

HOA Property Manager Licensing
Presented by the Colorado HOA Forum www.coloradohoaforum.com

Reinstate the HOA property manager (PM) licensing program that was vetoed in 2019.

In 2019 a legislative Bill to reinstate the HOA Property Manager licensing program passed the legislature and was subsequently vetoed by the Governor in 2019. Two Sunrise Reports have been completed on this requirement indicating a need to license this profession. Several Bills have submitted during recent years on licensing but killed. The Colorado HOA Forum will continue to pursue licensing with the following enhancements to be included in licensing rules and HOA contracts with their HOA Property Manager Company (PM)

Require PMs to provide a detailed receipt/invoice to a home owner who is directly billed for any service by the PM including HOA Home Sales Transfer Fees and account statements. The invoice will explain that such billing represents work not reimbursed to the PM with their contract with the HOA and such charges are unique and extraordinary and only incurred as a result of the home sale transaction or through an approved special request by the HOA Board. The invoice to the homeowner will identify a description of charges, when completed, line- item cost and authority to make such charge. The requirement will be included in the HOA's contract with the PM.

Requests by Title Companies for HOA documentation will be completed at no cost and can be provided by direct request from the Title Company or provided to the Title Company by the homeowner.

No unpaid direct or indirect charges to a home seller from a PM can suspend a home sale

Regardless of what is in an HOA's contract with the PM, in particular HOA Home Sale Transfer Fees and Status Letter charges, all charges must be justified and not have been previously paid for with monthly assessment, required by law and no additional certification of charges assessed by a PM to the home seller to certify the information provided is accurate are permitted and not allowed.

Title companies requesting HOA documentation will have to obtain HOA Board and/or homeowner approval as this information can contain personal information.

No charges can be assessed to the homeowner or home seller by the PM or HOA to acquire documents required for home closing or other use except for mailing and handling and will not exceed \$25. Any unpaid debt between the PM and home seller can't be used in computing the total HOA lien on a foreclosed property.

PM contracts with the HOA will directly describe duties, responsibilities and dependent and independent approved authority over the operational and financial involvement of the HOA

Verbiage in the PM contract with the HOA is only enforceable if it complies with CCIOA or the HOA's governing documents

The PM contract with the HOA will include detailed language concerning records storage and release, maintenance and release and penalties for non-compliance. Under no circumstances can HOA documentation and homeowner related account records be shared with third parties with HOA Board consent.

The PM contract with the HOA and in DORA licensing requirements will indicate: that if a CAM is involved with or knows of a violation of CCIOA or HOA governing documents and doesn't take corrective this is a license violation.

PMs are held to the same level of responsibility as HOA Boards in compliance with CCIOA and HOA governing documents.

No PM can defend their action(s) leading to a violation of their license or CCIOA or other penalty imposed by DORA by indicating they are only doing what the HOA Board has authorized or directed them to do

PM's will disclose all financial, legal or business relationships with vendors during any contract bidding and award. Failure to do so can result in a fine of up to \$5,000 per occurrence

HOA funds handled and managed by PMs will utilize financial institutions chartered in Colorado and such funds will remain in Colorado financial institutions

A PM's unjustified denial of records access to a homeowner or an HOA Board can result in a penalty up to \$5,000 per event

A PM's contract with the HOA will include a clause indicating the PM will comply with requirements and standards in the PM licensing law and all State HOA laws and an HOA's governing documents

Prior to award of any PM contract by an HOA the PM will disclose any and all business names/registration they are operating under or previously operated under

A PM will reveal to the HOA Board any litigation pending against the PM and any litigation settled against the PM in the past three years during contract negotiations with the HOA.

Failure to comply with a DORA decision can result in additional penalties and/or revocation of a license and barring individuals or companies from operating in this industry in the State of Colorado for 5 years.

If a company's employees conducting work and required to be licensed have been in violation of licensing rules and mandates more than three times in a year the company will be assessed a fine up to \$5,000 with each subsequent violation subject to a fine of up to \$5,000.

All DORA complaint decisions in favor of the complainant will indicate a cure date that will be 5 days from the date of any decision except in extraordinary circumstances as determined by DORA

Previous requirements in the PM licensing law would be retained as appropriate.

Funding for this program would be from like source(s) of the previous law.

This program licenses individual PMs and those providing oversight of PM work within the business.

No real estate license is required for a PM.

This program to be administered by DORA and its licensing division and there is no direct linkage to the State HOA Office except for sharing data/information.

Educational standards and costs to acquire a license for a person or Small business or any first time applicants (not previously holding a position of a PM) will be developed by DORA.

HOAs and their management company will maintain only one, official, up-to-date and current data base or filing system of documentation. Any statement or documents issued to a homeowner, home buyer, Title company or other authorized person or entity will indicate the date prepared, date the information was last updated and a statement that the information is the most current and complete as of the date prepared and can be used to fulfill DORA home closing disclosure.

The PM will not charge any homeowner or authorized person or entity for documentation requests except for mailing and handling and such charge can't exceed \$35. Any and charges to the requestor will be accompanied by a detailed invoice justifying the billing.

The PM will be required, and stated in their contract with the HOA, to apprise the HOA Board of any financial concerns in the HOA that are resulting or will result in the inability of the HOA to maintain the community property in an acceptable and usable condition.

The PM will not choose or hire the HOA's attorney.

Time-share developments registered as HOAs would be required to ensure those completing PM work are licensed

Contract oversight/management by a PM/PM company would require the PM to document the credentials and experience any person completing this activity and would require direct work history to support their assignment on a job.

The added cost to an HOA capital project (non-routine maintenance work) completed by or through a management company such as project oversight would be limited to X% of the project total or dollar amount (both to be determined).

A licensed property manager has a limit of X units to be managed at one time

In the event an HOA is sent into receivership by the court, CCIOA will provide an explanation under which this can happen, a clear definition of this process, costs, duration, etc.

Clarify what an HOA can and can't do with excess funds or reserve funds to earn interest, in CCIOA summarize what an HOA should do with excess cash not directed at community projects, capital improvements, reserve fund replenishment, etc. and make clear that such funds must be directed to the aforementioned tasks, returned to homeowners or used to reduce HOA assessments. A management company will comply with rule

An HOA property management company can't independently disburse funds or have their signature be the solo signature on an HOA check except for as authorized under their contract with the HOA and no disbursement over \$100 can be completed, authorized by them without a signature of the authorized HOA Board member or Treasurer. If this violation occurs the proper manager or the company that employs them can be fined \$5,000 for the first offense with each successive violation a fine of \$10,000 and loss of license determined by DORA.

HOA covenants, controls, restrictions and rules will not be implemented retroactively and all approved homeowner architectural and landscaping requests can't be cancelled.

If a management company or other resource is providing accounting services they will use an accrual accounting method.

The HOA property management company (CAM) will not be empowered to independently make decisions concerning the management of the HOA community including such issues as release of HOA governing documents to homeowners or other parties, making HOA special assessments, hiring third parties such as attorney's, incurring expenses reimbursed by the HOA but not specifically authorized or approved by the HOA Board, charging any homeowner for services related to home sale closing or specific services that are not in the HOA's contract with the CAM. All HOA contracts with the HOA should include a section on what the CAM can and can't do that do not require HOA Board approval.

A CAM may not utilize the services of any legal firm affiliated in any business relationship with the CAM.

All legal services utilized and chargeable to the HOA or CAM (that will subsequently be reimbursed by the HOA) must be approved by the HOA Board and all billing received from the legal entity will be document in detail concerning a description of the charge, whether the service was completed by way of telephone with an HOA Board member, homeowner or other party, hourly rate and billing for the line item.