

2013 ANNUAL REPORT

HOA INFORMATION AND RESOURCE CENTER

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EXECUTIVE SUMMARY

In response to growing concern regarding unit owners' associations¹ ("HOAs"),² the Colorado legislature ("Legislature") created the HOA Information and Resource Center ("Center") in 2010.³ The Center is organized within the Division of Real Estate ("Division"), a division of the Department of Regulatory Agencies ("DORA"). As directed by Colorado ("State") law, the Center collects information from HOAs via registration and from the inquiries and complaints received. The Center is also responsible for providing information to unit owners ("homeowners"), HOA boards, declarants, and other interested parties about the rights and responsibilities set forth in the Colorado Common Interest Ownership Act⁴ ("CCIOA") and other applicable State law.

Pursuant to C.R.S. § 12-61-406.5(3)(c), the HOA Information Officer ("Officer"), who administers the Center, presents an annual report to the Director of the Division after analyzing the aforementioned information. This document ("Report"), the 2013 annual report, provides an overview of the experiences of homeowners and others in matters involving HOAs, and insight into the trends and statistics of the broader common interest community ("CIC") industry within Colorado.⁵ The Report also contains a brief summary of the legislation enacted in 2013 that pertains to HOAs, select operational details of the Center, and notes on the future direction of the Center.

In conclusion, the Report is part of the Center's ongoing commitment to providing information, education, and resources to those affected by, involved with, or interested in HOAs and CICs that are subject to the CCIOA.

¹ As defined in C.R.S. § 38-33.3-103(3).

² From C.R.S. § 12-61-101(1.2):

“HOA” or “homeowners’ association” means an association or unit owners’ association formed before, on, or after July 1, 1992, as part of a common interest community as defined in section 38-33.3-103, C.R.S.”

³ HB10-1278 as codified in C.R.S. § 12-61-406.5(1); effective January 1, 2011.

⁴ C.R.S. § 38-33.3-101, *et seq.*

⁵ From C.R.S. § 38-33.3-103(8):

“Common interest community” means real estate described in a declaration with respect to which a person, by virtue of such person’s ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in a declaration. Ownership of a unit does not include holding a leasehold interest in a unit of less than forty years, including renewal options. The period of the leasehold interest, including renewal options, is measured from the date the initial term commences.”

2013 LEGISLATIVE UPDATE

The Legislature passed several HOA related bills during the 2013 session; this legislative update contains summaries of those bills. Note that these summaries do not attempt to acquaint readers with all of the aspects of the bills. We recommend that those who desire an in-depth understanding review the bills in their entirety.

2.1 HB13-1134 (HOA CENTER)

This bill directs the Center to conduct a study addressing the necessity, options, and costs related to various issues concerning HOAs. The Center studied how other states investigate, verify, and resolve HOA complaints. Alternative dispute resolution, including mediation, is among the methods of complaint resolution that the bill includes in the study. Other matters studied include oversight over HOA elections and related disputes, regulation of declarant-controlled boards, protection from threats or defamatory conduct arising in HOAs, and determining a per-unit fee from which to calculate HOA registration fees. The bill also expands the educational role of the Center, and requires additional HOAs (namely, HOAs that predate the CCIOA) to register with the Center.⁶

Pursuant to this legislation, the Center has published a report titled: “Report to the Legislature on the 2013 Study of Comparable HOA Information and Resource Centers.” A copy of this report is available to the public on the Center’s website.

2.2 HB13-1225 (HOMEOWNER’S INSURANCE REFORM ACT OF 2013)

This bill requires insurers to offer extended replacement and law of ordinance coverage. In addition, the insurer must include at least one year and offer up to two years of additional living expense coverage. Insurers must provide policyholders with an updated estimate of replacement cost, and provide within three days of request, an electronic or a paper copy of the policy. The insurer must write all policies, endorsements, notifications, and summary disclosure forms in plain language.⁷

2.3 HB13-1276 (HOA DEBT COLLECTION)

This bill requires HOAs to establish a collection policy that, at a minimum, specifies the date on which homeowners must pay assessments to the association and when an assessment is considered past due, any late fees and interest charged, any returned-check charges, and the circumstances under which a delinquent homeowner is entitled to enter into a payment plan and the minimum terms of the payment plan. The bill also stipulates that before the entity turns over a delinquent account to a collection agency or attorney, it must send the homeowner a written notice of delinquency specifying the total amount due. This notice must also provide an accounting of how the total was determined, whether the opportunity to enter into a payment plan exists, and instructions for contacting the entity to enter into the payment plan. Furthermore, the name and contact information for the individual the homeowner may contact to request a copy of the homeowner’s ledger to verify the amount of the

⁶ As codified in C.R.S. §§ 12-61-406.5, 12-61-406.7, 38-33.3-117, and 38-33.3-401; effective August 7, 2013.

⁷ As codified in C.R.S. §§ 10-2-301, 10-4-110.8, and 10-4-111; effective January 1, 2014, with the exception of C.R.S. § 10-4-110.8(12), which is effective May 10, 2013.

debt, and notice that action is required to cure the delinquency and failure to do so within thirty days may result in the account being turned over to a collection agency, a lawsuit being filed against the homeowner, the filing and foreclosure of a lien against the homeowner's property and other remedies available under State law must also be supplied.

The association, holder, or assignee of the association's lien, may only proceed to foreclosure if the balance of the assessments and charges secured by the lien equals or exceeds six months of common assessments. The association board must vote on an individual basis to proceed with foreclosure on any specific unit. Homeowners that are delinquent will have a one-time opportunity to enter into a payment plan to bring their account current, and the payment plan must be for a minimum of six months. The homeowner must make the payments under the plan as well as pay their current monthly assessment obligations. If the homeowner fails to make these payments, the association may proceed with collections.⁸

2.4 HB13-1277 (COMMUNITY ASSOCIATION MANAGER LICENSING)

Community association managers, chief executive officers of management companies, and executives of management companies who directly supervise managers will be required to be licensed in Colorado starting July 1, 2015.⁹ The Division will undertake rule-making as necessary for the implementation of this bill.

To procure a license, individuals must hold one or more of the following credentials: a Certified Manager of Community Associations (CMCA) certification awarded by the National Board of Certification for Community Association Managers, an Association Management Specialist (AMS) designation awarded by Community Associations Institute (CAI), a Professional Community Association Manager (PCAM) designation awarded by CAI, or any other credential identified by the director of the Division of Real Estate. The prospective licensee must also complete any educational or continuing education requirements as determined by the Division, and pass an examination on State law, including the CCIOA, as well as the legal documents and statutes essential to the operation of a community association. In addition, before the Division grants a license it will undertake a criminal background check on the individual seeking the license.

Licensed managers may be subject to discipline by the Division for a variety of offenses. Depending upon the severity of the offense, the discipline may include an administrative fine not to exceed \$2,500 for each separate offense, censure of a licensee, probation with terms, temporary suspension of a license, or permanent revocation of a license.

2.5 SB13-126 (ELECTRIC VEHICLE CHARGING STATIONS)

This bill allows the installation and use of electric vehicle charging stations on a homeowner's property lot and on the limited common elements designated for the use of that homeowner. This law, however,

⁸ As codified in C.R.S. §§ 38-33.3-117, 38-33.3-209.5, 38-33.3-316, and 38-33.3-316.3; effective January 1, 2014.

⁹ As codified in C.R.S. §§ 12-61-111.5, 12-61-1001, *et seq.*, 13-4-102, 24-34-104, 38-33.3-209.4, and 38-33.3-402; effective January 1, 2015.

does not require an HOA to incur expenses with regard to the station's installation. The HOA will be able to require adherence to bona-fide safety requirements and that the charging station be registered with the HOA within thirty days of installation. The installation must comply with the HOA's governing documents, reasonable aesthetic provisions concerning dimensions, placement, external appearance, and design specifications. The homeowner must engage the services of a licensed and registered electrical contractor familiar with the installation of, and code requirements for, electric vehicle charging stations, and provide proof of insurance or payment of the HOA's increased insurance premium costs related to the charging station. Furthermore, the homeowner is responsible for the removal of the system if necessary to maintain the common elements.¹⁰

2.6 SB13-182 (TIME SHARE RESALE SERVICES – DECEPTIVE PRACTICES)

This bill regulates the transfer of timeshares by transfer companies. It provides protection for consumers from aggressive and misleading sales and marketing practices in the resale market by requiring disclosures to the seller and prohibiting advance fees for the transfer of a timeshare. The bill also provides a limited exemption for Colorado-licensed real estate brokers provided they do not collect any advance fees or have a business relationship with any party in a resale or transfer transaction.¹¹

2.7 SB13-183 (WATER CONSERVATION MEASURES)

This bill addresses drought conditions and water conservation measures in CICs. Regarding the installation of new landscaping or modifying existing landscaping, HOAs cannot require that turf grass be installed. In addition, HOAs cannot require homeowners to water their landscaping in violation of water use restrictions. Homeowners must still water their landscaping appropriately, but not in excess of any such water restrictions. HOAs are permitted to adopt and enforce design or aesthetic guidelines that require the installation of drought-tolerant vegetative landscapes, and regulate the type, number and placement of drought-tolerant plantings. HOAs are also permitted to regulate the hardscapes that homeowners may install.¹²

¹⁰ As codified in C.R.S. §§ 24-38.5-103, 38-12-601, and 38-33.3-106.8; effective May 3, 2013.

¹¹ As codified in C.R.S. §§ 6-1-102, 6-1-703, and 6-1-703.5; effective August 7, 2013.

¹² As codified in C.R.S. §§ 37-60-126, 38-33.3-103, 38-33.3-106.5, and 38-33.3-302; effective May 10, 2013.

REGISTRATION

State law mandates every HOA to register and renew their registration on an annual basis.¹³ Every registering HOA must also submit a fee and update any relevant information in their registration within ninety days of any change.¹⁴ An HOA that fails to register or allows its registration to lapse may not impose or enforce certain liens and is limited in the actions it may pursue or specific means of enforcement it may utilize, until it is validly registered.¹⁵

The Center is charged with the task of registering HOAs in Colorado. Furthermore, the Center collects the information provided in these registrations into a database.¹⁶ As of December 31, 2013, the Center has registered 8,857 HOAs.

3.1 COMPLIANCE

A lack of widespread knowledge about the need for HOAs to register coupled with the absence of authority to enforce the registration requirement hinders the Center in its efforts to register all HOAs within Colorado.

Additionally, some HOAs entered incorrect registration data. As an example of the difficulties encountered, at least 288 HOAs submitted invalid Secretary of State IDs. The only encouragement given to HOAs to register is the aforementioned lien provision, which is solely an affirmative defense to be employed in applicable legal proceedings by homeowners who happen to know that their HOA has not registered with the Center.

3.2 UNITS

A unit, as defined by the CCIOA, is as a physical space set aside for separate ownership or occupancy.¹⁷ The sum of the unit counts accompanying all of the registrations provided by HOAs is 880,326 as of December 31, 2013.

3.2.1 Timeshares

Time-sharing is a form of ownership of a unit, or more specifically, a time share unit, which is divided temporally, creating time share estates.¹⁸ Within the scope of registration, a time share unit is tallied as one unit, not the number of time share estates it is divided into. Hereafter, no distinction is made

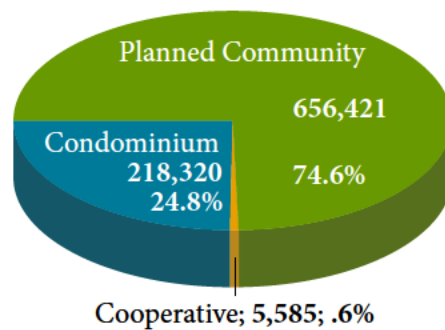


Figure 3.1 Chart of units by CIC type.

¹³ From C.R.S. § 38-33.3-401(1):

“Every unit owners’ association shall register annually with the director of the division of real estate, in the form and manner specified by the director.”

¹⁴ C.R.S. § 38-33.3-401(2)(a)

¹⁵ C.R.S. § 38-33.3-401(3)

¹⁶ Pursuant to C.R.S. § 12-61-406.5(3)(a)(I).

¹⁷ As defined in C.R.S. § 38-33.3-103(30).

¹⁸ Definitions related to time-sharing can be found in C.R.S. § 38-33-110, a section of the Condominium Ownership Act, which precedes, but is not entirely superseded by, the CCIOA.

between time share units, as defined in the Condominium Ownership Act, and units, as defined in the CCIOA.

3.3 REGISTRATION FEE

HOAs that are not authorized to make assessments and do not have any revenue or HOAs with annual revenues of \$5,000 or less are not required to pay the registration fee.¹⁹ This provision does not, however, absolve any such HOA from still registering.

As the Center is responsible for collecting registration fees, HOAs are required to inform the Center regarding whether they are exempt from paying the fee.

Fee Status	HOAs	HOAs – %
Exempt	710	8.0%
Not Exempt	8,147	92.0%

Table 3.1 HOAs by fee status.

HOA Fee Status	Units	Units – %
HOA Exempt	34,250	3.9%
HOA Not Exempt	846,076	96.1%

Table 3.2 Units by HOA fee status.

3.4 COMMON INTEREST COMMUNITIES

The CCIOA requires that the declaration of a CIC state whether the CIC is a condominium, cooperative, or planned community,²⁰ and HOAs are required to provide the same information when registering with the Center. The distinction in the CCIOA between condominiums, cooperatives, and planned communities is made on the basis of ownership of real estate.

3.4.1 Condominiums

A condominium is a CIC in which real estate that is not designated for separate ownership by homeowners is owned in common by those homeowners.²¹ Typically, CICs registered as condominiums contain one or more multi-family dwellings, each of which is further divided into multiple units. Much of the remaining real estate (*e.g.*, structures that do not contain units, the parts of buildings that contain, but are not within units, and unenclosed spaces) is owned in common by all homeowners; these parts are called common elements.

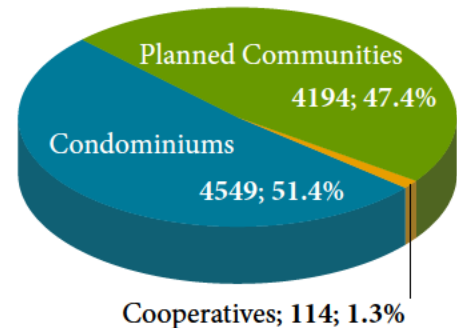


Figure 3.2 Chart of CICs by type.

¹⁹ C.R.S. § 38-33.3-401(2)(b)

²⁰ C.R.S. § 38-33.3-205(1)(a)

²¹ C.R.S. § 38-33.3-103(9)

3.4.2 Cooperatives

The least common type of CIC is the cooperative. In a cooperative, the HOA owns the real estate and homeowners are granted exclusive possession of a unit on the basis of ownership in the HOA.²²

3.4.3 Planned Communities

A planned community is simply defined as a CIC that is neither a condominium nor a cooperative; however, a planned community may contain condominiums or cooperatives.²³ Commonly, CICs registered as planned communities encompass many single-family houses, each of which is equivalent to a single unit; the structure of the house and a small surrounding area are owned by the homeowner.

3.4.4 Pre-CCIOA Common Interest Communities

With the entry of HB13-1134 into State law, the issue of whether pre-CCIOA HOAs are required to register has been resolved. Among other changes, as previously elaborated in the “[2013 Legislative Update](#)”, HB13-1134 amended C.R.S. § 38-33.3-117 to add C.R.S. § 38-33.3-401²⁴ to the list of sections that apply to preexisting CICs. In accordance with this change, the Division has rescinded “Position Statement – HOA 1.1”, which stated that it was the Director’s position that pre-CCIOA HOAs were not required to comply with the registration requirement.²⁵

This change, however, does not impact the applicability of other sections of the CCIOA to preexisting CICs, and thus the Center continues to compile statistics on the portion of HOAs that may be covered by exemptions that apply to preexisting CICs. The Center uses the Secretary of State ID issued to an HOA to ascertain whether the CIC may qualify for the aforementioned exemptions; the IDs are collected from HOAs as part of the registration process.

HOAs may exercise other exemptions as well, such as the large planned communities exemption,²⁶ exemptions for small or limited expense CICs,²⁷ exemptions for timeshares,²⁸ and other exemptions present in the CCIOA. HOAs are not required to indicate the exemptions they exercise when registering, so the Center is limited in its ability to conduct a comprehensive survey.

²² C.R.S. § 38-33.3-103(10)

²³ C.R.S. § 38-33.3-103(22)

²⁴ The registration mandate is contained in C.R.S. § 38-33.3-401.

²⁵ The position statement in its entirety is available in the 2013 Colorado Real Estate Manual, in chapter 4 (Subdivision Laws), page 2, within section 2.

²⁶ C.R.S. § 38-33.3-116.3, *et alibi*. HOAs are not required to state the acreage of associated CICs when registering. 227 HOAs (2.6%) stated that associated CICs contain more than 500 units.

²⁷ C.R.S. §§ 38-33.3-116, 38-33.3-119, *et alibi*. From registration data: 1,539 CICs (17.4%) contain no more than 10 units, and 2,932 (33.1%) contain no more than 20 units. No information is available on the number of CICs that may be exempt due to limiting the annual average common expense liability.

²⁸ C.R.S. §§ 38-33.3-209.4(4), 38-33.3-209.7(2), 38-33.3-302(4)(b), 38-33.3-303(4)(b)(V), 38-33.3-308(2)(b)(II), 38-33.3-308(2.5)(c), 38-33.3-310(1)(b)(II), 38-33.3-317(1)(e), 38-33.3-317(3)(g), *et alibi*. No statistics are presented as HOAs are not required to indicate whether they contain time share units when registering.

Status	HOAs	HOAs – %	Units Encompassed	Units – %
Pre-CCIOA ²⁹	2,677	30.2%	347,285	39.4%
ID issued in 1992 ³⁰	156	1.8%	13,278	1.5%
CCIOA ³¹	5,736	64.8%	493,827	56.1%
Invalid ID supplied	288	3.3%	25,936	2.9%

Table 3.3 HOAs by potential eligibility for preexisting CIC exemptions.

3.4.5 Geographical Distribution of Common Interest Communities

HOA registrations provide the Center with information from which the location of Colorado’s CICs can be extrapolated.

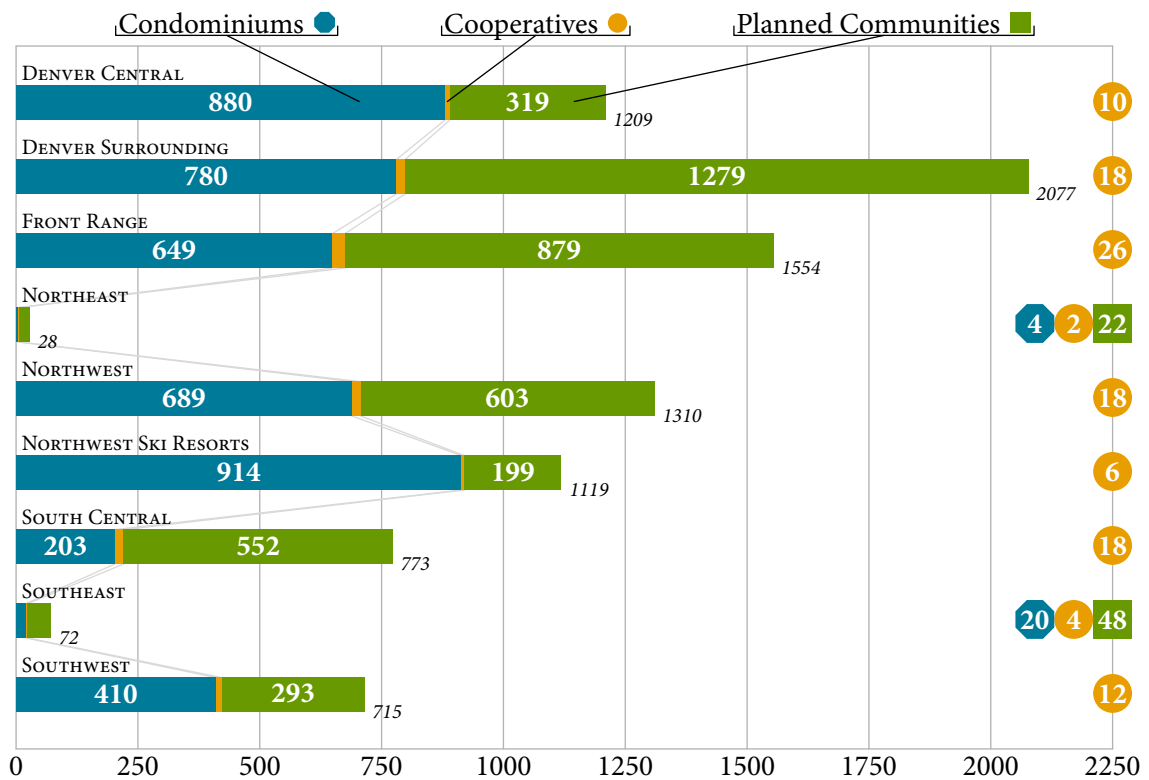


Figure 3.3 Chart of common interest communities in Colorado, by region.

²⁹ Some CICs formed prior to July 1, 1992 have elected treatment under the CCIOA pursuant to C.R.S. § 38-33.3-118. These CICs, as a result, do not qualify for the exemptions normally granted to pre-CCIOA CICs.

³⁰ The first four digits of a Secretary of State ID denote the year of issuance, however, the ID does not provide additional detail regarding the month; therefore, the Center could not determine whether HOAs with IDs issued in the year of 1992 are eligible for the exemptions. The footnote associated with the status CCIOA applies, *mutatis mutandis*, as well.³¹

³¹ It is possible that some CICs were formed sufficiently far in advance of their HOAs obtaining a Secretary of State ID that they may still qualify for the preexisting CIC exemption despite being counted as CCIOA.

Region	Cities
DENVER CENTRAL	Cherry Hills Village, Denver, Edgewater, Englewood, and Glendale.
DENVER SURROUNDING	Arvada, Aurora, Bennett, Brighton, Broomfield, Castle Pines, Castle Rock, Centennial, Commerce City, Conifer, Eastlake, Evergreen, Federal Heights, Fort Lupton, Franktown, Golden, Greenwood Village, Henderson, Highlands Ranch, Indian Hills, Larkspur, Lakewood, Littleton, Lone Tree, Morrison, Northglenn, Parker, Pine, Thornton, Westminster, and Wheat Ridge.
FRONT RANGE	Allenspark, Bellvue, Berthoud, Black Hawk, Blue River, Boulder, Central City, Como, Dacono, Divide, Drake, Dumont, Eldorado Springs, Empire, Erie, Estes Park, Evans, Fairplay, Firestone, Fort Collins, Georgetown, Glen Haven, Greeley, Grover, Guffey, Jamestown, Jefferson, Johnstown, Kersey, Lafayette, Laporte, Livermore, Longmont, Louisville, Loveland, Lyons, Mead, Milliken, Masonville, Nederland, Niwot, Pinecliffe, Platteville, Red Feather Lakes, Rollinsville, Sedalia, Severance, Strasburg, Superior, Timnath, Watkins, Wellington, and Windsor.
NORTHEAST	Carr, Eaton, Elizabeth, Frederick, Hudson, Sterling, and Weldona.
NORTHWEST	Avon, Basalt, Battlement Mesa, Carbondale, Clark, Clifton, Cordillera, Cortez, Craig, De Beque, Dillon, Eagle, Eagle-Vail, Edwards, Fraser, Frisco, Fruita, Glade Park, Glenwood Springs, Granby, Grand Junction, Grand Lake, Gypsum, Hayden, Hot Sulphur Springs, Kremmling, Leadville, Loma, Mack, Meeker, Meredith, Mesa, Minturn, New Castle, Oak Creek, Palisade, Parachute, Powderhorn, Redstone, Rifle, Silt, Silverthorne, Snowmass, Tabernash, Walden, Whitewater, Woody Creek, Wolcott, and Yampa.
NORTHWEST SKI RESORTS	Aspen, Beaver Creek, Breckenridge, Copper Mountain, Keystone, Snowmass Village, Steamboat Springs, Vail, and Winter Park.
SOUTH CENTRAL	Alamosa, Alma, Bailey, Buena Vista, Calhan, Cañon City, Cascade, Coal Creek, Colorado City, Colorado Springs, Cotopaxi, Creede, Cripple Creek, Elbert, Florence, Florissant, Fort Garland, Fountain, Hartsel, Hillside, Howard, Lake George, Manitou Springs, Monte Vista, Monument, Nathrop, Penrose, Peyton, Salida, San Luis, South Fork, Twin Lakes, Westcliffe, and Woodland Park.
SOUTHEAST	Aguilar, Cuchara, La Veta, Pueblo, Pueblo West, Rye, Trinidad, Walsenburg, and Weston.
SOUTHWEST	Almont, Bayfield, Capulin, Cedaredge, Chromo, Cimarron, Crested Butte, Delta, Dolores, Durango, Gunnison, Hesperus, Lake City, Mancos, Montrose, Mountain Village, Mount Crested Butte, Norwood, Ophir, Ouray, Pagosa Springs, Paonia, Pitkin, Placerville, Rico, Ridgway, and Telluride.

Table 3.4 Cities with registered HOAs, by region.

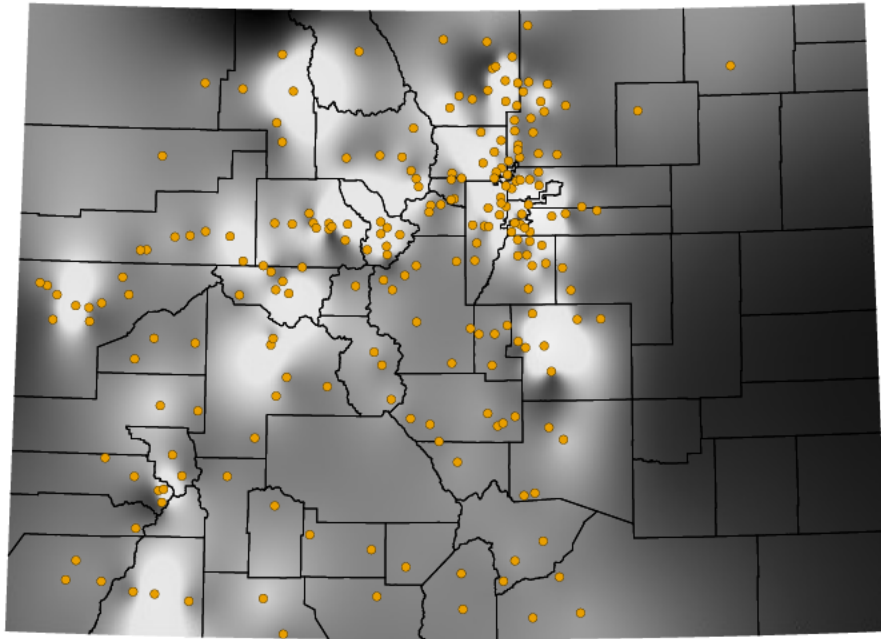


Figure 3.4 Map of Colorado with a monochrome overlay depicting the concentration of CICs (grid resolution of one arcminute), black outlines of counties, and orange dots indicating cities in which CICs are present. Lighter shades correspond to a higher density of CICs.

3.4.6 Common Interest Community Size Data

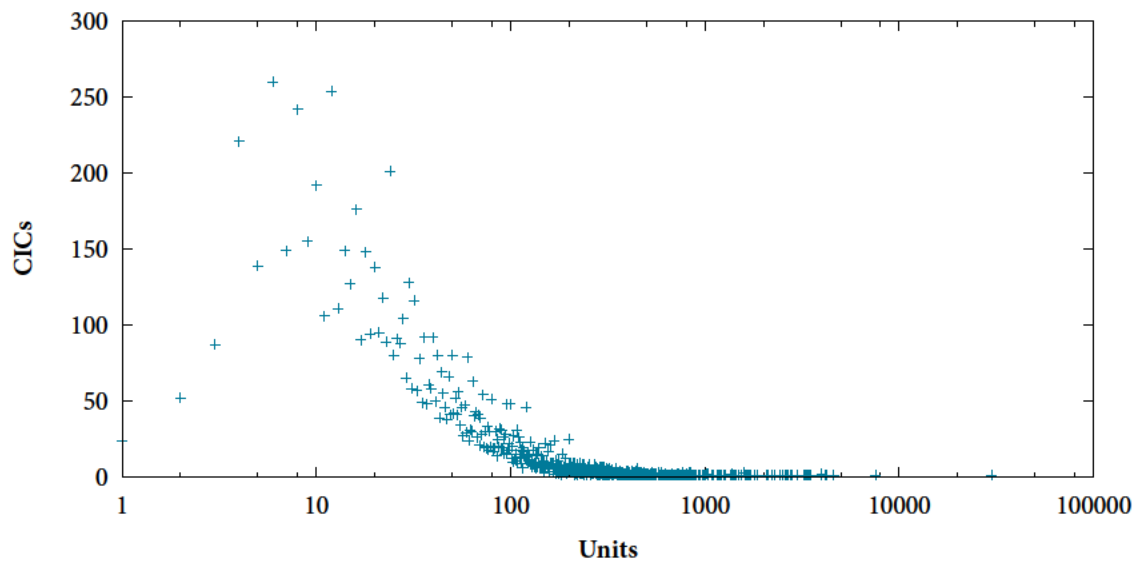


Figure 3.5 Plot of CICs by unit count; the *Units* axis is scaled logarithmically.

INQUIRIES

One of the main objectives of the HOA Information and Resource Center is to provide information to interested parties about HOAs and CICs that are subject to the CCIOA. In accordance with State law, the HOA Information Officer acts as a clearinghouse for information concerning the basic rights and duties of unit owners, declarants, and HOAs.³²

The Center logged 4,767 separate inquiries during year 2013. In responding to these inquiries, the Center answered questions and provided referrals to applicable legal, alternative dispute resolution, and government services. Parties that contacted the Center for information include: homeowners, tenants, community association managers, HOA board members, attorneys, government agencies, vendors, and declarants.

Most of the inquiries to, and assistance from, the Center pertained to the following areas:

- The governing documents of an HOA, namely, the declaration, articles of incorporation, bylaws, and rules and regulations;
- The responsibilities of, and procedures related to, an HOA board, such as meetings, voting and proxy issues, and the identification and resolution of conflicts of interest;
- The financial aspects of an HOA, including assessments, accounting and budgeting, insurance, and reserves;
- Maintenance and upkeep of the community;
- The enforcement capabilities of an HOA, such as levying fines on homeowners, filing liens and foreclosing on units, and initiating receiverships;
- Disclosure and production of HOA records to homeowners;
- Various concerns about, and of, managers and vendors;
- Issues specific to declarants, including disclosure of documents, transfer of control, and enforcement of governing documents;
- The functions and duties of the Center (*e.g.*, how it assists homeowners, registers HOAs, and processes complaints); and
- The statutes that constitute, and the bills that impact, HOA law.

The Officer or his assistant answered inquiries via telephone, email, and in-person meetings, thereby assisting homeowners and other interested parties. To preemptively address many of these inquiries, the Center has greatly expanded the scope of the resources available on its website, with an emphasis on providing access to relevant State law; towards the same end, the Center has also implemented an electronic mailing list to forward important information concerning HOAs to subscribers.

By discussing the concerns homeowners have about their HOAs, the Center aims to provide avenues for solutions in the form of information and referrals, and thus empowers consumers with the knowledge that they need to work within their HOAs, and if necessary, to effectuate change for the better.

³² C.R.S. § 12-61-406.5(3)(a)

COMPLAINTS

From January 1, 2013 to December 31, 2013, the Center received 1,248 complaints from 327 different complainants via mail, phone, e-mail, submission in person, and the Center’s website. The complainants were homeowners and others involved with HOAs.

Beyond the complaint itself, information collected includes the contact details of the complainant and details on the party or parties against whom the complaint is directed, as applicable. For complaints directed against HOAs these details include the name, type, and contact information of the HOA, and whether the HOA is managed by a third-party, and if so, the name of that third-party.

5.1 COMPLAINANTS

The Center uses information collected from submitted complaints to determine the geographical distribution of complainants throughout Colorado.

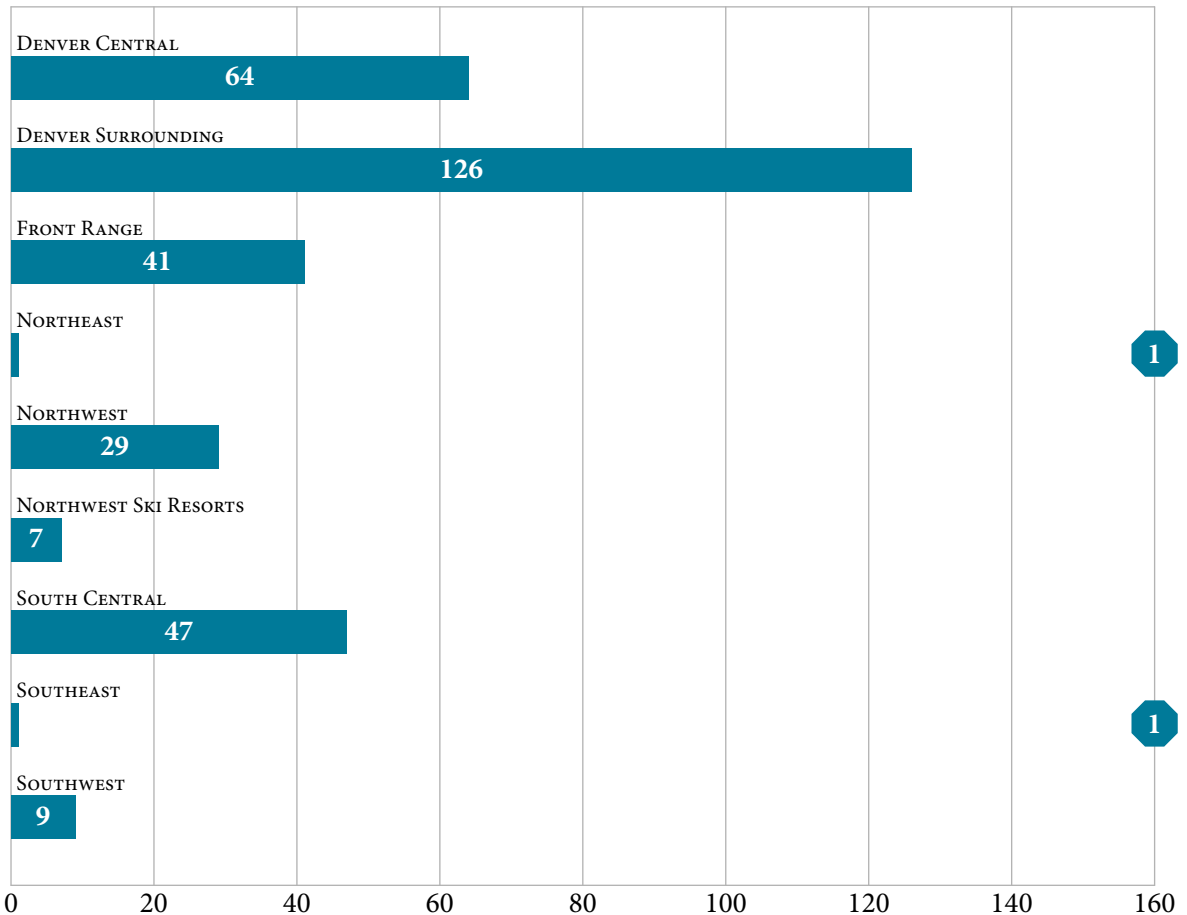


Figure 5.1 Chart of complainants by region.³³ The cities included in each region are listed in [table 3.4](#), on [page 9](#).

³³ The locations of two complainants (0.6%) are not available, and thus are not reflected.

5.2 COMPLAINTS INVOLVING COMMUNITY ASSOCIATION MANAGERS

Complaints that specifically mentioned managers as either a cause or responsible party account for 504 (40.4%) of all those received (see [figure 5.4 on page 15](#)). The role of the community association manager is extremely important as the HOA board consists of volunteer homeowners who may not have adequate time or expertise to commit to the task of overseeing and running the HOA in its most minute detail. Oftentimes the HOA board hires a community manager to handle various aspects of the community, including:

- Communicating with homeowners and acting as a liaison between the HOA board and homeowners, as accomplished by preparing community newsletters, providing required notices, etc.;
- Financial matters, including preparing the HOA's budget, collecting dues and special assessments, and assisting with reserve planning, investing funds, and maintaining adequate insurance;
- Enforcing the covenants and rules and regulations for the community, which includes finding violations and responding by levying fines, imposing other penalties, or simply issuing warnings;
- Record-keeping, such as drafting the minutes of HOA board meetings, accounting, and updating necessary information on homeowners;
- Maintaining the property, including, when necessary, administering contracts with vendors and professional advisers for the HOA;
- Educating and updating the HOA board on relevant laws, trends, and the state of the HOA, often while attending board and homeowner meetings; and
- Overseeing elections.

Regarding communication, an often-seen pattern is that a complainant will begin to view the manager of his or her HOA as the personification of that HOA, especially when it comes to enforcement. It is difficult to determine the exact threshold at which the influence a manager extends over the board and association becomes excessive. While some boards exercise a great deal of oversight over the community manager, others are content to let the manager handle almost every aspect of running the community without supervision. How homeowners perceive such action, or lack, thereof, by the board is very influential when assigning blame to a party.

Many managers feel that they are an integral part of the community and try to demonstrate that the trust the community vests in them is well rewarded by diligence and attentiveness while maintaining the community and enforcing the covenants and rules. Enforcement is, as expected, a contentious matter for homeowners.

Other issues include conflicts of interest and failure to produce documents, and these were commonly associated with allegations of no bidding on contracts taking place, or vendor contracts being fulfilled by the affiliates of a manager. Not carrying out managerial duties correctly, often tied to maintenance or accounting issues, were other concerns that complainants frequently wrote about.

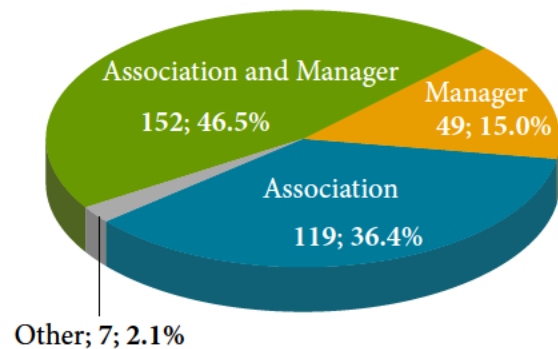


Figure 5.2 Chart of complaint sources, by complainant.

5.3 CLASSIFICATION OF COMPLAINTS

The Center categorizes the complaints it receives according to type. Types that accounted for fewer than three complaints were placed under *Miscellaneous*.

The nature of the complaints from complainants residing in condominiums and planned communities were very similar, with the exception of maintenance issues, which were more often associated with condominiums. Complaints that mention an HOA in general or its board of directors as either a cause or responsible party account for 744 (59.6%) of all the complaints received, with 42 of those complaints being directed towards declarant-controlled boards.

Problematic communication between HOAs and homeowners was the most common type of complaint received in 2013. Many homeowners stated that they were not being kept informed about their HOA; this includes not receiving notices of board meetings, which effectively precluded their participation.

Many allegations centered around HOAs that failed to follow governing documents or selectively enforced covenants. Complainants wrote that they were being singled out for enforcement matters, as board members and those favored by the board had not been fined for the same violations. In many cases, the fines were not large, but once interest, penalties, and attorneys fees were factored in, the amounts owed became unconscionable and disproportionate to the infraction. Some complainants told of instances in which the HOA board or design review committee made unreasonable demands, by forcing them to repaint or re-roof their home at great expense, despite already being similar to others in the community.

The Officer referred some complainants to the Division of Civil Rights due to alleged discrimination by HOAs regarding race, ethnicity or disability. Others were directed to local housing departments due to health and safety concerns, which ranged from rodent and mold infestations, to deteriorating structures and obstructions deliberately placed in the way of the physically disabled.

Complainants also expressed concern about the improper use of proxies and election fraud, including preventing others from running for election or not holding any elections for years. Also implicated were improper executive sessions by HOA boards, which were allegedly employed to keep information away from homeowners. Accounting and finances were also concerns, as many HOAs were alleged to be insolvent, or to possess inadequate insurance or reserves, which was especially urgent for those affected by the recent wildfires and flooding in Colorado.

Throughout 2013, the Officer worked with complainants to further clarify complaints, and as a result, no complaints are categorized as *General Allegations*. Furthermore, the Officer delineated the roles and responsibilities of a manager and an HOA board when necessary, and as possible, to help complainants more accurately attribute their complaints to the responsible party.

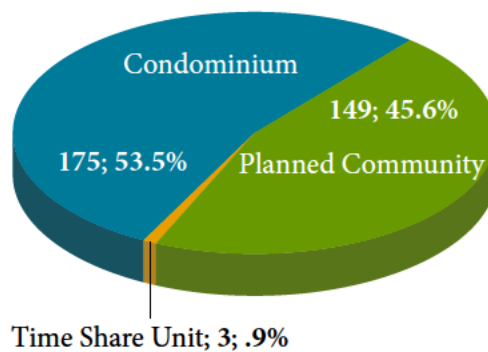


Figure 5.3 Chart of complainants by CIC type.³⁴

³⁴ Complainants categorized under "Time Share Unit" only filed complaints pertaining to time share units. No complaints were filed against cooperatives.

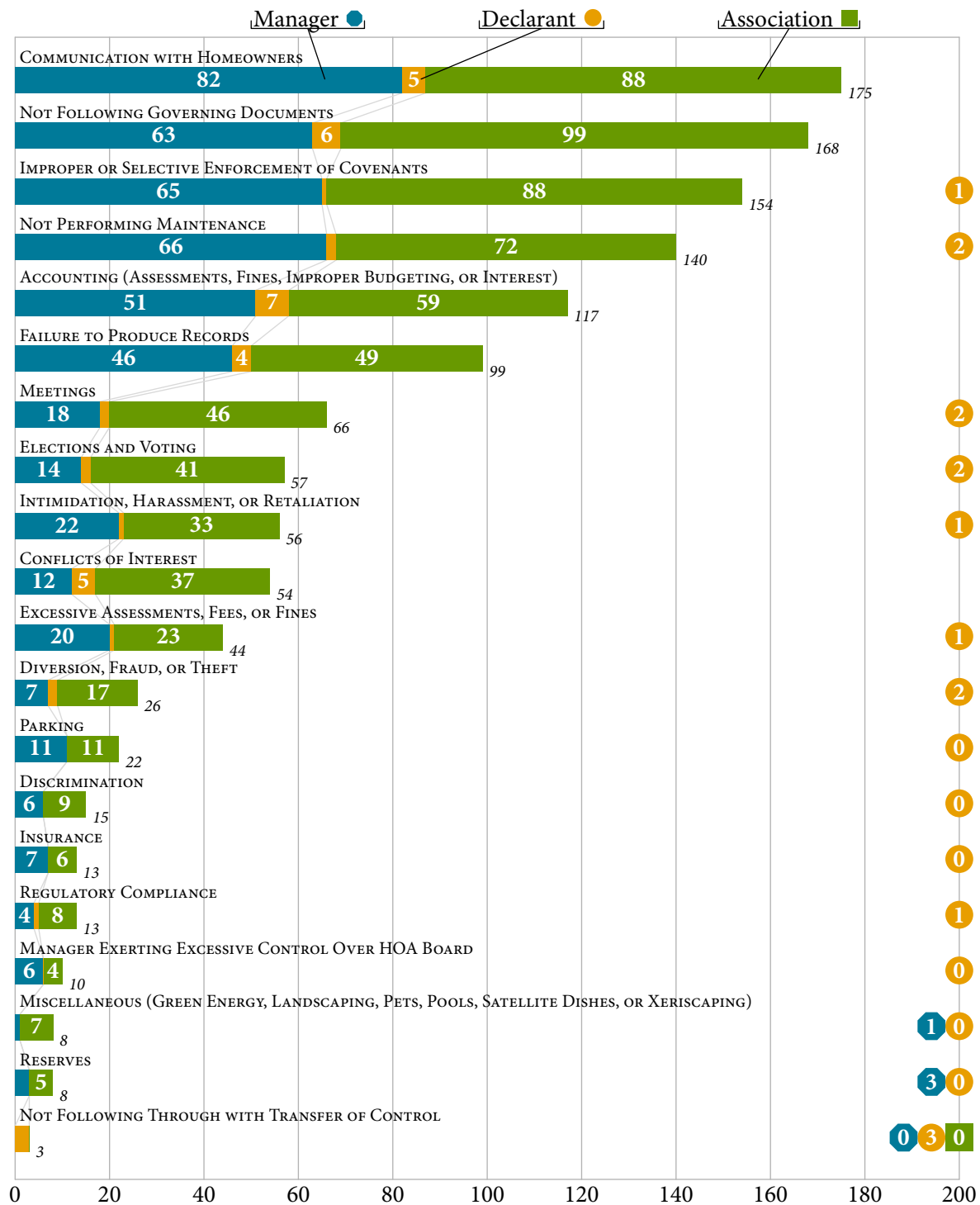


Figure 5.4 Chart of all complaints submitted to the HOA Information and Resource Center, by type.

ACCOMPLISHMENTS AND OBJECTIVES

6.1 REVIEW OF 2013

Throughout 2013, the HOA Information and Resource Center has endeavored to make its website more relevant and useful for homeowners, HOA board members, and other interested parties. Providing pertinent State law and other resources online in one place is a priority for the Center. The website now contains statutes, bills affecting HOA law, educational materials, legal and alternative dispute resolution resources, and an expanded frequently asked questions section. Highly ranked by major search engines for relevant queries, the Center's website experienced significant web traffic during 2013.

Besides handling well over 4,700 inquiries for information and assistance, the Center has participated in over fifty public HOA forums, seminars and conferences, including senior fairs and town hall meetings. The Center has also published a report to the Legislature that takes into consideration input by the public on ways that the Center can provide greater assistance to homeowners who experience a broad spectrum of problems with HOAs.³⁵

6.2 DIRECTION OF THE CENTER IN 2014

Homeowners have expressed the need for educational materials covering HOAs that cater to non-professionals. The Center aims to fill this gap by broadening its educational offerings with practical and concise information for homeowners and HOA board members, with an emphasis on the areas most prone to contention or least understood. It also plans to increase its outreach, including arranging for events by the Officer in cities and towns throughout Colorado that have yet to be visited.

One area of concern has been the relative lack of knowledge about the Center and its functions. The Center will continue to get the word out on its existence and availability to assist those with HOA questions and concerns, by holding HOA forums and presentations, along with educational sessions and workshops.

Finally, should legislation be enacted that concerns additional functions and duties of the Center, it would be eager to undertake any efforts necessary to offer the best service possible.

³⁵ Further information on the report is available in [section 2.1, "HB13-1134 \(HOA Center\)"](#), on [page 2](#).