



State Law Regarding Homeowners' Associations

By Adam Alemzada

A homeowners' association (HOA) is an organization that makes and enforces rules for properties and common areas within a planned community. Anyone who purchases a property in the community is automatically an HOA member and required to pay dues. An HOA board is composed of community members elected by unit owners.

HOAs are primarily governed by their individual bylaws, articles, rules, and regulations. However, there are also applicable provisions set forth in the Colorado Common Interest Ownership Act (CCIOA), which governs the formation, management, and operation of HOAs created on or after July 1, 1992.¹ This *issue brief* provides an overview of the CCIOA provisions that regulate HOAs.

General HOA Requirements in CCIOA

Formation and meeting requirements. CCIOA stipulates that an HOA must be established as soon as the first unit in the community is purchased, and may be organized as a nonprofit, for-profit, or a limited liability organization. The association is required to meet at least once per year.

Powers and duties. HOAs have several powers and duties under CCIOA, including: adopting and amending bylaws and budgets; hiring staff; maintaining and insuring common elements and levying related assessments; imposing fees and penalties; approving or denying a unit owner's architectural or landscaping changes; and defending the interests of the community.

Disclosure requirements. CCIOA requires HOAs to provide all unit owners with a variety of information about the association, including the name, address, and phone number of the HOA and its designated agent or management company; a list of the HOA's current fees chargeable upon sale of a home in the community; the HOA's annual financial statements, operating budgets, and reserve fund balances; HOA meeting minutes; and the HOA's bylaws, articles, rules, and regulations. HOAs are liable for financial penalties if access to these records are not provided within 30 calendar days of a request submitted by certified mail.

Dispute resolution. CCIOA requires HOAs to adopt a written policy setting forth procedures for addressing disputes between the HOA and unit owners. If a conflict arises, a unit owner and the association may enter into mediation to resolve the dispute, although mediation can be terminated at any time. If mediation is unsuccessful or either party is not interested in mediation, the primary avenue for recourse in a disagreement with an HOA is to file a civil suit through the court system.

Period to cure. HOAs are required to provide a unit owner a period to cure violations of HOA governing documents before the HOA may fine the unit owner. HOAs must provide the unit owner two 30-day periods to cure a violation before the HOA may take legal action unless the HOA reasonably determines the violation is a threat to public safety or public health, in which case the HOA is required to provide only a

¹Section 38-33.3-101, *et seq.*, C.R.S.

72-hour period to cure. HOAs are prohibited from imposing daily late fees or fines.

Requirements for HOAs in the Collection of Unpaid Assessments, Fines, and Fees

Notice. When contacting a unit owner regarding a delinquency, HOAs must send a notice of delinquency to the unit owner by certified mail, post a notice of delinquency to the unit owner's property, and contact the unit owner by at least one method of communication, including first-class mail, e-mail, or text message. A unit owner may identify a language other than English in which to receive correspondences and notices from the HOA.

Foreclosures. Before an HOA may initiate a foreclosure action against a unit owner, the HOA is required to offer the unit owner a repayment plan to pay the debt in monthly installments in an amount determined by the unit owner so long as the installments are in the amount of \$25 or greater. If the unit owner either declines the offer, or, after accepting the offer, fails to make at least three monthly payments within 15 days after the installments were due, the HOA may initiate foreclosure.

Legal action for unpaid fines cannot include foreclosure. Fees, charges, and late fees may be subject to a statutory lien but are not subject to foreclosure.

HOA Unit Owner Property Rights

Flags and signs. HOA unit owners are entitled to display any noncommercial flag or sign on their property at any time, including an American or service flag or a political sign. The HOA may impose reasonable, content-neutral limitations such as the number, size, or placement of the flags or signs.

Religious symbols. The HOA is precluded from prohibiting the display of a religious item or symbol on the entry door or door frame of a home

or condominium. The HOA may limit such displays to a reasonable size.

Renewable energy, energy-efficient devices, and electric vehicle charging stations. HOAs may not prohibit the installation of renewable energy generation devices, shade structures, shutters, attic fans, evaporative coolers, energy-efficient outdoor lighting devices, and/or retractable clotheslines. HOAs may impose reasonable aesthetic guidelines that govern the dimensions, placement, and external appearance of such devices.

HOAs are required to approve an application request for a renewable energy generation device that does not follow aesthetic guidelines if the imposition of aesthetic guidelines would result in more than a 10 percent reduction in efficiency or more than a 10 percent increase in price.

HOAs may not prevent a unit owner from installing an electric vehicle charging system on a property owned by the unit owner. The owner must agree to comply with design specifications and other limitations established by the HOA.

Modifications for owners with disabilities. Unit owners with disabilities may make reasonable modifications to a unit or to common elements of the community to make living spaces more accommodating to a disability.

State Oversight

HOA registration requirements. Colorado HOAs must register with the director of the Division of Real Estate and renew the registration annually. An HOA that fails to register with the division, or whose annual registration has expired, is ineligible to impose or enforce a lien for assessment, pursue any action, or employ any enforcement mechanism until it obtains a valid registration.

HOA Information and Resource Center. The regulation of HOAs is overseen by the HOA Information and Resource Center in the Division of Real Estate. More information can be found here: <https://dre.colorado.gov/hoa-center>.