

Comments to DORA from the Colorado HOA Forum concerning the Sunset Review of the State HOA Office (see below)

Email DORA your comments: Saul Larsen saul.larsen@state.co.us with
Subject Line: Comments on State HOA Office Sunset Review

State HOA Office Sunset Review Issues for Consideration

* Dispute Resolution between HOA home owner and HOA

[White paper on implementing dispute resolution in State HOA Office](#)

Avoid court, cut costs to home owner and HOA in dispute resolution, mediation simply doesn't work and adds time and cost to resolving problems (Fort Collins study indicates less than 15% of complaints pursued under mediation actually go through mediation and get a decision), this should be administered by State HOA Office, no taxpayer funding required, only applies to violations of State law and an HOA's governing documents and not felonies or recovery of financial damages.

The Sunset Review examining whether the Office should continue must include an expanded mission statement to include overseeing an out of court binding dispute resolution process for home owner complaints with their HOA. The process must be affordable and accessible and authoritative and enforceable concerning investigating and rendering decisions. The process should be and can be paid for with HOA registration fees and minimum complaint filing charges with no/no measurable costs to HOAs or home owners (in fact saves dollars for HOA's and home owners by avoiding court costs and relieves burden upon court system for handling HOA complaints that can easily be resolved through this process out of court). This would support the suggestion to implement such a process as recommended in the State HOA 2013 Study. Please read White Paper on link above.

This change would require no new laws to be passed impose additional requirements on an HOA or to modify, enhance, or cancel any existing law. This requires an amendment to the law authorizing the State HOA Office.

Note, our recommendation doesn't preclude court action on a complaint by a home owner but rather offers a choice between seeking a court action or using the State HOA Office's dispute resolution process.

Expand Dispute Resolution to Include Complaints between Time Share HOA home owners and HOA

Expand the authority to investigate and render decisions on complaints received from time share unit owners with their HOA. See previous item.

Precedence for Out of Court Binding Dispute Resolution between HOA home owners and their HOA Board Conducted by a State Agency

In support of and offering precedence to expanding the State HOA Office's mission to include receiving, investigating and rendering decisions on violations of State HOA Law and an HOA's governing documents: 1) the HOA Property Manager Licensing program completed this task for HOA home owner vs property management company issues and 2) HB 19-1309, Mobile Home Park Act Oversight, provides for home owners in mobile home communities to work with the State's Division of Housing of the Department of Local Affairs in resolving their complaints in an out of court venue administered by the State. This process should not elude the nearly 60% of home owners who live under HOA governance and have documented with the State's HOA Office through their complaint system a need. Note, our recommendation doesn't preclude court action on a complaint by a home owner but rather offers a choice between seeking a court action or using the State HOA Office's dispute resolution process.

Educational Requirements for HOA Board Members

Many HOA home owner problems occur due to actions by an HOA Board that are contrary to their own governing documents and/or State HOA law. Arduous and/or costly educational requirements for Board members will deter volunteers and add costs to HOAs. A solution to improving the competency of Board members while not chasing away volunteers is [presented in this article](#). Basically, through the State HOA Office and its' HOA registration requirement, upon an HOA registering they confirm their Board members have read their HOA governing documents and select material on the State HOA Office web site, all no cost. A requirement is created that upon a change in Board member(s) they certify they read their own governing documents and other material as defined. This requirement is also confirmed each year with the annual registration. This is not licensing or gaining an official certification from the State, simply an acknowledgement. This becomes important when a complaint is filed against a Board for violating governing documents.

Inform the public concerning the existence of the State HOA Office

If it was not for the existence of our organization and informing our members (and asking them to talk to others) of the existence of this Office it would be more or less unknown. When folks find out about the Office they totally misunderstand the purpose of the Office. The existence of a web site it and of itself notifies no one. The outreach programs by this Office are only known to those who know about the Office and the misinformation concerning this Office in the media, by legislators, by Realtors, government officials and others is widespread. Suggest some of the funds collected in registration fees be used to advertise the existence of this Office and its' purpose.

HOA Registration Process

The HOA registration process must be expanded in purpose beyond simply collecting fees and providing a more or less not very useful data base. Specifically, registration should require: 1) a confirmation that HOA Board members have read their HOA's governing documents and suggested readings on the State HOA Office web site (no cost to HOAs) 2) require the HOA indicate the name of the property manager upon registration and the Office will confirm the manager has an active/valid license (if required) 3) upon annual renewal any change in management company will be reported and change in Board member will be reported to this Office to validate item "1" has been completed 4) completing the registration process would require the HOA to confirm that all their governing documents, financial statements, minutes of meetings, and all other official HOA organizational documentation required/requested upon the sale of a home (as defined on the DORA web site) have been posted on the HOA's web site and/or readily available to home sellers in most current version (this confirmed upon license renewal). Such documentation would be available to the home owner, Realtor, or Title Company. Alternatively, HOA official documents could be uploaded to a State date repository upon initial registration and whenever changes occur. This requirement would address a major complaint received by the State Office concerning access to records. Non-compliance would result in forfeiture of some legal rights as a non-registration. The Office would validate such information has been posted and such information is considered to be the most current available. 5) All information collected, other than personal identifying information, including HOA and management company email addresses to be made available to the public.

HOA Office Outreach Programs

Periodic HOA Office outreach programs for the public should be conducted mostly outside of downtown Denver as this location is not convenient to home owners, attendees must incur costly parking charges and many potential attendees simply will not go downtown for their own reasons.