

HB 23-1105: Kicking the Can Down the Road on HOA Reform

Another task force another justification to delay HOA reform, HB 23-1105. If we don't understand the issues needed for HOA reform by now we can guarantee a Task Force will not come up with anything new. The HOA Task Force should just make one statement on HOA reform: the State needs an affordable, accessible, easy to understand and enforceable HOA homeowner dispute resolution process within the State HOA Office to make all HOA State laws and HOA governing documents enforceable for HOAs and homeowners as suggested by the Colorado HOA Forum (see their website) and multiple State studies/review". This is the number one issue for HOA homeowners, known to homeowners and legislators and no study or HB 23-1105 will change this. Let's act on this now!

Some history on the solution for homeowner's rights. Mobile home park and Homeowners Association (HOA) homeowners have much in common. Each experiencing increasing and unexpected assessments/fees, abusive practices by HOA Boards and park owners who ignore governing documents with impunity, questionable evictions and covenant violations accompanied by excessive attorney fees to name a few. Somehow, our legislature has managed to recognize these issues as negatively affecting mobile home park owners but damn be HOA homeowners. In addition, both have homeowners from lower income brackets but it seems mobile home park financially distressed homeowners only deserve legislative help. Note, there must be ten times the number of folks in HOAs living on limited incomes and on the borderline of financial disaster than in mobile home parks that deserve equal rights and protections under the law. Let's not force a difference between the two groups but recognize the similarities.

Several years ago legislation was passed to provide mobile home park homeowners with an out of court dispute resolution process that is accessible, affordable and enforceable and that is a good thing. They even approved the creation of an Oversight Program funded with taxpayers' dollars to contain abusive practices: a good thing. Also, a financial assistance program to help mobile home park homeowners with delinquent financial commitments. needed and good. Please note, mobile home park homeowners often live in HOAs.

On the other hand, HOA homeowners representing fifty-five percent of Colorado homeowners, in 9,000 HOAs with 800,000+ units are ignored when asking for an out of court dispute resolution process within the existing State HOA Office (similar to the Mobile Home process but paid by HOA homeowners). State studies/reviews recommend out of court dispute resolution for all HOA homeowners but were trashed. Thus, all HOA State laws and HOA governing documents, unlike that of mobile home parks, are basically unenforceable unless one has deep financial pockets to go to court to settle disputes. HOAs and homeowners spend tens of millions each year attempting, mostly failing, to enforce their HOA rights under the law in the absence of an [out of](#)

[court solution](#). The Colorado HOA Forum, www.coloradohoaforum.com, has preached the need for out of court dispute resolution for the past eight years, basically written a Bill for such, but no one is listening (the Forum's no-cost to taxpayers, easy and low cost to implement and highly effectively [proposal on their website](#)). When does acting on the obvious problems begin and the need to study issues end?

Now the final legislative insult arrives with a "kick-the-can-down-the-road" solution to HOA homeowner's rights enforcement and addressing the laundry list of abusive HOA practices. Enter [HOA Bill 23-1105](#) (aka "ignore and show concern for an issue at the same time do little"). This Bill informs HOA homeowners that the best means to addressing HOA abusive practices (when their legislative efforts failed in the past) is to create a Task Force to "study" issues already known and come up with solutions already known for decades. Honestly, with the HOA Office having received and classified thousands of complaints/inquiries, the media reporting of HOA abuse, court cases that don't belong in court costing HOAs and homeowners millions each year, State Studies identifying issues, the State HOA Office knowing what reform is required, legislators receiving homeowner complaints each year, DORA understanding why the defunct HOA property manager licensing program should be revived, and the Colorado HOA Forum's handling upwards of several thousand homeowner complaints one can assume the issues are known and so are the solutions. Do we a study to verify the already known evidence? This Bill also proposes some type of major surgery and revamping of the State's HOA law referred to as Colorado Common Interest Ownership Act (CCIOA). The Act could use some change as happens periodically with Bills passed into law. The Act mostly needs clarification and details but an over haul, probably not. What is needed is a process for CCIOA to be enforced. This is the solution and an HOA study is not needed to pursue this. This Task Force thing is like knowing the end of a movie while watching it.

Mobile Home homeowner's rights legislation didn't require a Task Force to identify issues and solutions and didn't have 100th the evidence that supports the need for HOA reform and got the job done? Hurray! The HOA Task Force will reveal the known and document issues and make recommendations that are already known. If a study is to exemplify legislative concern so be it but the number one solution to HOA reform in Colorado is an out of court dispute resolution process within the State HOA Office. This would immediately resolve 90% of HOA homeowner complaints and save homeowners and HOAs millions each year. We homeowners don't need a study to do confirm this solution and we shouldn't have to wait another two years for proposed legislation to implement this solution. Let's say it for the one hundredth time: [implement an out of court binding dispute resolution process within the State HOA Office](#).

This Bill also contains mention of Metro Districts (MD) that impact HOA homeowners and is an issue of great concern and a topic of abusive practices. The Forum totally endorses that this issue be addressed. Our requirements on MD reform relate mostly to disclosing debt and payment obligations to home buyers and owners. The Forum has proposed this to legislators but we await sponsors for a Bill to implement information disclosure.

The Forum appreciates legislative efforts on reform and the difficulty in fighting lobbyist of the status quo. However, this Bill is mostly clutter and delay on HOA reform and by proposing it will only add to delay in reform. It will stall what can be currently completed with the excuse that the findings of the Task Force are required: simply a diversion. This Bill is similar to efforts to legislatively express a “homeowner’s Bill of Rights”. Ridiculous in that it declares something that makes no change and is already known. If one wants a Bill of Rights, enforce what we have! If one wants HOA reform provide a process to enforce CCIOA. Seems so simply.

In summary and as a first step that can be completed now: “what HOA homeowners need is not more legislation but legislation that can be enforced!”.

draft