



**DRAFT Proposal: Flowchart
OUT OF COURT BINDING DISPUTE RESOLUTION
Administered by the Dept of Regulatory Agencies, State HOA Office**

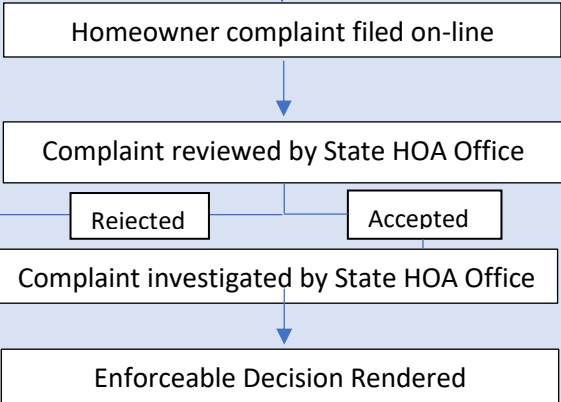
START HERE: HOMEOWNER DECIDES HOW TO FILE HOA COMPLAINT*

COURT SYSTEM

Homeowner chooses to take complaint through court system, decision in court, can appeal decision, and assumes assigned court costs. Right to submit complaint to HOA Office is nullified by this action.

STATE HOA OFFICE

Homeowner chooses to use the state managed complaint filing and resolution process located within the existing State HOA Office. Any decision rendered by will be enforceable through Dept of Regulatory Agencies (DORA) that manages the program within the State HOA Office. Homeowner files complaint on-line. Complaints involve violations of HOA governing documents and State HOA laws (not felonies, criminal activity or recovery of financial losses). Home owners document evidence of the violation including all steps they've taken to resolve the complaint and quoting what State HOA law or clause in their governing documents was violated. This process is not for filing a complaint against the HOA management company or an individual Board member(s). The State HOA Office has the authority invoke injunctive relief. Decisions are final, accepted by HOA and homeowner, right to appeal in court not available. Appeal of a decision with the Office is at the discretion of the Office.



Complaint not applicable to process or found to be frivolous or unjustified and rejected, homeowner may take a rejected complaint to court but not refile same complaint with HOA Office

*Assumes the homeowner was provided notification, completed a written request for a hearing with the HOA Board and the Board and homeowner are at an impasse.

Funded through HOA Registration fees and supplemented as needed by a complaint filing fee. A complaint filing fee would not only help fund the program but mitigate the number of frivolous and repeat filing by same homeowner. HOA registration fees to increase by \$3 per household per year initial year.

Cost savings in legal costs for both the HOA and home owners by avoiding costly court cases. No new taxpayer general funds required.

This process would not involve lawyers. Complaints and responses would be provided by homeowners and the HOA. Any choice to utilize a lawyer and incur legal fees would not be reimbursed.

The State process would focus on compliance with State HOA laws and HOA governing documents. Recovery of financial damages would be referred to Small Claims or other court as applicable.

The Office would not impose monetary fines on HOAs nor could it get involved in awarding financial damages. Penalties against the HOA for non-compliance with an Office decision would involve: precluding an HOA's authority to issue liens, foreclosures, fines and/or removal of a Board member(s) at the discretion of the HOA Office. Felony actions would not be part of this system. This process would not require any costly and time-consuming pre-processes other than HOA issuing of notifications and a hearing between homeowner and HOA or other mandates documented in an HOA's governing documents. The requirement for mediation will not be invoked. This process completes any function or benefit that a mediation can provide at a fraction of the cost and with less complexity, greater efficiency and with the benefit of enforcement. In addition, HOA staff are trained on HOA matters but mediators can be anyone as there is NO licensing or credential program through the State.

Some cases considered by the Office to be too complex or expensive would not be handled under this process unless the homeowner agrees to paying such excessive costs.

The Office would have the authority to impose injunctive relief in complaint resolution.

A 2013 State Study and Sunset Review Study 2019 suggests an out of court binding dispute resolution process. NOTE: the State administers a home owner dispute resolution process for those in mobile home and manufactured home communities and previously for complaints by homeowners with their HOA management company. This process would be similar, streamlined and less costly, targeted and designed for the purpose intended and not a hybrid or patched application. Since this process doesn't involve a regulated business or licensing matter it is best administered separate from DORA regulatory/licensing resources but managed within the State HOA Office (a one-stop shopping experience (location) that will develop standards, processes, cost effectiveness and manage technology and human resources without having to jump through hoops.

This process is not a hybrid or modified program from another with different HOA laws and different government structure: that would be attempting to place a round peg in a square hole. This process fits into the Colorado government structure and builds upon that which exists: State HOA Office.

A full narrative explanation of the proposal for out of court binding dispute resolution for homeowner complaints can be viewed on the Colorado HOA Forum website www.coloradohoaforum.com click on the "Dispute Resolution" icon on home page.

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