## **HOA Complaints**

A presentation by the Colorado HOA Information & Resource Center

Presented by: Nick Altmann Amanda Lopez

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## Legal Disclaimer

The information in this presentation should not be construed to be legal advice. It is intended for educational purposes only. If you have any legal questions, you should consult with a qualified, licensed attorney.



## The Colorado Common Interest Ownership Act ("CCIOA")

- Colorado state law that governs common-interest communities (HOAs)
  - Law became effective July 1, 1992
- Legislative declaration 38-33.3-102, C.R.S.
  - (1) The general assembly hereby finds, determines, and declares, as follows: (b)
     That the continuation of the economic prosperity of Colorado is dependent upon
     the strengthening of homeowner associations in common interest communities
     financially through the setting of budget guidelines, the creation of statutory
     assessment liens, the granting of six months' lien priority, the facilitation of
     borrowing, and more certain powers in the association to sue on behalf of the
     owners and through enhancing the financial stability of associations by increasing
     the association's powers to collect delinquent assessments, late charges, fines, and
     enforcement costs;
- No regulatory oversight
  - o Individual homeowners must assert their rights in civil court



## Previous Colorado Community Association Manager Regulation

- CAM licensing and regulation existed in the form of the Community Association Manager Program from January 1, 2015, to July 1, 2019.
- May of 2019, HB19-1212 was passed by the legislature
  - This bill would have continued the CAM program for one year while a stakeholder process took place.
- Governor Polis vetoed HB19-1212, and the CAM Program expired on June 30, 2019.
  - The Governor also issued Executive Order D-2019-006 (Directing a stakeholder process to examine community and homeowner associations)
- Currently, there is no regulatory oversight of HOAs or Community Association Managers.



### The HOA Information & Resource Center

- House Bill 10-1278 created the HOA Information and Resource Center
  - Became effective on January 1, 2011.
  - Intended to be a resource for homeowners and board members in HOAs.
  - See 12-10-801, C.R.S.
- HOA Information Officer acts as a clearing house for information concerning the basic rights and duties of unit owners, declarants, and unit owners' associations under the CCIOA.
- 2024 Sunset Review of the HOA Center recommended continuing the HOA Center for 13 years.
  - Sunset Review administered by the Colorado Office of Policy, Research, and Regulatory Reform ("COPRRR").



## What the HOA Center <u>does</u> do:

- 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 educational material and forums.
- Provides and maintains a website with information for the public.
- Registers HOAs in accordance with §38-33.3-401(1) C.R.S.
- Provides an Annual Report to the Legislature.



### What the HOA Center does <u>not</u> do:

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



### Difference Between HOA and CAM

- An HOA is a homeowners' association governed by an executive board of directors. The directors are elected by the unit owners (or "homeowners") in an election held according to the HOAs governing documents.
- A CAM is a community association manager ("CAM") hired by the executive board of directors pursuant to a written contractual agreement.
  - The hiring of a CAM is usually done in agreement by the board, although the HOA President may have this sole authority.
  - CAM contract shall be terminable for cause without penalty to the association and shall be subject to renegotiation. 38-33.3-302(4)(a), C.R.S.
- The CAM reports to the HOA and carries out the wishes of the board of directors.
- THE HOA IS NOT THE CAM AND THE CAM IS NOT THE HOA!!!
  - Confusion exists understanding the difference between these two distinct entities.



## **HOA Complaints**

- The HOA Center is statutorily required to administer a complaint program.
  - C.R.S. 12-10-801(3)(IV)(c) states:
    - The HOA information officer shall track inquiries and complaints and report annually to the director regarding the number and types of inquiries and complaints received.
  - Previous <u>HOA Annual Reports</u> may be found on the HOA Center's website.
  - No jurisdiction has been provided the HOA Center to investigate any complaint received.



## **HOA Complaints -**

### Submitting a Complaint

- Anyone may submit a complaint by clicking on the "File a Complaint Online" button at:
  - o https://dre.colorado.gov/filing-hoa-complaint
  - Printable complaint forms are also available for download and printing purposes.
    - Printed complaint forms must be submitted either:
      - Via email to <dora\_dre\_hoainquiries@state.co.us>, or
      - ➤ Via USPS to:

Dept. of Regulatory Agencies

Division of Real Estate

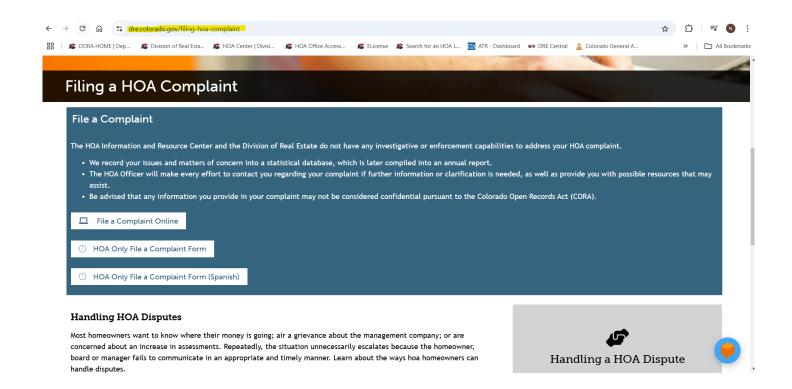
Attn: HOA Information & Resource Center

1560 Broadway, Suite 925

Denver, CO 80202

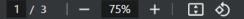


## Online HOA Complaint





### Physical HOA Complaint Form page 1



#### **HOA Information and Resource Center**

#### **Homeowners' Association Complaint Form**

The HOA Information and Resource Center ("Center") was established to provide basic information concerning the rights and duties of homeowners, declarants, and homeowners' associations under the Colorado Common Interest Ownership Act (CCIOA). The Center is also tasked with collecting and analyzing information on HOA issues and your input through the complaint process is valuable to the Center in accomplishing this goal. The Center does <u>not</u> have any investigative or enforcement capabilities to address your HOA complaint. The Center may attempt to contact you if further information or clarification is needed regarding your complaint. The Center <u>cannot</u> provide legal advice, nor can we mediate or intervene in disputes. The Center will track your complaint, and will report to the Director of the Division of Real Estate regarding the number and types of inquiries and complaints received. If you have any questions or wish to discuss your complaint, please contact the Division at (303) 894-2166. Please be advised that any information you provide in your complaint may <u>not</u> be considered confidential pursuant to the Colorado Open Records Act (CORA).

Please provide requested information (if known) in the spaces provided.

#### 1. Information about you (Complainant):

First Name	Middle In	itial Last Name							
Mailing Address	(Number and Street)		(City)	(State)	(Zip Code)				
Phone Number (	)		(City)	(State)	(zip code)				
E-Mail Address _				_					
Property Address	which is the subject of the	his complaint: (0	Check here if sa	me as mailing a	ddress above)				
(Number and Stree	t) (Apt, Suite, U	Jnit) (City)	(State)	(Zip Code)					
Regarding the pr	operty subject to this cor	nplaint, are you the: C	wner:	Гепапt:					
2. Information about the HOA which is the subject of this complaint:									
Does a Managem	ent Company manage yo	ur HOA? Yes	No						
Who is your com	plaint about? (Check all t	hat apply) HO	A Board	Declarant/Devel	oper				
Name of HOA: _									



## Physical HOA Complaint Form page 2

Ad	ldress of HOA:
	(
Ph	one Number: () Email Address:
Гу	pe of HOA: Condo Planned Community Cooperative Timeshare
Γh	e total (or estimated) number of units, lots or homes located in your HOA:
3.	Details about your Complaint:
f i	hen filling out this complaint please explain your issues as specifically and thoroughly as possible.  it is necessary to submit additional documentation, or you would like to supplement your complaint, you as provide a separate written narrative explanation of the details surrounding your complaint or ditional documentation if necessary. You can mail, fax or email your complaint to the Center.
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## Physical HOA Complaint Form page 3

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By checking this box (required) and sub-	mitting this form to the Division of Real Estate, I certify that d by me are true and accurate to the best of my knowledge.
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Your Signature  (If printed and mailed or faxed  You can forward your complaint and any  Division of Real Estate Attn: HOA Information and Resource Co 1560 Broadway, Suite 925  Denver, CO 80202	Date:   Date:   Date:   MM/DD/YYYY   y additional narratives or documentation to:
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# What Happens once a Complaint is Received?

- Complaints are categorized for the issues and concerns they contain and are then entered into a statistical database.
- The HOA Officer then drafts an acknowledgement letter, which contains some basic information and resources, as well as any information specific to the issue which may be helpful.
  - o This letter is provided to the complainant and only the complainant.
- The HOA Center does not contact the respondent.
  - However, the complainant may share the acknowledgement letter with anyone they'd like.
- No ability to investigate any complaint submitted.



## Nature of HOA Complaints

(Highlighted bullet points = most common types of complaint)

- Accounting and/or Finances (Assessments; Fines; Interest; budgeting; audit).
- Communication with Homeowners; Board.
- Conflicts of Interest.
- Declarant Not Following Through With Transfer of Control.
- Discrimination.
- Diversion; Theft; Fraud; Misappropriation; and/or Deception.
- Elections and/or Voting.
- Excessive Assessments, Fees, or Fines; Collections; and/or Foreclosure.
- Failure to Produce Records.
- Harassment; Retaliation; and/or Intimidation.
- Improper and/or Selective Enforcement of Covenants.

- Insurance.
- Liens.
- Meetings.
- Miscellaneous (Green Energy; Pets; Pools; Satellite Dishes; Political Signs).
- Not Following Governing Documents.
- Not Performing Maintenance and/or Repairs;
   Construction Defects.
- Nuisance.
- · Parking.
- Regulatory Compliance, Registration and/or Health & Safety.
- Reserves.
- Xeriscaping and/or Landscaping.



# Possible Solutions for Common HOA Complaints



## Accounting and/or Finances

- Governing documents may require periodic audits.
- CCIOA only requires an audit at discretion of the executive board or if requested by owners of at least one-third of the units represented by the association.
  - For owner-requested audit to occur, association must have annual revenues or expenditures of at least two hundred fifty thousand dollars. For more information see 38-33.3-303(4)(b)(I) of CCIOA.



# Communication with Homeowners; Board.

- Contact board in writing.
- If no response, contact in writing again via certified mail with return receipt requested.
- Request the board or CAM to engage in alternative dispute resolution ("ADR").
- Colorado Judicial Branch's Office of Dispute Resolution.
- Mediation Association of Colorado.
- Contact an attorney.



# Excessive Assessments, Fees, or Fines; Collections; and/or Foreclosure

- Attend board meetings, voice your concern, ask questions.
- Review governing documents to determine how assessments may be raised (if at all), or if there is a cap on the amount the board can raise dues per year.
- Vote in community elections for candidates who share your same vision for the community.



### Failure to Produce Records

- Owners are entitled to detailed records of receipts and expenditures affecting the operation and administration of the association, minutes of all meetings of its owners and board, a list of the names of all owners, tax returns of the association for the past seven (7) years, and many other records.
- See 38-33.3-317, C.R.S.
- The association may impose a reasonable charge to produce the requested records. The charge may not exceed the estimated cost of production and reproduction of the records.
- Unit owners may be able to recover penalties of fifty dollars (\$50.00) per day, up to a maximum of five hundred dollars (\$500.00), or actual damages sustained, as a result of an association's refusal to honor a proper records request.



# Improper and/or Selective Enforcement of Covenants

- Generate interest of fellow homeowners.
- Remove offending board members.
  - o 38-33.3-303(8) discusses the process for removing board members.
- Vote for individuals in elections who share your same vision for the community.



# Not Performing Maintenance and/or Repairs

• Section 38-33.3-307, C.R.S. of the Colorado Common Interest Ownership Act ("CCIOA") states that Except to the extent provided by the declaration, subsection (2) of this section, or section 38-33.3-313(9), C.R.S., the association is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of such owner's unit.



## THANK YOU! HOA Information & Resource Center

Nick Altmann Amanda Lopez 1560 Broadway, Suite 925 Denver, CO 80202 303-894-2166 dora\_dre\_hoainquiries@state.co.us

#### Website:

https://dre.colorado.gov/division-programs/hoa-center

Division of Real Estate YouTube Channel:

https://www.youtube.com/c/DORADivisionRealEstate

