

Wednesday, March 20, 2013
HOA Outreach Meeting, March 18, Aurora, CO

Thanks to those of you who attended this meeting.

The meeting was conducted by the head of the State's HOA Office, gary.kujawski@state.co.us who focused mostly on a review of his office's roles and responsibilities and the latest State HOA Report (2012). Gary also reviewed proposed HOA legislation and then turned the meeting over to a question and answer session from attendees. The meeting room was mostly occupied by homeowners but also included many from the property management industry and myself representing the Colorado HOA Forum (HOA homeowner advocacy group). The interchange was at times intense with homeowners seeking methods to enforce existing HOA law and legislation with focus on some sort of out of court binding dispute resolution process and a call for licensing and regulating property management companies. Stan Hrinkevich from the Colorado HOA Forum explained a process his group advocates that would move most HOA disputes out of court for dispute resolution and into a med-arb process (mediators trained in HOA law with decision making authority) that is affordable, expeditious in reaching solutions, less litigious, and at no cost to the taxpayer. The process is said to be needed and included in the law as all current HOA legislation and HOA governing documents provide no language of enforcement from the homeowner's perspective except a costly Court System. The attendees were nearly unanimous in their advocating licensing property management companies that are viewed as a major contributor to HOA problems. The group also asked Gary to consider a future Denver-metro area HOA Town Hall Meeting with the focus on questions and answers from homeowners utilizing a panel with representatives from the HOA community including a representative from the property management industry, HOA consumer groups, professional mediation groups, State legislators, and himself. Gary was open to the idea. Overall the Outreach Meeting supported a need for HOA legislative reform and a continuing need to gain input from homeowners to build on to current legislative efforts.

It should be stated that criticism of HOA Boards and property management companies (PMC) is directed at the minority of these entities that operate in a dysfunctional and irresponsible manner. Similar to the need for most other laws in our society from speeding, DUI law, theft, etc., HOA legislative reform is aimed at the few that require oversight and the few that can (and have) inflict significant harm from their actions. The State's HOA Office is just beginning to compile statistics on HOA complaints from homeowners but there is no doubt a problem exists and a solution to mitigate the problems doesn't exist. We don't need to wait another year to compile more statistics to justify and implement solutions to clean up the abuse in the HOA and PMC industries. Previous attempts to flush out the corrupt and dysfunctional through HOA legislation is well appreciated and laid a good foundation to build upon. However, all HOA legislation is rather empty in that it contains no defined means of enforcement or penalties for non-compliance from the homeowner's rights perspective other than our pay-to-play court system that is out of financial reach for most homeowners. The Court System is a playground and safe haven for HOA's, PMC's, and lawyers with unlimited financial resources (using your HOA funds to protect those in the wrong) in which even when they lose a rare case no one is held accountable for their actions: no Board member, no PMC, and the lawyers always get paid win or lose. To level the playing field and provide for a workable, accessible, and affordable means of enforcement of current HOA law, we need an out of court binding dispute resolution process.. This would provide a homeowner with a venue to have their complaint reviewed and heard for a low cost, in a timely manner, heard by an impartial med-arb (mediator with decision making authority), have closure brought to their complaint, and not materially cost either the homeowner or the HOA in dispute resolution. This process would cost the taxpayer not one dime as it is paid for by the homeowner and/or HOA, this would relieve the Court System of cases that simply don't belong in Court, and would allow for expeditious resolution of complaints before they fester into complex and costly conflict resolution. The other factor in reform is the need to regulate and license PMC's. Accountability in the PMC industry from a homeowner's perspective is very weak. The PMC industry needs defined and legislated roles and responsibilities, penalties for non-compliance, and a well-defined and legal responsibility in the relationship between them and an HOA. Insert enforcement provisions in HOA law and regulate PMC's and you can clean up the abuse in the HOA and PMC industry.