

THE HOA INFORMATION AND RESOURCE CENTER



Dora
Department of Regulatory Agencies

Disclaimer

- **Note: The Information provided during this presentation is for educational purposes only and is not meant to provide or to be construed as legal advice. Any legal questions should be directed to your attorney.**

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“DORA is dedicated to preserving the integrity of the marketplace and is committed to promoting a fair and competitive business environment in Colorado. Consumer Protection is our mission.”

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- Licensing
- Education
- File a Complaint
- FAQs
- Calendar

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- Consumer Tips
- About the Division
- Real Estate Contracts

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[Home](#) > [Homeowners Associations](#)[Consumer Information](#)[Complaints](#)[Frequently Asked Questions](#)[HOA Statutes, Rules and
Position Statements](#)[Registration](#)

Homeowners Associations

The HOA Information Office and Resource Center provides information on the rights and duties of homeowners and associations under the Colorado Common Interest Ownership Act.

HOA FORUM

Date: March 6, 2013

Time: 10:00 am - 12:00 p.m.

Location: DORA - Suite 1100; 1560 Broadway, Denver, CO 80202

Learn about the Colorado HOA Information and Resource Center and meet the HOA Information Officer. The HOA Information Officer will be available to listen to your issues and concerns regarding HOAs, provide you with some resource materials, and assist with understanding one's rights and obligations of living in a HOA community.

Areas of concern from the 2012 Annual Report of the Center will also be discussed, as well as an update on current legislation concerning HOAs. This program is open to everyone. While the event is free, registration is required. Space available on a first come, first served basis. [Click here to email your name and contact information to reserve your seat.](#)

[Upcoming HOA Forum Schedule](#)

2012 Annual Report

[2012 Annual Report of the HOA Information and Resource Center](#)

Annual Registration

In addition to the annual Secretary of State Registration, HOAs are required to register with the Colorado Division of Real Estate once per year. HOA's that fail to register, renew registration, or pay the required fee may be precluded from imposing or enforcing a lien for assessments.

[Click here to register an HOA online.](#)

Complaints

The HOA Information Office strives to assist homeowners and other consumers in answering general HOA questions and compiling data on issues homeowners are having. The HOA Information Office does not have regulatory or investigative authority and cannot intervene in disputes.

[Click here to file a complaint against an HOA](#)



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[Home](#) › [Homeowners Associations](#) › [Consumer Information](#) ›

Consumer Information

[Government Links](#)

[Alternative Dispute Resolution Links](#)

[Legal Services Links](#)

[Other Resource Links](#)

[Complaints](#)

[Frequently Asked Questions](#)

[HOA Statutes, Rules and Position Statements](#)

[Registration](#)

Consumer Information

Publications

[How to Handle HOA Disputes](#) 

[Before You Purchase in an HOA](#) 

[Covenant and Rule Enforcement](#) 

[Understanding HOA Meetings](#) 

[2011 Annual Report of the HOA Information Office](#) 

[2012 Annual Report of the HOA Information and Resource Center](#) 

Consumer Links

[Frequently Asked Questions](#)

[HOA Complaint Form](#) 

Finding Colorado Statutes

- **Colorado General Assembly:**
<http://www.leg.state.co.us>

Can locate and copy Colorado Revised Statutes (C.R.S.)

Can follow and track progress of Bills in the legislature.

HOA Information Office

- In operation since January 1, 2011.
- HB10-1278 – codified in C.R.S. §12-61-406.5(1).
- Created in 2010 by the Colorado Legislature as a result of legislative and consumer concerns regarding HOAs in Colorado.
- Office is organized within the Division of Real Estate under the Department of Regulatory Agencies (DORA).

The HOA Office

- 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.

The HOA Office Does:

- **Provide information to homeowners regarding their basic rights and responsibilities under the “CCIOA”.**
- **Gather, analyze and report information through complaints and HOA registration.**
- **Create resource materials.**
- **Provide education and forums.**
- **Work with homeowners, industry groups and professionals.**
- **Register HOAs - §38-33.3-401(1) C.R.S.**
- **Provide an Annual Report (2013 on website).**
- **2013 Study of Comparable HOA Information and Resource Centers - to the Legislature.**

Resources Available

- **Talk to the Information Officer**
- **Website Information** (Publications/FAQ's)
- **Statutes and Bills**
- **Legal Referrals** (Cobar, Legal Aid)
- **Alternative Dispute Resolution Referrals** (mediation/arbitration)
- **Government Agency Referrals**
(Attorney General, Civil Rights Division,
Law Enforcement)

Data We Collect

- **Registration Process:**
 - (a) The name of the association/CIC;**
 - (b) The name of the association's designated agent or management company, if any;**
 - (c) A valid physical address and telephone number for both the association and the designated agent or management company, if any;**
 - (d) The initial date of recording of the declaration; and**
 - (e) The reception number or book and page for the main document that constitutes the declaration.**

Who Must Register

- **§38-33.3-401(1) C.R.S.**
- **(revised by HB13-1134 (2013) to include pre-CCIOA communities.) (Pre - July 1, 1992)**
- **Requires that “every unit owner’s association shall register annually with the Director of the Division of Real Estate.”**
- **The statute mandates HOAs to complete an initial registration and renew their registration on an annual basis, as well as updating any relevant information within ninety days of any change.**
- **Renewals are done on an annual basis.**

Registration Fee

- HOAs that collect greater than \$5,000 in annual dues are required to pay the registration fee.
- HOAs that are not authorized to make assessments and do not have any revenue or HOAs that collect \$5,000 or less in annual revenue are not required to pay the registration fee.
- Does not absolve any such HOA from still registering.
- The 2014 registration fee is \$27 (plus a small processing fee).

HOA REGISTRATION AND THE FAILURE TO REGISTER

- **§38-33.3-401(3), C.R.S., provides that “the right of an association that fails to register, or whose annual registration has expired, 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 is suspended until the association is validly registered...”**

“A lien for assessments previously recorded during a period in which the association was validly registered or before registration was required.....is not extinguished by a lapse in the association’s registration, but a pending enforcement proceeding related to the lien is suspended, and an applicable time limit is tolled, until the association is validly registered...”

“AN ASSOCIATION’S REGISTRATION IN COMPLIANCE WITH THIS SECTION REVIVES A PREVIOUSLY SUSPENDED RIGHT WITHOUT PENALTY TO THE ASSOCIATION.”

How We Collect Data

- **Complaint Process:**
 - **written complaints**
 - **emails**
 - **online submissions**
 - **talk with complainants**
 - **walk-ins**

REGISTRATION STATISTICS

For 2013:

8,857 registered HOAs

880,326 units

(single/multi-family/timeshares)

Condominiums – Cooperatives –
Planned Communities

The statistics assist: homeowners, managers and legislators in recognizing problem areas and in proposing legislation.

Inquiries

- **4,767** for 2013.
- General operation of an HOA. (assessments, accounting, insurance, budgets and reserves)
- Board of director responsibilities. (election, voting and proxy issues, meeting procedures, and conflicts of interest)
- Enforcement capabilities of an HOA.
 - (fees, costs fines, liens, foreclosure and receiverships)
- Declarant issues. (disclosure of documents, following CC&R's and termination of control)
- Maintenance and upkeep of the community.
- Disclosure and the production of HOA records to owners.
- Manager/management company and vendor concerns.
- HOA Registration questions.

Complaints in 2013

- **1,248** Complaints

Approximately:

- **56%** against HOA/board
- **41%** against manager and/or mgmt company
- **3%** against Declarant

Complainant Demographics

- **327** Complainants in 2013:
 - **76%** in professionally managed communities
 - **24%** in self-managed communities

-
- **53.5%** in condos
 - **45.5%** in PUD's
 - **1%** in timeshares

Top Complaints for 2013

- **Communication with owners.**
- **Not following governing documents.**
- **Improper/Selective enforcement of covenants.**
- **Accounting
(assessments/fines/interest/improper budgeting).**
- **Not performing maintenance.**
- **Failure to produce records.**
- **Meeting issues**
- **Election and voting issues**
- **Harassment/Retaliation**
- **Conflicts of Interest**

Relevant laws



- **CCIOA – Colorado Common Interest Ownership Act**
 - C.R.S. §38-33.3-101 to §38-33.3-402
- **COA – Condominium Ownership Act**
 - C.R.S. §38-33-101 to §38-33-113
- **Colorado Revised Non-Profit Corporation Act**
 - C.R.S. §7-121-101, et. seq.
- **ADA & Fair Housing Laws**
- **Governing documents**
(Declarations, CC&R's, Bylaws, Rules & Regs)

CCIOA

(Colorado Common Interest Ownership Act)

- Effective July 1, 1992.
- General Rule – if the payment of assessments is mandatory, CCIOA applies.
Other associations, including commercial common interest associations, may elect to be governed by CCIOA.
- CIC's created on/after the effective date are dealt with comprehensively as to their creation, development and management.
- CIC's created prior to the effective date are only subject to limited provisions.

Senate Bills 100 (2005) and 89 (Clean-up) (2006)

- **Increased Protections for Homeowners (SB-100) (Incorporates into existing CCIOA statutes)**
 - **Included HOA prohibitions from barring:**
 - **American Flag, Political Signs, Military Svc Flags.**
 - **Parking Emergency Vehicles for Responders.**
 - **Xeriscaping (or requiring turf grass).**
 - **Removing of trees, etc. to create defensible fire mitigation space.**
 - **Replacement of cedar or other flammable roof materials with non-flammable roofs.**

Recent Legislation

- [HB12-1237](#): CIC Record-Keeping
- [HB13-1134](#): HOA Information and Resource Center & Registration
- [HB13-1276](#): HOA Debt Collection Limitations
- [HB13-1277](#): Regulation License CIC Managers
- [SB13-126](#): HOA Condo/Apt Electric Vehicle Charging Stations
- [SB13-183](#): CIC Water Conservation
- [SB13-182](#): Timeshare Resales
- [HB14-1125](#): HOA Membership Directory Publication
- [HB14-1254](#): Disclosure of Fees Charged to an HOA by a Community Association Manager

New Records Law

HB12-1237

- HB12-1237, codified at §38-33.3-317, C.R.S.
- **Effective January 1, 2013.**
- This new HOA records law addresses the following:
 - Records which must be maintained and produced;
 - Records which may be withheld from production;
 - Records which must be withheld from production;
 - The elimination of a requirement that owners must state a “proper purpose” to access records;
 - The use of membership lists;
 - The procedures for requesting HOA records; and
 - The charges for assembling, producing, and copying the records.

Community Association Managers (CAM)

- [HB13-1277 \(2013\):](#)
- **Effective: January 1, 2015**
- **Manager Licensing:**
 - Individual managers
 - Management company CEO's and supervisors.
 - Pre-License Education, Continuing Education, Fingerprinting and Background Checks, Testing – general and state specific laws.
 - Rulemaking underway.
 - **Licensed by July 1, 2015**

Membership Directory

- [HB14-1125 HOA Membership Directory Publication bill:](#)
- **Allows an HOA to include owners and residents telephone numbers and email addresses in a membership directory, provided that written consent is first obtained from the owner or resident to publish. Consent can also be withdrawn by the owner or resident.**
- **Amends 38-33.3-317(3.5)**
- **Effective on August 6, 2014.**

Disclosure of Fees by CAM

- **HB14-1254**: Disclosure of fees and charges to an HOA by a community association manager or management company.
- CAM must disclose to HOA board all fees charged (during contract negotiation and annually).
- Must be disclosed as part of the written management contract.
- Must disclose any other remuneration it receives that is in any way connected to its relationship with the HOA.
- Any transfer fee must be disclosed in the management contract or on a line item in the closing settlement statement.
- **Effective: January 1, 2015**

Considerations When Purchasing into a HOA Community

- **Review the HOA's finances and reserves – how financially sound is the HOA?**
- **Read the association documents, including the rules and regulations – to see what you can and cannot do with your property. What are the amenities, parking, business, pet restrictions and rental restrictions?**
- **Find out how the association is run – is it self-managed or is there a property management company or manager.**
- **Find out what is all covered with your HOA dues and how do the fees compare with similar communities and amenities?**

HOA Information

- **Title Companies have contact information.**
- **Review Title Commitment – Schedule B-2 exceptions.**
- **Get information from the Seller, as per the Buy/Sell Contract – Section 7.1**
- **Our website has a registered list and search engine.**
- **Also: <http://www.hoa-usa.com>**

HOA Documentation

- Sec 7.1 of Buy/Sell Contract:

- Governing Documents:

- HOA Declarations; Bylaws; Operating Agreements; Rules & Regulations; and Party-Wall Agreements.
- Minutes of most recent annual owner's meeting.
- Minutes of any director's or manager's meetings during the last 6 month period immediately preceding the date of the contract.

- Financial Documents:

- The most recent financial documents which consist of: (1) annual and most recent balance sheet; (2) annual and most recent income and expenditures statement; (3) annual budget; (4) reserve study; and (5) notice of unpaid assessments, if any.

ADR - Mediation

- **C.R.S. §38-33.3-124**
- **Association Policy**
- **Pros**
- **Cons**
- **Voluntary**
- **Mandatory**
- **Arbitration**
- **Med-Arb**
- **Costs and fees - Shared ?**

Reserves

- CCIOA states: § 38-33.3-209.5:
Responsible governance policies:
- (VI) Investment of reserve funds;
- (IX) 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.

Financial Information Budget and Reserves

- § 38-33.3-209.4: Public disclosures required:
 - (2) Within 90 days after the end of each fiscal year, the association shall make the following information available to unit owners upon reasonable notice:
 - (b) Its operating budget for the current fiscal year;
 - (d) Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
 - (e) The results of its most recent available financial audit or review.

Construction Defect Matters

- **§ 38-33.3-303.5: Construction defect actions-disclosure:**
- **(2)(b) The notice required by paragraph (a) of this subsection (2) shall state a general description of the following:**
- **(I) The nature of the action and the relief sought; and**
- **(II) The expenses and fees that the executive board anticipates will be incurred in prosecuting the action.**

FHA Certification

- **Concerns:** (For condo projects as a whole; and approval is for 2 years)

Factors that might prevent FHA approval:

- **Pending or recent litigation** (construction defects);
- **Pending or recent special assessments;**
- **Adequate budget and reserve funding** (at least 10%);
- **Owner occupancy ratio** (>50% owner-occupied);
- **Adequate insurance coverage;**
- **Delinquent assessments** (no more than 15% >60 days);
- **Commercial use** (no more than 50% of total floor area, but requires substantial documentation);
- **Investor ownership** (no more than 50% of units owned by single investor);
- **Governing documents** (any provisions which violate FHA guidelines must be amended (i.e. certain types of rental restrictions, transfer fees and restrictions on conveyance.)

HUD – FHA Condominium Search

<https://entp.hud.gov/idapp/html/condlook.cfm>

Gives you:

Condo Name

Condo ID Submission

Address / County

Approval Method

Composition of Project

Comments

Document Status

Manufactured Housing

FHA Concentration Status

Status Date

Expiration Date

Colorado Foreclosure Hotline 1-877-601-HOPE (4673)

www.ColoradoForeclosureHotline.org

- **Four out of five homeowners who met with a counselor have successfully avoided foreclosure.**
- **The Hotline provides homeowners facing foreclosure a local connection to free foreclosure prevention services.**

HOA Information and Resource Center

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