



# Colorado HOA Forum HOA Homeowner Advocates

Promoting Reform in HOA Governance



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Did you know that most HOA home owner complaints can be filed as a CAM Complaint. See [our Guide](#) and if you still have questions [write us](#)

Contact us at: [www.coloradohoaforum.com](http://www.coloradohoaforum.com) or email us at [coloradohoaforum@gmail.com](mailto:coloradohoaforum@gmail.com)

Join our effort by signing up on our web site. The web site contains HOA articles, reference information, current events, and tools to help you [write your legislators](#)

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.

[Here We Go Again: Overcoming Legislative Frustration](#) (editorial)

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[HOA Home Sale Transfer Fees: the only fee \(billing\) you will ever be](#)



## Worth Repeating

[Is your HOA Registered?](#)

[Property Manager Licensing FAQ's](#)

[Out of Court Binding Dispute Resolution \(not Mediation\) : Good Enough for Property Managers but Not Home Owners?](#)

[Who or What is the Community Association Institute \(CAI\) and who do they represent?](#)

[Legislators Can't Support a Bill to require home owners receive a detailed receipt in payment of HOA home sale Transfer Fees: no other business in Colorado can demand payment without providing a receipt!](#)

If you think your HOA is violating ADA and/or the Fair Housing Act, [file a property manager complaint with DORA](#). Need help, [contact us./use or Guide](#)



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**IS YOUR PROPERTY MANAGER LICENSED?  
LOOK THEM UP, IF NOT FILE A COMPLAINT**

[Enjoy stunning video of Colorado Mountain Goats](#)





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## Legislative Frustrations and the Reality with all HOA Legislation (editorial comment)

Let's begin with some positive thoughts about HOA legislation. Colorado has extensive and definitive HOA laws. CCIOA (Colorado Common Interest Ownership Act) passed decades ago, is comprehensive and was somewhat an HOA home owners Bill of Rights. Subsequent HOA legislation addressed requirements concerning billings and collections, liens, information access and privacy, disclosure of Community Association Manager (CAM) fees, licensing CAMs, and records retention. Then there was the creation of the State's HOA Office and a mandated State Study on identifying the best means for home owner dispute resolution.

Now the reality of every HOA law passed, including CCIOA, that makes these laws mostly administrative and ineffective on enforcement from the home owner's perspective. All HOA Acts and Law are missing an accessible, affordable, and fair venue to dispute problems between the HOA and a home owner. Each one of these laws requires the home owner to seek a court solution when an impasse exists. This process, of course, matches the unlimited funds and legal resources of HOA against the limited time and financial resources of the home owner: a completely one side litigation process. Better put, a "pay to play" justice system. Thus, except in instances where the home owner has the skills, funding, knowledge of HOA law, and time to pursue a case in court, home owners simply can't/don't pursue their rights under the law.

Then we must look at the content of the legislation passed. Not only is there no viable means of enforcement in legislation, but too often the influence of the Community Association Institute



(CAI) that represents the interests of CAMs and HOA lawyers was involved. They have written, modified, and/or killed all HOA legislation that would have materially helped home owners. In particular, this outfit hindered HOA reform to: 1) implement an out of court binding dispute resolution process, 2) limit and/or require disclosure of HOA Transfer Fees, 3) limit HOA fees and fines 4) requiring HOA home owners to approve use of HOA funds in litigation and 5) improving the CAM licensing law to be specific on accountability and providing small CAM businesses relief from the same requirements imposed on the largest CAM companies. The CAI is so anti-home owner that it would not even support requiring CAMs to provide a detailed receipt to home owners for HOA Transfer Fees.

If one talks to legislators involved in passing HOA legislation, as we do, you would not get a disagreement about the inability of home owners to enforce their rights under the law but not one will step up to resolve the problem. As we often say, we don't need more HOA laws, we need a means to enforce the laws we have.

Our challenge is to convince legislators there is benefit to them and home owners to address the enforcement aspect of current HOA law. When nearly 60% of Coloradans live under HOA governance in nearly 9,000 HOAs and with the State's HOA Office having received thousands of complaints and/or inquiries concerning problems, that should be enough to get legislators on board with HOA home owners. Furthermore, with

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## Legislative Frustrations and the Realty with all HOA Legislation (continued)

our proposals on dispute resolution and fees disclosure requiring no new funding from taxpayers or new bureaucracies, this should be a small mound and not a mountain to climb for them to support HOA reform.

The influence of lobbyist such as the CAI is our biggest challenge. It should be noted that before the Colorado HOA Forum came on the scene, our legislators were fed all HOA information from this organization allowing them to craft Bills (in their own interest). This has continued with recent Bills. We have been successful in informing our legislators and the media of who and what the CAI is and who they represent. Too often they had been thought to be a large HOA membership and HOA home owner organization working to reform and improve upon home owner's rights. The print and TV media outlets continue to represent the CAI as representing home owner's interest. Of course nothing could be further from the truth and it took us years to get this turned around. However, the CAI's influence and peddling of misinformation concerning HOA governance continues and so does their well funded lobbyist.

We again begin our unfunded lobbying efforts with our legislators for the 2017 session. We will focus on two main issues: dispute resolution and enforcement of HOA laws and HOA Transfer Fees that cost home owners upwards of \$10 million a year. An out of court dispute resolution process, similar to that available to CAM complaints, was advocated in a 2013 State Study and simply awaits legislative support. This system could be self funded through HOA registra-

tion fees and/or complaint filing fees. It could easily be implemented within the State HOA Office as this entity already has the infrastructure such as a physical Office, staff (which would be increased minimally), web site that can accept complaints, competent Head of State HOA Office, and it already reviews, classifies, and reports on complaints and inquiries. The expertise to implement such a system already exists in DORA so this is not new territory. Thus a Bill to expand the responsibilities and authority of the State HOA Office is what is needed.

A Bill to address HOA Transfer Fee reform would be benign. The Bill proposal takes a simple approach: provide the home owner with a detailed receipt of work performed.

The Bill would not place any financial limits on the fee, not cost any CAM a dime and not preclude any CAM from billing when they use the Transfer Fee to recover unreimbursed costs associated with the sale of a home in an HOA (which is why it is charged).

Our additional impediment to reform concerns CAM licensing and rests with the Department of Regulatory Agencies (DORA). We have made recommendations to modify the rules under which CAMs must operate to be more definitive and patch the holes that make accountability a gray area.: ignored! The CAI, whose members are regulated under the DORA law, not only seems to have open access to and gets their recommendations implemented, but have met with DORA to craft their changes to the law. Furthermore, the CAM licensing law was supposed to have been written by DORA but not shockingly closely

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## Legislative Frustrations and the Reality with all HOA Legislation (continued)

follows the content in laws in other states in which the CAI is very influential.

Our efforts do require our members, media and public support. Legislators need to be convinced to support HOA home owner's rights, enforcement of HOA laws, and to end practices of abusive fees. We will continue our efforts.

## Misuse of Funds: A lesson for home owners to stay involved and pursuing the crook

Our organization continues to receive many and diverse inquiries in which we work with the home owner on solutions. Please note, we never share any personal information unless specifically authorized. A recent inquiry concerned a Board member that used HOA funds for personal gain for several years. This is a small HOA with less than 25 homes. The amount of theft is approximately \$10,000. This nearly drained the reserve fund. The dishonest Board member wrote checks without providing receipts and broke requirements for two signatures to approve a check (blame shared with the Bank for approving such checks). Recently, a Board member began to inspect the HOAs financial records and discovered checks written by the dishonest Board member to themselves and checks to family members. Checks also included bogus notations to indicate that the funds were for governmental registration/regulatory requirements but the payee was the Board member.

This is an instance of criminal activity, a violation of HOA law (not complying with a Board member's fiduciary responsibility and

other provisions within the law), and non-compliance with the HOAs governing documents and financial policies.

Many ask how this could happen and go on for so long without anyone knowing especially other Board members? The answer is quite easy and a lesson with successful HOA governance: it's called involvement. Yes involvement takes time and can be frustrating but the consequences of apathy take their toll. The Board members who did not get involved in financial review share some of the blame for allowing this event. A simple, non-time consuming review of HOA financial records, a check registry in this case, could have ended this activity early on. They did not live up to their fiduciary responsibilities. The home owners when provided financial statements should have asked questions when the reserve fund was nearly depleted for years and repairs were constantly being delayed. Home owner attendance at meetings was nearly non-existent as it normally is until the ship begins to sink. So, lesson learned and practices at this HOA have been changed including designated periodic reviews of financial records and home owner involvement.

Fortunately in this case a Board member got involved in the details and discovered the misuse of funds. The flip side of this story is that when a home owner wants to inspect records due to suspicious activity and financial problems, the pursuit of gaining access to financial records can be blocked to cover-up activity. Yes, the home owner has every right under the law and in the HOA's governing documents to inspect all financial records but what happens when such a request is denied? Yell all you want but your only recourse is to take the Board to court: a costly, litigious, and time consuming process matching the limited funds and time of the home



[Read About Out of Court Binding Dispute Resolution for HOA](#)

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## Misuse of Funds (Continued)

owner against the unlimited financial resources and legal help of the HOA. Thus, access to records under the law but not in reality. When your lawmakers tell you it is against the law ask them about enforcement and they'll give you an empty look. Fortunately in this case a Board member had ready access to the financial records.

So what are the home owners and Board members to do to pursue corrective action, penalties and recovery of funds? A few suggestions: 1) approach the offender with evidence of the crime and offer a solution 2) contact the local authorities/District Attorney to pursue prosecution or 3) if the offender is still a resident apprise them of the amount due and notify them if the debt is not paid a lien will be placed on their home that can lead to foreclosure.

Of course the evidence has to exist of misuse of funds. Be prepared for legal costs, don't expect what you believe to be sound evidence to stand up in court so work with a lawyer, and don't let the cost to prosecute exceed the recovery of funds. We are sure there are other solutions but the best solution is home owner and Board involvement to prevent such activity.

## State HOA Office: expect information but no advice or complaint resolution process

The Colorado State HOA Office is a good source of information but it is not empowered to provide legal advice, investigate complaints, or get involved in rendering decisions on complaints. You must go to court to enforce your rights until our legislature enacts an [out of court binding dispute resolution](#) process. [The State HOA Office's mission.](#)

## HOA Home Owner Advocacy Organizations Across the USA

We are not alone in advocating HOA Home Owner's Rights through legislative reform. Prior to our existence, Colorado had a few groups who worked on HOA issues with our legislature and first revealed the problems for home owners associated with property management companies, the Community Association Institute's (CAI) influence on our legislature, and problems with enforcement of HOA law.

Throughout the U.S. there is a growing number of HOA home owner advocacy organizations. To no surprise the issues are mostly the same: lack of legislator support, lobbyist who work to kill or dampen the effectiveness of any legislative proposal, property manager abuse, excessive fees, and a lack of ability to enforce HOA laws and HOA governing documents in an out of court, affordable venue. Also, throughout the U.S. the CAI, that represents property management companies and HOA lawyer interests, impedes the progress of advocacy groups.

Activism is mostly in States with high numbers of retired folks and the sun belt: Nevada, Arizona, Florida and California. Organizations are also active in Pennsylvania, North Carolina, Virginia, and Texas and surely in other states.

Activists are focused on a common thread: a lack of an affordable and accessible process to enforce HOA. Several states including Virginia, Florida, Arizona and Nevada have some sort of process in government in which home owners can file complaints, have them reviewed, and a decision or opinion

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## HOA Home Owner Advocacy Organizations Across the USA (continued)

rendered. The cost to file a complaint can be from \$50 up to \$700. Our observation lends some criticism with the enforcement aspect of each. If a decision/opinion is ignored by the HOA it forces the home owner back to court which is unworkable. In addition some of these states require the home owner to complete a mediation process before going to court or submitting the complaint to the State adding time and cost (\$300-1000+) for the home owner with the outcome of such a process not guaranteeing any agreement and/or enforceable agreement in our courts. Penalties for violations don't place much if any accountability with the HOA or Board members thus providing little incentive to improve good governance in HOA management.

Talk to any HOA advocacy organization and they will tell you that their state legislators are reluctant to propose HOA reform. You would think this would be a great issue to build voter support with most new developments under HOA governance. In Colorado this is ignoring upwards of 60% of the population. When proposals do go forward they rarely make it out of Committee approval. The influence of lobbyist persists and how to overcome this impediment to reform is the greatest challenge.

Passing legislation labeled "home owners Bill of Rights" is an initiative of several groups but such work is mostly feel good and administrative and comes with no enforcement. Additionally such legislation is mostly redundant of rights stated in an HOA governing documents and State laws.

## HOA Home Owner Advocacy Organizations Across the USA (continued)

As more of the population lives under HOA governance and figures out that their HOA governing documents are mostly unenforceable from the home owner's perspective things will change. HOA home owners are also being provided more factual information about excessive and abusive fees and the role of property management companies in HOA issues which should result in more public support for HOA reform. Our media outlets are also beginning to report more fairly and accurately on HOA issues and not simply using self-serving lobbyist such as the CAI as a sole source for information. HOA home owner advocacy organizations have and will play a key role in expediting and bringing attention to the need for HOA legislative reform and change.

**[HOA Transfer Fees](#): the only bill you will ever have to pay upon demand without a receipt explaining what work was performed to justify the fee**

## HOA Community Walkthroughs

It is common, or should be in your HOA, to have either Board members and/or the property manager walk through the HOA community periodically to inspect for health and safety issues and compliance with HOA by-laws.

This does mean the HOA Board can or should inspect the living quarters (without legal permission) of the living area of any resident.

Walkthroughs identify maintenance problems and the quality of work being performed by the property management company.

[Full Article](#)

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**Airbnb and HOA Rentals: using your HOA home as a vacation rental property may avoid HOA rental restrictions**

**If you have rental restrictions in your HOA be aware of Airbnb vacation rental issues.**

### The Airbnb Concept

According to its [terms of service](#), Airbnb is a company which provides an online platform that connects hosts who have accommodations to rent with guests seeking to rent such accommodations. Airbnb disclaims being a party to any contract between “host” and “guest,” and Airbnb’s “services” appear to be limited to maintaining a website which connects Airbnb “members” and serving as a collection agent for accepting payments from guests on behalf of the host.

[Full article](#)

[Arizona article advising HOAs to change their governing documents to address Airbnb](#)

### How HOA Fees May Effect Credit Scores

A major credit reporting agency says it will soon take into account homeowner association fees. Home owners who are late on payments may soon see the effect on their credit score.

Sperlonga, a credit data aggregator, is the first company to provide HOA payment and account status data to Equifax, which is one of the three major credit-reporting agencies. A full rollout of the new HOA reporting to Equifax will go live in October.

[Full Article](#)

### HOA Approves Paint Color: then changes

Colorado man was shocked when the same homeowners' association that had approved his request to paint his house a particular shade of green suddenly demanded he stop painting immediately.

Emmanuel Zarate was in the process of painting his mother's house in Lakewood with a grass-green shade of paint, after having the color approved by his HOA, when the same association told him to stop painting halfway through, according to KMGH. The resulting situation left his mother at risk of losing her homeowners' insurance

[Full Story](#)

### Parking Restrictions and HOAs

Note this article pertains to a California case but the basic principles apply. (Note, if you live in a gated community your HOA will have more control over parking and use of streets in the community)

Most HOAs have rules for parking laid out in their CC&Rs and rules, typically covering restrictions such as: What types of vehicles are allowed (commercial, recreational, etc.)

Where members may park

How long a vehicle may be parked in one spot

Different types of HOAs generally offer different parking rules to better suit both the association and the membership's needs. Whether an HOA is a condominium project or a single-family planned development, in an urban or rural area, or has an abundant or scarce available parking space will affect the specific

[Full Article](#)

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**Until it's your problem it's not a problem then you understand why it is said to be a problem**

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## Group Homes in Your HOA, Monument, CO

[A group home in a Monument, CO neighborhood](#) is in question after complaints led the El Paso County Board of Commissioners to determine if the home is violating code by being located in a residential area.

The El Paso County Commissioners voted 5-0 Tuesday to give the Soaring Hope Recovery Center two weeks to show it's abiding by current zoning laws, operating as a group home, and not a rehabilitation center.

Neighbors in the area have been outspoken, and the homeowners association wants to see the center gone. [Full Article](#)

HOAs Across the USA

[Pesticide battle pits homeowners in Lafayette CO against HOA](#)

[Management Firm Misused HOA Funds](#)

[Group Homes in Colorado HOAs](#)

[Obese pet causes strife at HOA](#)

[10 Homeowners' Association Horror Stories That Will Make You Wince](#)

## Who has the authority to investigate homeowners' associations?

Although this article is from Florida it has relevance to Colorado. Home owners mistakenly think the State's HOA Office can offer legal advice and investigate cases and get involved in settlements. Not true. The Office is administrative in nature, period. You can thank your legislature for this. When created it was hoped the Office would have been empowered with [an out of court binding dispute resolution process](#). However, special interests stopped this and instead requested a State Study be completed on dispute resolution for home owners. Guess what, the Study recommended and out of court solution that can

be implemented with legislative support. To date your State representatives have no interest.

Article: Has the law been amended to authorize the Division of Florida Condominiums, Timeshares, and Mobile Homes to investigate complaints against homeowners' associations?

**A.:** No. Neither the Division of Florida Condominiums, Timeshares, and Mobile Homes, nor any other governmental agency has statutory authority to investigate complaints against homeowners' associations at this time..... [Full Article](#)

## HOA Legislative Reform Expectations: 2017

This legislative session will be the same as the past: little interest by legislators in passing meaningful and enforceable HOA legislation. Past years witnessed Bills placed into law that changed little for home owners. The laws define problems and requirements but lacked any means of enforcement. Even when HOA laws are passed they are watered down in accountability by lobbyist such as what happened with the Community Association Manager (CAM) licensing law: a well intended law lacking a lot of accountability and costs to businesses and perks to organizations such as the Community Association Institute (CAI) that sells CAM licensing educational courses.

This past year our group attended legislative Town Hall Meetings and were promised attention to the very few issues in which we asked for their support. Always sounds positive and sincere at the meeting then we get the silent treatment on legislators sponsoring Bills.

We begin 2017 attempting to change the power in our legislature to the people.

**[Write your State legislator](#) to ask for a meeting to discuss HOA issues, we will accompany you upon request!**

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