

# 2014 ANNUAL REPORT

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## HOA INFORMATION AND RESOURCE CENTER

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**COLORADO**

**Department of  
Regulatory Agencies**

Division of Real Estate

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## EXECUTIVE SUMMARY

In response to growing concern regarding unit owners' associations<sup>1</sup> ("HOAs"),<sup>2</sup> the Colorado legislature ("Legislature") created the HOA Information and Resource Center ("Center") in 2010.<sup>3</sup> 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,<sup>4</sup> and other interested parties about the rights and responsibilities set forth in the Colorado Common Interest Ownership Act<sup>5</sup> ("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 2014 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.<sup>6</sup> The Report also contains a brief summary of the legislation enacted in 2014 that pertains to HOAs, select operational details of the Center, and notes on the future direction of the Center. For 2014, new statistical information concerning the sizes, locations, and types of HOAs is provided.

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.

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

<sup>2</sup> 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."

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

<sup>4</sup> From C.R.S. § 38-33.3-103(12):

"Declarant' means any person or group of persons acting in concert who:

- (a) As part of a common promotional plan, offers to dispose of to a purchaser such declarant's interest in a unit not previously disposed of to a purchaser; or
- (b) Reserves or succeeds to any special declarant right."

The declarant is typically the developer/builder of the community.

<sup>5</sup> C.R.S § 38-33.3-101, *et seq.*

<sup>6</sup> 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."

## 2014 LEGISLATIVE UPDATE

The Legislature passed two HOA-related bills during the 2014 session; this legislative update contains summaries of those bills and an update on the Community Association Manager Licensing Act, which was passed in 2013 and is effective January 1, 2015. Note that these summaries do not attempt to acquaint readers with all the aspects of the bills. We recommend that those who desire an in-depth understanding review the bills in their entirety.

### 2.1 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.<sup>7</sup>

The Division has drafted the necessary rules and regulations for the implementation of this bill. Educational providers have already been approved by the Division to offer the 24-hour qualifying education course to individuals who do not 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”), or a Professional Community Association Manager (“PCAM”) designation awarded by CAI.

Regardless of the designation, a prospective licensee who has completed the aforementioned educational prerequisite must pass a two-part examination: one part assessing general management competence, the other knowledge of State law, including the CCIOA, and the legal documents and statutes essential to the operation of a community association. PSI Services LLC has been selected by the Division to administer these examinations; prospective licensees will be able to sit for the exams starting February 1, 2015. 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.

#### 2.1.1 *Community Association Manager Licensing URLs*

These web addresses are subject to change; check the Division’s website for updated URLs if necessary.

The Division’s CAM homepage:

<http://cdn.colorado.gov/cs/Satellite/DORA-DRE/CBON/DORA/1251656165911>

PSI CAM Examination:

[https://candidate.psiexams.com/catalog/fti\\_agency\\_license\\_details.jsp?fromwhere=findtest&testid=4026](https://candidate.psiexams.com/catalog/fti_agency_license_details.jsp?fromwhere=findtest&testid=4026)

<sup>7</sup> 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.

## 2.2 HB14-1125 (MEMBERSHIP DIRECTORY PUBLICATION)

This bill modifies the association records section of the CCIOA.<sup>8</sup> It allows an HOA to include the telephone numbers and email addresses of members and residents in a membership directory, provided that written consent is first obtained from the member or resident to disclose and publish. The written consent must be kept as an association record and is valid until withdrawn by the member or resident. The HOA has no obligation to change or destroy the record published prior to the withdrawal of consent.

## 2.3 HB14-1254 (DISCLOSURE OF FEES BY A COMMUNITY ASSOCIATION MANAGER)

This bill mandates the disclosure of fees and charges to an HOA by a community association manager (“CAM”) or management company. The CAM must disclose to the HOA board all fees charged during contract negotiation and thereafter annually. These fees include amounts that the manager charges or will charge to the CIC, homeowners, and purchasers of units in the CIC for or as a result of any service, product, transaction, or item of value provided. In addition to these disclosures, the CAM shall also disclose to the executive board all remuneration it receives that is in any way connected to its relationship with the HOA. In addition, any transfer fee must be disclosed in the management contract or on a line item in the closing settlement statement.<sup>9</sup> The Division will be able to take disciplinary action against a CAM that fails to make a full and true disclosure of any such fees, charges, or remuneration.

## 2.4 FEDERAL LAW

Some inquiries and complaints concerned violations of federal law or regulations. Several complainants alleged that their HOAs were violating the Servicemembers Civil Relief Act (formerly, the Soldiers’ and Sailors’ Civil Relief Act),<sup>10</sup> especially as it applies to the collection of assessment debt, and placing liens and foreclosing on the homes of protected military service members.

A set of federal regulations that resulted in inquiries to the Center are the Over-the-Air-Reception Devices (“OTARD”) rules,<sup>11</sup> which were established to protect a homeowner from restrictions impairing reception of television broadcast signals, direct broadcast satellite services or multichannel multipoint distribution services.

Finally, the Federal Housing Administration (“FHA”) certification for condominium projects continues to affect communities that have not obtained that certification. If a condominium association is not FHA certified, then no unit within the community can be purchased using an FHA guaranteed loan. Information and hyperlinks to the government agencies implementing the aforementioned federal regulations can be found on the Center’s website.

<sup>8</sup> As codified in C.R.S. § 38-33.3-317(3.5); effective August 6, 2014.

<sup>9</sup> As codified in C.R.S. §§ 12-61-1004.5, 12-61-1010(1)(1.5); effective January 1, 2015.

<sup>10</sup> As codified in 50 U.S.C. App. §§ 501–597b. The intent of the act is to relieve economic and legal burdens on military personnel called to active duty status.

<sup>11</sup> 47 C.F.R. Section 1.4000

## REGISTRATION

State law mandates every HOA to register and renew their registration on an annual basis.<sup>12</sup> Every registering HOA must also submit a fee and update any relevant information in their registration within ninety days of any change.<sup>13</sup> 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.<sup>14</sup>

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.<sup>15</sup> As of December 31, 2014, 8,597 HOAs are actively registered with the Center.

### 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. 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 in the unlikely circumstance that a homeowner happens to know that their HOA has not registered with the Center.

The CCIOA compounds this problem by omitting C.R.S. § 38-33.3-401 from C.R.S. § 38-33.3-116 subsections 1 and 2, and C.R.S. § 38-33.3-119. These exemptions, targeting small and limited expense CICs, are meant to reduce the burden on those CICs, yet the registration requirement explicitly exempts HOAs with \$5,000 or less in annual revenue from paying the registration fee, which many of the HOAs of these CICs would qualify for. Considering that the one-time initial registration can be completed online in twenty minutes or less, the rationale for not explicitly including C.R.S. § 38-33.3-401 seems tenuous. Ascertaining the characteristics of the CIC industry is the primary intent behind collecting registration information, and weak data on small CICs not only skews the statistics, it denies those CICs a voice in decisions based upon them.

Beyond failing to register, another source of inaccuracy is incorrect registration data provided on behalf of some HOAs. Although verifying all the data in registrations would be impossible without conducting a census-like effort, at least 155 HOAs had invalid Secretary of State IDs in their registrations. Not all of the errors in these registrations are typographical in nature, and it appears that some HOAs are abusing C.R.S. § 38-33.3-401(4)(a) to claim that they are validly registered while providing blatantly erroneous data such as stating that the name of the association is “HOA” and that the address has a zip code of 99999. Granting the Division statutory authority to revoke registrations that are clearly deceptive or nonsensical would add an incentive to be truthful.

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<sup>12</sup> 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.”

<sup>13</sup> C.R.S. § 38-33.3-401(2)(a)

<sup>14</sup> C.R.S. § 38-33.3-401(3)

<sup>15</sup> Pursuant to C.R.S. § 12-61-406.5(3)(a)(I).

3.2 UNITS

A unit, as defined by the CCIOA, is as a physical space set aside for separate ownership or occupancy.<sup>16</sup> The sum of the unit counts accompanying all the registrations provided by HOAs is 861,657 as of December 31, 2014. The mean (average) number of units per CIC is 100.2 with a standard deviation of 405.7; the median is 37.

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.<sup>17</sup> 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 between time share units, as defined in the Condominium Ownership Act, and units, as defined in the CCIOA.

3.3 COMMON INTEREST COMMUNITIES

The CCIOA requires that the declaration of a CIC state whether the CIC is a condominium, cooperative, or planned community,<sup>18</sup> 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, not on the physical characteristics of the CIC; it is certainly possible for a CIC that resembles the one described under *Condominiums* to be a planned community or *vice versa*.

3.3.1 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.<sup>19</sup> Many 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

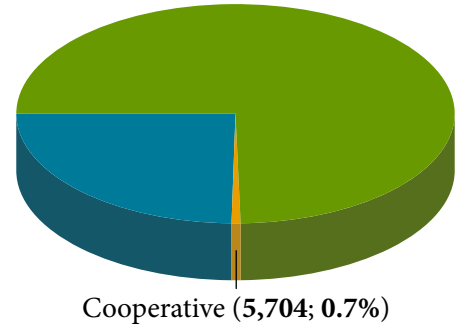


Figure 3.1 Chart of units by CIC type.

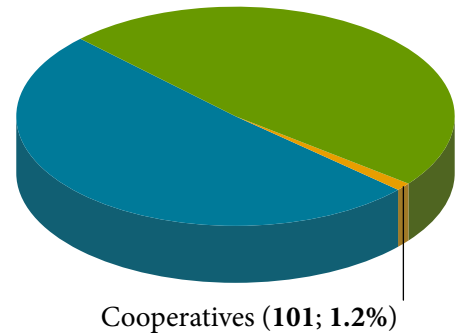


Figure 3.2 Chart of HOAs by CIC type.

<sup>16</sup> As defined in C.R.S. § 38-33.3-103(30).

<sup>17</sup> 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.

<sup>18</sup> C.R.S. § 38-33.3-205(1)(a)

<sup>19</sup> C.R.S. § 38-33.3-103(9)

common by all homeowners; these parts are called common elements. The mean (average) number of units per condominium is 48.8 with a standard deviation of 85.7; the median is 24.

### 3.3.2 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.<sup>20</sup> The mean (average) number of units per cooperative is 56.5 with a standard deviation of 111.7; the median is 29.

### 3.3.3 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.<sup>21</sup> 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 exclusively by the homeowner. The mean (average) number of units per planned community is 155.7 with a standard deviation of 573.3; the median is 61.

### 3.3.4 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. HB13-1134 amended the list of CCIOA sections applicable to preexisting CICs<sup>22</sup> to add the registration mandate.<sup>23</sup>

This change, however, does not impact the applicability of other sections of the CCIOA to pre-existing CICs, 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 in the CCIOA as well, such as the large planned communities exemption,<sup>24</sup> exemptions for small or limited expense CICs,<sup>25</sup> and exemptions for timeshares.<sup>26</sup> HOAs are not currently required to indicate the exemptions they exercise when registering, so the Center is limited in its ability to conduct a comprehensive survey on the use of these exemptions.

<sup>20</sup> C.R.S. § 38-33.3-103(10)

<sup>21</sup> C.R.S. § 38-33.3-103(22)

<sup>22</sup> C.R.S. § 38-33.3-117

<sup>23</sup> C.R.S. § 38-33.3-401

<sup>24</sup> C.R.S. § 38-33.3-116.3, *et alibi*. HOAs are not required to state the acreage of associated CICs when registering. 220 HOAs (2.6%) stated that associated CICs contain 500 or more units.

<sup>25</sup> C.R.S. §§ 38-33.3-116, 38-33.3-119, *et alibi*. From registration data: 1,450 CICs (16.9%) contain no more than 10 units, and 2,812 (32.7%) 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.

<sup>26</sup> 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.

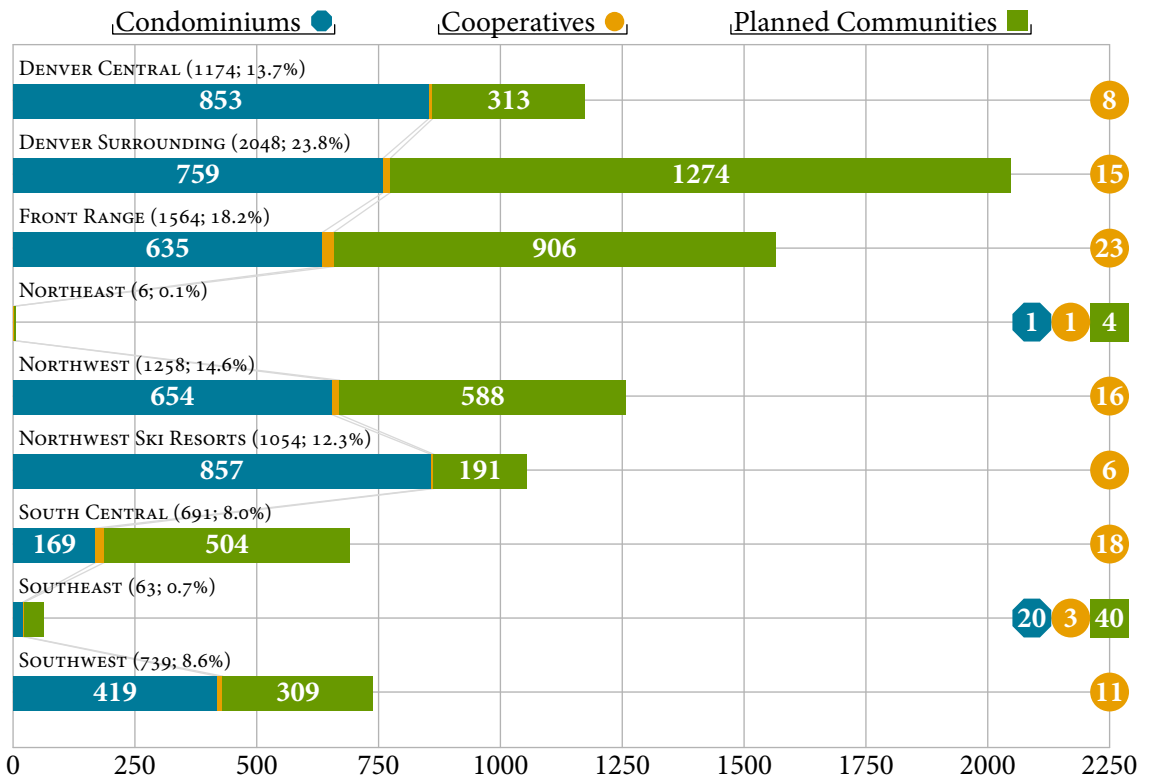


Status	HOAs	HOAs – %	Units Encompassed	Units – %
Pre-CCIOA <sup>27</sup>	2,641	30.7%	345,513	40.1%
ID issued in 1992 <sup>28</sup>	156	1.8%	13,369	1.6%
CCIOA <sup>29</sup>	5,645	65.7%	494,106	57.3%
Invalid ID supplied	155	1.8%	8,669	1.0%

**Table 3.1** HOAs by potential eligibility for preexisting CIC exemptions.

3.3.5 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 CICs in Colorado, by region.

<sup>27</sup> 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.

<sup>28</sup> 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.<sup>29</sup>

<sup>29</sup> 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.

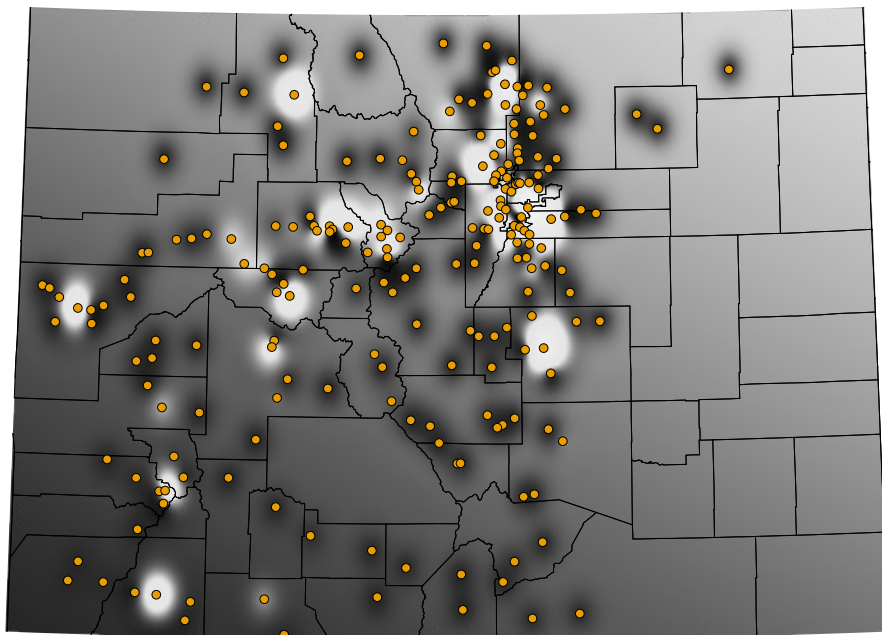
## COMMON INTEREST COMMUNITIES

Region	Cities
DENVER CENTRAL	Cherry Hills Village (3), Denver (1059), Edgewater (1), Englewood (109), and Glendale (2).
DENVER SURROUNDING	Arvada (137), Aurora (337), Bennett (2), Brighton (49), Broomfield (83), Castle Pines (9), Castle Rock (69), Centennial (110), Commerce City (18), Conifer (4), Eastlake (7), Evergreen (44), Federal Heights (1), Fort Lupton (5), Franktown (2), Golden (97), Greenwood Village (178), Henderson (10), Highlands Ranch (37), Indian Hills (1), Lakewood (212), Larkspur (6), Littleton (223), Lone Tree (33), Morrison (15), Northglenn (7), Parker (107), Pine (3), Thornton (108), Westminster (106), and Wheat Ridge (28).
FRONT RANGE	Bellvue (1), Berthoud (16), Black Hawk (2), Blue River (1), Boulder (316), Central City (1), Como (1), Dacono (1), Divide (6), Drake (2), Dumont (1), Eaton (4), Elizabeth (12), Erie (25), Estes Park (77), Evans (10), Fairplay (9), Firestone (9), Fort Collins (451), Frederick (16), Georgetown (4), Glen Haven (2), Greeley (110), Guffey (1), Hudson (1), Jefferson (2), Johnstown (11), Kersey (1), Lafayette (39), Laporte (3), Livermore (2), Lochbuie (1), Longmont (143), Louisville (42), Loveland (139), Lyons (7), Masonville (1), Mead (8), Milliken (3), Nederland (1), Niwot (10), Pinecliffe (1), Platteville (1), Red Feather Lakes (4), Rollinsville (1), Sedalia (11), Severance (1), Strasburg (4), Superior (4), Timnath (7), Watkins (2), Wellington (9), and Windsor (27).
NORTHEAST	Fort Morgan (1), Sterling (4), and Weldona (1).
NORTHWEST	Avon (178), Basalt (65), Battlement Mesa (9), Carbondale (75), Clark (5), Clifton (6), Cordillera (4), Cortez (4), Craig (3), De Beque (1), Dillon (71), Eagle (43), Eagle-Vail (2), Edwards (96), Fraser (23), Frisco (69), Fruita (24), Glade Park (1), Glenwood Springs (69), Granby (28), Grand Junction (222), Grand Lake (20), Gypsum (21), Hayden (3), Hot Sulphur Springs (2), Kremmling (2), Leadville (9), Loma (2), Mack (2), Meeker (2), Meredith (1), Mesa (1), Minturn (4), New Castle (14), Oak Creek (4), Palisade (5), Parachute (1), Powderhorn (1), Rifle (22), Silt (5), Silverthorne (113), Snowmass (8), Tabernash (2), Walden (1), Whitewater (2), Wolcott (3), Woody Creek (9), and Yampa (1).
NORTHWEST SKI RESORTS	Aspen (215), Beaver Creek (2), Breckenridge (185), Copper Mountain (37), Keystone (49), Snowmass Village (51), Steamboat Springs (233), Vail (179), and Winter Park (103).
SOUTH CENTRAL	Alamosa (4), Alma (2), Bailey (4), Buena Vista (22), Calhan (1), Cañon City (10), Coal Creek (1), Colorado City (4), Colorado Springs (492), Cotopaxi (5), Creede (3), Cripple Creek (3), Elbert (2), Florence (1), Florissant (5), Fort Garland (1), Fountain (7), Hartsel (3), Hillside (1),

**Table 3.2a** Cities with registered HOAs, by region.

Region	Cities
	Howard (1), Lake George (2), Manitou Springs (11), Monte Vista (3), Monument (29), Nathrop (2), Penrose (1), Peyton (14), Salida (22), San Luis (1), Silver Cliff (1), South Fork (7), Westcliffe (12), and Woodland Park (14).
SOUTHEAST	Cuchara (2), La Veta (9), Pueblo (34), Pueblo West (1), Rye (2), Trinidad (6), Walsenburg (3), and Weston (6).
SOUTHWEST	Almont (7), Austin (1), Bayfield (8), Capulin (1), Cedaredge (2), Chromo (5), Cimarron (2), Crested Butte (122), Delta (6), Dolores (3), Durango (191), Gunnison (30), Hesperus (2), Ignacio (1), Lake City (2), Mancos (5), Montrose (54), Mount Crested Butte (22), Mountain Village (21), Norwood (2), Olathe (1), Ophir (1), Ouray (11), Pagosa Springs (44), Paonia (2), Pitkin (1), Placerville (6), Rico (1), Ridgway (16), and Telluride (169).

**Table 3.2b** Cities with registered HOAs, by region.



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

3.3.6 Common Interest Community Size Data

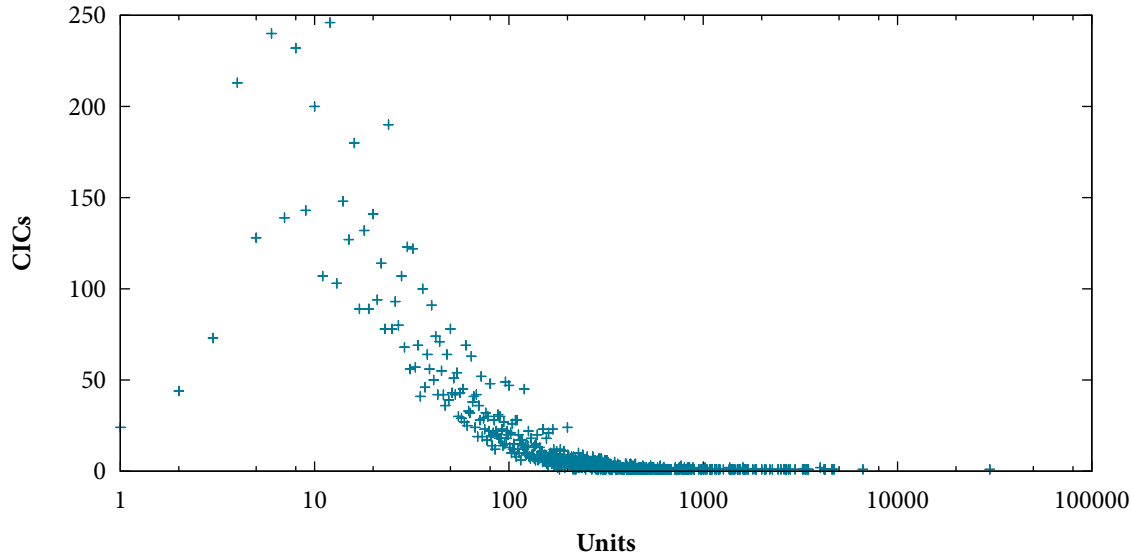


Figure 3.5 Plot of CICs by unit count; the Units axis is scaled logarithmically.

3.4 REGISTRATION FEE

Throughout 2014, the registration fee was \$27. 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 this fee.<sup>30</sup> 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 whether they are exempt from paying the fee or not.

Fee Status	HOAs Total		Condominiums		Cooperatives		Planned Communities	
Exempt	664	7.7%	190	28.6%	29	4.4%	445	67.0%
Not Exempt	7,933	92.3%	4,177	52.7%	72	0.9%	3,684	46.4%

Table 3.3 HOAs by fee status.

HOA Fee Status	Units Total		Condominium		Cooperative		Planned Community	
HOA Exempt	29,115	3.4%	3,211	11.0%	2,195	7.5%	23,709	81.4%
HOA Not Exempt	832,542	96.6%	209,715	25.2%	3,509	0.4%	619,318	74.4%

Table 3.4 Units by HOA fee status.

<sup>30</sup> C.R.S. § 38-33.3-401(2)(b)

## 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.<sup>31</sup>

The Center logged 5,573 separate inquiries during year 2014. 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 (including how to recall current board members), and the identification and resolution of conflicts of interest;
- The rights and responsibilities of homeowners;
- The financial aspects of an HOA, including assessments, accounting and budgeting, insurance, and reserves;
- Maintenance and upkeep of the community;
- Water conservation issues in 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, including the responsibilities and duties of professional managers;
- Issues concerning self-managed associations;
- 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 through a series of email blasts 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.

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<sup>31</sup> C.R.S. § 12-61-406.5(3)(a)

# COMPLAINTS

From January 1, 2014 to December 31, 2014, the Center received 1,440 complaints from 409 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.

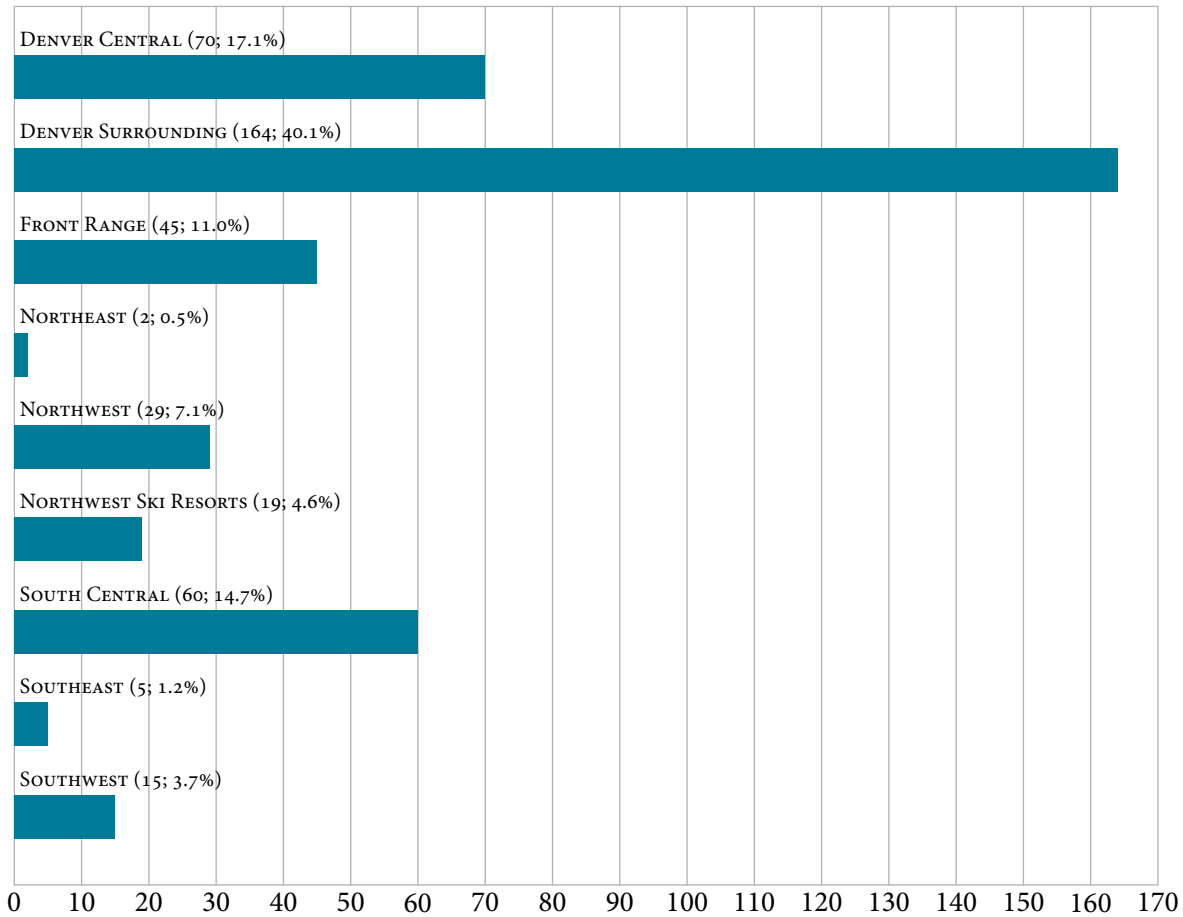


Figure 5.1 Chart of complainants by region. The cities included in each region are listed in table 3.2, on page 8.

## 5.2 COMPLAINTS INVOLVING COMMUNITY ASSOCIATION MANAGERS

Complaints that specifically mentioned managers as either a cause or responsible party account for 548 of all those received. 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.

The majority of complaints against managers in 2014 pertained to managers not performing adequate maintenance or repairs to the community. As the manager takes on the task of overseeing the association property on behalf of the board, the association relies on the professional manager to observe and bring attention to the condition of the physical assets of the community. The association depends on the manager to properly advise in the budgeting and funding of the association, in order to adequately maintain and repair the community, and to handle those functions in a timely manner.

Communication continues to account for a large percentage of complaints against managers; with allegations concerning no or improper notice of meetings, not keeping residents informed on the happenings of the community, and not responding to homeowner concerns.

The enforcement of covenants, either improperly or not at all, brought out a number of complaints against managers. Many of these concerns had to do with the selective enforcement of covenants against some, but not others in the community. Enforcement is, as expected, a contentious matter for homeowners. Finally, another category with a high percentage of complaints revolved around the manager not following or improperly advising the board of directors on the proper interpretation and implementation of the association's governing documents, as it applied to the declaration, bylaws, and rules and regulations.

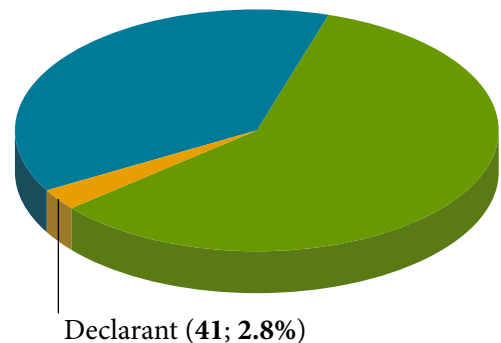


Figure 5.2 Chart of complaints by party charged.

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, except for 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 892 (61.9%) of all the complaints received, with 41 of those complaints being directed towards declarant-controlled boards. Allegations of not following governing documents was the most common type of complaint received in 2014.

Other allegations centered on HOAs that either failed to or selectively enforced covenants, either through the direct action or inaction of the board or manager. Complainants stated that they were being singled out for enforcement matters, while board members and those favored by the board had not been fined for the same violations. Communication between the HOA and homeowners continues to be a concern, as complaints in this area concentrated on not receiving proper or timely notice of owner and board meetings, as well as not keeping homeowners informed of what is going on 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 safety concerns, which mostly had to do with urgently needed repairs being neglected leading to property in the community deteriorating to the point that it became unsafe.

Complainants also expressed concern about poor and improper budgeting and financial planning for the community, including not having adequate reserves available to cover needed capital improvements. In many cases, special assessments were implemented or association dues were substantially increased to mitigate the insufficient reserves of these HOAs.

Some egregious matters regarding the operation and management of HOAs were also brought to the attention of the Center. With regard to the collection of assessments and foreclosure of owner's units, there were complaints alleging violations of the Servicemembers Civil Relief Act. Those military service personnel or their family members were referred to both the Judge Advocate General's Corps and civilian attorneys by the Center.

Also, complaints involving election misconduct by both the board of directors and managers were troubling in many instances. These complaints stated examples of not following association election procedures or not holding elections at all, the improper use of proxies, not counting votes and proxies correctly, not maintaining or producing records of election results, and holding elections without the required quorum.

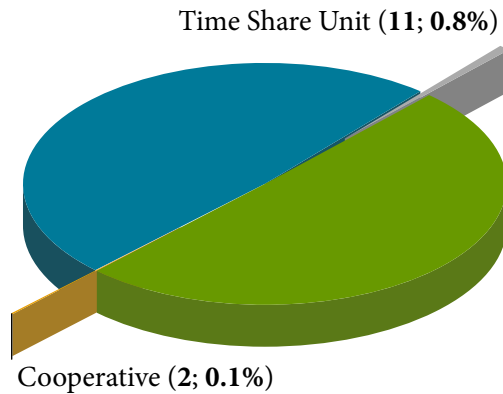


Figure 5.3 Chart of complaints by CIC type.



COMPLAINTS

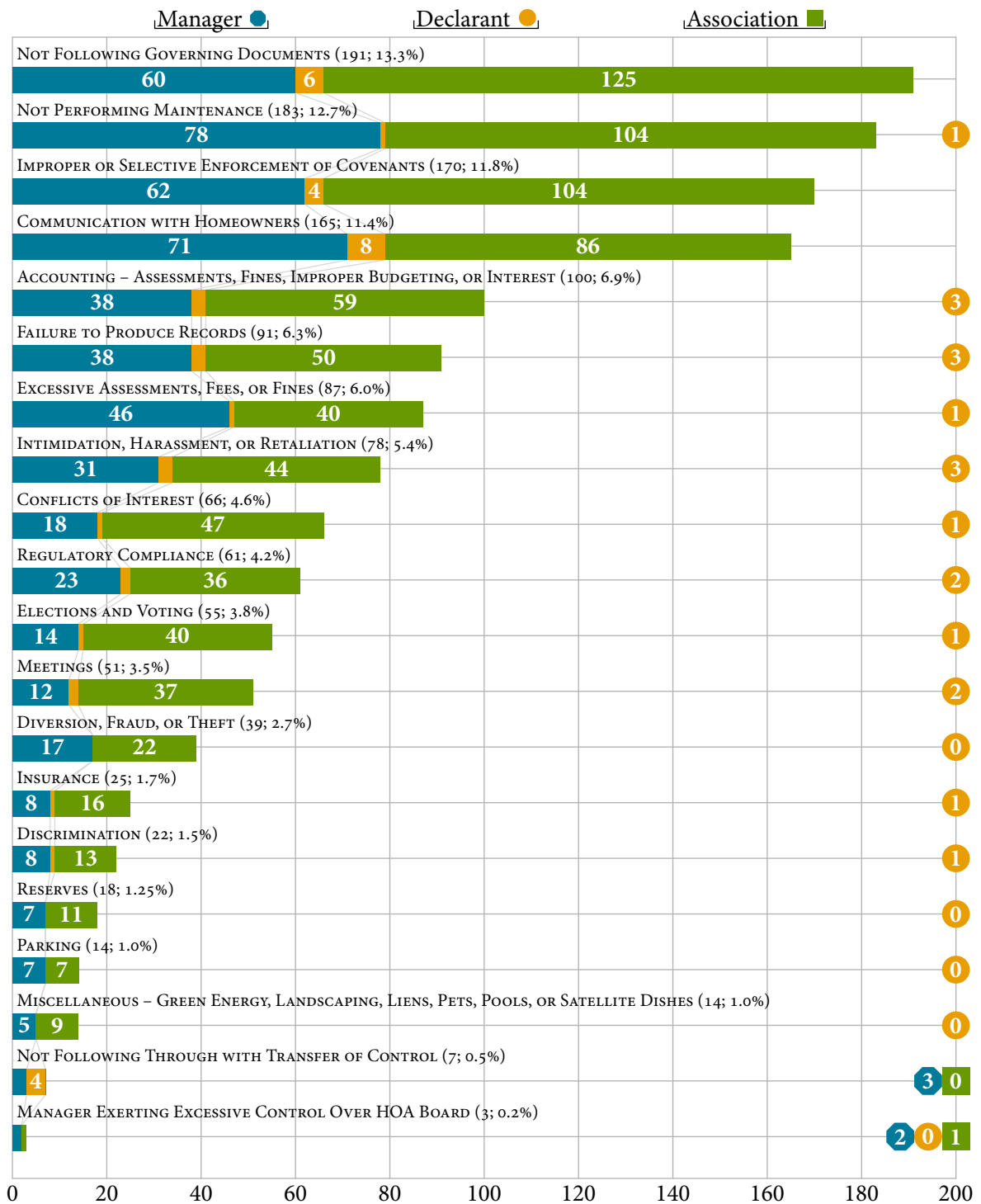


Figure 5.4 Chart of all complaints submitted to the HOA Information and Resource Center, by type.

## ACCOMPLISHMENTS AND OBJECTIVES

### 6.1 REVIEW OF 2014

Throughout 2014, 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 and Federal 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 significantly increased web traffic during 2014.

Besides handling well over 5,500 inquiries for information and assistance, the Center has participated in over forty public HOA forums, seminars and conferences, including senior fairs and town hall meetings. Guest presenters and article writers have added to the Center's educational efforts and resources. A wide variety of topics at HOA forums were presented, and an interactive session with professional mediators that discussed the benefits of mediation concerning HOA disputes was well attended by homeowners. Teaming up with Colorado water districts, the Center held some joint forums and presentations on the benefits of water conservation in HOA communities. The Center also published, as presented to the Legislature, a report in 2014 detailing the *2013 Study of Comparable HOA Information and Resource Centers*<sup>32</sup> 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.

### 6.2 DIRECTION OF THE CENTER IN 2015

Homeowners have eagerly expressed the need for more educational materials covering HOAs that cater to non-professionals and self-managing boards of directors. The Center is investigating ways that new technology can bring this education to more people in HOAs, and aims to broaden its educational offerings with practical and concise information for homeowners and HOA board members. 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.

The continued lack of knowledge about the Center and its functions remains an area of concern. The Center continues to try and get the word out on its existence and availability to assist those with HOA questions and concerns. HOA workshops, forums, and educational sessions will continue to be a goal of the Center, as well as visiting additional areas of the State.

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.

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<sup>32</sup> A copy of this report is available on the Division's website.