

HB 21-1310, HOA Flag Bill: promotes hate, divisiveness not freedom of expression
Opinion from the Colorado HOA Forum

HB 21-1310 requires HOAs to permit the posting of any divisive and hate message with a flag 365 days of the year. The Bill precludes an HOA from banning all flags except the American flag and political signage (for a limited time). Banning all flags was an effective legal tool used by HOA Boards to stop exhibitions of hate and divisiveness through flag messaging. This Bill would give a green light to those wishing to display flags with messages such as "White Power", "White Lives Matter", "Hitler Was Right", flags with graphic abortion messaging or flags with any political or social issue every day of the year and in your face and right next door. The Bill states "any flag, any time with any message" and the flag/message can be displayed on patios, in windows, on decks and the balcony right next to you for your enjoyment. The Bill was created in response to a homeowner alleging selective enforcement of an HOA's flag policy because the message on the flag was "Black Lives Matter". There already is HOA law making selective enforcement illegal thus this Bill is redundant. Worst yet, the justification/need for the Bill is not based on a high level of complaints about flag messaging: no more than 36 over recent years from over 700,000 HOA homeowners. The Bill does nothing to help homeowners pursue HOA violations of "selective enforcement" on any HOA restriction or any means to gain enforcement of issues in this Bill: homeowners must go through a costly court case which most can't afford and thus like all HOA Bills over the past 25 years there is no practical, affordable and accessible means of enforcement. Thus this Bill is not only redundant of existing law and mostly unenforceable for homeowners but will provoke divisiveness in a community through flag messaging that was absent prior to this Bill.

This is a bad Bill promoting bad HOA governance.

*Challenges to flag content will cost HOAs in legal costs