



Colorado HOA Forum HOA Homeowner Advocates

Promoting Reform in HOA Governance

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Oct — Nov 2013

Web Site: www.coloradohoaforum.com

Email: coloradohoaforum@gmail.com

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Lark Bunting: CO State Bird

PARTICIPATE, GET INVOLVED, VOICE YOUR CONCERNS

CONTACT YOUR STATE REPRESENTATIVE AND ASK THEM TO SPONSOR HOA LEGISLATION IN SUPPORT OF OUR GOALS! HAVE THEM CONTACT US

Contact us at:

www.coloradohoaforum.com or email us at coloradohoaforum@hotmail.com

Join our effort by signing up on our web site. The web site contains articles, reference information, current events, and tools to help you write your legislators and State offices.

Write the Colorado Information Office and Resource Center about your concerns with HOA governance and homeowner's rights. THIS DOES HELP!!

Request our business cards through our web site for distribution to your neighbors or at an HOA meeting. Ask your friends and neighbors to join our movement. it's free.

We are making progress, more to come!

The 2013 legislative session was a success for Colorado HOA homeowners. Four Bills were passed into law that laid the groundwork for future improvements in HOA governance. Visit our web site to access the [full copies of each Bill](#), a [summary of each Bill](#), and to view our [2014 legislative goals and objectives](#). Your participation in our email and telephone campaigns and attendance at HOA meetings are definite factors in getting Bills passed. You are urged to [check out how your legislator voted on these Bills](#) and if they voted against them **ask them why?** HOA issues are not partisan issues but homeowner issues! We ask for your continued support in our efforts to reform Colorado HOA law.



[Stunning Video of Mountain Goats](#) Byers Peak Colorado
Photographer: Jason Hrinkevich

HOA legislative reform is our main method for improving upon HOA governance. Our number one goal is to implement a **binding out of court dispute resolution process** for use in resolving HOA complaints. [Please read about this on our web site.](#)



Estes Park, CO
Gateway to Rocky Mountain National Park





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Our 2013—2014 HOA Legislative Goals

The Colorado HOA Forum's legislative initiatives:

1. Include an [out of court binding dispute resolution](#) process in all Colorado HOA laws (replace courts and mediation)
2. Improve upon Colorado legislation that licenses HOA property managers
3. Limit fees and administrative costs on HOA debt during repayment periods and on any amounts of HOA debt.
4. Increase the roles, responsibilities, authority, and enforcement capabilities of the Colorado HOA Information Office and Resource Center including involvement in administering an out of court binding dispute resolution process
5. Restrict/limit transfer fees in the sale of HOA homes
6. Require realtors and HOA home buyers to be provided with the following and certify they received and read them: a copy of the HOA's governing documents: information on insurance coverage provided via the HOA; any HOA homeowner debt or HOA liens associated with the home; a current HOA financial statement; the amount of HOA dues; any current and/or planned special assessments, status of the HOA reserve fund, the number of rentals and foreclosures in the HOA; rental restrictions and other items identified in our HOA Home Buyers Guide.
7. Term limits on HOA Board members when others are willing to serve and a requirement that all HOA Board members certify they read their own governing documents **and** select information on the State's HOA Office's web site..
8. Include as part of the HOA registration process a certification that HOA Board members read their own HOA governing documents and applicable information posted on the State's HOA Office's web site concerning State HOA law. In addition, require each HOA to provide the State's HOA Office a copy of their governing documents, the amount of HOA dues, the CAM

(property management company) hired to manage the HOA, and any special assessments that are current and/or proposed. This information posted on the State's HOA Office's web site. The HOA is required to update this information when changes occur and annually.

[Details on legislative proposals are on our web site Home Page](#)

State Study on Dispute Resolution: opportunity recognized or lost

[The full transcript of this position paper is on our web site Home Page:](#)

Got an HOA problem, read on. Colorado's State HOA Office through HB-1134 was directed to perform a study to recommend an optimal HOA dispute resolution process for homeowners. Due date, December 31, 2013. The result of this study will either make Colorado's many extensive and definitive HOA laws effective or endorse a continuation of the empty HOA law enforcement environment that has been in place for the past two decades. Depending on the outcome of this study, home buyers may continue to have a legitimate **reason for not moving** into an HOA: **HOA by-laws and State laws would continue to provide little protection from abusive practices of HOA Boards from a homeowner's perspective.**

Colorado HOA laws provide homeowners with our courts as the primary means of dispute resolution: costly, litigious, time consuming, and out of reach for most homeowners. State HOA law also advocates the processes of mediation and arbitration. Mediation, unfortunately, is a process that asks homeowners to gamble hundreds of dollars on a process that doesn't guarantee a binding outcome. Additionally, any mediated agreement can subsequently be ignored by either party without prejudice sending the homeowner back into the unworkable court system for a decision. Who is kidding whom by advocating mediation as a workable process? [Full article](#)



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HOA Transfer Fee on Home Sales Must End to Save Home Buyers Millions

One issue we can all agree upon is that unjustified, opportunistic, and excessive fees and taxes should end. A “transfer fee” on residential home sales was prohibited through HB 11-234 except on community association properties (HOA’s). HOA transfer fees can range anywhere from \$75 to over \$500+. The HOA does not demand, authorize, or receive the fee. The fee is charged and received by a Community Association Manager (CAM) also referred to as a property manager. The exception was allowed into law to ensure CAM’s are reimbursed for extraordinary records maintenance and administrative costs related to HOA home sales (not present with non-community property home sales). However, neither the lobbyist or the CAM’s who sneaked this exception in the law ever identified this extraordinary work. Why? Because it doesn’t exist.

Some misinformation needs to be cleaned up on this issue. The transfer fee is not an advance payment of HOA dues, a “contribution” to the HOA to raise revenue for capital improvements, an amount determined/mandated by the HOA to be charged the homeowner, required by a financial institution or HUD for loan approval, a cost to provide HOA governing documents/by-laws, or a type of “buy-in” to the community. Most of all, it is not revenue to the HOA!

The HOA home sale transfer fee continues because it can.

[Continue to our web site Home Page for full article](#)

HOA Home Buyers and Maintenance Guides Guide

Our [HOA Home Buyer's and Maintenance Guides](#) are available on our web site for your free downloading. The guides provide you with a list of unfiltered questions you should seek answers to before buying your home in an HOA. Too often the realtor and or others will not provide or maybe even purposely avoid providing you this information. There are no laws guaranteeing you will be provided with our recommended list of items. Openness and disclosure during the home buying process is recommended but too many important disclosures are left out causing homeowner post purchase blues.

These guides are used in our HOA Home Buying seminars and can be accessed on [our web site](#). Avoid problems by knowing what questions to ask before you close on the home!

HOA Home Buyers Seminars 2014

We plan on conducting HOA Home Buying seminars beginning in March 2014: the schedule will be posted on our web site. This presentation can not be found elsewhere as it is from the homeowner’s perspective and includes no sales pitches.

Legislator’s Town Hall Meetings Must be Inclusive to End HOA Misinformation

Our group recently attended a Legislator’s Town Hall Meeting. The legislator invited our group to let constituents know there was an organization that represented HOA homeowner interests. We’ve attended such meeting in the past and once again we find out why our presence is important.

A lawyer was there representing HOA Boards and the legal community. The misinformation, for example, on transfer fees was anything but correct and recanted when we challenged it. This happened at another Town Hall Meeting when a lawyer and those representing mediators distorted our proposal for an out of court binding

[Ask your neighbors and others to join our effort through our web site.](#)

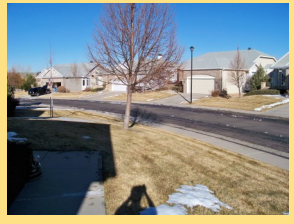


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Dysfunctional Snow Removal

Legislator's Town Hall Meetings Must be Inclusive (continued)

dispute resolution process. In fact, they attempted to criticize it and apparently never read it.

The "experts" at these meetings have been legal counsel for HOA Boards and HOA Property Managers. They oppose out of court binding dispute resolution, represent property manager interests including continuation of transfer fees, are problematic in limiting HOA and attorney fees on HOA debt, and defend dysfunctional HOA Boards against homeowners in court.

It is no wonder that our legislators are misinformed on HOA issues from the homeowner's perspective when their only source of information is from those who represent other than the homeowner.

We aim to stop the misinformation that is allowed when only one voice is heard on HOA issues. Our group will be sending out requests to all legislators asking them to include our group in any public meeting they conduct when HOA issues are the topic. We find our issues very acceptable and reasonable to legislators especially when they get the rest of the story from the homeowner's perspective.

HOA Painting Restrictions

So you want to paint your home red and the HOA governing documents say only shades of brown? [Check out this article.](#) Once again, when you move into an HOA you are giving up some homeowner/property rights in return for what you like in an HOA community. You give up rights to sustain the appearance, cleanliness, maintenance, and property values that attracts buyers. If you want to be the rebel and deliberately violate the by-laws you are subject to fines. This is called inviting a problem.

Advance Fees and Contributions are not Transfer Fees

Advance fees and contributions are not HOA transfer fees. [Read this article for an explanation.](#) These fees are retained by the HOA. Transfer fees, charged for an entirely different purpose, are retained by property management companies. You will hear representatives from the property management industry and others publicly state incorrect information about HOA transfer fees that are assessed on the sale of a home. Their argument is they only charge for the extraordinary expenses incurred by property managers when an HOA home is sold. Wrong and deceptive and never justified even by the interests groups who fight to retain it. [Check out our article based on fact and not financial interest.](#)

Hands Off Satellite Dish

[Check out this article on installing a satellite dish.](#) The Over-the-Air Reception Devices (OTARD) rule was passed in 1996. This rule is pretty specific about what the HOA can't do, regardless of what your CC&Rs say. This may be helpful if you are fighting to install your dish but your HOA is objecting. Appears they can't prohibit or supersede the law by banning dishes but it also appears they can direct where the dish can't be installed, the size, and make the installation fit into the HOA's aesthetic standards and also ensure it is not a nuisance to neighbors. If your HOA is obstructing installation or fining you over the installation send them this article and remember your only recourse is our costly court system and the cost benefit of fighting this issue in court could make your quest for rights enforcement a costly experience even if you win in court.

[Another article](#)

Mediators are not licensed, regulated, or credentialed in HOA law

If you follow our organization you know we object to mediation as the dispute resolution process for HOA vs homeowner complaints: this only adds time, cost, process, no definite finality into the complaint process, requires homeowners to gamble hundreds of dollars on the hope of an agreement and, if not, they are back to the court as a solution. **Now think about this.** Mediators are not recognized as a profession. [They are not regulated or licensed, they complete no credentials requirements on HOA law, and on and on.](#) In other words, you, your neighbor, your auto mechanic can legally be a mediator in resolving HOA complaints. Does anyone think this situation is the way to handle HOA dispute resolution?



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HB 13 1276, HOA Debt Collection, requires modifications

If you read this newsletter you are familiar with the saying “we don’t need more HOA laws, what we need are enforceable laws”. In the case of HOA debt collection, a clarification and restriction on HOA debt collection policies was/is needed. HB 13-1276 improved a homeowner’s ability to avoid foreclosure on HOA debt and provides for a path to getting out of debt. The Bill, however, placed no limits on fees, fines, and those \$100 lawyer debt collection notices (even during the repayment period). The new law still allows for more “debt” in the debt collection process than emphasis on “collection”. Getting a homeowner deeper in debt during the repayment period or with any HOA debt through excessive fees can only guarantee much of this debt never being paid. The only beneficiaries of excessive HOA fines and fees are those assessing fees not the HOA! The fees don’t go to the HOA but to their lawyer and/or management company. HB 13-1276 needs to be revised to address excessive fees on HOA debt to make it beneficial to the HOA and help homeowners repay debt.

A final comment on excessive fees. At a recent Town Hall Meeting on HOA’s a lawyer involved with property managers and collection practices proudly told the audience they typically charge the debtor \$100 to issue a form letter to a homeowner notifying them of the debt and possible legal action. Most would be embarrassed at this excessive amount that harms debtors, does not help the collection process, and a charge that can’t be supported by work effort. However, our legal HOA expert didn’t hesitate sharing this bit of information.

Holiday Lighting Restrictions: Know Your Governing Documents

Read your HOA governing documents (also referred to as your by-laws or controls, covenants, and restrictions). This should have been done prior to buying your HOA home and for sure prior to protesting any violation notice from the HOA Board. These are enforceable rules, made public to all homeowners, and are part of the contract between the homeowner and HOA.

[A recent article](#) gives a good example of a homeowner protesting a fine for their early display of holiday lighting. The governing documents were clear on the dates of display. The homeowner displayed the lights anyway. If you don’t play by the rules you will and should be fined.

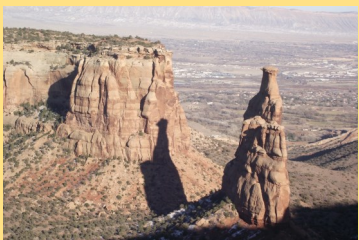
Are my HOA dues Reasonable?

This question is common, “Are my HOA Fees Reasonable?”. The only way you can figure this out is to identify the services provided by the HOA for which you pay HOA dues. Our [HOA Home Buying Maintenance Guide](#) will help you identify these services.

Each service provided has a value unique to each home buyer/HOA resident. Some can be assigned a monetary value such as a health club, lawn maintenance, and snow removal services. Other amenities paid for by your HOA dues such as enforcing covenants and controls, security measures such as a gated entrance, community club house/pool and related activities must also be valued by the homeowner. Then you have to figure out if that which you understand is paid via dues is deliverable in a quality manner. There is no standard formula to provide an answer to this question except in most cases “you get what you pay for”. You can also ask your realtor or friends what other HOA’s charge in dues and compare the amenities.

Be sure that the HOA is using part of those dues to fund the **reserve fund** or your dues may be subject to continued increases and/or periodic special assessments can be levied against homeowners to make capital improvements normally funded through reserve funds.

In the end, what you pay is normally related to services provided and the value you place on each.



Order our free business cards for distribution at your next HOA Meeting or to your friends.



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HOA Bits and Pieces

Attend a State HOA Office Outreach Meeting

The Colorado State HOA Information Office and Resource Center conducts community outreach programs to educate homeowners on HOA issues. [The schedule is posted on their web site.](#) and our home page: www.coloradohoaforum.com

State HOA Office a one-stop-shopping web site for HOA information

The Colorado HOA Information Office and Resource Center has improved its' [web site](#) and is close to becoming a one-stop shopping HOA information web site/portal. You can obtain general advice on how to handle HOA disputes, buying a home in an HOA, how to file an HOA complaint with the State, copies of HOA law, how to register your HOA, how to conduct HOA meetings, copies of the State's annual HOA report, and more. We hope this office expands its authority and responsibilities in the future through legislation but for now it is a valuable resource for all HOA homeowners. [Web site](#)

Have an HOA Problem: [let us know](#) and write the [State HOA Office](#). [Link to complaint form on the Home Page of our web site.](#)

[Is Your HOA Registered? Check Here](#)

DORA and Realtors must mandate open disclosure in HOA Home Sales

Too many homeowner problems relate to homeowners not knowing or not being informed about the HOA they are considering for their home. Buying a home in an HOA is different and homeowners need help to ask the right questions before they buy the home. In fact, too often many of the issues homeowners should be aware of are not mentioned due to the possible negative impact on the potential home sale. Our HOA Home Buying seminars and Home Buying Brochures (on our [web site Home Page](#)) indicate what should be mandated by law to be provided to an HOA home buyer prior to closing.

DORA and realtors should support our buyer education effort. To date we feel they have shown poor leadership in ensuring comprehensive and open disclosure is part of the HOA home buying experience. Our group will be working on this as a legislative proposal. To date, allowing this issue of disclosure to be optional has been a failure and resulted in a multitude of problems for HOA home buyers that could have been avoided had they been informed PRIOR to their closing on the issues in our home buying guide.

Yes, when voluntary compliance fails, legislative action is warranted.

[Previous Issues of Our Newsletters](#)

MISSION STATEMENT

The Colorado HOA Forum is an advocacy group for HOA homeowner's rights. We recognize the need for HOA legislative reform to ensure effective and fair 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 efforts don't hinder volunteers from serving on an HOA Board and ensure such service will be the altruistic and giving experience intended. Our efforts are directed at ensuring HOA Boards and property management companies abide by their own governing documents and State HOA laws. We are strong advocates of making changes to current HOA law to include a homeowner dispute resolution process that is accessible, affordable, and fair for both the homeowner and HOA: [out-of-court binding dispute resolution](#).