

HOA FORUM

Attorney Perspectives: Homeowners' Rights and Legal Proceedings in Colorado, with guest speakers from Colorado law firm Robinson & Henry

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



COLORADO Department of Regulatory Agencies Division of Real Estate

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THE COLORADO HOA INFORMATION & RESOURCE CENTER

Hosted By:

- Nick Altmann, HOA Information Officer
 - Amanda Lopez, Program Assistant

 David L. Donnelly, Education, Communication & Policy Manager



COLORADO

Department of Regulatory Agencies

Division of Real Estate

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.



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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:

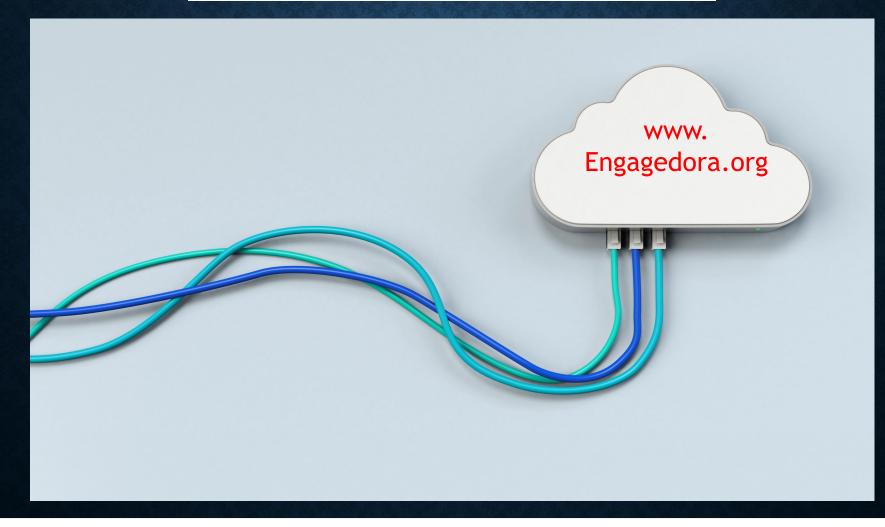
- Is <u>not</u> a regulatory program.
- Does not mediate/arbitrate.
- <u>Cannot</u> provide legal advice.
- Does <u>not</u> act as an advocate.
- <u>Cannot</u> assess fines or penalties.
- Does <u>not</u> enforce an HOA's failure to register.



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HB23-1105: HOA Homeowners Rights Task Force





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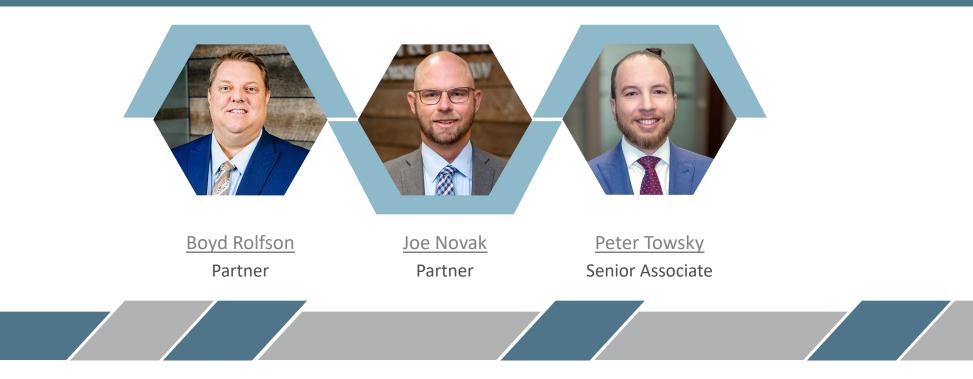


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Legal Panel

Joining the HOA Information & Resource Center Forum Colorado Division of Real Estate are real estate and civil litigation attorneys from Robinson & Henry, P.C., a Colorado- and Texas-based law firm.



DISPUTE RESOLUTION TIPS FOR HOMEOWNERS

AUGUST 18, 2023

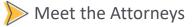


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Who We Work With

- Home Owners
- Condo Owners
- Townhome Owners



The Legal Landscape

Do Colorado laws favor Homeowners Associations, or does current legislation benefit homeowners?



Tips Before You Consult a Lawyer

Talk to your neighbors - Do they have similar concerns? Get involved - Attend board meetings and vote! Become a board member - Make change within the HOA. Communicate with the HOA - Try to settle it on your own.







The Cost of Resolution

- How complicated is the matter?
- How many parties are involved?
- Is litigation necessary?

The Risk of Losing

You could be out thousands of dollars in attorney's fees and be on the hook for the HOA's legal bills.



Finding the Right Attorney



Where to Look

Colorado Bar Association Referral from a trusted source





Poor organization Poor communication





<u>https://www.robinsonandhenry.com/colorado/litigation/maximize-first-attorney-meeting/</u>

Your First Attorney Meeting





www.robinsonandhenry.com/colorado/litigation/right-attorney/



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Experience

How many cases like mine have you handled?



Process

How do you approach each case?

Options

Is my case right for mediation or arbitration?



Communication How will I be apprised of my case's progress?

Confidence

What do you think the likely outcome is for my case?



Dispute Resolution Tips



Mediation

A neutral third party helps the two sides reach an agreement.

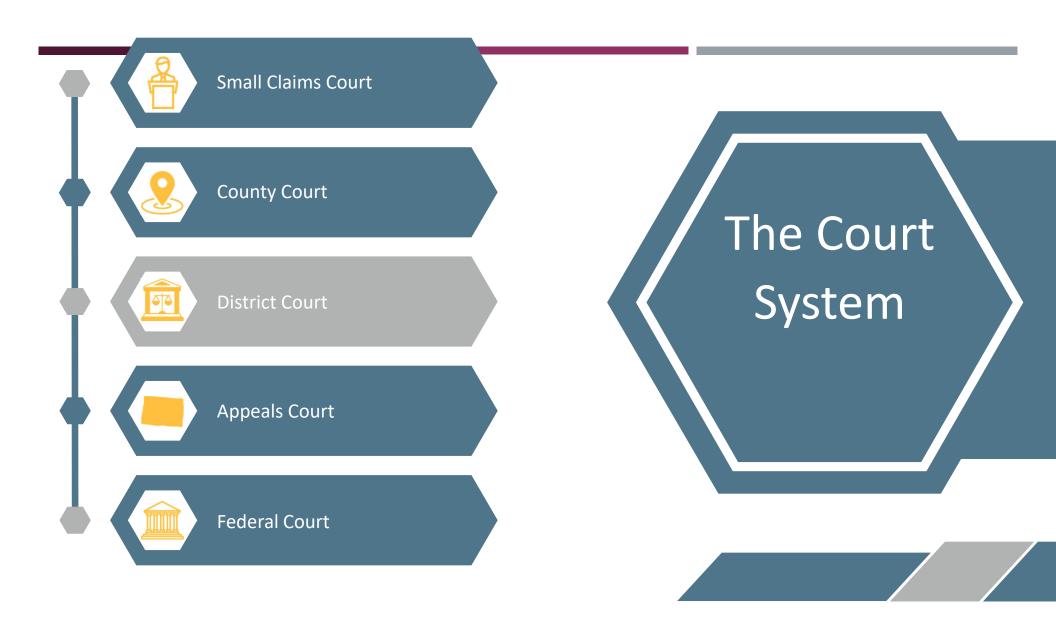
Arbitration

An unbiased third party decides the issue's outcome.

Litigation

File a lawsuit. The case could settle or end up in court.





10 Pieces of Good Evidence

www.robinsonandhenry.com/colorado/litigation/evidence-for-alawsuit/

Emails مە Voicemails Text Messages Written = Communications Contracts





Voluntary HOAs

Can you speak to voluntary HOAs, and whether we need to abide by the rules or not?



State Laws or HOA Rules

Can you speak to how an HOA rule/regulation can contradict/override state law?



Going to Court

Is the Colorado Small Claims Court an acceptable venue for Owner Claims against a HOA Association for their non-production of Association documents requested and required by CCIOA?



Records Requests

What recourse does an owner have for a HOA Association non-production of Association documents that were required by a Small Claims Court order?



Renters

- What documentation do owners need to provide to the HOA about their renters? (examples: a copy of the rent agreement/term and the renters information)
- 2. Can an HOA require owners to provide good contact info for themselves and their renters?



Renters, Cont.

3. A tenant has violated HOA governing documents for years by continuing to hold all night parties, loud music, banging doors, cursing, garbage, etc. Should the board require the tenant to appear before them? Should they hold a 'trial' for a person who is not a homeowner?



HOA's Counsel



Is the HOA attorney accessible to members without board involvement if the HOA board is not following community guidelines and covenants? The HOA attorney stated he represents the community, not the board members, so can one member email the HOA attorney to let him know what is happening in the community?



Disbanded HOAs

Can you speak to dissolved or terminated HOAs, and what the complete ramifications are to residents?



Enforcement Issues

 My HOA does not seem to be able to enforce our covenants particularly around landscaping and fencing. They also are not maintaining the common areas landscaping as well. It feels as if we get little for our dues. How do we get them to uphold our covenants? Communication is impossible. They have not held a public meeting since March and refuse to print an agenda which states specific topics of discussion for meetings.



Enforcement Issues, Cont.

- As an owner of a Colorado townhouse for the past 25 years I am extremely concerned and upset that our Covenants are not being observed.
 - parking issues
 - # of dogs allowed in the townhomes
 - lack of Board meeting minutes and financial reports available to homeowners

lack of timely communications, etc.
What can the homeowners who want the
Covenants followed as required in the

purchasing documents do if the Board chooses to ignore them and even goes so far as to misstate certain requirements?



Vague Rules

Our HOA's covenants prohibit a "nuisance", but do not define the term. The Board occasionally issues rules and regulations, and has attempted to define nuisances as anything the Board doesn't like. Most covenant violation letters refer to alleged violations as a "nuisance" which the Board now claims includes trash cans, untrimmed bushes and trees, brown grass, and weeds. Violations are then published on the shame sheet in the HOA newsletter. Is this too broad an interpretation, and how should owners fight back?



Conflicts of Interest



Can a board member also be a real estate broker and seek clients within the community? Is this a conflict of interest?



Bad Board Members



- 1. How should we stand up to a bully President?
- 2. What can I as a homeowner do if my board of directors continually makes community decisions by way of "work sessions", instead of in an open and transparent board meeting?



