

HOA State Office for Dispute Resolution and a State HOA Data Repository
A Guide to Refute Arguments Against Implementation

Presented by the Colorado HOA Forum www.coloradohoaforum.com

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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, classifies and reports on 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 less than fifty cents per year but yield cost savings to HOAs and home owners by avoiding legal/court costs in the order of millions per year. Visit the coloradohoaforum.com web site for details, click on Dispute Resolution icon
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. High numbers of complaints continue through 2019. This is quite an impressive number of complaints for any issue but when an Office is basically unknown to the public these number can be considered alarming.
11. A dispute resolution process within DORA would be more costly than a court case. **False** Most complaints are simple and easily and quickly litigated and based on State HOA law, most cases are black and white and not involved with or require legal counsel. Even a mediation session (with its "no-guarantee" of settlement or decision, conducted by person (mediator) that doesn't have to have any knowledge of HOA law nor is there any process to license mediators or any defined educational or legal experience) costs \$400-600 for the home owner that far exceeds any expected cost in this proposal and that is just to pay for the mediator and not the HOAs legal costs. Also, even the most simple court case can cost several thousand dollars and it is absurd to say this process (with at most a \$50-75 filing fee) would equal that of a court case or mediation.
12. Home owners can use other more cost effective and efficient means to resolve HOA disputes than this proposed process or going to court: **False** First and foremost, they would if they could and no current process is affordable, accessible or effective or offered under the law. 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. See item 11. Furthermore, the State would not have the financial resources to confirm the background, credentials, and case histories of mediators; using outside mediators would lead to independent and inconsistent processes in dispute resolution; and simply add time, cost and complexity to rendering decisions.
13. 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.

14. 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.
15. 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.
16. 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. A previously managed dispute resolution process for complaints against property managers rendered enforcement and so will the newly enacted dispute resolution process for mobile home communities.
17. 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.
18. A State system would may be too complicated 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.
19. 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.
20. 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.
21. Implementing a State HOA data repository as an addition to any Bill related to implementing a dispute resolution process would be too costly to HOAs: **False**. The current HOA registration process is limited and not very useful to the public. Requiring HOAs to download all governing documents identified by DORA in the home closing process to the State HOA Office upon registering would not add any expense to the HOA more than what a file transfer costs (in other words not a measurable expense). These documents exist in HOAs and are paid for with HOA dues. The availability in a State data repository would allow for home sellers to inexpensively complete the home closing documentation tasks by themselves or via a private company to save hundreds of dollars and make valuable State

wide HOA data available to home buyers, Realtors, businesses, housing authorities and others interested in understanding and analyzing the largest segment of housing in our State which is HOAs. Visit the coloradohoaforum.com web site for cost implementation and maintenance information, click on the Dispute Resolution icon