

# Assessments and Budgeting

Thank you for joining us, the presentation will begin shortly.



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# Assessments & Budgeting

The purpose of this presentation is to learn more about regular assessments, special assessments, and budgeting for Colorado communities.



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## HOA Information & Resource Center

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# Disclaimer:

The information provided during this presentation is for educational purposes only and is not meant to provide, nor should it be construed as legal advice.

Any legal questions should be directed to a qualified attorney licensed in Colorado.



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# What Is the HOA Information & Resource Center?

- *What the HOA Information & Resource Center does:*
  - Provides information to homeowners regarding their basic rights and responsibilities under the Colorado Common Interest Ownership Act (“CCIOA”).
  - Gathers, analyzes, and reports information through complaints and HOA registrations.
  - Creates resource materials.
  - Provides education and forums.
  - Provides a website with information for the public.
  - Registers HOAs pursuant to §38-33.3-401(1), C.R.S.
  - Provides an Annual Report to the Legislature.
- *What the HOA Information & Resource Center does not do:*
  - Is **not** a regulatory program.
  - Does **not** mediate/arbitrate.
  - **Cannot** provide legal advice.
  - Does **not** act as an advocate.
  - **Cannot** assess fines or penalties.
  - Does **not** enforce an HOA’s failure to register.



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# Who Is This Presentation For?

- Home Owners
- Board Members
- Community Association  
Managers



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# **How does a community pay its expenses?**

# **Where does it obtain its revenues?**

- A “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...”



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# Regular Assessments

The first of two primary types of assessments, Regular Assessments are.

- **Purpose**: Overall operational costs for the association.
- **How Paid**: monthly, quarterly, annually- this varies by community.



# Regular Assessments

- **Average Dues:** There is no such thing. Different communities charge different amounts based on a variety of factors: age of the community, condition of the community, history of the community. Dues should reflect the operational needs of the community.
- **Raising Dues:** In most Colorado associations, assessments can be raised as often as the board chooses in order to meet its annual budget requirements.
  - **Exception:** Some associations may have limitations in the governing documents or an annual cap.
- **Vote Required:** In most Colorado associations, a vote of the board is all that is required to raise dues. A unit owner vote is NOT REQUIRED in most cases.
  - **Note:** Just because a unit owner vote is not required, a board is required to obtain unit member input. Board members should communicate clearly with unit owners so that unit owners have a good understanding of what the increase is for (inflation, new vendor costs, etc.)
- **Meeting Minutes:** Raising assessments can be done at a board meeting or a unit owner meeting and must be reflected in the Minutes of that meeting.



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# Special Assessments

The second of two primary types of assessments, Special Assessments are:

- **Purpose**: Usually for a special purpose like a repair, replacement, reserves, or new construction.
- **How Paid**: It Depends-special assessments might be due upon notice, might be paid in installments. CCIOA does not address a time period to pay special assessments, but the association's governing documents may set forth a specific schedule.

# Special Assessments

- ***Raising Dues:*** In most Colorado associations, special assessments can be imposed to pay for a special purpose.
  - **Exception:** Some associations may have limitations in the governing documents or an annual cap.
- ***Vote Required:*** In most Colorado associations, a vote of the board is all that is required to impose a special assessment. A unit owner vote is NOT REQUIRED in most cases. Check your governing documents.
  - **Note:** Just because a unit owner vote is not required, a board is required to obtain unit member input. Board members should communicate clearly with unit owners so that unit owners understand the purpose of the assessment.
- ***Meeting Minutes:*** Special assessments can be imposed at a board meeting or a unit owner meeting and must be reflected in the Minutes of that meeting.



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# Reserve Funds

- Reserve Funds are generally held in a separate account (savings, brokerage) other than the operating account and are dedicated to unanticipated or deferred expenses, particularly large expenses.
- Good practice is for associations to budget savings (usually by way of a monthly transfer) to a reserve account.
- Usually, these funds can be used at the discretion of the board (unless governing documents require unit owner approval).



# Reserve Funds

- ***Investment of reserve funds is not expressly regulated in Colorado:***
  - Board members should consider basics like interest rates, FDIC Insurance (\$250,000.00 per depositor) when choosing where to invest reserve funds.
  - If your association's reserve funds are big enough, you might consider other investment opportunities: brokerage accounts, certificates of deposit, etc.
- **§ 7-128-401** of the Colorado Nonprofit Corporations Act states that boards have discretionary authority, provided they are acting in:
  - Good faith
  - With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
  - In a manner the director or officer reasonably believes to be in the best interests of the nonprofit corporation.
- ***Watch this space in upcoming legislative sessions:*** In early 2022, bill HB22-1387 was introduced in the Colorado Legislature. Although the bill was ultimately vetoed and is NOT law, it is a topic that is of interest to several in the Colorado Legislature.



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# Reserve Studies

- There are several different types of reserve studies and several different types of professionals/companies that can conduct reserve studies.
- Usually conducted by reserve specialists, consultants, or accounting firms.
- Once completed, it can be used to estimate the association's future reserve requirements.
- CCIOA does not require a reserve study, **HOWEVER**, your association's governing documents might require one under certain circumstances or on a periodic basis. Check your documents.



# Reserve Studies

- § 38-33.3-209.5(1)(b)(IX) **DOES** require that associations have a governance policy in place that pertains to reserve studies. It says the policy should include:

“When the association has a reserve study prepared for the portions of the community maintained, repaired, replaced, and improved by the association; whether there is a funding plan for any work recommended by the reserve study and, if so, the projected sources of funding for the work; and whether the reserve study is based on a physical analysis and financial analysis. For the purposes of this subparagraph (IX), an internally conducted reserve study shall be sufficient.”

- This policy is defined, approved, and adopted by the board, so it should be specifically tailored to your community and should consider the specific details of your community, your amenities, the age of your common elements, and other factors that might affect future expenses.



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# Budgets

- For communities created *prior* to July 1, 1992, CCIOA does not define a process to approve an annual budget. For those communities, review your governing documents for a process.
- For communities created *after* July 1, 1992, we will discuss the process.



# Budget Approval

- For those communities created after July 1, 1992, CCIOA devised a simplified three-step process for Budget Approval:
  1. Draft and Adopt a Budget
  2. Provide Notice of the Adopted Budget to the Unit Members
  3. Hold a Meeting for Unit Members to Review and Consider a Veto



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# Draft and Adopt a Budget

- § 38-33.3-302 of CCIOA states that the association, without specific authorization in the declaration, may...“adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners.”
- Board Members have a Fiduciary Duty:
  - Review and update contracts with vendors
  - Conduct Due Diligence when adopting the budget (consider obtaining multiple quotes for any contract above a certain dollar amount)
- The budget should set forth the revenue and expenditures for the community, broken down by specific line items. Some examples:
  - Revenue-Assessments
  - Revenue-Rental
  - Expense-Repairs and Maintenance
  - Expense-Utilities
  - Expense-Contracted Services



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# Provide Notice of the Adopted Budget to the Unit Members

- The next step in the budget process is outlined in CCIOA at § 38-33.3-303(4)(a):
  - Within 90 days after adoption of the proposed budget, the board must mail, or otherwise deliver (which may include posting on the association's website), a summary of the budget to all owners and set a date for a meeting for the owners to consider the budget. Consider providing a side-by-side comparison to the current budget. This is not required but will help unit owners better understand what has changed since last time.
  - The meeting must take place within a reasonable period of time after the mailing or delivery, and in accordance with the association's bylaws.
  - Notice of the meeting must be provided as required by the bylaws.
- **Note:** Many Associations utilize a regularly scheduled meeting of the unit owners (sometimes referred to as the "Annual Meeting" to present the annual budget to the community. Ensure that the notice of a unit owner meeting is provided in accordance with § 38-33.3-308 of CCIOA.



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# Hold a Meeting for Unit Members to Review and Consider a Veto

Budget Ratification, no!



Budget Veto, yes!



- § 38-33.3-303(4)(a)(II)(A) of CCIOA provides that unless a majority of all the owners **veto** the proposed budget (or such higher percentage as established in the Declaration), the proposed budget becomes the approved budget of the association.
- § 38-33.3-303(4)(a)(II)(A) allows for the veto/approval process to be different, but only if the association's declaration requires otherwise.
- In the absence of a veto, the budget is approved, whether or not a quorum is present at the meeting.
- If the proposed budget is vetoed, the periodic budget last proposed by the board and not vetoed by the unit owners must be continued until a subsequent budget proposed by the board is not vetoed by the unit owners.



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# Budget Amendment

- Associations also have the power to amend budgets for revenues, expenditures, and reserves. See § 38-33.3-302(1)(b)-*to adopt and amend budgets*.
- The process to amend a budget is the same three-step process discussed above:
  - Draft and Adopt the Amended Budget
  - Provide Notice of the Amended Budget to the Unit Members
  - Hold a Meeting of the Unit Members to Review and Consider A Veto of the Amended Budget



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# Pro Tips

1. **Board members:** Start early in the budgeting process. Get any relevant information about your goals for the community to your CAM or Budget Committee for inclusion in next year's budget.
2. **Board Members:** Do not rely on late fees, penalties, or interest to fund your community.
3. **Board Members:** Be transparent with the community. Communicate early and often with your Unit Owners about what your goals for the community are (increased reserves next year, fix that roof, etc.).
4. **Board members:** If you are thinking about a capital improvement or even just regular repairs, consider the entire community: not just what *you* think might be important/not just what *you* see.
5. **Board Members:** Conduct, or direct your Community Association Manager to conduct, due diligence on larger projects so that you have accurate quotes. No rule that you must get 3 quotes but consider it.
6. **Board Members and CAMs:** Consider your contract with each other. Should you negotiate any new terms or new pricing?
7. **Unit Members:** Ask questions about the services and amenities and review current contracts when appropriate so that you: (1) can understand your community better, and (2) can help your board avoid waste or abuse by vendors.



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## HOA Information & Resource Center

Check Out HOA Resources For Yourself At:

- Web: <https://dre.colorado.gov/hoa-center>
- Send Inquiries Via E-mail To: [dora\\_dre\\_hoainquiries@state.co.us](mailto:dora_dre_hoainquiries@state.co.us)



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Questions?

