



Colorado HOA Forum HOA Homeowner Advocates

Colorado Rocky
Mountain High

Promoting Reform in HOA Governance



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Knowledgeable Board members and home owners contribute to good governance and mitigate home owner complaints and HOA litigation: READ YOUR HOA's GOVERNING DOCUMENTS!

Contact us at: www.coloradohoaforum.com or email us at coloradohoaforum@gmail.com

Join our effort by signing up on our web site. Our 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** and legislator 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.

Before you pursue any HOA complaint, read your HOA governing documents to determine "what is" as opposed to what you "want things to be".



Brochures:

HOA Maintenance **Guide** and **Checklist**

HOA Home Buyer's **Guide** and **Checklist**

All Brochures



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Explanation of: Articles of Incorporation, Declaration, CCRs, by-laws

**HOA Property Manager Licensing Expires July 1, 2019
Questions and Answers on Expiring CAM Program**

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HOA Legislation 2019: a law, good idea, no enforcement

The Colorado 2019 Legislative session will again prove to be empty for HOA homeowners. Issues concerning abusive HOA Home Sale Transfer Fees, an out of court venue for HOA home dispute resolution, and limiting the ability of HOA Boards to pursue lawsuits and authorizing special assessments without homeowner approval simply find no importance with our legislators. The HOA property manager licensing law will expire in July 2019 unless a Bill is submitted to continue this program (requiring the inclusion of stronger homeowner protections and removing industry written standards). Colorado has many definitive and comprehensive HOA laws but not one of them includes a viable, accessible, and affordable means for enforcement from the homeowner's perspective. Worse yet our legislators understand this situation and the best effort they give is to pass more administrative and "feel good" laws that have no impact on homeowners' rights and enforcing State law and HOA governing documents.

This year the best effort related to HOA homeowners' rights comes with HB 19-1050, Encourage Use of Xeriscape in Common Areas. The intent of this Bill is fine, but read it and just like every other HOA law if passed it has NO enforcement (dispute resolution) provision except "go to court." Do we need another HOA administrative law that is packaged as promoting homeowners' rights but in fact will do little to nothing in promoting an environmental issue if it can't be enforced?

[Read full story](#)

HOA Project Management/Oversight Charges: Costly, Often Excessive

HOAs enter into a contract with a property management company to complete a variety of services including general administrative services, snow removal, landscaping, bookkeeping, enforcement of community controls and restrictions, and maintenance of common areas, and to advise on compliance with State HOA laws.

Generally, a property management company doesn't directly complete most community maintenance and capital improvement projects,

but works with the HOA Board to identify vendors, solicit bids, and award contracts to complete such work. This arrangement mostly works well as HOA Boards don't have contracting experience.

A property management company's contracting support services **should** be defined in its contract with the HOA as should the mention of any allowable and separate property management company (or their affiliates) assessments in the execution of their contract.

Most HOA Boards are unaware of the existence and/or amount of project management/oversight charges added to awarded contracts until after contract award: this can be a costly but avoidable mistake. [Read full story](#)



Should HOA Board Members be Licensed

Should HOA board members be licensed? Licensing HOA (homeowners association) board members would require background checks, financial liability insurance/bonding, purchasing educational courses and taking exams.

The objective of licensing would be to increase the competency of board members, preclude those with serious criminal backgrounds from serving on board, and provide consumer protection. This issue is being addressed in some states by passing laws "suggesting" licensing type requirements but no state-run licensing programs are in effect.

Most would agree that board members should be required to understand their position description, their roles and responsibilities and their own HOA by-laws, covenants, restrictions, and controls. Licensing could bring more competency and accountability to board members [Full Story](#)

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HOA Home Sale Transfer Fees Scam Home Owners for Millions

Each year HOA (homeowners association) home owners pay upwards of \$10 million to \$12 million in home sale transfer fees. The fee ranges from \$150 to \$1,000 per home sale. At issue is whether this fee is earned, legal, required by the HOA or by law or is **simply an income enhancement scheme involving duplicate billing for services by property management companies (PMCs) previously paid for with homeowner HOA dues.**

Home closing costs are expensive enough without adding in opportunistic and unchallenged fees that amount to duplicating charges already paid for with HOA dues. The Colorado HOA Forum (www.coloradohoaforum.com), the state's largest and most recognized HOA homeowner's advocacy organization, has completed a [comprehensive study](#) of the HOA home sale transfer fee. It has identified it as a costly scam on homeowners and recommends how our legislature can provide consumer protections at no cost to businesses, HOAs, home owners or taxpayers. [Read Full Story](#)

Before you pursue any HOA complaint read your HOA governing documents for "what is" as opposed to what you "want things to be". Then understand your only viable means for dispute resolution is our pay-to-play court system: it is your limited resources against the unlimited legal and financial resources of the HOA!

HOA Property Manager Licensing Law to Expire July 2019

The HOA Property Manager Licensing Law will expire July 2019 unless legislators take action to extend the law. This law provides home owners with the only means of enforcement in HOA oversight that can be pursued outside of our costly, litigious, and time consuming court system. The law allows home owners to file complaints with the State, have them investigated by the State and result in punitive action as applicable. The law definitely requires modifications to make it more effective and less protective of the industry it is supposed to monitor but it is the best means of oversight available. The Colorado legislature, as of the date of issuance of this newsletter, has taken no action to extend the law. [DORA web site](#)

From the Department of Regulatory Agencies [web site: Read all Q&A](#)

IMPORTANT NOTICE Community Association Manager Program Update On April 10, 2018, the Senate Committee on Finance of the Colorado Legislature voted to postpone indefinitely HB18-1175 (the Bill Concerning the Continuation of the Community Association Manager Program under the Sunset law). The effect of this vote means that the legislature will not continue the Community Association Manager (CAM) Program and will allow it to sunset. Below are answers to some questions that CAM licensees may have regarding the sunset of this program. Q: What does it mean that the CAM program sunset? A: The CAM program was set to be repealed on July 1, 2018, pursuant to C.R.S. 12-61-1014, unless extended by the legislature. Since this program was not extended by the legislature, it then goes through a "wind-up" procedure. This means that the program continues in existence until the date that is one (1) year after the specified repeal date (July 1, 2018) for the purpose of winding up affairs for the program. That ending date of the program will be July 1, 2019. On that date, the Division will then cease all activities with regard to the CAM program.



Your HOA violating ADA or the Fair Housing Act? [File a property manager complaint with DORA.](#) Need help, [contact us](#) [ADA page on our web site](#)



[HOA home buying guides and HOA home owner maintenance responsibilities brochures](#)

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HOA Governing Documents, Terminology: understanding the jargon

What is CCIOA?

The Colorado Common Interest Ownership Act (CCIOA) governs the establishment and practices of a Homeowner Association ("association") in Colorado.

What are the typical principal governing documents of an association?

Articles of Incorporation: The legal instrument which sets forth the name and object of the organization, and any other information required by state law. It is usually drafted by an attorney and supersedes all other rules of an organization. It establishes the authority for the organization to create the classes, eligibility, composition and rights of membership, as well as creating the committees (such as the Executive Board), and affords the power to adopt the parliamentary authority and bylaws.



Declaration of Covenants, Conditions, Restrictions (and Easements): [Full Article](#)



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?](#)

[Community Association Institute \(CAI\): who do they really represent?](#)

[HOA Transfer Fees: what they are/aren't, suggestions for accountability](#)

HOA Boards: licensing, certifying, background checks

HOA Board members are volunteers to the community. No special skills, knowledge, or abilities are required. To be effective a Board member should seek out information on the HOA's Declaration and by-laws and spend some time on the Colorado State HOA web site to gain a further understanding of HOA law. There is no State law requiring anything much more of a Board member beyond serving the community in a fiduciary capacity. There is no test Board members must take to indicate their understanding of HOA governance or any other skills nor is a background check required.



No one has defined any credentials or requirements for Board members. In Colorado, there has been no legislative interest to require any certification or even a mandate that all Board members acknowledge they read their own by-laws. Additionally, Board members are not subject to background checks and there are no disqualifications on serving even if one is a known felon many times over (unless stated in the by-laws).

Requiring some type of certification similar to HOA property managers is suggested for HOA Board members. A Board member understanding their responsibilities and basic HOA law is even more significant and important than a licensed property manager since they in fact are supposed to manage, approve, and direct the work of the property manager. To do an effective and competent job Board members should have a basic understanding of their job description under HOA law and as well as their role as defined under such law and their own governing documents.

Licensing/certification of Board members might involve background checks, formal completion of courses and passing a test with continuing education requirements. This is costly and imposing such a requirement would most certainly chase away home owner volunteers. A balance should be struck.

Alternatively, certification might involve a process of acknowledgement that the Board [CONTINUED PAGE 6](#)

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Historical Attempt at Reform: Protection Against Retaliation By Homeowner Association HB 16-1400, etc.

Back in the 2016 legislative session a Bill, [HB 16-1400](#), was submitted to provide home owner protections against retaliation by HOA Boards when they complained or investigated a violation within the management of the HOA. The Bill initially had some energy in a House vote and subsequently, for political reasons and based on political party lines, died in a [Senate Committee hearing](#) (or should it be stated correctly, no fair hearing just a political action). This was a very benign attempt to reinforce home owner protections under existing HOA and other laws. The way things work out within the legislature politics often times overrides sensible and productive legislation. One thing to note in this Bill that didn't influence any vote is that it didn't have any accessible and affordable means to enforce a home owner's rights outside of our costly, litigious, and time consuming court system. The Bill was vetoed and exemplifies the unproductive and dysfunctional nature of politics and how difficult it is to even get the most sensible and benign Bill passed.



Another efforts at HOA reform was HB 16-1133 that attempted to simply require a property management company to provide a receipt for HOA Home Sale Transfer Fees was defeated. The public hearing on this Bill was shameful as representatives of the property management industry objected to having to **document their line item charges and provide a receipt to the home seller** because they

simply couldn't specifically identify such charges by work effort and amount (but they knew how much to charge?). The legislators on the Committee vetoing this Bill simply listened and agreed that providing a receipt for a billing was too much effort and intrusive on the business. Wow!

So protecting home owner's rights and their wallets has historically proven to be too much effort for the legislature and that includes the 2019 legislative session. We hope this changes and priorities in passing laws such as authorizing the placement of a chili pepper on a license plate don't continue to gain more importance than HOA reform.

How to Discuss HOA Legal Terms and Governing Documents

A confusing and sometimes complicated attribute of understanding HOA governance are the terms, acronyms, and definitions of governing documents and HOA law. We provide this [article to help in understanding this maze of legal descriptions of documents](#). A general understanding of the legalities under which your HOA was created and is governed can be generally categorized under two parts: 1) HOA governing documents (some refer to this as by-laws encompassing the HOA's Declaration, by-laws, covenants, controls, restrictions, Articles of Incorporation). This refers to the HOA specific guidelines and rules and legal requirements and 2) State HOA laws that have a priority over HOA governing documents.

Thus, when attempting to define and identify your rights within the HOA first reference your HOA governing documents that if current should include and be reflective of State HOA law and then, as applicable confirm with a search of State HOA Bills and Acts. Understanding the jargon will help in understanding your rights.



Before you pursue any HOA complaint read your HOA governing documents for "what is" as opposed to what you "want things to be".

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HOA Boards: licensing, certifying, background checks (continued from page 4)

member reviewed a set of documentation explaining their role, responsibilities, basic HOA law. A background check would be optional but preferred and a no cost/minimal cost HOA Board member educational tutorial available on the State's HOA web site where confirmation of reading such information would be completed (annually this would be completed to ensure any new laws were understood by the Board member). There would be no and when an HOA registration is completed each year the HOA certifies that all current Board members have taken the on-line course. This type of passive certification would have no negative impact on volunteers even if required under the law, no cost to taxpayers or additional costs to the HOA and accomplish the goal or educating Board members.



Regardless of licensing or certification one should note that currently Board members are not even required to acknowledge they read the by-laws of the community (which they would be required to acknowledge/confirm during the on-line tutorial).

There is no evidence that either licensing or certification would mitigate HOA and home owner problems/complaints. However, it seems reasonable that the more Board members understand their role and that of the HOA property management company and State law the more problems can be avoided out of court. Many problems would not be escalated due to Board members understanding home owner rights under the law and their own job description and governing documents.

A Board member certification process would carry some enforcement authority as when the



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HOA Boards: licensing, certifying, background checks (continued)

yearly HOA registration takes place if the on-line tutorials are not confirmed completed then the same penalties for non-registration would be imposed. Also, in any home owner dispute of a violation of HOA governing documents the home owner could argue the Board member knowingly violated a rule they confirmed they read during the tutorial completion process.

The escalating complaints from home owners about HOA governance seems to be educational for Board members who do some



number of HOA govern-warrant some requirements members as better means to hold Boards accountable for their actions other than court room litigation. This discussion will continue but any educational requirements without any new means of accountability would seem to be an empty effort.

[Note: Florida Requires Board Members complete educational requirements.](#)



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**IS YOUR PROPERTY MANAGER LICENSED?
LOOK THEM UP. IF NOT FILE A COMPLAINT
(must be licensed through June 2019)**



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HOA Home Owner's Bill of Rights are as effective as "hopes"

Many believe a productive step in improving HOA governance rests with legislative passage of a Homeowner's Bill of Rights. Wrong! There have movements in several States to pass this type of legislation. It sounds good but in reality it represents what our criticism and other States laws : no en-Sure, one can passed into law, sounds good, the appearance of HOA reform. However, for those of us that have time to read any of these laws and work on real HOA legislative reform we know these are mostly "feel good" laws: the appearance of improving governance and home owner's rights but no process for enforcement. A Home Owner's Bill of Rights will only make you feel good.



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HOA's Across the USA

Note, these articles are from various U.S. states and may not pertain to laws in your State.

[HOA, Shed Restrictions, Jail Time, and Costly Lawsuit](#)

[Can HOA Ban Children from Swimming Pool and Other Areas? \(note, California related article\)](#)

[Property Manager Theft](#)

[HOA Common Property & Eminent Domain](#)

[Florida Requires Board Members Education](#)

[What you do in your HOA could affect your employment security clearance](#)

[Parking a commercial vehicle in HOA](#)

[HOA Embezzlement Gets Years in Jail](#)

[Home Inspectors to be Licensed](#)

[HOA, Shed Restrictions, Jail Time, and Costly Lawsuit](#)



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