

House Transportation & Local Government

03/09/2022 01:30 PM

HB22-1139 HOAs Cannot Regulate Use Of Public Rights-of-way

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Susan Lang Against Self	it will prohibit community associations from regulating the use of public rights of way. We've always known that we can't tow vehicles from public rights of way, but if enacted, we can't fine the person who leaves his RV parked in front of the house year-round. You'll have to rely on the government for help. This bill can also have unintended consequences if your community performs snow removal or maintenance on public streets.
Karen Fabian Against Brookhaven Condominium HOA	Opposed
Dawnette Moore Against Brookhaven Condominium HOA	Opposed
Mark Paulissen Against Self	Good day, I am writing to oppose the passage of HB22-1139
Heather Vasquez Against Self	We've always known that we can't tow vehicles from public rights of way, but if enacted, we can't fine the person who leaves his RV parked in front of the house year-round. You'll have to rely on the government for help. This bill can also have unintended consequences if my community performs snow removal or maintenance on public streets. This is a state-wide overreach on a matter that is truly an issue of extremely localized concern. I strongly oppose.
Heather Vasquez Against Self	We've always known that we can't tow vehicles from public rights of way, but if enacted, we can't fine the person who leaves his RV parked in front of the house year-round. You'll have to rely on the government for help. This bill can also have unintended consequences if my community performs snow removal or maintenance on public streets. This is a state-wide overreach on a matter that is truly an issue of extremely localized concern. As an HOA president, I strongly oppose.
Lindsay Smith Against CAI Colorado Legislative Action Committee	Thank you for your time, I had to leave for a homeowner hearing.  I'm here to testify against House Bill 1139 because I think it misses the mark. The bill seeks to prohibit common interest communities from regulating public rights of way. However, it eliminates the rights of volunteer firefighters and other emergency service providers from

	<p>parking in the community on their private property, if that property is subject to a covenant that limits the nature of vehicles in the community. This cannot have been intentional. If the bill is targeted at prohibiting HOAs from towing from public rights of way, that is already the mandate of the PUC regulations and HOAs aren't allowed to tow from the streets. What this will do is prevent an HOA that has the right to prohibit RVs and boats from being parked in the community, from imposing fines for that kind of parking. Instead, homeowners who can't see around their neighbor's recreational vehicle will have to rely on city or county zoning enforcement, which is not predictable and tends to take more time to come to fruition, if it's even available. Not all HOAs even have any right to regulate this kind of parking, so I don't know that this is a widespread issue that requires state-level legislation.</p> <p>The last part of this bill that really is problematic is that it prohibits regulation of public rights of way. A lot of property regulated by an HOA is not within a public right of way. Cities like Westminster and Aurora require homeowners, or the HOA, to regulate landscaping in tree lawns, which are a portion of the right of way between a sidewalk and the street. The homeowner often has to maintain this property, but under this law an HOA will have no right to make the homeowner mow, irrigate, or replace landscaping on that property. There will be a gap in enforcement and will create conflict with cities and HOAs. Communities need to be able to make sure all property that a homeowner is supposed to maintain are actually maintainable.</p>
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Honorable Colorado House Representatives serving on the Transportation and Local Governance Committee

Opposition to HB22-1139 HOA and Unintended Consequences That Will Negatively Affect Homeowners

I am writing to provide critical feedback on this proposed draft bill.

In short this bill will have large unintended negative consequences in its in draft form that the drafters have not taken into account and are possibly basing their intent on an incomplete operating environment assessment. As I review this bill I don't see any middle ground or reasonableness. I have a 20 year former career background in operational and strategic planning and I know without a complete analysis of the operational environment blunders often happen. A bill should not create more issues than it's hoping to solve and this draft bill will do just that. I will ask what the problem that is truly trying to be solved.

Our large HOA (one of the largest in the State and largest in Colorado Springs) has had parking covenants for 22 years as many of the large HOAs do for good reason. In an HOA with over 3000 homes and 10,000 residents needs parking controls and rules just like any small City. They have never been repealed by owners and countless owners have purchased originally and moved to the Community precisely since we have them. Our HOA has a very reasonable and fair parking policy that allows accommodations for, ADA/FHA, large families, teen drivers, short driveways etc. This policy has worked extremely well for many years. The HOA Board of owners reviews every single owner request for fairness, neighborhood conditions, available parking, and reasonableness. They are reviewed every month and renewed each year with a sticker. It's a middle ground that works.

For some recent examples, just in the last several weeks our HOA Board has dealt with numerous parking complaints from an owner renting x7 rental cars out of their home and parking them all over the neighborhood to an owner running a commercial HVAC business from his house with a fleet of commercial trucks. We have dealt with car repair businesses run out of home in full violation of HOA CCRs and City codes and hundreds of others. Another was a tow truck driver bringing wrecked cars home at midnight and storing them around the neighborhood leaking fluids all over the street. Owners should be able to back out of their driveways without cars parked on both sides, behind them or have other owners parking cars in front of their house. Owners don't want neighborhood filled up with commercial vehicles and their neighborhood turned into something it's not.

HOAs also clean up all the junk derelict, unregistered, wrecked cars left stored on the streets as well as commercial vehicles to include semis, dump trucks and trailers filling the streets all without towing. We have done this for 22 years and our Community is one of the nicest, well maintained affordable last true HOAs in the City. I don't think the intent of this bill is to have all the aforementioned issues become the norm in residential neighborhoods be they exclusive areas or not. I would have to say that the majority of folks working in the Denver General Assembly live in an HOA and would not want those conditions to be present in their community and get worse over time. Residential neighborhoods should not become industrial or business parks, RV storage, or used car lots. Over years on the Board I have lost count of parking complaints but it's been in the hundreds upon hundreds.

What is also critically important is that we relieve in a great way the City PDs and Code Enforcement load of having to enforce the same City Codes. In fact our parking CCRs mirror city codes as well. The

City PDs and Code Enforcement are woefully undermanned and overwhelmed. They are no position to respond to the thousands of complaints to be generated by HOAs if this bill were to be passed in its current form. They can barely keep the road safe and our County has one of the highest road and pedestrian fatality rates thus it makes no sense to saddle them with more responsibilities they can't (and won't) perform when they can't even do the basics to keep citizens safe. That is not rational for owners to have no or extremely limited response. This type of issue will never be a priority and as a result the neighborhoods will fill up with parking issues causing safety issues and increased crime. The more cars parked on the street and not in driveways or garages results in increased vehicle break-in. Our HOA has one of the lowest vehicle crimes rates in the City party due to our parking CCRs. This reduced crime rate also benefits owner with lower car and home insurance premiums.

It's also not a one size fit all approach. All Cities and HOA are a bit different. In ours we have 5 day a week trash collection since the developer failed to include trash collection into the CCRs. As such we have trash and recycling trucks rumbling through daily. They can't navigate the streets with cars parked and stored all over. We also have several narrow streets and ones with short driveways where parking has to be closely managed to support everyone needs while keep the streets safe and clear. We are a family HOA and have thousands of kids. They often play in the street. Tons of excess cars parked on the street creates more unsafe conditions especially with speeding vehicles that are also never a priority in residential neighborhoods. The Community and many residential subdivisions have numerous poor sight distance curves where parking on them creates traffic outright hazards and generate complaints to the HOA. Our residents know that they are better off calling the HOA for parking issues then CSPD. They don't respond.

Our municipality rarely if ever plows the residential subdivisions streets (equates to a black swan occurrence level). That of course upsets residents every winter as some streets become impassable during the seasonal snowstorms. We have avoided many issues by reducing stored cars on the streets which aids in allowing passage along the streets both for drivers and if ever a snow crew comes through. While not a yearlong issue threading a car through a one lane passage with cars errantly parked on both sides when the roads are not plowed makes for very unsafe roads conditions on the residential streets. We've avoided that issue to a large degree.

It's also not appropriate to substantially alter the rules of a mature planned community that was designed to assure it would be maintained over time from what owners bought into with those rules. HOAs such as ours mediates parking disputes something that the City and State could not and will never do. The role of an HOA is to ensure livability for all owners and help preserve the community while keeping the neighborhood peace. It's not every owner for themselves and owners residing in HOA appreciate and respect that. No entity above an HOA can do that as we are owners in the community just the same are vested in the Community. Changing the rules will result in owners left to fend for themselves and the HOAs left to deal with all the fall out. That is not reasonable or acceptable course of action for new bill.

Living in an HOA as you know comes with some tradeoffs but it bring many securities. Parking is a very contentious issue and one that never gets better over time it only gets worse. That we can all agree on. The majority of owners will do the right thing and be respectful and courteous of their neighbors but the ones that don't wreak havoc on their streets and neighbors while they thumb their nose at the rules banking on the fact that nothing can or will be done. While an argument might be made that

owner pay taxes for roads and seemingly demand to park wherever and however they want, the counter argument is that their neighbors also pay taxes for safe streets, unobstructed driveway access, not having others park cars in front of their house or have their inconsiderate neighbors use the street at their personal self-storage and car maintenance area. All these things are against City parking code I may add.

I venture to say that there have been a few owners complaining about parking but if I had to guess their interests were not focused on the Community at large but singularly focused. That is self-serving and not a sound basis to form new laws on.

I would also surmise that local PDs and code enforcements agencies are not in support of this bill and having to take on more tasks better left to HOAs to manage. I have to wonder if they were even consulted on this as it's a huge paradigm shift. We need local PDs to focus on crime and road traffic safety not parking issues in residential neighborhoods.

#### **Recommendations for improvement to this bill.**

**Allow HOAs to manage parking. HOAs know better the issues and solutions. HOA were designed to manage such issues.**

**Mandate they have a reasonable parking policy to provide accommodations within reason. (Commercial vehicles, RVs, trailers, junk stored cars are not as they are also against City parking codes). One must careful not to run afoul of single family use and zoning violations.**

**City Parking codes still apply and should not be stricken from HOA CCRs enforcement. That accomplishes nothing but shifting the task to entities incapable of enforcing them.**

**A one size fits all approach across the entire State is not good governance. Owners at the HOA level should be left to decide this issue if they so choose with a full appreciation of the resulting impacts but knowing that a middle ground approach is best.**

**Thank you**

**V/R**

**Ed Schoenheit**