

DRAFT

Proposal to require specific information in HOA contracts with their HOA Property Management (PM) Company

Proposed by the Colorado HOA Forum www.coloradohoaforum.com

HOAs are required to include the following statements in their contract with an HOA property management (PM) company:

- a) all transactions between an HOA's PM and homeowner must be approved by the HOA Board and be documented on an invoice provided to the homeowner indicating what work was completed, when and line-item cost with chargeable work hours
- b) all transactions between the HOA's PM and a homeowner will include a statement on the invoice that the charges are unique and extraordinary to the event, such as a home sale, for which the PM was not previously reimbursed for or expected to be paid or with HOA assessments or required to be provided the homeowner for no cost under HOA governing documents and/or CCIOA. This same statement to be included in the HOA's contract with the PM
- c) statement that the PM agrees to be in compliance with CCIOA and or an HOA's governing documents and that non-compliance can result in the HOA fining/assessing the PM for up to \$1,000 per violation. The monetary penalty will be deducted by the HOA from future payments to the PM. The HOA will first issue the PM a certified letter informing them of their intent to impose a fine of up to \$1,000 for their violation along with an explanation of the infraction by the PM and that the PM has 15 days to respond to the letter of intent by the HOA. The letter will offer the PM a hearing on the intended HOA imposed fine to be conducted by a mediator with authority to render an enforceable agreement among the parties or in the event the parties can't agree the mediator will be authorized to issue their independent decision. Attendees at the mediation will be limited to no more than two HOA Board members and one person representing the PM and that person can't be an attorney or lawyer. The mediation session will be held no more than 5 working days after both parties agree to mediate as offered in the notification letter but before the 15 day period allowed for response to the notification letter. The mediated agreement among the PM and HOA or that which the mediator was required to render a decision will be immediately enforceable.
- d) the PM will not violate either directly, indirectly, have knowledge of without taking corrective action any violation of CCIOA or the PM's contract with the HOA and subject to the a penalty of \$1,000 per violation
- e) PMs will participate in a hearing with Board on all alleged violations they participated in that were in violation of CCIOA or the HOA's governing documents and
- f) will not participate in any elections or other referendum including counting the votes or advocating Board candidates: their involvement is limited to advising on voting issues. In addition, that the PM agrees to be not involved in an HOA foreclosure or with an HOA attorney in the foreclosure process other than providing documentation.
- g) that the PM has no business relationship with the HOA's lawyer

h) all employees involved in handling HOA funds, accounts receivable and payable and have access to the HOA's financial institution accounts have passed a background check

i) that all HOA funds handled by the PM will be confirmed to be deposited in Colorado regulated, state-chartered commercial banks and trust companies and such funds will remain in Colorado and not transferred to a parent or controlling financial institution in another state or country

j) contracts between the HOA and PM not including these requirements, whether existing, renewal and/or a new contracts, will not be considered valid and any homeowner can use Small Claims Court to gain an injunction requiring the HOA to renegotiate the contract with these requirements. The Court can also impose non-monetary penalties on the HOA such as prevent the HOA from imposing liens or foreclosures, enforcing covenants or removing Board member(s) if the HOA Board doesn't complete compliance within 30 days of the injunction and

(k) indicate the PM or any of its' officers have been convicted of crimes related to the management of an HOA community (l) reveal any business or personal relationship between the PM and the HOA over the past seven years and (l) other requirements as applicable.

DRAFT