THE HOA INFORMATION AND RESOURCE CENTER

COLORADO
Department of Regulatory Agencies
Division of Real Estate

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.**

WHAT IS DORA?

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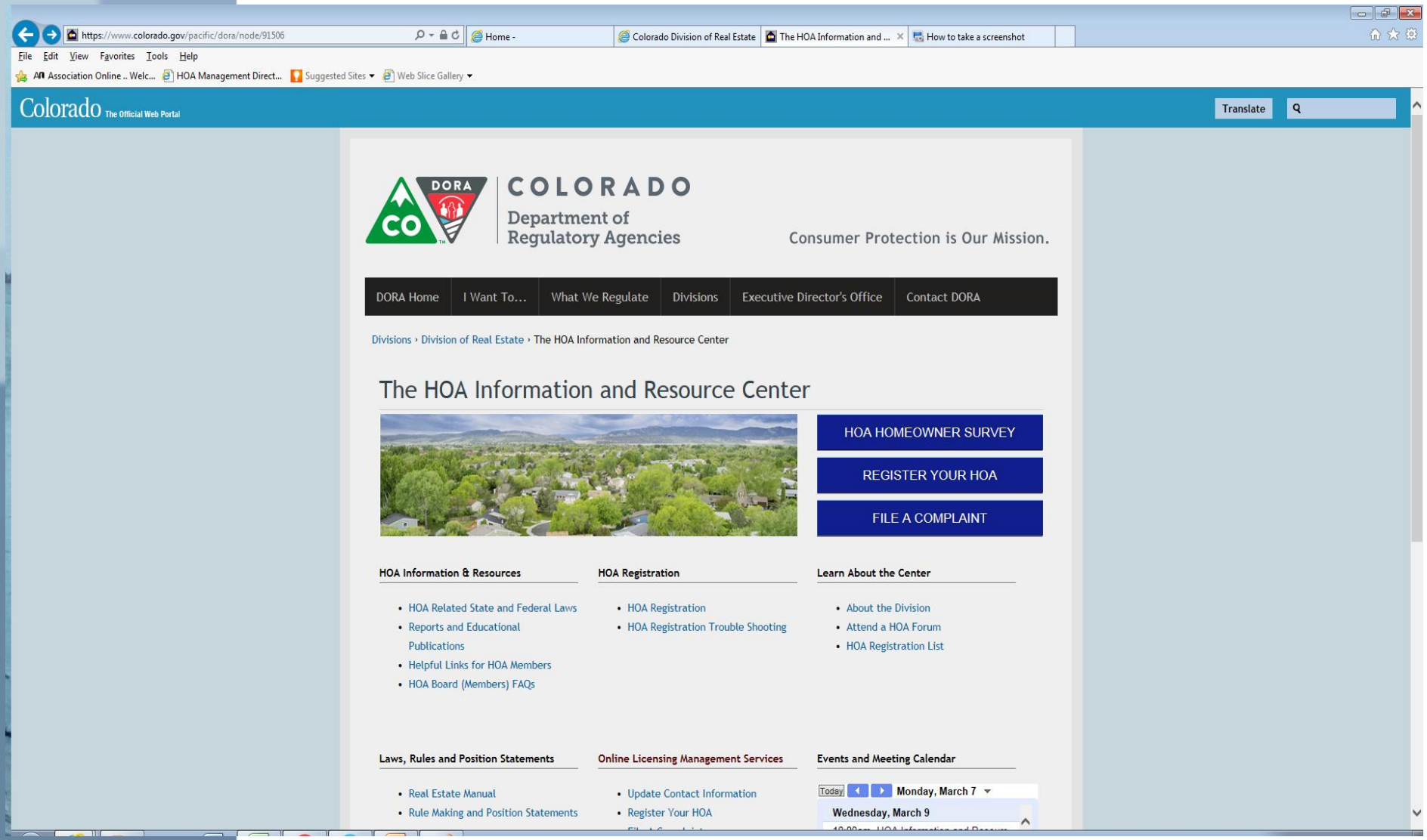
Division of Real Estate

"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."

DORA Website

www.dora.colorado.gov/dre



https://www.colorado.gov/pacific/dora/community-association-manager-program

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Association Online .. Welc... | HOA Management Direct... | Suggested Sites | Web Slice Gallery

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Divisions › Division of Real Estate › Community Association Manager Program

Community Association Manager Program

MANAGING YOUR LICENSE

FILE A COMPLAINT

RULEMAKING UPDATES

Manager Licensing >

- Renew Your License
- Apply for a New License
- Steps for Initial Licensure
- Submit a Preliminary Advisory Opinion
- More

Manager Education Requirements

- Qualifying Education & Examination Requirements
- Continuing Education Requirements
- Education Providers & Course Approval

Learn About the Division

- About the Division
- Division Events and Meeting Calendar

https://www.colorado.gov/pacific/dora/node/91521

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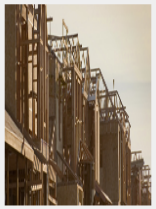
Divisions › Division of Real Estate › Subdivision Developer Program

Subdivision Developer Program

Certain subdivisions and their developers must register with the Colorado Real Estate Commission prior to selling, leasing, transferring or negotiating to sell or lease a part of that subdivision, which is under the jurisdiction of the Real Estate Commission.

Individual projects are required to be under the registration of a registered subdivision and must be individually approved. Traditional real estate subdivisions, unless meeting the requirements outlined below, are to be registered with the municipality or county where the property is located.



- Required Subdivision Developer Registration Types
- Applications and Fees

Finding Colorado Statutes

- **Colorado General Assembly:**

  http://www.leg.state.co.us

  2016 Session ends May 11th

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 <u>not</u> a regulatory program.
- Does <u>not</u> 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.

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 (2015 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

- **<u>Registration Process:</u>**

(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 2016 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

- **<u>Complaint Process:</u>**

  - written complaints
  - emails
  - online submissions
  - talk with complainants
  - walk-ins

REGISTRATION STATISTICS

For 2015:

8,015 registered HOAs

820,242 units

(single/multi-family/timeshares)

Condominiums – Cooperatives – Planned Communities

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

See Map of HOAs

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Types of CICs:

- **Condominiums**
  - 4,035 (50.3%)

- **Planned Communities**
  - 3,891 (48.5%)

- **Cooperatives**
  - 89 (1.2%)

Number of CIC Units:

- **Planned Communities**
  - 613,240 (74.8%)

- **Condominiums**
  - 202,666 (24.7%)

- **Cooperatives**
  - 4,336 (0.5%)

Inquiries

- **6,892 for 2015.**
- **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.**

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Complaints in 2015

- **1,807 Complaints**

Approximately:

- **72% against HOA/board**
- **25% against manager and/or mgmt company**
- **3% against Declarant**

Complainant Demographics

- 77% in professionally managed communities
- 23% in self-managed communities

- 55% in condos
- 42% in PUD's
- 3% in timeshares

Top Complaints for 2015

- Not performing maintenance or repairs.
- Communication with owners.
- Improper/Selective enforcement of covenants.
- Not following governing documents.
- Accounting (assessments/fines/interest/improper budgeting).
- Meetings; Election and voting issues
- Failure to produce records.
- Regulatory compliance; health and safety issues.
- Excessive assessments/fees/fines
- Harassment/Retaliation

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
- HB15-1343: Clean-up Bill for CIC Managers

2015 Legislation

The following bills were passed during the 2015 Colorado legislative session:

HB15-1095 (Exemption for Small Pre-CCIOA Limited Expense Communities):

- **This bill amends § 38-33.3-119, C.R.S., and allows certain small Pre-CCIOA limited expense common interest communities to be subject only to limited provisions of the CCIOA. Effective August 5, 2015.**

HB15-1343 (Community Association Manager Licensing Modification):

- **This bill modifies the original community association manager licensing bill (HB13-1277), by amending § 12-61-1001, C.R.S., *et. seq.,* and clarifying who is a manager, who is and is not required to be licensed, who is required to take which portions of the state test, and adding both an apprentice and provisional license. Effective May 20, 2015.**

SB15-209 (Time Share Exemption for Community Association Managers):

- **This bill exempts managers of time share common interest communities from having to be licensed as community association managers under § 12-61-1001, C.R.S. In order to qualify for this exemption, a majority of the units in the community that are designated for residential use must be time share units, or the community is registered with the Division of Real Estate as a time share subdivision. Effective June 5, 2015.**

- **For a copy of these bills, visit the HOA Center resources page.**

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Real Estate Broker Issues

- Obtaining document copies.
- Document fees.
- Transfer fees.
- Marijuana issues.
- Rental restrictions.
- Reserves.
- Senior concerns.

Records Maintenance and Production 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) and HB15-1343 (2015):
- Effective: January 1, 2015
- Community Association Manager Licensing:

  - Individual managers

  - Management company entities and Designated Managers (responsible supervisor)

- Pre-License Education, Continuing Education, Fingerprinting and Background Checks, Testing – general and state specific laws.
- Rules (A thru H)
- Licensed as of July 1, 2015

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Community Association Manager (CAM)

History:

- Colorado Legislative Action Committee (CLAC) Licensing Task Force of Community Associations Institute – Sunrise Application on November 4, 2011 recommended the licensing of managers, but their affiliated national board would handle the licensing.

- DORA reviewed that application and on March 2, 2012, recommended that management companies be regulated – to provide a clear line of accountability.

- HB13-1277, passed in 2013, but effective Jan. 1, 2015.

- HB15-1343, passed in 2015, effective May 20th; Modifies definitions; Apprentice program; Provisional license; and general exam grandfathering for CAI designations.

CAM

- **How many CAMs?**

  (est.) 1250; having 565 CAMs with the CMCA (CAI) designation?

- **States that regulate:**

  AK, CA, CT, FL, GA, IL, NV, VA & DC; and now Colorado.

- **3 States Regulate HOAs:**

  Florida, Nevada, and Virginia.

  (2013 Study and Report to the Colorado legislature)

2016 Annual Report to the Colorado State Legislature for the CAM Program

Credential Counts by Board and Status

List CredentialType, Credential Status with Counts by Board and Credential Status

Board = COMMUNITY ASSOCIATION MANAGERS
CredentialDefinition = AM-PRO: Community Association Manager - Associate - Provisional,AM: Community Association Manager - Associate,CAP: Community Association Manager - CAM Apprentice,ENT: Community Association Manager - Entity,IM: Community Association Manager - Individual Proprietor,RM: Community Association Manager - Responsible
Credential Status = Active,Expired,Inactive,Reapplication Required,Relinquished,Revoked

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CredentialType	Status	Count
AM. - Community Association Manager - Associate	Active	570
AM. - Community Association Manager - Associate	Inactive	13
AM.PRO - Community Association Manager - Associate - Provisional	Reapplication Required	28
CAP. - Community Association Manager - CAM Apprentice	Active	52
CAP. - Community Association Manager - CAM Apprentice	Inactive	4
ENT. - Community Association Manager - Entity	Active	425
ENT. - Community Association Manager - Entity	Inactive	7
ENT. - Community Association Manager - Entity	Revoked	1
IM. - Community Association Manager - Individual Proprietor	Active	153
IM. - Community Association Manager - Individual Proprietor	Inactive	3
RM. - Community Association Manager - Responsible	Active	419
RM. - Community Association Manager - Responsible	Inactive	17
RM. - Community Association Manager - Responsible	Revoked	1
	Totals	**1,693**

CAM Complaints as of 1/29/16

Complaints Received / Investigations Completed Over The Last 12 Months		
Month	**No. Received**	**No. Completed**
Jan 2016:	26	35
Dec 2015:	30	36
Nov 2015:	22	21
Oct 2015:	42	2**
Sep 2015:	35	17
Aug 2015:	53	10
Jul 2015:	29	0
Jun 2015:	0	0
May 2015:	0	0
Apr 2015:	0	0
Mar 2015:	0	0
Feb 2015:	0	0
Totals:	**237**	**119**
Ave Per Mo:	**19.75**	**9.92**

CAM Complaints

- **<u>The major categories of complaint types are</u>:**
- **Unlicensed activity;**
- **Manager or entity incompetence;**
- **Financial misappropriation or fraud; and**
- **Unfilled request for documents or charging a fee to fill document requests.**

- **The majority of the dismissals to date are for complaints that the Division does not have jurisdiction over under state statute. The main four areas include: (1) maintenance issues; (2) customer service issues; (3) neighbor-related disputes; and (4) issues concerning transfer fees.**

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Actions Taken By the Director regarding CAM Complaints

- Four (4) Cease and Desist orders were issued by the Director to unlicensed individuals and entities. These managers and entities were ultimately proven to be managing without obtaining the proper licenses.
- There have been over 90 dismissed cases. The vast majority of such cases were dismissed for jurisdictional reasons.
- Issues that were the subject of such dismissed complaints ranged from customer service issues, snow removal concerns, landscaping complaints and other related issues the Division does not have jurisdiction to adjudicate.
- 17 pre-license investigations have been presented to the Director for approval or denial based on the results returned by the CBI/FBI criminal background check.
- One (1) licensed manager surrendered his license and the license of his entity to the Director after an investigation substantiated that he had misappropriated approximately $300,000 in 2015.
- As required by the Practice Act, the Division has also referred this matter to the appropriate law enforcement agencies for possible criminal charges.

CAM

- What is a CAM? (Manager/company)
- Why are they needed?
- What do they do?

  - Assist the board/act as their agent.

  - Notices, meetings, enforcement, insurance issues, communications, elections, record-keeping, vendors, handling funds, paying bills, budgeting, reserves, maintenance & facilities, handling architectural review matters, etc…..

- How are they hired? Contract with the HOA.
- Sizes of CAM companies (Mom & Pop to large (400-600 associations)
- Managers can handle 7-10, depending on the size and make-up of the HOAs.
- Board members as CAMs?

CAM Rules

- A Rules: License Qualifications, Applications and Examinations.
- B Rules: Continuing Education
- C Rules: Licensing and Office.
- D Rules: Renewal, Transfer, Inactive License, Reinstatement and Insurance.
- E Rules: Separate Accounts, Records, and Accounting.
- F Rules: Professional Standards and Investigations.
- G Rules: Declaratory Orders.
- H Rules: Exceptions and Director Review of Initial Decisions.

CAM Rules

- **Rule F-6:**
- **CONTRACTS, AGREEMENTS, AUTHORIZATIONS AND DISCLOSURES MUST BE IN WRITING.**

- **3) A CAM OR CAM COMPANY MUST DISCLOSE IN WRITING AND AT NO CHARGE, WITHIN 3 BUSINESS DAYS AFTER A REQUEST BY AN OWNER IN A COMMON INTEREST COMMUNITY, OR BY A BUYER OR SELLER WHO IS UNDER CONTRACT FOR THE PURCHASE OF REAL PROPERTY OR A UNIT IN A COMMON INTEREST COMMUNITY, OR THEIR RESPECTIVE AGENT, ALL FEES AND CHARGES THAT THE CAM OR CAM COMPANY WILL CHARGE IN CONNECTION WITH THE SALE, TRANSFER AND CLOSING OF THE REAL ESTATE OR UNIT IN A COMMON INTEREST COMMUNITY.**

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**

CAM Licensing Structure

- Entity
- Designated Manager
- Manager
- Apprentice license
- Provisional license
  (no longer available as of 12/31/15)

CAM

HB15-1343 (CAM Modification Bill)

MEANS:

- **Any person, firm, partnership, limited liability company, association, or corporation that, in consideration of compensation by fee, commission, salary, or anything else of value or with the intention of receiving or collecting such compensation, whether or not the compensation is received by the licensed manager directly or by the licensed entity that employs the licensed manager, engages in or offers or attempts to engage in community association management in Colorado.**

CAM Does Not Include

HB15-1343 (CAM Modification Bill) (most relevant provisions)

- A person who, under the direct supervision of a manager, performs any clerical, ministerial, accounting, or maintenance function;
- An independent contractor or employee who is not engaged in the performance of community association management;
- An apprentice working under the direct supervision of a licensed manager.

Community Association Management

HB15-1343 (CAM Modification Bill)

- Means any of the following practices relating to the management of a common interest community, at the direction OR ON BEHALF of its executive board:
- In interactions with members or nonmembers of the common interest community, acting with the authority of the common interest community with respect to its business, legal, financial, or other transactions;
- Executing the resolutions and decisions of the executive board;
- Enforcing the rights of the common interest community secured by statute, contract, covenant, rule, or bylaw;
- Administering or coordinating maintenance of property and or facilities of the common interest community;

Community Association Management

- Administering applications for architectural review;
- Arranging, conducting, or coordinating meetings of the common interest community's membership or executive board;
- Maintaining the common interest community's records pursuant to its governing documents and applicable provisions of the CCIOA; or
- Administering, or otherwise exercising control of, a common interest community's funds, including the administration of a reserve program for the major repair or replacement of capital assets.

Entity License

- A partnership, limited liability company, or corporation, in its application for a license, shall designate a qualified, active manager to be responsible for management and supervision of the licensed actions of the entity and all persons employed by, or acting at any time on behalf of, the entity.

- A license may not be issued to the entity unless the manager so designated takes and passes the examination required. Upon the manager successfully passing the examination and upon compliance with all other requirements of law by the entity as well as by the manager, the Director shall issue a designated manager's license to the manager.

Designated Manager

HB15-1343 (CAM Modification Bill)

- **Is a person who is <u>currently</u> licensed as a manager and who, on behalf of a licensed entity, is <u>responsible</u> for performing community association management practices and supervising community association management practices performed by persons employed by, or acting on behalf of, the licensed entity.**

Manager

- Any person that, in consideration of compensation by fee, commission, salary, or anything else of value or with the intention of receiving or collecting such compensation, whether or not the compensation is received by the licensed manager directly or by the licensed entity that employs the licensed manager, engages in or offers or attempts to engage in community association management in Colorado.
- Could be an employee of a management company, an association, an independent contractor or a sole-proprietor.

Apprentice

HB15-1343 (CAM Modification Bill)

- **Requiring a license for a community association management apprentice.**

Apprentice is a person who:

- **Has not completed the education and examination requirements for obtaining a community association manager license;**
- **Is under the control and direct supervision of a licensed community association manager; and**
- **Is licensed with the Director for purposes of learning and performing any practices that require a community association manager license.**
- **License is valid for 1 year and not subject to renewal.**

Provisional License

HB15-1343 (CAM Modification Bill)

- The Director may grant a provisional license to an applicant for a community association manager license if the applicant has taken and not passed the examination.
- All provisional licenses expired on December 31, 2015.

Applicant

- Separate applications for <u>each</u> type of licensee.
- At least 18 years of age.
- High school diploma or GED.
- Director may require proof of truthfulness, honesty, and good moral character.
- Hold one of the following (CAI) credentials: CMCA, AMS, PCAM, or another credential identified by the Director in rules (DRE's 24 hour course);
- Complete any educational requirements;
- Pass exam.

HB15-1343 (CAM Modification Bill)

(CMCA, AMS, and PCAM's will only have to take the Colorado Law portion of the exam.)

CAM Licensing Requirements
Education Requirements (24 Hours)

- 8 Hours of Colorado Common Interest Ownership Act, Colorado Revised Nonprofit Act and other applicable provisions of Colorado Law.
- 7 Hours of Financial, Risk and Facilities Management
- 5 Hours of Governance and Legal Documents of an Association
- 4 Hours Ethics, Bid Requests and Contract Provisions

Examinations

- Made up of Two Parts:
  - General portion
  - Colorado Law portion
- Only an Applicant holding a Qualified Education Credential as prescribed in Rule A-3 may sit for the CAM License Examination.
- Passing Score for either part of the exam is valid for 1 year only.

HB15-1343 (CAM Modification Bill)

(CMCA, AMS, and PCAM's only have to take the Colorado Law portion of the exam.)

Additional CAM provisions

- Reciprocity from another State
- Initial license – July 1 to June 30
- 1st Renewal (May-June 2016), Inactive, Reinstatement
- Continuing Education (July 1st, 2016 to June 30th, 2017):

  - Complete 8 hours of Continuing Education courses in approved subjects as prescribed in Rule B-3;

or

- Successfully pass the Colorado Law portion of the CAM Examination.

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Insurance

- **Errors and Omissions**
- Coverage for all acts for which A CAM license is required, except those illegal, fraudulent or other acts which are normally excluded from such coverage.
- Coverage is for not less than $1,000,000 per covered claim, with an annual aggregate limit of not less than $1,000,000.
- **Fidelity Coverage**
- Every active licensed CAM Company and Sole Proprietorship must have in effect a Crime Fidelity Insurance Policy covering the Dishonest Acts of employees in the CAM Company or Sole Proprietorship; or be named as an additional insured on the Common Interest Community's Fidelity Insurance Policy.
- Coverage for each Common Interest Community managed, must not be less in aggregate than Two Months of current assessments plus reserves, as calculated from the current budget of the Common Interest Community, or such higher amount as the Common Interest Community may require in its bylaws or management contract with the CAM Company or licensed Sole Proprietorship.

Enforcement

- Director Model (No Commission)
- Investigation - revocation - actions against licensee:
- Some violation matters:

Misrepresentation; false advertising; violating CCIOA, Fair Housing laws; failing to account for monies of the association; converting funds of others; committing numerous crimes, failing to notify of a conviction; demonstrated unworthiness or incompetency to endanger the public.

Enforcement

- **<u>Penalties</u>:**
- **Fine up to $2,500 for each separate offense;**
- **License probation and set terms for probation;**
- **License censure;**
- **License suspension;**
- **License revocation.**

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 August 6, 2014.**

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 7.2 of Buy/Sell Contract:**

Governing Documents:

- **HOA Declarations; Articles of Incorporation; Bylaws; Articles of Organization; 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.**

Alternate Dispute Resolution (ADR)

- C.R.S. § 38-33.3-124
- Association is to establish a policy for ADR.
- Benefits – to avoid litigation.
- Mediation
- Arbitration
- Med-Arb
- Voluntary
- Mandatory
- 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.)**
- **POSSIBLE UPCOMING CHANGES BY FHA.**

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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)

Colorado Foreclosure Hotline
1-877-601-4673

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.

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HOA Information and Resource Center

- **Gary Kujawski**
  HOA Information Officer
  1560 Broadway, Suite 925
  Denver, CO 80202
  ph# 303-894-2355

  Email: gary.kujawski@state.co.us

  Website: www.dora.colorado.gov/dre

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THANK YOU

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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