

# LAW SUMMARY

*Office of Legislative Legal Services*



## ***APPLICATION OF THE COLORADO COMMON INTEREST OWNERSHIP ACT (CCIOA) IN SUBDIVISIONS AND CONDOMINIUM COMMUNITIES<sup>1</sup>***

The Colorado Common Interest Ownership Act (CCIOA) went into effect in 1992. Based substantially on the Uniform Common Interest Ownership Act, which was created by the National Conference of Commissioners on Uniform State Laws, CCIOA is codified in article 33.3 of title 38, C.R.S. Prior to the enactment of CCIOA, article 33 of title 38, C.R.S., (the Condominium Ownership Act) provided the legal framework for common interest communities. The Condominium Ownership Act remains in effect, but CCIOA is more likely to apply in most areas today.

Most of the important provisions in CCIOA apply to all common interest communities, regardless of when they began. However, some provisions apply only to communities created after July 1, 1992. Additionally, common interest communities created before July 1, 1992, are still subject to the older law. The following summary will highlight significant differences between newer and older laws.

### **Exceptions from CCIOA for Pre-existing Communities**

Many parts of CCIOA that apply only to post-1992 communities are the ones that guide the formation of new communities. These provisions cover topics such as allocating voting power, rights and duties concerning property owned in common by the homeowners' association rather than by individual homeowners, requirements of maps and building plans, alteration and subdivision of units, and easement rights. The executive boards of post-1992

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<sup>1</sup> This summary contains information commonly requested from the Office of Legislative Legal Services. It does not represent an official legal opinion of the General Assembly or the state of Colorado and does not bind the members of the General Assembly. It is intended to provide a general overview of Colorado law as of the date of its preparation. Any person needing legal advice should consult his or her own lawyer and should not rely on the information in this memorandum.

communities have powers and duties with regard to construction defect actions initiated by their homeowner associations, but pre-1992 communities do not as they have already exceeded the six-year statute of limitations.

Except with regard to time-shares, the provisions of the older Condominium Ownership Act apply only to communities created before July 1, 1992. These provisions include requirements for all declarations<sup>2</sup> created between July 1, 1983, and July 1, 1992. Requirements of declarations for communities created after July 1, 1992, include all the requirements for older communities plus additional statements and descriptions of development rights.

### **Meetings and Voting**

CCIOA specifies quorum requirements and other basic standards for meetings and voting. Beyond these basic standards, the governance of a common interest community is up to the unit owners as spelled out in the declaration. CCIOA also provides post-1992 communities with additional allowances and guidelines for lessees to vote if the owners have rented out their units.

### **Executive Board**

Both pre- and post-1992 communities are subject to some provisions in section 38-33.3-303, C.R.S., of CCIOA, which pertain to executive board members, powers, duties, reserve funds, and audits. Post-1992 communities are subject to all provisions of that section. But pre-1992 communities are not subject to this notable provision regarding community budgets: Within 90 days after adoption of a proposed budget for the community, the board must mail or otherwise deliver a summary of the budget to all unit owners and set a date for a meeting of the unit owners to consider the budget, and the budget can be vetoed by a majority vote of the unit owners.

### **Insurance and Financial Matters**

CCIOA requires property insurance on the common elements of a post-1992 community. In addition, a post-1992 community must maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of common elements.

Finally, CCIOA requires that, for post-1992 communities:

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<sup>2</sup> The declaration is the document that must be filed in the county land records containing a legal description of the property included in the common interest community, plus a copy of the rules (“covenants”) that every homeowner is required to follow after purchasing his or her individual property.

- Surplus funds remaining after payment of common expenses and any prepayment of or provision for reserves be paid to the unit owners or credited to them to reduce future common expense assessments;
- Common expenses associated with the maintenance, repair, or replacement of a limited common element that benefits a portion of the units are to be assessed against the unit or units benefitting and not against all units; and
- Unit owners may not be exempt from liability for payment of the assessments by waiving the use or enjoyment of any of the common elements or by abandonment of the unit against which the assessments are made.

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CREATED: 11/4/2015

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