
2022 HOA Information & Resource Center Annual Report

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1. Executive Summary

The HOA Information & Resource Center (“HOA Center”) was created in 2010¹, and is housed within the Colorado Division of Real Estate (“Division”), a division of the Colorado Department of Regulatory Agencies (“DORA”). Pursuant to state law in Colorado (“State”), the HOA Center collects and compiles information from Common Interest Communities² (“CIC”) through registration, from inquiries, and complaints received from members of CICs, board members of CICs, Community Association Managers (“CAMs”) of CICs, and other interested parties. The HOA Center is also responsible for providing information and resources to unit owners (“homeowners”), CIC boards, Declarants³, and other interested parties about the rights and responsibilities set forth in the Colorado Common Interest Ownership Act⁴ (“CCIOA”) and other applicable State law.

As mandated by Colo. Rev. Stat. § 12-10-801(3)(c), the HOA Information Officer (“HOA Officer”), who administers the Center, presents an annual report to the Director of the Division (“Director”) after analyzing the above-referenced information.

This document, the 2022 HOA Information & Resource Center Annual Report (the “Report”), provides an overview of recent changes to CIC law, an examination of feedback from homeowners and others in matters involving CICs, and insights into the trends and statistics of the CIC industry within Colorado. A diverse set of statistics on complaints received and CIC registration figures are prominently covered. The Report also contains a summary of legislation enacted in 2022 that pertains to CICs, select operational details of the HOA Center, and notes on the future direction of the HOA Center.

In summary, the Report is an integral part of the Center’s ongoing commitment to providing information, education, and resources to those affected by, involved with,

¹ HB10-1278 as codified in § 12-10-801(1), C.R.S.; effective January 1, 2011.

² From § 38-33.3-103(8), C.R.S.:

“‘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.”

³ From § 38-33.3-103(12), C.R. S.:

“‘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 of the community.

⁴ §§ 38-33.3-101 to 402, C.R.S. (2022).

or interested in CICs and in carrying out the Division's mandate of consumer protection more broadly.

2. Definitions

“CAM” means a Community Association Manager, or Community Association Management Company, or association property manager, or association property management company. CAMs were regulated in Colorado from July 1, 2015, to July 1, 2019.

“CCIOA” means the Colorado Common Interest Ownership Act, §§ 38-33.3-101 to 402, C.R.S. (2022).

“Common Interest Communities” or “CIC” 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.⁵ CIC is the formal term for an HOA or other association.

“Condominium” means a type of CIC in which real estate that is not designated for separate ownership by homeowners is owned in common by those homeowners.⁶

“Cooperatives” means a type of CIC in which the association owns the real estate and homeowners are granted exclusive possession of a unit based on ownership in the association.⁷

“Director” means the Director of the Colorado Division of Real Estate

“Division” means the Colorado Division of Real Estate.

“HOA Center” means the HOA Information & Resource Center, as defined in § 12-10-801(1), C.R.S.

“HOA Officer” means the HOA Information Officer.

“Planned Communities” means a type of CIC that is neither a condominium nor a cooperative; however, a planned community may contain condominiums or cooperatives as part of a greater whole.⁸ Generally, 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.

⁵ § 38-33.3-103(8), C.R.S.

⁶ § 38-33.3-103(9), C.R.S.

⁷ § 38-33.3-103(10), C.R.S.

⁸ § 38-33.3-103(22), C.R.S.

“Units” means, as defined by CCIOA, a physical space set aside for separate ownership or occupancy.⁹ Examples include condominiums, single-family homes, undeveloped parcels of land, etc.

⁹ As defined in § 38-33.3-103(30), C.R.S.

3. Legislative Review

In 2022, the 73rd General Assembly's legislative session convened on January 12, 2022, and adjourned on May 11, 2022. The legislative session was an active one for bills affecting CICs in the State with new laws which affect many different aspects of HOA life. In furtherance of the HOA Center's mandate, legislative summaries of the bills which affect associations were prepared by the HOA Center and published on the HOA Center's website.¹⁰ Since publication, these summaries proved to be a useful reference tool for those affected by, involved with, or interested in CICs. In addition, due to the complexity and comprehensive nature of the 2022 bills which became law, the HOA Center presented webinar presentations ("HOA Forums") on the topics addressed by the new legislation.

The specific bills affecting CICs passed in the 2022 legislative session are as follows:

- a. **HB22-1040**-CONCERNING THE RIGHT OF UNIT OWNERS IN COMMON INTEREST COMMUNITIES TO HAVE REASONABLE ACCESS TO COMMON ELEMENTS OF SUCH COMMUNITIES
- b. **HB22-1137**-CONCERNING PRACTICES OF UNIT OWNERS' ASSOCIATIONS, AND, IN CONNECTION THEREWITH, AUTHORIZING THE ENFORCEMENT OF CERTAIN MATTERS REGARDING UNIT OWNERS' ASSOCIATIONS IN SMALL CLAIMS COURT AND LIMITING THE CONDUCT OF UNIT OWNERS' ASSOCIATIONS IN COLLECTING UNPAID ASSESSMENTS, FEES, AND FINES
- c. **HB22-1139**-CONCERNING PROHIBITING A UNIT OWNERS' ASSOCIATION OF A COMMON INTEREST COMMUNITY FROM REGULATING THE USE OF A PUBLIC RIGHT-OF-WAY
- d. **HB22-1314**-CONCERNING THE RIGHT OF A PERSON WITH OWNERSHIP INTEREST IN A VEHICLE THAT HAS BEEN TOWED FROM PRIVATE PROPERTY WITHOUT THE PERSON'S CONSENT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION
- e. **SB22-059**-CONCERNING LIMITATIONS REGARDING A PROXY THAT A UNIT OWNER IN A COMMON INTEREST COMMUNITY OBTAINS FROM ANOTHER UNIT OWNER IN THE COMMON INTEREST COMMUNITY TO VOTE ON BEHALF OF THE OTHER UNIT OWNER AT A MEETING OF THE UNIT OWNERS' ASSOCIATION

3.1 HB22-1040-Home Owners' Reasonable Access To Common Areas¹¹

HB22-1040 was passed to "preserve and protect unit owners' ability to use and enjoy common elements and shall not unreasonably restrict or prohibit unit owners' access to, or enjoyment of, any common element, including during the maintenance, repair, replacement or modification of a common element."¹² The bill was passed by the

¹⁰ See <https://dre.colorado.gov/colorado-general-assembly-2022-legislative-updates>

¹¹ Home Owner's Reasonable Access To Common Areas, HB22-1040, 73rd GA (2022), https://leg.colorado.gov/sites/default/files/2022a_1040_signed.pdf

¹² § 38-33.3-302.5, C.R.S.

legislature and signed by the Governor on April 12, 2022. The bill's effective date was August 10, 2022.

An association has long been able to restrict or prohibit access to a common element for the purposes of maintenance, repair, replacement, or modification. HB22-1040 clarifies that right by stating that the association may do so “only to the extent and for the length of time necessary to (a) protect the safety of any individuals, including unit owners, and individuals performing the maintenance, repair, replacement, or modification of the common element; or (b) preserve the structural integrity or condition of a repair, replacement, or modification.”¹³

In carrying this intent out, the act requires that associations provide either electronic or written notice to each unit owner as soon as reasonably possible in the event that the restriction will last more than seventy-two (72) hours. The notice shall include:

- (I) A simple explanation of the reason for the restriction or prohibition; and
- (II) An indication of the estimated time or date upon which the restriction or prohibition will no longer exist.¹⁴

Importantly, the act also requires that an association post a visible and clearly legible notice at any physical access point to the common element. The posted notice must remain posted for the duration of the restriction or prohibition.¹⁵ The physically posted notice must contain the same information as the electronic or written notice.

3.2 HB22-1137-Homeowners' Association Board Accountability And Transparency¹⁶

HB22-1137 was passed by the Colorado legislature and signed by the Governor on June 3, 2022, after various amendments and robust debate in the General Assembly. Changing several sections of CCIOA, as well as sections of Title 13 of C.R.S., the bill addresses issues relating to assessment delinquency notices, violation notices, allocation of fees and fines, limiting the maximum permissible interest rate for CICs, and litigants' access to small claims courts in Colorado to resolve certain disputes.

Due to the complexity and length of the bill, for purposes of the Report, HB22-1137 might be best summarized by addressing the effects of separate sections of the bill as follows:

Unit Owner Delinquency: The bill creates additional requirements for the required responsible governance policies required for all associations in Colorado. Imperative to any association board is the ability to collect assessments to fund the successful

¹³ § 38-33.3-302.5(2), C.R.S.

¹⁴ § 38-33.3-302.5(3), C.R.S.

¹⁵ Id.

¹⁶ Homeowners' Association Board Accountability And Transparency, HB22-1137, 73rd GA (2022), https://leg.colorado.gov/sites/default/files/2022a_1137_signed.pdf

operation of the association, conduct maintenance, and carry out the purposes of the CIC. Previously, Colorado contained minimum requirements for addressing unit owner delinquency but HB22-1137 expands those requirements.

HB22-1137 established a new vocabulary previously unused in CCIOA. Notably, the bill introduced the terms “Preferred Language” and “Designated Contact.” A Preferred Language other than English can be identified by a unit owner for which the association must provide notices to the unit owner. These notices shall be provided to the unit owner in a unit owner identified Preferred Language and in English.¹⁷ Next, a unit owner may identify a Designated Contact which is an individual that a unit owner identifies who shall receive the same communications as the unit owner. Furthermore, a Designated Contact should receive CIC communications in the same manner as the unit owner.¹⁸

HB22-1137 reinforces the notification processes. The CIC is now required to maintain a record of any contacts with a unit owner. The CIC now is required to deliver notices of delinquencies via: (1) certified mail with return receipt requested, (2) the CIC is required to physically post a copy of the notice at the unit owner’s unit, and (3) the CIC is required to deliver a copy of the notice either by first-class mail, text message, or email.¹⁹

The law prohibits the referral of a delinquent unit owner to a collection agency or attorney without a majority vote of the CIC’s board in an executive session.²⁰ Furthermore, any notice of delinquency, which is written in English and any Preferred Language shall specify:

- A. Whether the delinquency concerns unpaid assessments, unpaid fines, fees, or charges, or both;
- B. That unpaid assessments may lead to foreclosure;
- C. What steps the CIC must take before the CIC may take legal action, including but not limited to foreclosure or small claims court action.²¹

Violations of the Declaration, Bylaws, Covenants, or Other Governing Documents:

HB22-1137 distinguishes between two types of violations: (1) those violations that the CIC reasonably determines violate the public safety or health²² and (2) those violations that do not threaten the public safety or health.²³

For any violation that is reasonably determined to threaten the public safety or health, a CIC shall provide the unit owner written notice in English and any Preferred

¹⁷ § 38-33.3-209.5(1.7)(a)(I), C.R.S.

¹⁸ Id.

¹⁹ Id.

²⁰ § 38-33.3-209.5(1.7)(a)(II), C.R.S.

²¹ § 38-33.3-209.5(6), C.R.S.

²² § 38-33.3-209.5(1.7)(b)(II)(A), C.R.S.

²³ § 38-33.3-209.5(1.7)(b)(III)(A), C.R.S.

Language, informing the unit owner that the unit owner has seventy-two (72) hours to cure the violation, or the CIC may fine the unit owner. The language of HB22-1137 does not offer any guidance on how a CIC should reasonably determine if a violation threatens the public safety and health.

The CIC shall have the right to inspect the unit to determine if the violation has been cured. If the violation has not been cured, the CIC is allowed to fine the unit owner every other day and may take legal action, other than foreclosure against the unit owner based on fines owed.²⁴

For any violation other than a violation that threatens the public safety or health, HB22-1137 sets forth a process to notify the unit owner and offer a process to cure the violation. Specifically, the CIC shall, through certified mail, return receipt requested, provide the unit owner written notice in English and any Preferred Language that the unit owner has thirty (30) days to cure the violation and that if the violation is not cured, the CIC may fine the unit owner.²⁵

Should the unit owner not cure the violation within the first thirty (30) day period, the CIC shall grant the unit owner an additional thirty (30) days period to cure the violation before the CIC may take legal action. Just as with violations that threaten the public safety and health, a CIC shall not pursue foreclosure against a unit owner based on fines owed.²⁶

In both types of violations referenced above, a unit owner may notify the CIC of any cured violation by providing visual evidence that the violation has been cured. In the event that the unit owner does not provide visual evidence to the CIC, the CIC shall inspect the unit as soon as practicable to determine if the violation has been cured.²⁷

Once a violation has been cured, the CIC shall notify the unit owner in English and any Preferred Language that the unit owner will no further be fined for that violation and of any outstanding balance that the unit owner still owes the association.²⁸

Thereafter, on a monthly basis, the CIC shall deliver notice to the unit owner by first-class mail and email, if the CIC has an email address on file for the unit owner, an itemized list of all assessments, fines, fees, and charges that the unit owner owes to the CIC for so long as the unit owner has an outstanding balance. Such notices shall be delivered in English and any Preferred Language and shall be delivered to the Designated Contact.²⁹

CIC Fees & Fines/Collections:

²⁴ § 38-33.3-209.5(1.7)(b)(II)(B), C.R.S.

²⁵ § 38-33.3-209.5(1.7)(b)(III)(A), C.R.S.

²⁶ § 38-33.3-209.5(1.7)(b)(III)(B), C.R.S.

²⁷ § 38-33.3-209.5(1.7)(b)(IV), C.R.S.

²⁸ § 38-33.3-209.5(1.7)(b)(VI), C.R.S.

²⁹ § 38-33.3-209.5(1.7)(c), C.R.S.

The CIC shall not impose late fees or fines assessed for violations on a daily basis.³⁰

For violations other than those that threaten the public safety and health, fines imposed by the CIC shall not exceed five hundred dollars (\$500.00).³¹

To fine any unit owner for an alleged violation, the CIC must have adopted and adhered to a written policy governing the imposition of fines.³²

A CIC shall not charge interest greater than eight percent (8%) per year on unpaid assessments, fines, or fees.³³

Foreclosure: A CIC may not commence legal action to initiate a foreclosure action unless the CIC has provided a written offer to enter into a repayment plan lasting at least eighteen (18) months. The terms of the repayment plan must provide that the monthly payment is at least twenty-five dollars (\$25.00) per month until the balance of the amount owed is less than twenty-five dollars (\$25.00). The unit owner has up to thirty (30) days to either decline the repayment plan or accept the repayment plan and fail to pay at least three of the monthly installments within fifteen (15) days of the monthly installments were due.³⁴

A CIC shall not foreclose on an assessment lien consisting only of one or both of the following:

- A. Fines that the association has assessed against the unit owner; or
- B. Collection costs or attorney fees that the association has incurred, of which are only associated with assessed fines.³⁵

In the event that a unit has been foreclosed, the following parties cannot purchase the foreclosed unit:

- A. A member of the executive board,
- B. An employee of a community association management company representing the CIC,
- C. An employee of a law firm representing the CIC, or
- D. An immediate family member of A-C above.³⁶

HB22-1137 creates a civil cause of action resulting from a CIC violating any foreclosure law. In the event a CIC does so, an affected unit owner has up to five (5)

³⁰ § 38-33.3-209.5(1.7)(b)(I), C.R.S.

³¹ § 38-33.3-209.5(1.7)(b)(III)(A), C.R.S.

³² § 38-33.3-209.5(2), C.R.S.

³³ § 38-33.3-209.5(8), C.R.S.

³⁴ § 38-33.3-209.5(7), C.R.S.

³⁵ § 38-33.3-209.5(8), C.R.S.

³⁶ § 38-33.3-316(12), C.R.S.

years to file a civil suit. A court of competent jurisdiction may award the unit owner damages in an amount of up to twenty-five thousand dollars (\$25,000.00), plus the cost and reasonable attorney fees.³⁷

Expanded Access to Small Claims Court: Specific sections of Title 13 were also amended by HB22-1137. Now, small claims courts in Colorado have concurrent jurisdiction and the right to enforce rights and responsibilities under a Declaration, Bylaws, Covenants, or other governing documents of a CIC.³⁸

3.3 HB22-1139-Home Owners' Associations Cannot Regulate Use Of Public Rights-of-way³⁹

HB22-1139 was signed by the Governor on May 6, 2022, and became effective on August 10, 2022. Generally, § 38-33.3-106.5, C.R.S. addresses a variety of topics including prohibiting a CIC from limiting actions with the community that are considered contrary to public policy.⁴⁰ These include patriotic expression, political expression, religious expression, and several others.

Specifically, HB22-1139 limits a CIC's authority to impose any covenants, use restrictions, or rules and regulations on public rights-of-way. Prior to the passage of HB22-1139, it was common that CICs could impose restrictions within the community. For example, CICs were permitted to implement a restriction that unit owners cannot park recreational vehicles overnight on the street in front of their units. In the event of a violation, the CIC could issue notices of violations, and assess fees, fines, and penalties to a unit owner for said violation. Upon the passage of HB22-1139, § 38-33.3-106.5(1)(d.5), states that "local government's ordinance, resolution, rule, franchise, license or charter provision controls."⁴¹

For purposes of this Report, it is important to address that HB22-1139 does not apply to private association roadways, private yards, private parking lots, private parking structures, or other non-public rights-of-way.

3.4 HB22-1314-Towing Carrier Nonconsensual Tows⁴²

During the 73rd General Assembly, the Colorado legislature agreed to adopt significant modifications to the licensure of towing carriers in Colorado. On June 7, 2022, the Governor signed HB22-1314 which became effective on August 10, 2022.

³⁷ § 38-33.3-316.3(5), C.R.S.

³⁸ § 13-6-403, C.R.S.

³⁹ Home Owner's Associations Cannot Regulate Use Of Public Rights-of-way, HB22-1139, 73rd GA (2022), https://leg.colorado.gov/sites/default/files/2022a_1139_signed.pdf

⁴⁰ § 38-33.3-106.5, C.R.S.

⁴¹ § 38-33.3-106.5(1)(d.5), C.R.S.

⁴² Towing Carrier Nonconsensual Tows, HB22-1314, 73rd GA (2022), https://leg.colorado.gov/sites/default/files/2022a_1314_signed.pdf

As a comprehensive overhaul of towing carrier regulations in Colorado, HB22-1314 is twenty-eight (28) pages long. However, for purposes of this Report, only a few sections of the new law directly affect CICs. Specifically, either a towing carrier or property owner, including a CIC, shall provide a “written notice on the windshield of the vehicle at least twenty-four hours before towing the vehicle” and shall not tow the vehicle without providing notice, with limited exceptions.⁴³ Also, property owners, including CICs, are required to have the proper signage.⁴⁴

The Public Utilities Commission (“PUC”), housed in the Department of Regulatory Agencies (“DORA”), is responsible for administering the licensing and enforcement of HB22-1314. PUC, on behalf of DORA, has worked to inform the public and the regulated industry about the newly implemented law.⁴⁵ The HOA Center has utilized PUC materials to ensure consistent messaging and made numerous referrals to the PUC for information on complaints and licensed towing carriers since the passage of the law.

3.5 SB22-059-Home Owners' Association Voting Proxy Limitations⁴⁶

During the 73rd General Assembly, only one Senate Bill affecting CICs became law. SB22-059 was signed by the Governor on March 21, 2022, and became effective on August 10, 2022. The bill addressed one issue found in § 38-33.3-310, C.R.S. A signed proxy now terminates eleven (11) months after its date, unless the proxy itself indicates an earlier termination date.⁴⁷

The passage of SB22-059 has generally increased the number of questions and inquiries received that pertain to proxies in CICs. As a result, the HOA Center offered an HOA Forum in October 2022 pertaining to voting procedures and proxies.⁴⁸

⁴³ § 40-10.1-405(3)(b)(II), C.R.S.

⁴⁴ § 40-10.1-405(3)(c), C.R.S.

⁴⁵ See generally <https://puc.colorado.gov/towing>.

⁴⁶ Home Owners' Association Voting Proxy Limitations, SB22-059, 73rd GA (2022), https://leg.colorado.gov/sites/default/files/2022a_059_signed.pdf

⁴⁷ § 38-33.3-310(2)(b), C.R.S.

⁴⁸ See <https://drive.google.com/file/d/1hPb4qtSTZrlbesey2lT-QjMmBhcVqlkn/view>.

4. Registration

The HOA Center continues to carry out an important aspect of its statutory mandate: registration of CICs in the State of Colorado.⁴⁹ CCIOA requires that all CICs located in Colorado register with the Division of Real Estate.⁵⁰ The HOA Center then collects and compiles a database of CICs. Although the statutory language in CCIOA requires registration, the Division and the HOA Center do not have any jurisdiction to enforce the registration requirement. Nevertheless, CCIOA limits the rights of a CIC “to impose or enforce a lien for assessments under section 38-33.3-316 or to pursue an action or employ an enforcement mechanism otherwise available to it under section 38-33.3.123 [which] is suspended until the association is validly registered pursuant to this section.”⁵¹

Absent the authority to enforce the registration requirement, both the Division and the HOA Center collect the statutorily required information which is expressly enumerated in CCIOA:

1. Fee: Except for those CICs collecting less than five thousand dollars (\$5,000.00) annually, the Division collects a registration fee set in accordance with § 12-10-215, C.R.S.
2. CIC Name
3. Name of the CIC’s management company, if there is one
4. Managing agent, if there is one, or the Designated Agent name
5. Physical Address of the CIC
6. Valid address for the CIC or the management company, managing agent, or Designated Agent
7. Email address, if any, for the CIC or the management company, managing agent, or Designated Agent
8. Website, if any, for the CIC or the management company, managing agent, or Designated Agent

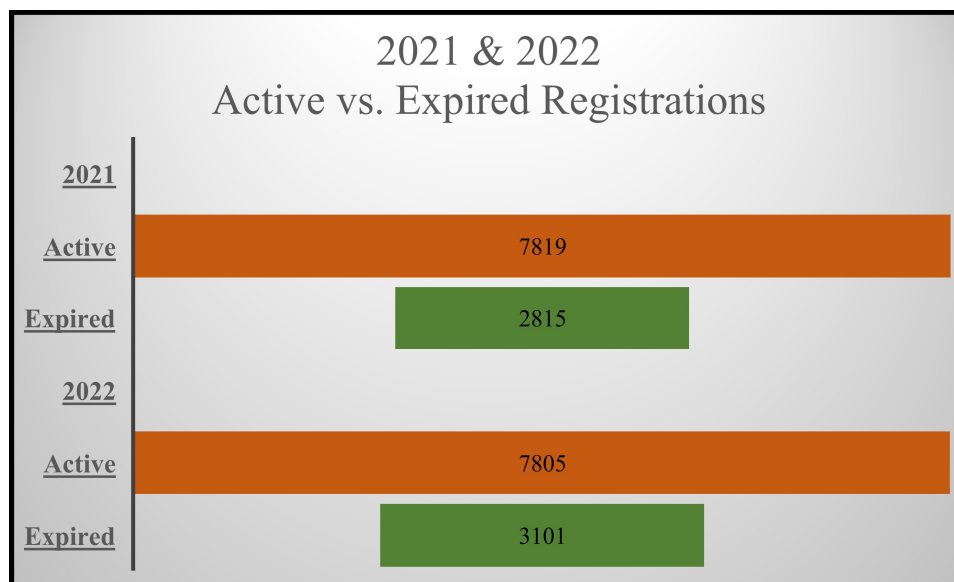
⁴⁹ § 12-10-801(3)(a)(I), C.R.S.

⁵⁰ § 38-33.3-401, C.R.S.

⁵¹ § 38-33.3-401(3), C.R.S.

9. Telephone number for the CIC or the management company, managing agent, or Designated Agent
10. The number of units in the CIC.⁵²

Although the HOA Center reviews the information submitted upon initial registration, the HOA Center is unable to review any information for CICs that do not register or renew. Accordingly, the HOA Center presumes that there are a significant number of CICs that do not comply with the registration process set forth in § 38-33.3-401, C.R.S. As in years past, the HOA Center continues to provide the public registration, education, and outreach. Through these efforts, the HOA Center continues to reach out to a wide range of the population of Colorado, explaining the benefits of registration and providing other information available from the HOA Center. Figure 4.1 shows the average number of active and expired registrations in the State for 2021 and 2022.



*Figure 4.1 Active vs. Expired Registration Numbers for 2021 vs. 2022
(Average of Monthly Figures)*

4.1 Population

The statistical data collected in accordance with § 38-33.3-401, C.R.S. are utilized to estimate the approximate number of Colorado residents who reside in a CIC. As in years past, the HOA Center relies on numbers provided publicly by the United States Census Bureau. Namely, the HOA Center utilizes the average number of persons per household, which, as of July 1, 2022, is currently 2.60 persons per household,

⁵² § 38-33.3-401(2), C.R.S.

according to the 2020 Decennial Census published by the United States Census Bureau.⁵³

At the end of 2022, the Division had seven thousand nine hundred seventy-six (7,976) actively registered CICs and three thousand seventy-two (3,072) expired CIC registrations, for a total of eleven thousand forty-eight (11,048) total CICs in Colorado. Collectively, as reported to the Division, these registered CICs contain one million forty-one thousand five hundred five (1,041,505) total units in the State of Colorado. Please note that the actual number of units located in CICs and, therefore, the likely population subject to CICs in Colorado is greater, however, this analysis is based on the actual registrations with the Division.

As reported by the United States Census Bureau in the 2020 Decennial Census, the total population of Colorado is five million seven hundred seventy-three thousand seven hundred fourteen (5,773,714).⁵⁴ Accordingly, as Figure 4.2 shows, the estimated number of Colorado residents living in a CIC is approximately two million seven hundred seven thousand nine hundred thirteen (2,707,913), or approximately forty-six and nine-tenths percent (46.9%) of the total population of the State of Colorado.

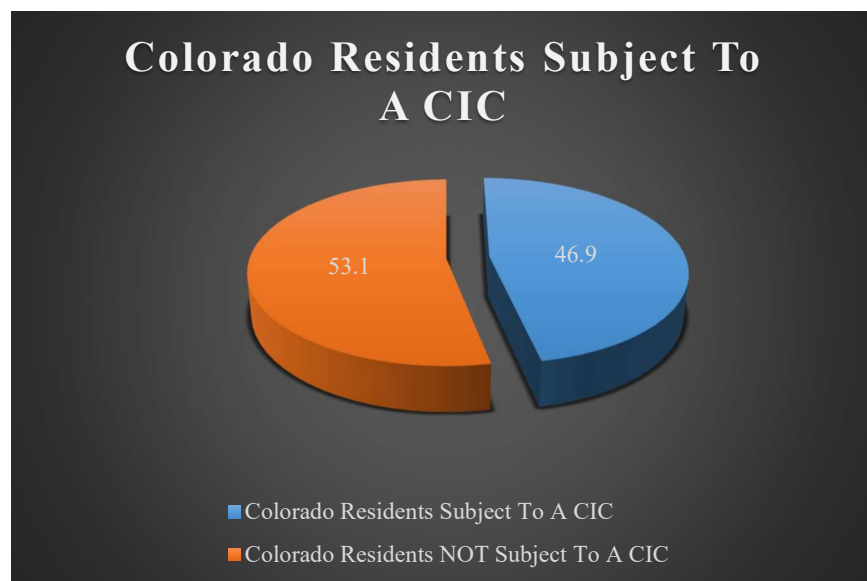


Figure 4.2 Colorado Residents Subject To A CIC

4.2 Management Type

Among the various data that the Division collects pursuant to § 38-33.3-401, C.R.S. is information on the management arrangement of CICs. Options included in the Division's database include (a) Self-Managed and (b) Professionally Managed. While

⁵³ See <https://www.census.gov/quickfacts/fact/table/US/PST045222>.

⁵⁴ See https://www.census.gov/search-results.html?q=household+average+population+colorado&page=1&stateGeo=none&searchtype=web&cssp=SERP&_charset_=UTF-8.

the diametrically opposed options utilized for tracking purposes are accurate and reliable, the level at which a professionally managed CIC may utilize the services of a professional management company could vary significantly. For more information on what the HOA Center commonly refers to as “hybrid” management, the HOA Center offered an HOA Forum on August 12, 2022, on the topic wherein the HOA Center discussed possible scenarios for hybrid management.⁵⁵ Generally, a hybrid management arrangement may occur when a CIC board elects to delegate certain responsibilities to a professional management company but retains other responsibilities.

A common misconception held by members of the public is that if a CIC has a professional management company, the professional management company absolves the CIC board of any rights or responsibilities. This is not the case because a professional management company acts as an agent of the CIC board. By virtue of the agency/client relationship between the two parties, the actions of the professional management company are a direct reflection of the CIC board. It is important that CIC board members understand that whether the CIC is self-managed, professionally managed, or utilizes some form of hybrid management, the CIC board shall continue to be responsible for adherence to the requirements set forth in the CIC’s governing documents and applicable law.

At the end of 2022, there were seven thousand nine hundred seventy-six (7,976) active registrations with the Division. The historical proportions between self-managed and professionally managed CICs continue to be similar to prior years in 2022. As the Figure below shows, of the seven thousand nine hundred seventy-six (7,976) active registrations in Colorado, six thousand three hundred ninety-two (6,392) registrations reported professional management while one thousand five-hundred eighty-four (1,584) reported that the CIC is self-managed.

⁵⁵ See <https://dre.colorado.gov/recent-hoa-forums>.

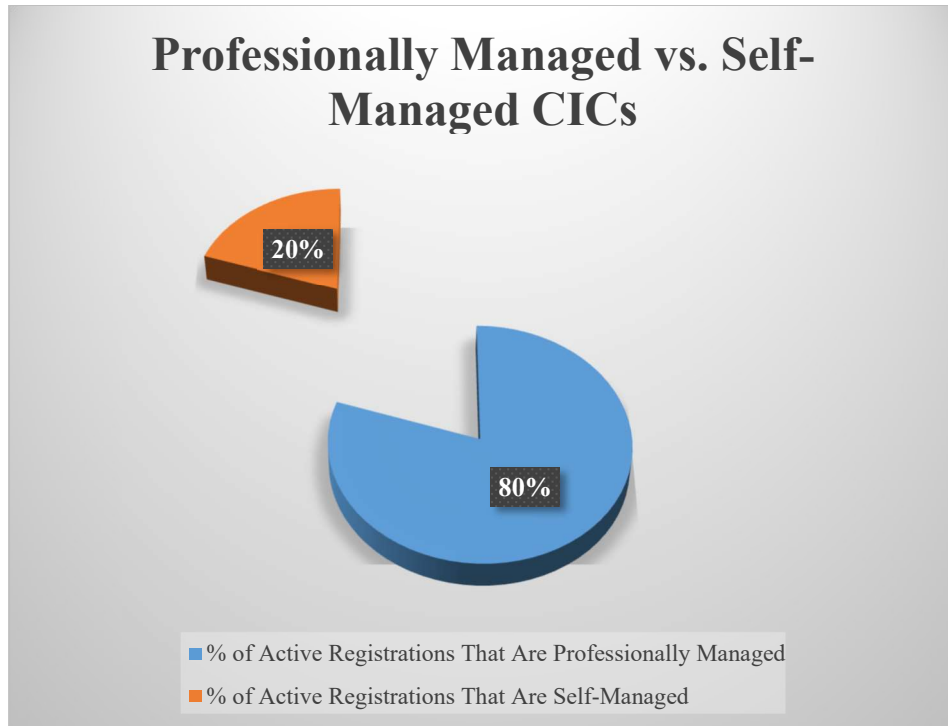


Figure 4.3 Professionally Managed vs. Self-Managed CICs In Colorado

Further analysis provides additional color to the divide between self-managed and professionally managed CICs. Of the one thousand five-hundred eighty-four (1,584) active self-managed CICs, about sixty-two percent (62%) are in communities identified as Planned Communities, about thirty-five percent (35%) are in communities identified as Condominiums, and only about three percent (3%) are in communities identified as Cooperatives. Figure 4.4 demonstrates these proportions.

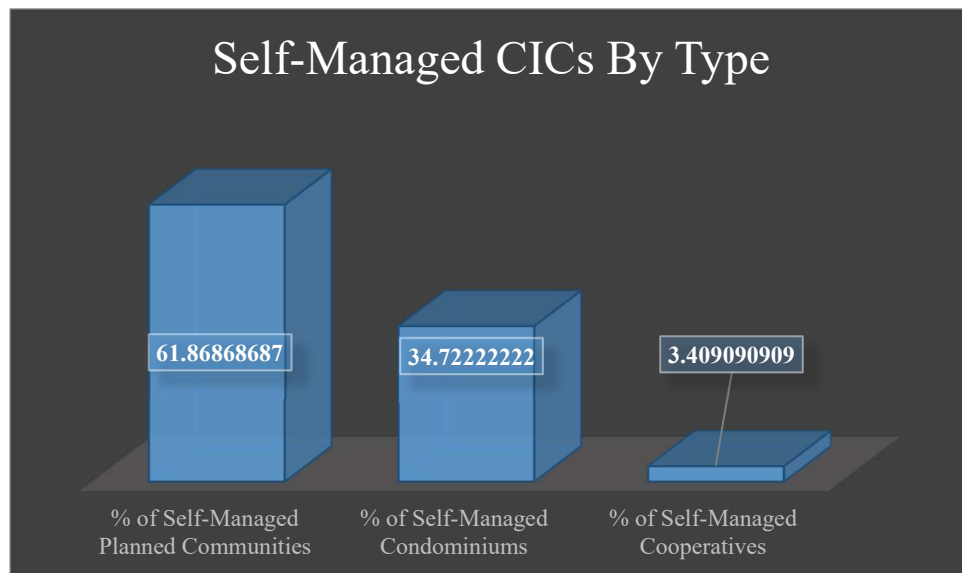


Figure 4.4 Self-Managed CICs By Type

A similar analysis for professionally managed CICs may also be helpful. Of the six thousand three hundred ninety-two (6,392) active professionally managed CICs, forty-nine percent (49%) are in communities identified as Planned Communities, fifty-one percent (51%) are in communities identified as Condominiums, and only about one-third of a percent (1/3 %) are in communities identified as Cooperatives. Figure 4.5 demonstrates these proportions.

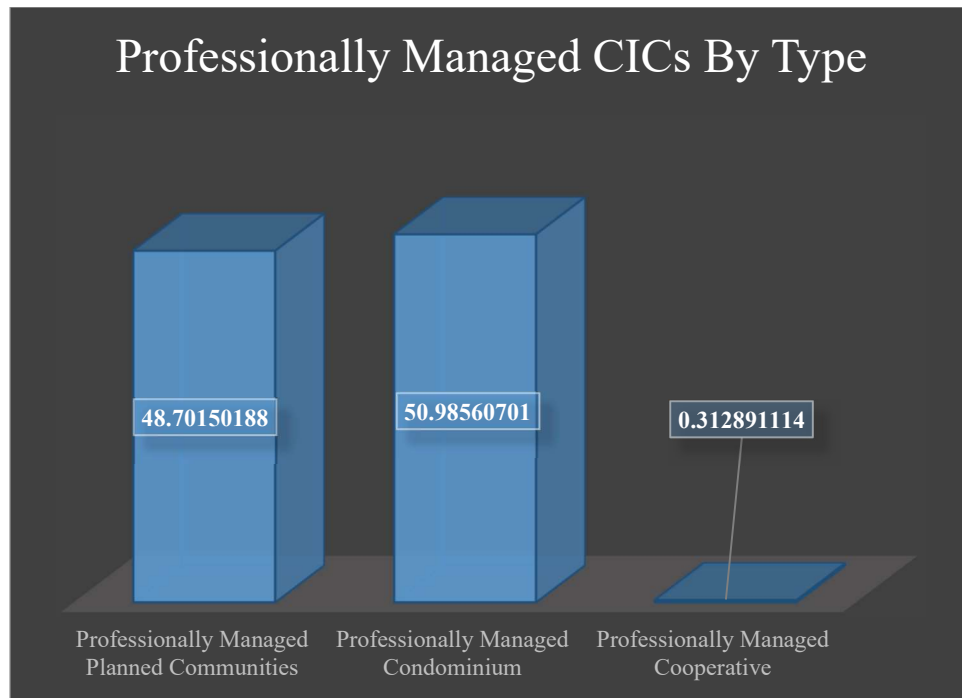


Figure 4.5 Professionally Managed CICs By Type

Generally speaking, the statistics collected and reported by the Division and HOA Center continue to show a preference for professional management, with the caveat that hybrid management arrangements are included in the professional management statistics. Furthermore, the preference shown by CIC boards across the State of Colorado for professional management appears to have increased in the years since the termination of the Community Association Manager Program (“CAM Program”), which was housed in the Division from January 1, 2015, until July 1, 2019. For instance, in the HOA Center’s 2018 report, completed before the CAM Program was terminated, approximately sixty-one percent (61%) of the registered CICs were reported to be professionally managed while thirty-nine percent (39%) were reported to be self-managed.⁵⁶ When compared to the current Report, professionally managed CICs have increased by approximately nineteen percent (19%) in the present year.

Any preference for self-managed or professionally managed communities is directly related to a variety of factors discussed in the HOA Center’s August 12, 2022, HOA

⁵⁶ 2018 Annual Report of the HOA Information and Resource Center, available at: https://drive.google.com/file/d/0B1VD36mBqe1EX1FLbWx3al91cHJ6enh0NnotTk9maU14VC1v/view?resourcekey=0-tgFShl_avv9bKV0aknhF6Q.

Forum.⁵⁷ Since every CIC is different, considerations for the board may be, but are not limited to, the community size, the community location and availability of a professional management company in the community's geographic area, the cost of professional management, the experience level of board members, and the time availability of the board members, and the type of amenities the community offers to unit members.

⁵⁷ See <https://dre.colorado.gov/recent-hoa-forums>.

5. Inquiries

During 2022, the HOA Center received a total of four thousand two hundred seventy-six (4,276) inquiries which is an increase of approximately seventeen percent (17%) over the number of inquiries received in 2021. These inquiries were received from a variety of sources including CAMs, attorneys, real estate brokers, title agencies, members of the public interested in learning more about living in a CIC, tenants, and current board members of CICs, but the largest proportion of inquiries was received from unit owners in CICs. During 2022, because the Division continued to work remotely, few inquiries were addressed in-person, but rather, by email, telephone, and written correspondence.

Standard processes within the HOA Center are to provide answers to questions and to provide guidance on the inquiring party's general rights and responsibilities pursuant to applicable law. In the vast majority of inquiries, references to CCIOA or the Colorado Nonprofit Corporation Act ("Nonprofit Act")⁵⁸ are provided. When appropriate, copies or links to current law, HOA Center websites, helpful articles prepared by third parties, or other resources are delivered to the inquiring party. The HOA Center does not provide legal advice. Similarly, while the HOA Center does not provide referrals to third-party vendors, such as to an attorney specializing in the type of law required by the inquiring party or to an accounting firm to provide tax advice, the HOA Center does make appropriate referrals to other government agencies or non-profit organizations. Some examples of referrals to agencies and non-profit organizations made in 2022 include but are not limited to the Colorado Department of Local Affairs, the Colorado Public Utilities Commission, the Colorado Civil Rights Division, Colorado Legal Services, the United States Department of Housing and Urban Development, and Housing Resources of Western Colorado.

Most of the inquiries received by the HOA Center related to the following issues and concerns, as set forth in Figure 5.1 below:

⁵⁸ §§ 7-21-101 through 7-137-301, C.R.S.

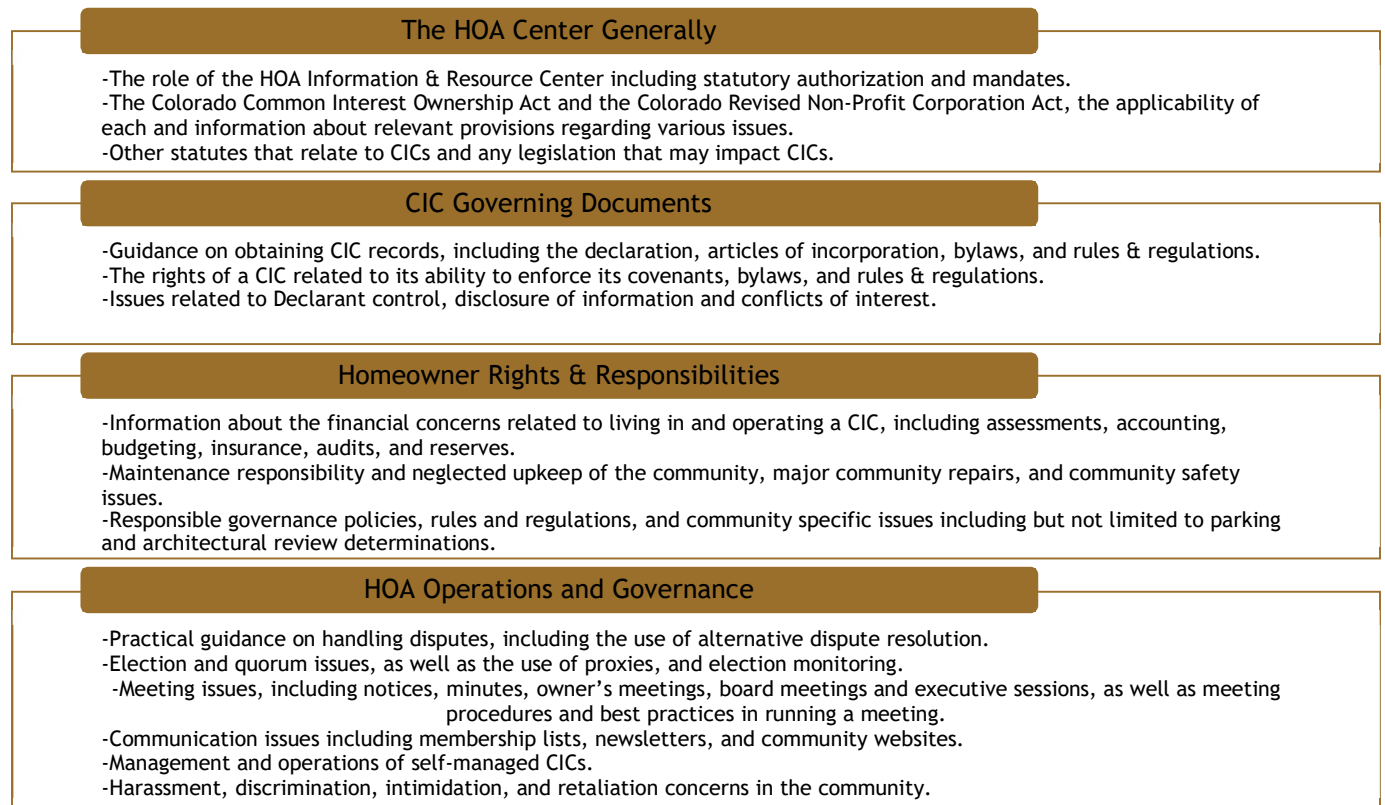


Figure 5.1 HOA Center Common Inquiries

6. Complaints

While most of the complaints received by the HOA Center tend to be from homeowners, the HOA Center accepts complaints from all parties affected by or living in CICs. In the year 2022, the HOA Center received an increased number of complaints when compared to 2021. In the period between January 1, 2022, and December 31, 2022, the HOA Center received one thousand fifty-six (1,056) complaints pertaining to a wide array of issues related to CICs. Compared to 2021, when the HOA Center received six hundred ninety-five (695) complaints, 2022 saw greater than a fifty-one percent (51%) increase. Figure 6.1 below compares 2021 complaints to 2022 complaints by month.

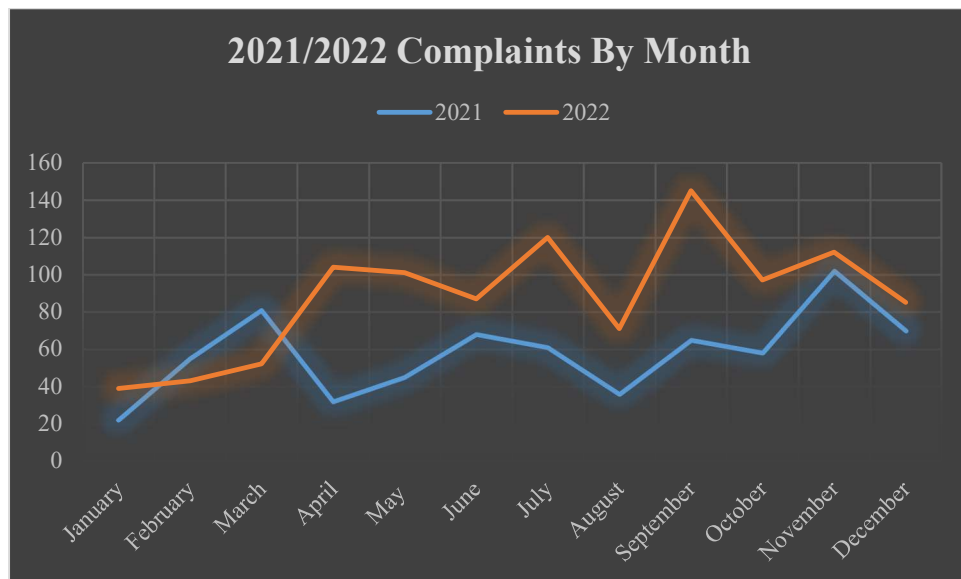


Figure 6.1 2021/2022 Complaints by Month

The HOA Center has elected to receive complaints by a variety of methods to ensure that the HOA Center does not inadvertently exclude any portion of the population. Accordingly, the HOA Center accepts complaints via online submission, electronic mail, telephone, facsimile, and mail. Additionally, since some complainants have expressed concerns about retaliation in the event a complaint has been filed, the HOA Center also permits complaints to be filed anonymously.

The year-over-year increase may be due to several different factors. Such factors include the return to in-person board meetings and unit owner meetings in accordance with § 38-33.3-308, C.R.S., increased unit owner participation, legislative updates, and the HOA Center's expanded efforts to educate the public about their rights and responsibilities in CICs.

6.1 Complaint Origination

When analyzing the complaint data received by the HOA Center, the data is categorized in several ways including by Region, Community Type, CIC Size, Management Arrangement, and by Respondent Type.

By Region: The HOA Center has devised a regional breakdown of the State of Colorado for purposes of tracking complaints in the state. Figure 6.2 below shows the regional divisions of the state for tracking purposes.

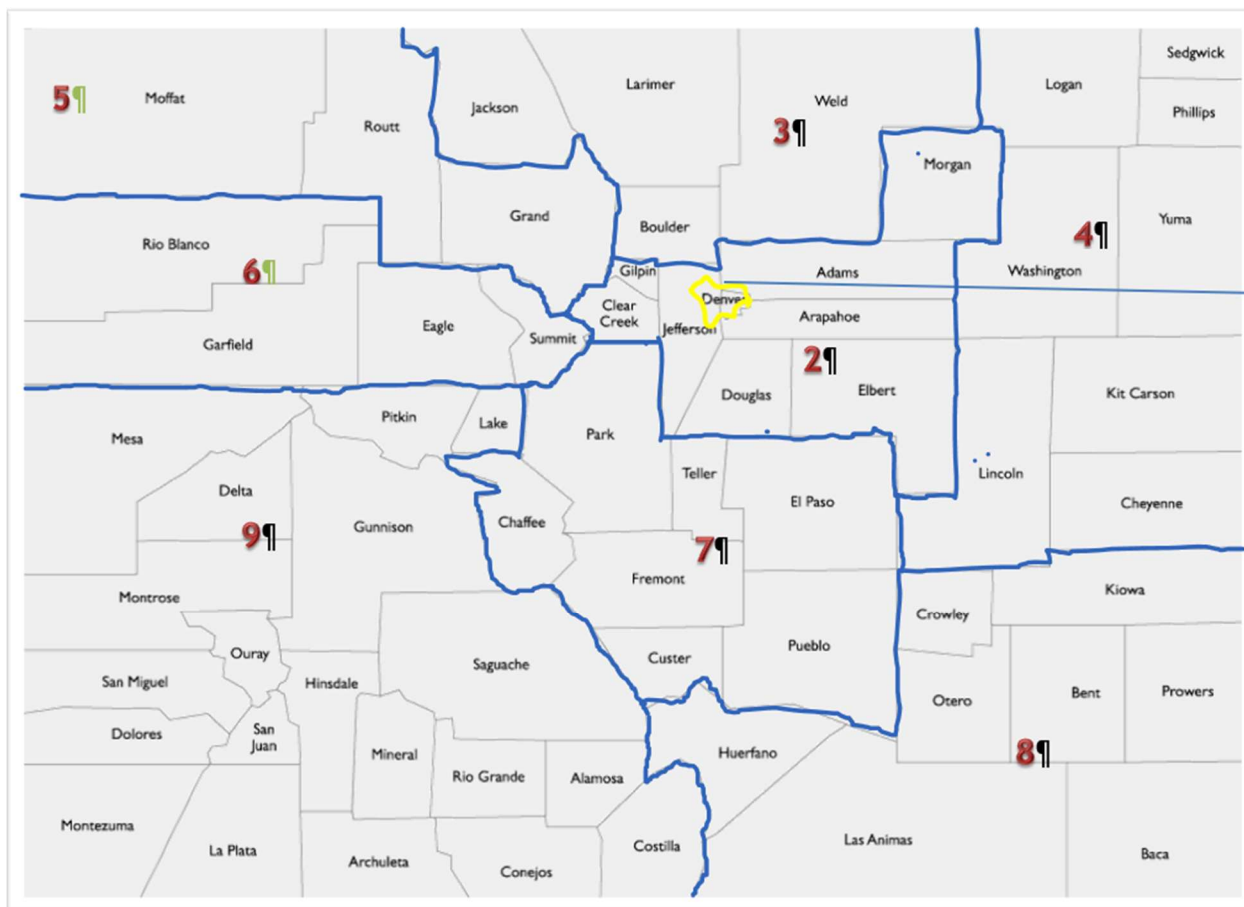


Figure 6.2 Regional Division of the State of Colorado By The HOA Center

By understanding this regional map, it is no surprise that the vast majority of complaints are filed with the HOA Center against CICs (or their management companies) in the most densely populated areas of the State: notably Regions 1-3 which include the City and County of Denver, those counties surrounding Denver, and the greater front range. As Figure 6.3 indicates below, these three regions alone comprise approximately seventy-five percent (75%) of the complaints filed with the HOA Center in 2022.

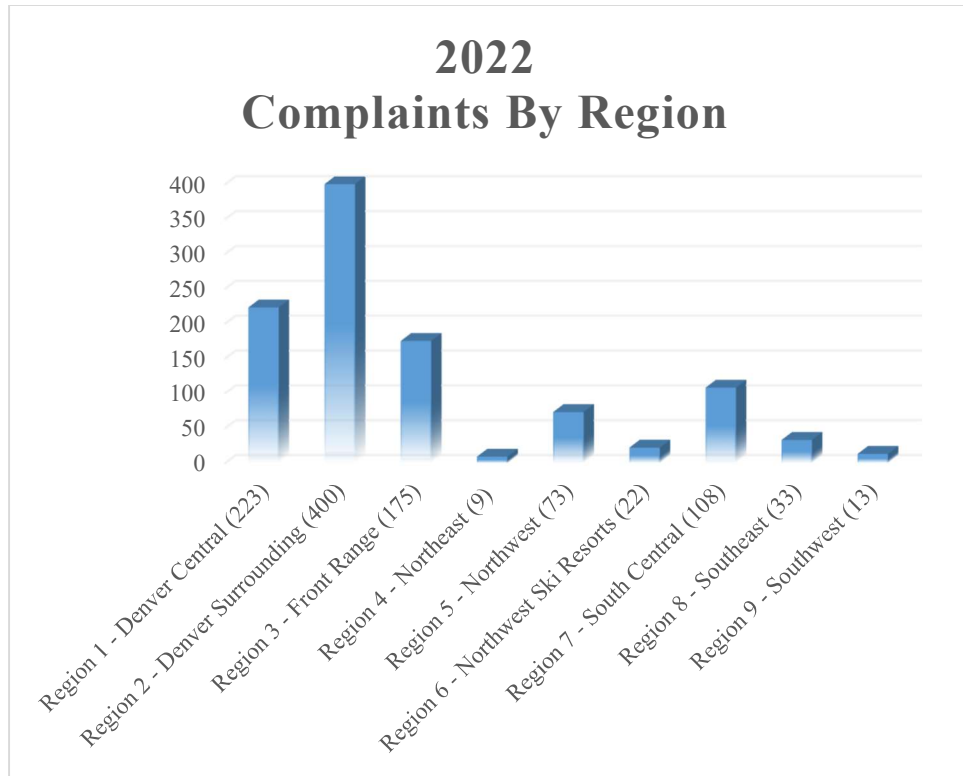


Figure 6.3 2022 Complaints By Region

By Community Type: As referenced earlier, the HOA Center identifies three (3) primary types of CICs: planned communities, condominiums, and cooperatives. For complaint tracking purposes, the HOA Center also identifies a fourth type: timeshares, which satisfy the definition of a CIC pursuant to CCIOA.⁵⁹ Timeshares are required to be registered with the Division in the same manner as other CICs. Figure 6.4 below shows the number of complaints received by community type. Notably, the vast majority of complaints received pertain to condominiums and planned communities.

⁵⁹ § 38-33.3-103(8), C.R.S.

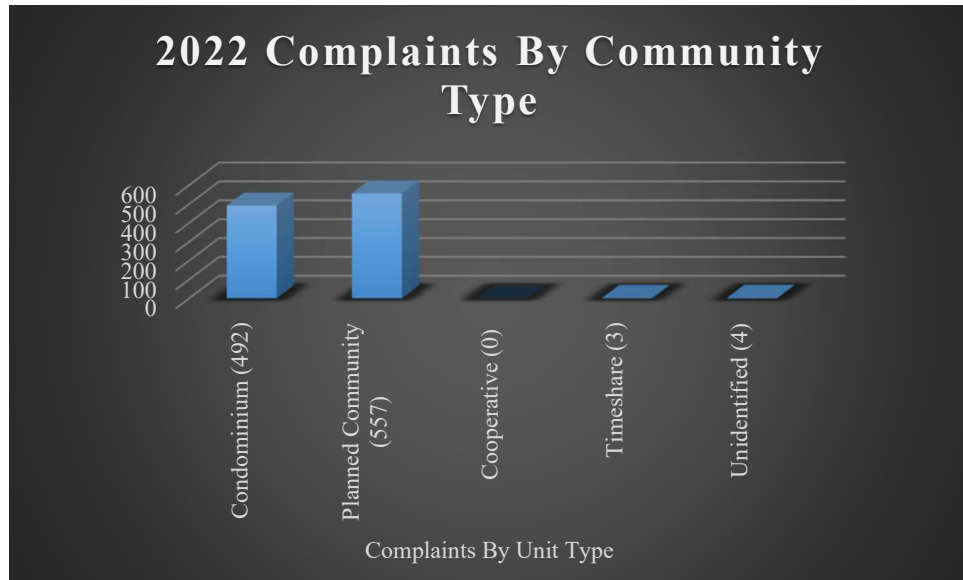


Figure 6.4 2022 Complaints By Unit Type

By CIC Size: Another useful metric tracked by the HOA Center is the number of complaints filed with the HOA Center by the size of the CIC, or more accurately, the number of units in the CIC being complained about. A brief analysis of the actively registered CICs in Colorado as of December 31, 2022, shows that the median number of units for actively registered CICs in Colorado is forty-one (41) units and the average number of units in actively registered CICs in Colorado is one hundred nine (109). As illustrated in Figure 6.5 below, the greatest number of complaints received was for CICs with between one hundred one (101) and five hundred (500) units. This is likely the result of most CICs in the state falling into that category of size, rather than a specific issue associated with CICs of that size. Furthermore, this trend is similar to prior year statistics.⁶⁰

⁶⁰ See 2021 Annual Report, <https://drive.google.com/file/d/1rD8pyHljcMOfSNBkftFGbumrOC-NuvhP/view>.

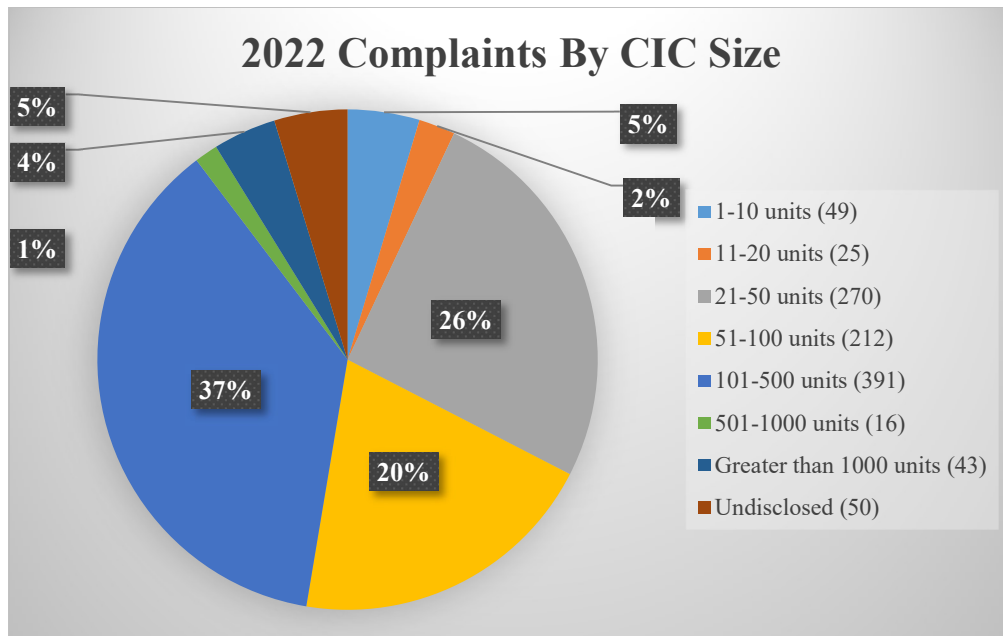


Figure 6.5 2022 Complaints By CIC Size

By Management Arrangement: The HOA Center also tracks complaints based on the management arrangement: whether the CIC is self-managed or professionally managed. As discussed previously in this report, approximately twenty percent (20%) of the communities in Colorado report that they are self-managed, while the remaining eighty percent (80%) are professionally managed.⁶¹ Interestingly, the number of complaints received by the HOA Center reflects a similar proportion. As Figure 6.6 below indicates, approximately eighteen percent (18%) of complaints pertain to self-managed communities, and eighty-two percent (82%) pertain to professionally managed CICs. When compared to the data demonstrated in Figure 4.3, this is nearly proportional to the total number of registered CICs.

⁶¹ See Figure 4.3.

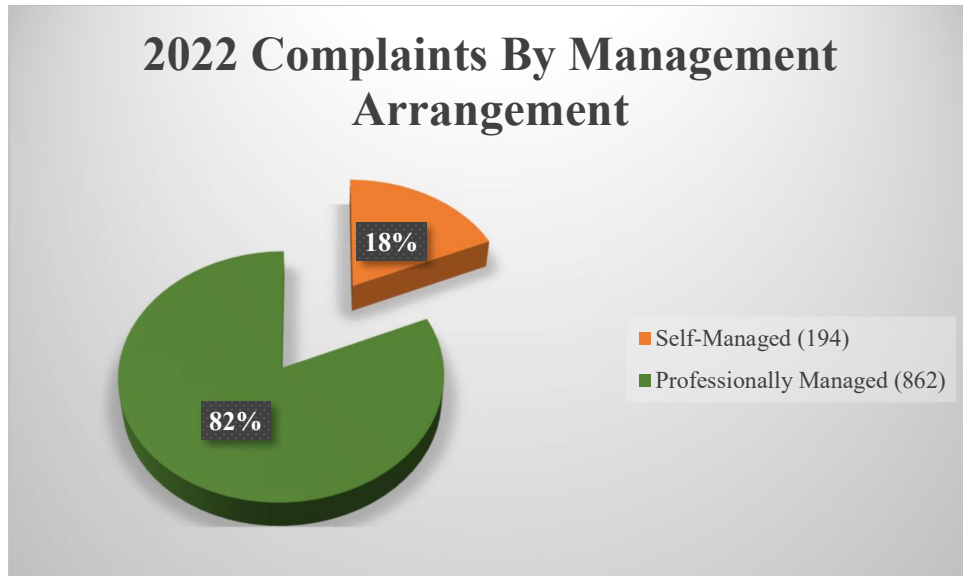


Figure 6.6 2022 Complaints By Management Arrangement

By Respondent Type: The HOA Center tracks complaints on who the complainant identifies as the party responsible for their grievance, as well. This includes whether the Respondent is: (a) an individual board member or the board collectively, (b) a CAM, manager, or management company, or (c) the Declarant. In complaints where the complainant does not expressly state who the offending party is, the HOA Officer is required to carefully review all available information to determine the responsible party or contact the complaining party for more information.

With that being understood, in 2022, the HOA Center observed a large proportion of complaints directed at managers or the management company, with approximately sixty percent (60%) of all complaints being directed at a manager or the management company. It is also worth mentioning that a statistically small number of complaints were directed at Declarants. It is entirely possible that the HOA Center will see a continued variation in the proportions set forth below in Figure 6.7 as development trends in Colorado change over time.

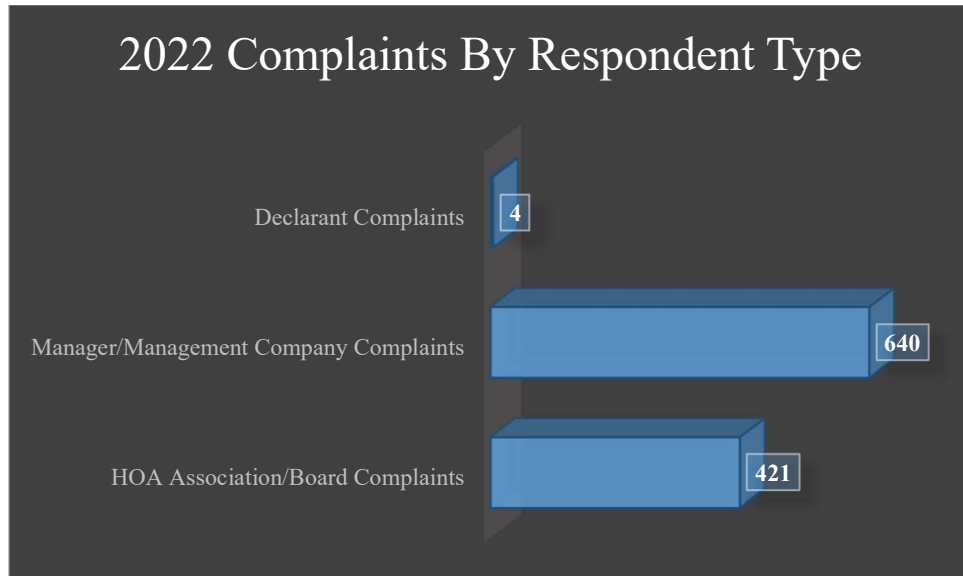


Figure 6.7 2022 Complaints By Respondent Type

6.2 Complaints by Issue

Although the HOA Officer engages in discussion or correspondence with the complainant (except in the case of anonymous complaints), due to the HOA Center's lack of jurisdiction to investigate or enforce applicable Colorado law, the HOA Officer can utilize the filing of a complaint to provide resources and information to the complainant, as discussed further in this Report. Nevertheless, complaints received by the HOA Center are self-reported. As such, the HOA Center relies solely on the information provided in the complaints as well as any follow-up correspondence with the complainant to reasonably categorize and report on the issues and concerns contained in the complaints it has received.

Each complaint received by the HOA Center is carefully reviewed for the issues and concerns therein and additional information is sought from the complainant when applicable. As in previous years, the HOA Center continues to categorize complaints received into twenty-two (22) different issues. The twenty-two (22) issues encompass the wide array of complaints received by the HOA Center, however, in 2023, the HOA Center intends to increase the number of categories to provide even greater detail on the nature and issues complainants report.

As was the case in the 2021 Report, the complaint area for which the HOA Center continues to see the most issues is in "communication." While this issue category is broad because it covers (1) communication complaints from unit owners about board members or CAMs, (2) tenants complaining about communication with board members or CAMs, (3) real estate professionals like title companies and real estate agents complaining about communication with board members or CAMs, and (4) board members complaining about communication from CAMs, the prevalence of these types of complaints is important to note. In 2022, communication complaints constituted more than two hundred (200) complaints. Accordingly, the HOA Center has made

communication tips an important theme in many of its HOA Forum presentations. By identifying the required communications for these entities, but also encouraging additional non-required communications, CICs can more effectively address many of the questions, concerns, and complaints which may arise between disputing parties.

In 2022, the HOA Center regularly received complaints from real estate brokers and other real estate professionals. The most frequently complained about issue from brokers pertained to the provision of governing documents during a real estate transaction, as section 7 of the Colorado Real Estate Commission's Contract to Buy and Sell Real Estate (Residential)⁶² ("CBS") specifically requires sellers to provide certain CIC documents. If the seller is not in possession of the most current set of documents listed in section 7 of the CBS, then they must request them from their CIC. In 2022, just like in previous years, the HOA Center continued to frequently hear from brokers and title companies who are having trouble obtaining these documents, even after sellers have allegedly properly requested them.

Additionally, the HOA Center has elected to address three other complaint categories in this Report that are of note from 2022. Those categories are: (1) Not Performing Maintenance/Repairs/Constructions, (2) Regulatory Compliance, Registration, and Health & Safety, and (3) Improper/Selective Enforcement of Covenants. In 2022, the HOA Center received eighty-five (85) complaints pertaining to CICs not performing maintenance or repairs. Possible explanations for this are that as society emerges from the COVID-19 pandemic, tenants and unit owners are beginning to utilize their CIC's common elements once again and, notably, after inflation has increased the costs of repair and maintenance, many CICs may have deferred these costs in the hope that prices may decrease.

Nevertheless, these concerns regarding maintenance logically lead to health and safety concerns: the next complaint category identified by the HOA Center for discussion in this Report. In 2022, the HOA Center received eighty-two (82) complaints about Regulatory Compliance, Registration, and Health & Safety. If CICs fail to maintain common elements, whether by choosing to allocate CIC revenue to other projects (legal fees, accounting fees, insurance costs, etc.) or because the CIC does not have sufficient funds to conduct maintenance and repairs, health and safety may be at risk. Related, the HOA Center received questions about physical safety in their communities. In some cases, physical safety concerns may be directed at fellow community members or the board members, but more commonly, were directed at concerns about security in the community and increasing crime rates in their surrounding towns, cities, the state, and the nation. Finally, this category addresses a CIC's failure to register with the Division of Real Estate. As discussed in Section 4 of this Report, the HOA Center does not have registration enforcement authority. Accordingly, in response to complaints pertaining to registration, the HOA Center informed complainants of the effects of failure to register.

⁶² See <https://dre.colorado.gov/real-estate-broker-contracts-and-forms>.

Finally, the HOA Center identified a trend in complaints pertaining to the selective enforcement of covenants. During 2022, the HOA Center received seventy-five (75) complaints on Improper/Selective Enforcement of Covenants. In short, selective enforcement occurs when a CIC does not enforce its covenants, use restrictions, rules, or regulations in a uniform manner. For example, selective enforcement is when a board enforced a rule against one unit owner, after knowingly choosing to not enforce that rule in similar circumstances in the past against others. Such actions by a CIC may be determined to be arbitrary and capricious by a judicial finder of fact and may further jeopardize a CIC's ability to enforce those restrictions in future disputes. Although the HOA Center does not have the authority to investigate and make recommendations pertaining to selective enforcement complaints, the HOA Officer regularly provides information to boards, CAMs and complaining parties about selective enforcement and the potential ramifications thereof.

Figure 6.8 below sets forth the complaints received by the HOA Center in 2022, broken down by type.

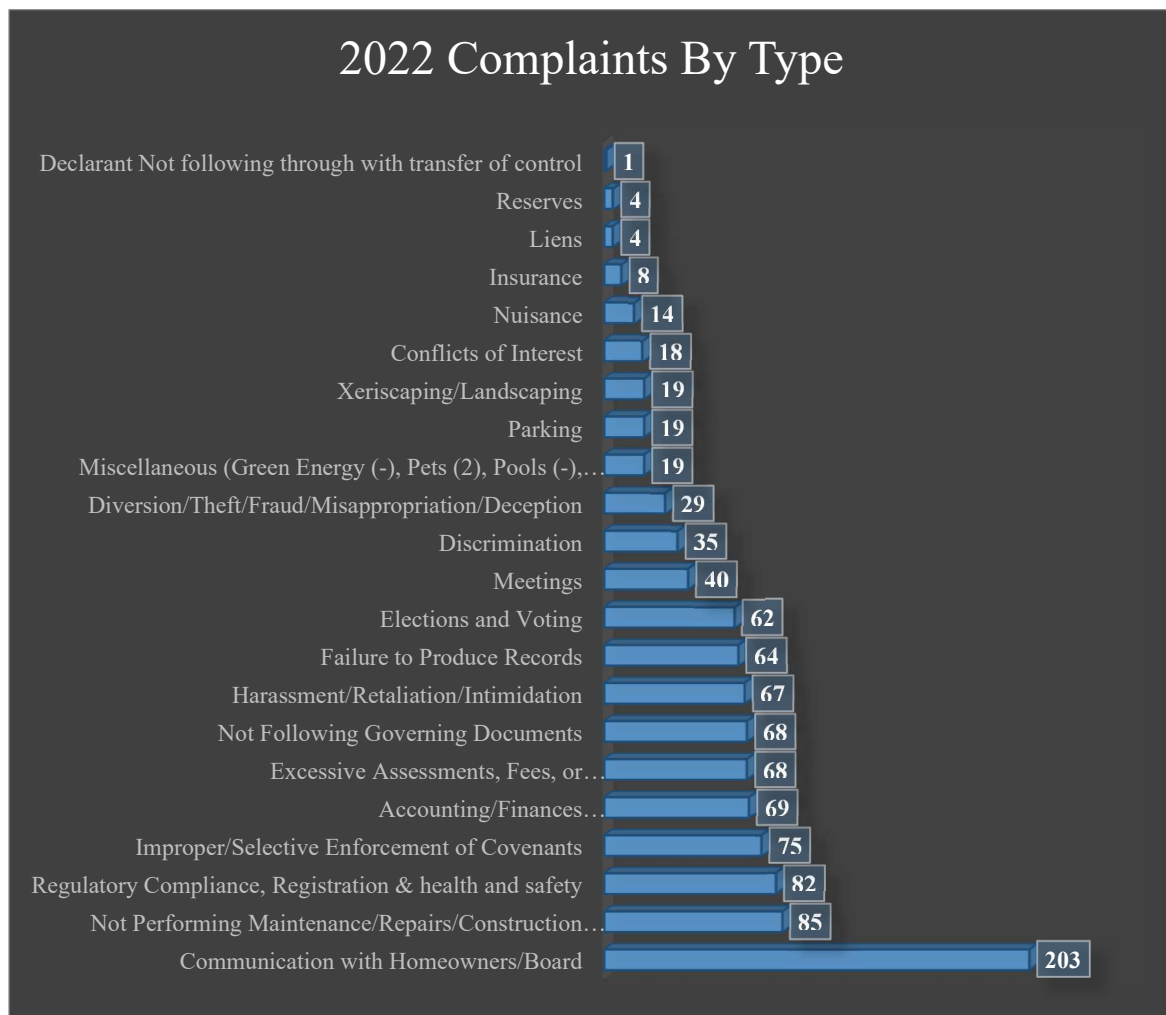


Figure 6.8 2022 Complaints By Type

7. Accomplishments & Objectives

7.1 Review of 2021

During 2022, the HOA Center continued to focus on various methods of outreach and education. While the majority of inquiries received by the HOA Center were from homeowners seeking information, the HOA Center increased its outreach and training efforts, focusing on board members and professional management company duties. Many of the HOA Forums were specifically tailored to board members and professional management companies in order to assist those parties in understanding and conducting themselves in accordance with applicable law. This focus and attention were not at the expense of individualized attention to unit owners and other interested parties though. By providing timely responses to inquiries and inviting consumers to reach out regularly, whether that is by telephone, electronic mail, or by visiting the HOA Center website, the HOA Center has enhanced access to information and education on CICs in Colorado.

Throughout the course of 2022, the HOA Center provided relevant training and forums to the public. The HOA Center also utilized the power of the media to conduct outreach and inform the public of the resources, services, and information available through the HOA Center. By appearing in various forms of media including television, print, and on-demand video, the HOA Center affirmed its position as a unique resource available to unit owners, tenants, board members, attorneys, and professional management companies.

While the HOA Center maintains a finite staff with finite availability, the HOA Center has continued to enhance the HOA Center website which is available at all times of the day, including weekends, evenings, and holidays.⁶³ Both through expanded website development, and in particular, the addition of webpages dedicated to legislative updates and presentations, the HOA Center has been able to drive additional traffic to the HOA Center's website. In particular, the addition of a page where interested parties can view and download the slide decks of recent presentations and view the recording of said presentations has been a success. The HOA Center and the Division have developed a presence on YouTube which the additional HOA Center website helps direct traffic to, thereby granting access to information not just on the singular topic that an interested party may be researching, but also an array of other videos and resources.⁶⁴

During 2022, the HOA Center received positive feedback from interested parties regarding communication and interaction, particularly during HOA Forums. HOA

⁶³ See <https://dre.colorado.gov/hoa-center>.

⁶⁴ See <https://www.youtube.com/@DORADivisionRealEstate>.

Forums conducted during 2022 allowed attendees an opportunity to participate in robust question and answer and discussion. The HOA Center believes that one of the ways that interested parties can learn is by way of hearing about the experiences and questions that people in other CICs have encountered, and how those individuals have addressed those issues. By dedicating time to attendees' questions, the HOA Information Officer has been able to successfully emphasize issues and themes and provide "real world" examples of the topics addressed in presentations.

Technology generally has allowed the HOA Center to carry out its mandate more successfully and further its mandate. Through the website enhancement and utilization of webinars, the HOA Center has successfully reached all geographic regions of Colorado, and even beyond.

7.2 Goals for the Office in 2022

The HOA Center will continue to provide consumers with new and useful information and education related to CICs. Through additional information and outreach initiatives, the HOA Center will continue to expand its footprint in Colorado. Topics include one's rights and responsibilities of buying into and living in an HOA and board member focused training. The HOA Center understands that outreach in languages other than English is important. While the HOA Center's website has added a "translate tool", allowing viewers to read in more than one hundred thirty (130) languages, expanding presentations and accessibility will be an important key to the HOA Center's effectiveness in 2023 and beyond.

8. Important Resources For Readers

8.1 Reader Resources

Through carrying out its obligations, the HOA Center has produced an ever-increasing body of resources for interested parties seeking to learn more about CICs in Colorado. In addition to the resources available on the HOA Center website⁶⁵, below is a list of additional resources that offer information for CICs, community association management companies, and unit owners.

Colorado Bar Association: The Colorado Bar Association (“CBA”) is an organization committed to supporting the justice system and enriching communities across Colorado. The CBA has many resources⁶⁶, but one of the most referenced resources by the HOA Center is “Licensed Lawyer”, a tool available to the public to assist in finding a lawyer who may be able to assist with legal needs.⁶⁷ Searchable by areas of expertise, experience level, service options, and payment options, Licensed Lawyer is a helpful directory assisting members of the public find an attorney.

Colorado General Assembly: The Colorado General Assembly website is an excellent resource for any member of the public to learn more about the legislative process, specific bills affecting CICs, and who are a constituent’s Representative and Senator.⁶⁸ For those individuals seeking information on a specific bill, the Colorado General Assembly has a Search By Bill tool.⁶⁹ During the legislative session, members of the public can review the session schedule and attend most hearings, either in person or via webcast.⁷⁰ Finally, one of the most referenced tools that the HOA Center directs the public to is the Colorado General Assembly’s Find My Legislator tool which allows a constituent to search by street address to identify their state Senator and Representative in the Colorado State Legislature.⁷¹

Colorado Judicial Branch: The Colorado Judicial Branch website offers information on the various levels of courts in the State of Colorado.⁷² The website offers information on the courts, how to initiate or respond to judicial actions, and forms for use by unrepresented parties and attorneys, as well.

⁶⁵ See <https://dre.colorado.gov/hoa-center>.

⁶⁶ See <https://www.cobar.org/>.

⁶⁷ See <https://www.cobar.org/Licensed-Lawyer>.

⁶⁸ See <https://leg.colorado.gov/>.

⁶⁹ See <https://leg.colorado.gov/bills>.

⁷⁰ See <https://leg.colorado.gov/session-schedule>.

⁷¹ See <https://leg.colorado.gov/find-my-legislator>.

⁷² See <https://www.courts.state.co.us/>.

Colorado Legal Services: Finding an attorney can be a challenging process. There are many considerations for an interested party to consider: experience, cost, expertise, and payment options are only a few. In addition to the CBA’s Licensed Lawyer tool, referenced in this section, some individuals in Colorado may qualify for discounted or free legal services. Colorado Legal Services is one organization that may be able to assist low-income Coloradans and seniors.⁷³

Community Association Institute: The Community Association Institute (“CAI”) is a private trade group that offers information to users on the selection of a community association manager, education, finding vendors, and other considerations.⁷⁴

⁷³ See <https://www.coloradolegalservices.org/>.

⁷⁴ See <https://www.caionline.org/pages/default.aspx>.