

# 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.**



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# WHAT IS DORA?



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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.”***

# ENFORCEMENT

## § 38-33.3-209.5, C.R.S.

- **Requiring associations to adopt responsible governance policies.**
- **Requiring associations to provide due process requirements.**
- **Procedure for collection of delinquent accounts.**



# **Governance Policies**

## **§ 38-33.3-209.5**

- 1. Collection of unpaid assessments.**
- 2. Handling of conflicts of interest.**
- 3. Enforcement of covenants and rules, including notice and hearing procedures, and the schedule of fines.**
- 4. Procedures for adoption and amendment of policies, procedures and rules.**
- 5. Dispute resolution.**

## **§ 38-33.3-106.5.**

**Prohibitions contrary to public policy - patriotic and political expression - emergency vehicles - fire prevention - renewable energy generation devices - affordable housing - drought prevention measures.**

- **Increased Protections for Homeowners**
- **(SB-100 & SB 89) (Incorporated 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.**

## **§ 38-33.3-106.7**

### **Unreasonable restrictions on energy efficiency measures.**

- **(I) An awning, shutter, trellis, ramada, or other shade structure that is marketed for the purpose of reducing energy consumption;**
- **(II) A garage or attic fan and any associated vents or louvers;**
- **(III) An evaporative cooler;**
- **(IV) An energy-efficient outdoor lighting device, including without limitation a light fixture containing a coiled or straight fluorescent light bulb, and any solar recharging panel, motion detector, or other equipment connected to the lighting device; and**
- **(V) A retractable clothesline.**
- **The association can establish reasonable aesthetic provisions that govern the dimensions, placement, or external appearance of an energy efficiency measure.**

## **§ 38-33.3-106.8**

# **Unreasonable restrictions on electric vehicle charging systems.**

The association cannot:

- **Prohibit a unit owner from using, or installing at the unit owner's expense for the unit owner's own use, a level 1 or level 2 electric vehicle charging system on or in a unit; or**
- **(b) Assess or charge a unit owner any fee for the placement or use of an electric vehicle charging system on or in the unit owner's unit; except that the association may require reimbursement for the actual cost of electricity provided by the association that was used by the charging system or, alternatively, may charge a reasonable fee for access.**
- **The association can establish reasonable aesthetic provisions that govern the dimensions, placement, or external appearance of an electric vehicle charging system, as well as additional costs and insurance to the association.**



## **§ 38-33.3-123 Enforcement**

- **Failure to pay assessments or monies due the association.**
- **Failure to comply with the governing documents.**
- **Reimbursement for collection costs and reasonable attorneys fees and costs incurred by the association.**
- **If unit owner prevails – owner can also be awarded reasonable attorneys fees and costs incurred in asserting or defending a claim.**

# **Enforcement-limitation**

## **§ 38-33.3-123(2)**

- **Enforcement of building restriction or to compel the removal of any building or improvement must be commenced within one (1) year from the date when the association knew, or in the exercise of reasonable diligence, should have known of the violation.**

# Enforcement

## § 38-33.3-316 & § 38-33.3-316.3

- **Payment Plans**
- **Liens**
- **Debt Collection**
- **Lawsuit**
- **Judgment & Collection Methods**
- **Receivership**
- **Foreclosure**

# Alternative Dispute Resolution (ADR)

## C.R.S. § 38-33.3-124

- **CICs are encouraged to adopt a policy.**
- **Mediation or Arbitration.**
- **Any controversy between an association and a unit owner arising out of the provisions of this article may be submitted to mediation by agreement of the parties prior to commencing any legal proceeding.**
- **Effective January 1, 2007.**



# Discussion Issues

- **Assessments, Fines and Fees**
- **Suspending Voting and Use Rights.**
- **No or Selective Enforcement**
- **Architectural Review Committee**
- **Noise, Smoking, Nuisance**
- **Leasing**
- **Parking, Pets, Landscaping**
- **Quiet Enjoyment**

# HOA Information and Resource Center

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# THANK YOU

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