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**HOA Legislation Passed, HOA Property Managers to be Licensed!**

**Thanks to all of you who participated in our write-in campaigns and supported our efforts.**

**See how your State Representatives Voted**

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 as intended. Our efforts are directed at ensuring HOA Boards and property management companies abide by their own covenants, controls, and restrictions and State HOA laws and guidelines. 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 through a mandatory out-of-court binding process using arbiters.

Contact us at: [www.coloradohoaforum.com](http://www.coloradohoaforum.com) or email us at [coloradohoaforum@hotmail.com](mailto: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 through, it's all free.

**The problem:**

**"...the current Court system as a means for HOA dispute resolution is a pay-to-play process that works well for the HOA and property management companies with unlimited financial resources but is too costly, complicated, and litigious for most homeowners"**

**"...designating our Courts for HOA homeowner dispute resolution and enforcement is like the poll tax, you could vote if you could pay, most couldn't, likewise, you can take your homeowner's complaint to Court if you have the money, most don't, this environment makes HOA**

**The solution:**

**"...a mandatory, out-of-court, binding, dispute resolution process using professional, mediator-arbiters for most homeowner complaints" .... "this will have the immediate effect of making Colorado HOA laws enforceable from a homeowner's perspective ... the process is efficient, accessible, affordable, and fair for both homeowner and HOA and relieves the Court System of its' high volume of cases"**

Initiatives and HOA Legislative reform for 2014:

- ◆ Effective enforcement and penalty provisions in HOA law
- ◆ An out-of-court, binding dispute resolution process
- ◆ Cap fees, fines, legal costs, and administrative add-ons on HOA homeowner debt
- ◆ Limit foreclosures on homes related to HOA debt/fines
- ◆ Regulate and license property management companies to ensure their compliance with all HOA legislation and the governing documents of the HOA's they serve.
- ◆ Eliminate or minimize real estate transfer fees on the sale of an HOA home
- ◆ Require certification from HOA home buyers that they understand all covenants, controls, and restrictions prior to closing a home sale.
- ◆ Include as part of the HOA registration process a certification that HOA Board members read their own HOA governing documents and information posted on the State's HOA Office's web site concerning State HOA law.



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### 2013 HOA Legislation: great beginnings

The sponsors of HOA legislation can claim some victories in the 2013 legislative session. HB-1277 kicks off the clean-up of an industry that has been the root of many problems for HOA's. It requires HOA property managers to be licensed with penalties for violations. HOA foreclosures for delinquent debt will be more difficult with HB 1276 requiring HOA's to offer homeowners a payment plan prior to foreclosure action. Then there is HB 1134 which will require the State's HOA Office to conduct a study to identify an HOA dispute resolution process to provide homeowners with an alternative to expensive court cases to resolve complaints. ([Summary of all 2013 HOA legislation and impact on HOA's, homeowners, and property managers.](#))

**HOA homeowners should also be aware of how interest groups diluted the effectiveness of these Bills.** HB 1277 was used to promote a private company, the Community Association Institute (CAI), which could result in higher costs and an anti-competitive environment for HOA property managers seeking required educational sources to meet licensing requirement. This soured the Bill and is unprecedented and contradictory to DORA's (State Regulatory Agency) own policy of not pre-approving courses or endorsing specific private companies through legislation and/or implementing policy. HB 1134 was gutted of much of its' intended purpose to involve the State's HOA Office in disputes and conflict resolution. The Bill now directs a study on these tasks and even goes so far as to push for the solution to be "mandatory mediation". Mediation is already part of State law and making it mandatory will only add cost, process, time, indecision, and uncertainty as no decision is guaranteed through mediation except the possibility of no decision. Homeowners would thus be gambling their money on a process of the "hope" of a decision and when "hope" loses they are stuck with mediation costs and back to our pay-to-play court system and lawyers which to date has simply not worked and is the problem that prompted this Bill in the first place.

Overall, HOA legislative work was productive and the sponsors are to be commended. Our eyes will now be on how these Bills are implemented and our group, Colorado HOA Forum, [www.coloradohoaforum.com](http://www.coloradohoaforum.com), will direct its' efforts on the 2014 legislative session to modify these Bills to be more effective and accomplish their original intended goals.

[All HOA legislative Bills are available for your viewing on our web site](#)

### Licensing HOA Property Managers

First, HOA Property Managers will now become known as Community Association Managers or CAM. HB 1277.

The implementation of the Bill was postponed by one year until July 2015. The upside down story about this delay is that it appears that the representative(s) voting against this Bill was the one whom the sponsors allowed to delay the Bill's effective date by one year. Why would the Committee endorse this change from those against the Bill when they had the votes to pass the Bill without these dissenters/obstructionists?

This good legislation, HB 1277, had a sour note. It mandates HOA property managers be licensed in Colorado. Long overdue. It indicates there will be credential and testing requirements. Good! It states penalties for violations of standards. Now the inappropriate and examples of how lobbyist and lawmakers write bad legislation. The Bill specifically endorses credential programs from only one provider (free ad space and promotion of a private firm by the government); endorses courses which DORA (Department of Regulatory Agencies) has neither been authorized to review and approve nor can approve since these courses have yet to be updated for the content in this Bill and new HOA law; why is one company listed and not all (it should be all or none); the company listed has not been proven by DORA to be superior to others and for sure not more economical to students; the purpose of this Bill is to direct DORA to identify requirements and educational providers and not force them to make sure one company will be approved; if the course names in the Bill change, the company goes out of business, or requirements change the legislation immediately becomes incorrect; and then there is DORA's policy on their own web site that indicates they don't endorse educational providers or pre-approve courses but this Bill most certainly ignores that policy. All very inappropriate!

Other licensing legislation and descriptions of educational requirements on DORA's web site avoids all these violations of integrity in licensing and oversight. Again, the Bill should simply state DORA will determine requirements and list providers and costs on their web site, period.

The State needs to promote competition in credential and educational requirements offerings to contain costs and not go out of its' way to promote any one company and suppress competition. Our group will work to provide options for CAM's in meeting educational requirements.



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### HOA Dispute Resolution Gets Delays and "half-a-loaf" Mediation Process Gets Pro-

HB 1134 was approved but before that happened it was watered down. The main benefit of this Bill was to improve upon the authority and scope the State's HOA Office. It was originally written to get the Office involved in dispute resolution and decisions. It also laid the groundwork for the Office to identify a dispute resolution process to bring decisions to complaints in an out of court venue. We homeowners are now left with only a study to be performed by this Office on options for dispute resolution. Worse yet, the influence groups are pushing in the Bill that mediation or mandatory mediation be the solution. All is not negative as the Bill does lay the groundwork to consider the Virginia dispute resolution process in the study (see article this page).

We already have mediation in State Law and most HOA governing documents). Making mediation mandatory when it currently doesn't work solves very little and will only add time, cost, uncertainty, and more process to an already weak HOA enforcement system. Think how well this has worked to date?

Homeowners want an accessible and affordable HOA enforcement system and one that has a defined process from beginning to end. An enforcement process that renders decisions and not based on the "hope" of a decisions that mediation offers. An HOA legal enforcement process that is out of court for most homeowner complaints and is binding.

The idea of mandatory mediation contradicts all the positive aspects we advocate in enforcing HOA law. Mediation, optional or mandatory, is an enforcement system based on "hope", "if", and "maybe" not certainty of a decision nor does it bring the feature of finality t the complaint process; it is aimed at resolving some, not all, complaints thus leaving many homeowners with the costly, time consuming, and litigious court system to resolve simple problems which is the current problem; it will add time, cost, and more hoops for homeowners to jump through to gain a decision on a dispute; it will still clutter our court system with HOA cases that neither belong in court nor require the formality of our court system for a judgment; and this process will require homeowners to gamble several hundred dollars on a mediation session that in many cases will not result in any or only a partial decision which is simply unacceptable and unafford-

able for homeowners. Many homeowners simply will not gamble their dollars on the uncertainty of mediation and not pursue a complaint.

The idea is to resolve complaints, have decisions rendered, make dispute resolution affordable and accessible. [Our proposal of med-arb meets](#) this criteria. Mediation, mandatory or not, fails the test.

[Please see our web site for a graphic illustration on med-arb vs mediation vs our courts. There is also a flowchart illustrating the med-arb process.](#)

### Virginia Provides a Good Model for HOA Out of Court Binding Dispute Resolution

HB 1134 directs the Colorado State HOA Office to conduct a study to identify and evaluate options for HOA homeowner dispute resolution. It directs the Office to include the State of Virginia as a source for identifying a workable HOA dispute resolution process. Virginia has a model HOA complaint process directed at **gaining a decision in an out of court venue**. It empowers the State Office to be involved in processing complaints to promote decisions on problems. The process is very low cost to homeowners, doesn't require lawyers, it not litigious, is easy to understand, contains costs for HOA's, is completed in an out of court venue, and settles complaints quickly. It is a process that is fair and balanced and not based on an ability to pay (litigate). Unlike some other States that are experimenting with a process of "if's", "maybe's" and "hope" in dispute resolution through mediation (which is already in Colorado State law and has proven to be ineffective) Virginia implemented a dispute resolution process that provides a beginning and end in the complaint process that works for all.

Virginia has posted on its' web site a simple flow chart for dispute resolution: <http://www.dpor.virginia.gov/CIC-Ombudsman>. In general, homeowners attempt to first resolve the issue with their HOA. Failing resolution with the HOA a complaint can be filed with the State HOA Office. The State reviews the case for substance and allows the HOA to tell their part of the complaint. If the complaint is found to be without substance the homeowner is notified but still has the right to take the HOA to Court. If the complaint is found to be justified the State Office will work with the HOA on a solution. If agreement can't be made between the HOA and homeowner the complaint can be referred



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## Virginia Provides a Good Model for HOA Out of Court Binding Dispute Resolution (continued)

to a State Board for an enforceable decision.

Colorado HB-1134 pushes mandatory mediation through influence not substance. We call it mandatory uncertainty and too many homeowners are left back to an unaffordable court system when mediation doesn't work. Mandatory mediation is at best a "half-a-loaf" solution that can resolve some complaints but for many will result in no solution and only add time, uncertainty, cost, and process to resolving a complaint. Many will not gamble their limited funds on paying for a mediation session that provides no certainty of decision and thus avoid even filing a complaint. Mediation fails to include and ensure the most important element and top goal of a complaint process: "a decision". It also fails to push case load and cost out of our Court System for minor HOA complaints. Homeowners want a simple, fair, affordable, and accessible complaint process that is completed in an out of court venue which mandatory mediation doesn't provide. The Virginia model provides such a solution.

The Virginia process can be implemented in Colorado without cost to taxpayers, will save HOA's in legal costs, and reduce Court costs. The Virginia out of court binding dispute resolution process has been a success and it can work in Colorado. This process is mostly identical to what we have advocate for years: med-arb.

The licensing of HOA property managers (CAM's) in HB 1277, passed in the Colorado 2013 legislative session, was modeled after the Virginia program and compliments their HOA complaint process. Colorado has a model for success with Virginia HOA legislation and the time is now to implement this program.

## How Your Legislators Voted on HOA Issues

Here is how they voted:

<http://www.coloradohoaforum.com/votes.html>

### Start Asking Questions:

Who does your State Representative represent: HOA homeowners or special interests.

Why are Colorado State Representative votes on HOA issues that are not political voted mostly along party lines?

You should ask your State Representative, if they voted against the Bill(s), why they did so.

Consider their vote on HOA issues when casting your vote in elections. If they can't support your rights as a homeowner do they deserve your vote?

Write them using our web site.

Our organization is not political nor partisan. We ask for support on HOA issues from all State Representatives. Those who vote against HOA legislation will be singled out. Your vote in elections is our source of influence: use it!



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## How not to write legislation: Colorado provides a text book case with HB 1277

A few suggestions to those who wrote HB 1277. First, don't use legislation to promote any specific private company. HB 1277 did just this by mentioning the provider of educational courses for property manager licensing. This is highly inappropriate and using taxpayers dollars to provide free advertising for a vendor is offensive. Next, don't pre-approve any course or product in legislation before it can be updated with new requirements. DORA (by not getting this removed) has thus assumed such courses will be updated correctly (we all know what happens when we assume) and not actually validated its' "pre-approval". Don't (if you must) list anything that is subject to change such as course names by title or number as this can result in making the legislation invalid shortly after being approved. Finally, if you must mention private companies that offer credential programs in legislation then list all of them.

These same abuses/errors in writing legislation also happened in Virginia and Illinois with similar legislation: special interests are a cross country industry. Hopefully DORA negates this bias by aggressively seeking out other sources of educational services to promote competition, and contain costs, and in the future objects to having lawmakers insert their pre-approval in any future legislation.

## Is the Colorado HOA Information Office and Resource Center Needed?

Our organization was critical of the creation of the Colorado HOA Information Office and Resource Center two years ago. Not so much for its' existence but that it was powerless in the area of HOA law enforcement. That it was basically an entity that would report on the number and types of HOA problems but not be able to act upon those complaints.

So here we are down the road and low and behold our attitude has greatly changed. The Office did something we didn't predict. It laid the groundwork to expose homeowner's problems and a need to improve the complaint resolution process. It also served to identify the number of people living in HOA's and the number and types of HOA's in the State. It provided the missing link to the argument in the need for HOA reform: data. Colorado has thus joined other States in creating this entity and hopefully follows by increasing its' importance.

## The Media in Colorado Make HOA Legislative Reform Difficult

Making the task of improving HOA governance through legislation has become even more difficult with the lack of media coverage. We've had some success over the past year with coverage but it has been sporadic at best. With over 2 million people living in over 8,000 HOA's in Colorado wouldn't you think the media would provide more coverage of HOA's issues? Then when coverage does happen it portrays trade groups representing property managers and lawyers as the leaders and representatives of homeowners: **how misguided and uninformed.**

An example of this can be made with The Denver Post's Editorial Board review of significant 2013 legislation ("Winners and Losers", May 12). Naming dogs and cats as the State's animal was on their list of important legislation but laws directly affecting nearly two million residents, over half a million homeowners, and scores of businesses were left off. Training law enforcement officers on encounters with dogs got attention but new regulatory oversight and licensing requirements of a profession that has been problematic to HOA's and homeowners for decades was left off their list. They also ignored an HOA Bill that will restrict some abusive HOA foreclosure practices.

HOA homeowner advocacy groups such as the Colorado HOA Forum, [www.coloradohoaforum.com](http://www.coloradohoaforum.com), consider this legislative session a banner year for HOA homeowner's rights. Getting the word out to homeowners on improvements in HOA governance through new legislation requires media involvement. We hope the media elevates HOA issues to a level of importance greater ceremonial legislation on dogs and cats.

## Write the Colorado State HOA Office

if you have a concern or suggestion about HOA living in Colorado:



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## Whose responsibility is it anyway: HOA Board or Property Management Company?

HB 1277 mandates that those involved in and compensated for managing HOA's (Community Association Managers (CAM)) need be credentialed and licensed. However, the lines of responsibility and authority between an HOA and CAM need to be clarified. Into the new CAM licensing requirements and roles and responsibilities.

The [new legislation](#) is quite comprehensive on rules and responsibilities and penalties for violations. There is also mention in the Bill that CAM's must comply with State HOA law. We will be working with DORA and our State legislators to make the lines of responsibility between the Board and the CAM, between the Board and homeowners, and the CAM and homeowners more defined. This remains a grey area to many homeowners and the blame for problems is at times misdirected. Many times homeowners place blame for problems with CAM's when it is in fact an HOA Board problem. We also want to revise the legislation to include a clause stating that it is a violation when a CAM provides advice to an HOA Board to disregard their own governing documents or State law; willingly is involved in non-compliance with an HOA's governing documents; and/or when a CAM is knowledgeable of a Board's non-compliance that they either don't attempt to correct the problem or don't file a complaint with DORA that a known violation exists.

Some of this may seem obvious but for the protection of the homeowner it needs to be included in the law. Do this and you will resolve many HOA - CAM and CAM - homeowner problems.

## Letters to the Editor

Write letters to news periodicals/media expressing your views on HOA issues: and their need to cover our issues:

- Denver Post: [openforum@denverpost.com](mailto:openforum@denverpost.com)
- Boulder Daily Camera: [openforum@dailycamera.com](mailto:openforum@dailycamera.com)
- Colorado Springs Gazette: [joe.hight@gazette.com](mailto:joe.hight@gazette.com)
- Aurora Sentinel: [news@aurorasentinel.com](mailto:news@aurorasentinel.com)

Let us know your local paper and the email to send letters to the editor.

## Board Removed by Sly Coy Homeowner

So you have a dysfunctional Board. You want to change things but the majority on the Board prevents any questioning of HOA activities, access to records, open meetings, and challenges to financial management. You wish there was term limits but getting the Board to authorize a vote on that issue is impossible: they love their "lifer" presence. Voting them out via regular elections has proven difficult as too many simply have no idea of problems, only hear the good news through HOA communications, fear change in leadership, and are somewhat apathetic. So, how does one sly, very tactful homeowner change all this mostly on their own.

First, they go out of their way to remain non-controversial with the Board and their long time supporters,. They volunteer in the community and wait for the day that a new election has an opening for a Board seat and no candidates. That day finally arrives, our slick homeowner is elected,. Now the plan is implemented,. The Board only has three members, so it only takes the two lifers to rule so the new member is no threat. Our sly homeowner convinces the Board that it would be in the best interest of all if the governing documents were changed to have five members. They agree and so does the community. Now the work begins. When the next election takes place there are two vacancies awaiting candidates. Our newest Board member has it all figured out ahead of time. She gets two of her neighbors who are aware of the HOA's problems and a need to flip the Board leadership to run for office (all done below the radar). They are elected. Guess what, the Board that has been in place for many years and ruled with secrecy and an iron hand is suddenly in a minority and more or less powerless. The governing documents indicate any Board member can be removed by a majority of the Board members. Yes, they are now removed.

I'm happy to report that open governance and financial accountability have been greatly improved in this community as well as homeowner participation in governance.

## Take our surveys on our web site

Have an idea for an HOA related survey? Let us know by writing us via our web site. The current survey asks questions about HOA property management companies. The results will be posted and summarized in the coming weeks.

We make up the questions and it is not scientific but does reflect the opinions of folks who visit our web site and our members voices.



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### How Dysfunctional HOA Boards skirt Records Release Law

So you think you have access to your HOA records? You think State law will force records access? Think again and think about two things: 1) If denied, where do you go to get your rights enforced? The answer is our costly, litigious, time consuming, complicated Court System. Good luck! 2) Our quest for an out of court binding dispute resolution process can be the solution to enforce your rights. This is affordable, accessible, not complicated, and keeps you and the HOA out of court and, yes, unlike mediation there is a definite beginning and end (decision) to your complaint. See our web site: [www.coloradohoaforum.com/outofcourtbinding.html](http://www.coloradohoaforum.com/outofcourtbinding.html)

So what games are played by Boards to deny access: they claim that releasing them will result in litigation thereby allowing them to deny access; they demand high costs to reproduce records and charge you other fees they claim are incurred to gather and present the records; they direct you to the property management company who says it needs HOA Board approval and back and forth this goes; they can't find the records; they never had a policy to retain those records; or they simply say no and challenge you to take them to Court as they know most homeowners can't afford that process financially or with their private time.

It can happen to you and then the light comes on for a better process to enforce homeowner rights than having to go to Court.

### Licensing Property Managers: Cost Containment

HB 1277 will require Community Association Managers (CAM's) to be licensed by July 2015 (after obstructionist legislators won to delay it by one year). To be licensed a CAM must have completed educational and testing requirements. This will add to their cost of doing business. To contain these costs it is imperative that DORA (Dept of Regulatory Agencies) ensure competition among educational providers. This means pursuing alternative sources from which CAM's can acquire training. Included should be the several professional trade groups that offer credential classes as well as working with our State Community Colleges to develop and offer courses. DORA must also post on its' web site the costs for such courses by source so CAM's can shop for the most economical and effective

training. DORA must negotiate with providers for best prices. This must be an active effort on DORA's part and not simply sitting back and working with one provider to solve the need. DORA must unlock any relationship between access to taking educational courses and joining a professional group: such a relationship should invalidate the approval of the provider.

The requirements for licensing credentials are now law and the debate as to being for or against it is over. What now must be done is an implementation plan that makes the law improve the industry while not financially burdening any CAM.

### Future Initiatives for the Colorado HOA Forum

*The 2013 Colorado Legislative Session provided HOA homeowners with a great stepping stone for future reform in HOA governance. Our focus for the next year:*

*[Include an out of court binding dispute resolution process in all Colorado HOA laws](#)*

*[Improve upon Colorado legislation that licenses HOA property managers](#)*

*[Limit fees and administrative costs on HOA debt](#)*

*[Increase the roles, responsibilities, authority, and enforcement capabilities of the Colorado HOA Information Office and Resource Center](#)*

*[Restrict/limit "transfer fees" in the sale of HOA homes](#)*

*[Require realtors and home buyers to be provided a copy the HOA governing documents and certify they read and understand them prior to the sale of a home in an HOA community.](#)*

*[Term limits on HOA Board members when others are willing to serve.](#)*

*[Include as part of the HOA registration process a certification that HOA Board members read their own HOA governing documents and information posted on the State's HOA Office's web site concerning State HOA law.](#)*

*[More details to be provided on our web site.](#)*

### Schedule of HOA Outreach Meetings Conducted by the State HOA Office

The State's HOA Office conducts outreach meetings throughout our State. The [schedule](#) is posted on their web site. Let the Office know if you would like a meeting in your area. With all the new legislation these meetings can be very informative.