution processes for consumers related to regulated professions. It has recently managed a similar process for HOA property manager complaints and soon will implement such a system to resolve home owner disputes for mobile home communities.
5. Home owners would give up legal rights: False Home owners would still be able to litigate any complaint in court.
6. There is no precedence in other States that would suggest this system would be successful: False State administered dispute resolution for home owner complaints has worked in several other States.
7. There is no evidence that home owners would benefit. False Home owners and their HOAs spend millions each year in legal costs that can be mitigated through an out of court process. Most home owner complaints are simple and based upon their HOAs governing documents and don't warrant a court case or require a lawyer or burdening our court

system. Even the most simple HOA court case can cost thousands of dollars and can be avoided by a State administered dispute resolution process.

8. It would be unclear as to the type of complaints to be handled by the State HOA Office: False The State process would only pertain to violations of State HOA law and HOA governing documents: no felonies or litigation involving monetary settlements.
9. The cost to set up the system, staff the Office, gain office space and develop the infrastructure will be excessive: False The State already has funded through HOA registration fees office space, computer systems, staff, web site, dispute filing system etc. with any additional costs paid for via HOA registration fees as previously mentioned.
10. There is no evidence home owner complaints are of a magnitude to warrant implementing a State system: False Since its' brief and mostly unknown existence, the State's HOA Office has received thousands of complaints; media including TV, newsprint, and radio feature HOA problems; two State studies have indicated a need; and legislators are contacted frequently about HOA violations.
11. Home owners can use other more cost effective and efficient means to resolve HOA disputes: False First and foremost, they would if they could and no current process is affordable, accessible or effective. In a State system, home owners would still be required to bring their complaints to the Board for resolution prior to filing with the State as defined in their HOA's governing documents. Alternative processes such as mediation have been available to home owners for 25 years under the law and simply have not worked: complaints continue and grow. Mediation costs \$400-500 to pursue one's rights as a first step in dispute resolution in a "hope" for a solution; adds unnecessary time, cost, complexity and process; and when parties don't follow agreements to solutions home owners end up in court to gain enforcement. Mediators are not a regulated or legally certified profession; anyone can be a mediator and they require no special knowledge of HOA law thus making such a process less than creditable; often the use and selection of mediators is controlled by an HOA Board; and home owners can be stuck with costs regardless of the outcome. Furthermore, the State would not have the financial resources to confirm the background, credentials, and case histories of mediators; it would require the State to manage and coordinate activities with a third party on investigating and reviewing results and ensuring their compliance with rules; and simply add time, cost and complexity to rendering decisions.
12. The State has no skill, knowledge or experience in HOA law or governance and working with HOAs. False The State has a State HOA Office fully versed on HOA law.
13. The State has many definitive and comprehensive HOA laws setting forth home owner's rights that are fairly, expeditiously and easily enforceable through our court system: False The court system matches the home owner's limited legal and financial resources against the HOAs unlimited resources: a totally unlevel playing field. State laws have no mention of enforcement other than defaulting to our court system making most laws only administrative for reasons previously mentioned.
14. Any State dispute resolution process would still require both HOA and home owner to hire lawyers. False No lawyers would be required in a State process and home owner's would simply not need a lawyer as disputes are based on HOA governing documents and State law and not complex.

15. Any decisions rendered by the State would not be legally enforceable. False Decisions and penalties assigned by the Department of Regulatory Agencies (DORA) in which the State HOA Office resides are enforceable.
16. A State dispute resolution process would dampen interest by home owners to serve on their Board: False No additional responsibilities or vulnerabilities to financial liability would be involved. Board members already are protected through insurance coverage provided via the HOA. Penalties for Board non-compliance with governing documents would be a directive to comply and not involve suing any Board member.
17. A State system would be too complicated to work for home owners: False The State System would simply involve filling out an on-line complaint form and working with State officials in the investigation of any complaint. The process has been in effect for regulated professions, property manager complaints and will be used for complaints by home owners with their community management.
18. HOA home owner's rights enforcement is a partisan issue: False Home owners are not Republican or Democrat, Liberal or Conservative but simply citizens of the State. This should be an issue that any legislator can support.
19. A complaint system in the State HOA Office would be overwhelmed with frivolous complaints bringing it to a stop. False There is no evidence to support this claim. In States that have implemented dispute resolution this has not been the experience. Suggestions for requiring a minimum filing fee would also mitigate the number of complaints as would good filing instructions to home owners. The very existence of a State dispute resolution process would lessen abusive practices as Boards would understand non-compliance with the law can be fought by home owners.

Colorado legislators have the opportunity during the 2020 legislative session to greatly improve HOA home owner's rights and make Colorado's comprehensive HOA laws effective by finally implementing an enforcement process to support such laws.