



COLORADO

**Department of
Regulatory Agencies**

Division of Real Estate

Welcome To Self- Management

This Forum Will Begin Shortly

Starting Point



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- ▶ **Governing Documents**
 - Know them, What are your rules and processes?
- ▶ **State Laws**
 - Non Profit Act & CCIOA
 - What do they require?
- ▶ **Specialists**
 - Its ok to have them, in fact you should consult with them

State Law Requirements

Governing Policies & Processes

- ▶ Registration W/ DORA and SOS
- ▶ Adopting/Amending policies, rules, procedures & Docs
- ▶ Enforcement Policy
- ▶ Annual Meeting
- ▶ Document Disclosure/Records
- ▶ Fining process – A fair and impartial fact finding process.
- ▶ Collection Process
- ▶ Conflict of Interest Policy
- ▶ ADR Process – written policy stating procedure for addressing disputes arising between the association and unit owners
- ▶ Reserves Policy



Public Disclosures



- ▶ W/in 90 days of the end of the fiscal year:
 - Date the fiscal year commences
 - Operating budget
 - Current assessments (regular/special)
 - Annual financial statement
 - Most recent financial audit or review
 - A list of all insurance policies
 - Bylaws, articles, rules and regs
 - Meeting Minutes
 - Responsible governance policies
 - Name of the association and its DA, a valid address and contact info for the association
- ▶ HB-1237 Required Disclosures

Record Retention



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- ▶ CCIOA and the Non Profit Act, outline the type of documents required to be maintained by an association, but lacks explicit retention time frames for all but a few documents.
- ▶ Here are a few retention time frames prescribed by statute:
 - Board and owner meeting minutes, permanently;
 - Records of all actions taken by the owners or board without a meeting (i.e., actions by mail or electronic mail), permanently;
 - Association tax returns, seven years;
 - Contracts, two years after the completion of work performed;
 - Proxies and ballots, one year after election, action or vote to which they relate;
 - All written communication within the past three years to all unit owners generally as unit owners.
- ▶ Given the lack of statutory retention time frames for most documents, associations should adopt their own time frame via a Document Retention Policy. The policy should include a comprehensive list of records and the requisite retention time frames for all.

Meetings Overview



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- ▶ Owners' meetings
 - Must be held at least once a year
 - Notice of the owners' meeting must be given not less than ten (10) days, and no more than fifty (50) days in advance of any such meeting.
 - Notice can be hand delivered, emailed, sent prepaid by US mail or physically posted in a conspicuous place
 - Must include
 - Time and place of meeting
 - Items of the agenda
 - And any proposed amendments, budget changes or proposal to remove a member
- ▶ Special meetings
 - Can be called by the president, a majority of the board or by 20% of unit owners (or lower per governing docs)
 - Notice must be give w/in 30 days of the demand for special meeting.
- ▶ Board Meetings
 - Agendas are to be made reasonable available
 - Notice requirements for board meetings are usually described in the association's bylaws. CCIOA is silent on the notice requirements for executive board meetings.
- ▶ Working Sessions
 - Not defined
 - Usually for a specific purpose
 - Open if not in executive session
 - No decision being made so no right to speak
 - Business meetings.
- ▶ Executive Sessions– may restrict attendance
 - Matters pertaining to employees
 - Consultations w/ attorney
 - Investigations
 - Matters subject to constitutional, statutory or judicially imposed req.

Collection Policy



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- ▶ HOAs should have a policy governing the collection of unpaid regular assessments which includes:
 - The date on which assessments must be paid;
 - When an assessment is considered past due;
 - Any late fees and interest which may be imposed;
 - Any returned-check charges;
 - Whether an opportunity for a payment plan exists and the circumstances under which the unit owner is entitled to enter into a payment plan;
 - Provide notice to a unit owner before sending an account to a collection agency or to attorney legal action;
 - The total amount due;
 - The action required to cure the delinquency; (must provide 30days to cure)
 - The method by which payments may be applied to a delinquent account; and
 - The legal remedies available to the association to collect.

Conflict of Interest



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- ▶ Section 7-128-501 of the Non Profit Act
- ▶ It is not a conflict of interest if:
 - The material facts as to the director's relationship or interest and as to the conflicting interest are disclosed or are known to the board of directors or the committee and it is approved
 - The material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the members entitled to vote thereon and it is approved
 - The conflicting interest transaction is fair as to the nonprofit corporation

Board Roles

Administrative Role



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- ▶ Schedule/Attend board meetings
 - Meeting minutes
- ▶ Meet regularly to discuss management of the HOA
- ▶ Uniformly enforce the rules and regulations of the community
- ▶ Preparing an annual budget
- ▶ Respond to homeowner inquiries in a timely manner

Administrative Role



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▶ Communication

- Make sure your members can reach you
 - Association website
 - 24hour answering service
 - Extension for board members
 - When homeowners call a given extension during business hours it will forward to up to three phone numbers (your home, cell, and office, if you choose)

Finance Role



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▶ Billing

- Staying on top of delinquent accounts
- Sending Delinquent notices
- Initiating legal action for collection of funds according the Board's directives/policies
- Working with the association's Attorney when coordinating legal action
- Collecting dues – lock box services
 - A bank assigns a mailbox address to your HOA. Homeowners mail their payments to the lockbox address. Bank employees instantly deposit the checks into your HOA's bank account, but also scan and make any accompanying documents available for your Board through their secure website.

Account Management

▶ A/R management

- If money is owed to the association and not paid when due, the association may not be able to pay their bills on time, or provide the services which maintain the community's safety and property values.
- Be Diligent
 - Follow Collection policy
 - fair and uniform enforcement of your collection procedures keep costs down
 - Liens and foreclosure should be a last resort
 - Must enforce a lien w/in 6 yrs
 - If the lien and foreclosure route is your only tool, you'll likely go broke before you're able to get delinquent accounts under control, and may end up with a bunch of foreclosures, which is terrible for the property values of the remaining homeowners.
 - Lead to increased dues and unhappy homeowners who cant pay
 - Vicious cycle
 - Send account to a collection service

Account Management



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- ▶ Manage bank accounts for the community
- ▶ Accurately Estimate Maintenance Costs
- ▶ Review monthly billing for community dues and assessments
- ▶ Provide detailed record keeping on all accounts payable and accounts receivable
- ▶ Create monthly financial statements in a timely manner
- ▶ Long-term funding for the community and board
- ▶ Audits
 - At minimum, do one every 3–5 years, depending on how often the entire board membership changes, or rotates out
- ▶ Budget
 - Read your association's budget on a month-to-month basis. Keep this component fresh in your mind.
 - Keep operating funds in a separate account from reserve funds

Reserves



- ▶ There is no requirement that an HOA have a reserve, all that is required is a reserve policy.
- ▶ if your association has a reserve study, keep it updated and fully funded.
- ▶ Check Mortgage Lenders for any reserve requirements.
- ▶ The Board should adopt a written resolution defining your Reserve Planning and Funding Policy. This is a resolution that commits the HOA and board to the reserve planning process and holds future boards to these standards.

Site Manager Role



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- ▶ Maintain Insurance
- ▶ Check on maintenance issues
- ▶ Inspect for rule violations
- ▶ Coordinate actions
- ▶ Review and maintain vendor contracts
- ▶ Ensure that lawn care, pool cleaning, and other vendor tasks are completed based on the contracted specifications.

Site Management



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- ▶ **Maintenance**
 - An association's maintenance and insurance obligations are typically set forth in the association's declarations of covenants.
 - Insurance requirements
 - Property insurance on the common elements worth the full replacement cost of the insured property.
 - Commercial general liability insurance against claims and liabilities arising in connection w/ the ownership, existence, use or management of the common elements.
 - D&O Insurance—Directors and Officers Coverage for when a suit is brought against the board.
- ▶ Create a chart that sets out in detail who (owner or association) is responsible for the maintenance and insurance of various components within the community. For example, the chart will set forth who is responsible for maintaining and insuring the drywalls, cabinets and light fixtures within a condominium unit. Additionally, the chart will advise whether the owner or association is responsible for maintaining and/or insuring the doors and windows of condominiums and townhomes.
- ▶ Note Insurance expert meeting September 9 @ 10

Site Management



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▶ Vendors

- The board should thoroughly vet its service contractors, and pay extra attention to details that can potentially save the association thousands of dollars.
- Erring on the side of caution, the board should obtain multiple bids on all projects to ensure that the amounts quoted are reasonable.

Hire A Specialist?

Specialist to Consider

▶ Attorney

- A fiduciary duty arises from a relationship similar to that between a trustee and a beneficiary. The Board is the trustee, the homeowners are the beneficiaries. The HOA has a fiduciary duty to its members (homeowners) to put the interests of the members before its own interests, and to act at all times in good faith and with reasonable diligence and prudence. If something goes wrong, and legal liability arises, the law always looks to the Board first.

Specialist to Consider

- ▶ CPA & Book Keeper
 - Part-time
 - Can create monthly financial reports
 - Help with Audits & Taxes
 - A good CPA will help you understand the role of your Treasurer

Grounds Keeper/maintenance worker

- ▶ Maintain the esthetic look of your HOA
- ▶ May be able to complete small repairs and maintain them.



Take Away

General Ideas



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- ▶ Remember You are running a business and so treat it as such.
 - Train yourself for this job
 - Remember this will be time consuming
- ▶ Create a goal for the HOA and a strategy for how to meet it.
 - These goals can and should change.
- ▶ Transparency– make yourself available to homeowners
- ▶ Keep meticulous records
- ▶ Hire a specialist for certain things.

Questions?



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