

Buck Bailey
Speaking notes for February 13, 2017 Hearing on HB-1175

I. Introduction

A. Self: Thanks for the opportunity to speak—Sorry I missed the 30 Jan one.

1. My name is Buck Bailey. I am currently licensed as RM 1108 and DA 4071 under the CAM licensing program. Since 2011 when I was elected to the Board of Directors, I have been actively involved in managing and caring for Plaza de Monaco Towers Condominiums Association, Inc. At the beginning of Feb 2014, I resigned from the Board and took over as the General Manager for a 30-60 day transition while we found a suitable person to become the permanent General Manager. Needless to say, this is the beginning of the 5th year.

2. Experience 25 + years middle mgmt. USN CMC; Education AS, BS, MAM

3. Licensing has done nothing to change or improve the way I go about my work.

B. Main Points

1) CAM licensing is an example of unnecessary, costly, and burdensome regulation.

2) Licensing Law should be sunset

3) If not sunset there are a number of things that could be done to make licensing tolerable.

II. Body

A. CAM Licensing is an example of unnecessary, costly, and burdensome regulation.

B. Licensing Law should be sunset

1) Sunset review is short on data and does not support continuing—Refer to #1 from Bailey

2) The 2017 Annual report from the HOA Information and Resource Center is not yet available

3) There appears to be quite a bit of controversy or 1175 could simply remove the sunset clause and make licensing permanent.

4) This law seems to be primarily directed at empowering DORA with the ability to impose sanctions on individuals and sometimes management companies for "unlicensed activities." It is easier to prove no license than it is to investigate and prove other violations of the law.

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- C. If not sunset, some things that should be done. (there may be others)
- 1) Exempt CIC and HOA employee—Ed will present.
 - 2) Restore Sunset Report Recommendation 2—Management companies should pay renewal fees.--Refer to #2 from Bailey
 - 3) Define Community Association Manager License—Refer to #3 from Bailey
 - a. No clear definition in the law
 - b. E-license program has DA, RM, IM, ENT, and AM categories that aren't defined in the CRS or the implementing rules.
 - c. Apprentice added to the law in 2015. I'm not sure what the purpose is. There is no listing on e-license.
 - d. License should be more like a driver's license that is primarily a certification of a certain level of an individual's knowledge and proficiency.
 - e. Once issued, a license should not go inactive just because licensee is not currently managing any properties. It could expire, be revoked, be suspended, or even be surrendered. Automatic inactivation makes no sense.
 - 4) Clarify the insurance requirement.
 - a. HOAs carry Errors and omissions insurance for officers and directors.
 - b. There is No need for additional insurance as directed by 12-61-104
 - 5) Remove obsolete sections (examp 12-61-1003 (9) about Provisional licenses.)

III. Conclusion

- A. Licensing Law should be sunset
- B. If not sunset there are a number of things that could be done to make licensing tolerable.
- C. Thanks for allowing me to speak with you and participate in this process.

#1 From Buck Bailey

Title: Sunset Community Association Manager Licensing

Problem: DORA's 2017 Sunset Review: Community Association Manager Practice Act; October 13, 2017 does not provide adequate supporting data in answer to the fundamental requirement of CRS 24-134-104 to continue the current licensing program.

- 1) The report identifies no public health concerns associated with Community Association Managers.
- 2) The report identifies no public safety concerns associated with Community Association Managers.
- 3) The report makes a weak case concerning public welfare by mentioning 2 managers and one management company as having been disciplined for cases associated with theft of association funds. Theft is already against the law. The licensing program did not (and will not) prevent theft from happening.
- 4) The report also implies that the types and levels of complaints received by the Division has not changed since the 2012 Sunrise Review. (see pg 32 2nd paragraph)
- 5) On page 32 first paragraph, the report states, "In fact, the majority of enforcement actions have been related to unlicensed activity, which is not, in and of itself, a compelling reason to regulate an occupation or industry."
- 6) The sole justification for recommendation 1 in the report appears to be found on page 33 fourth paragraph: "Since this program has only been operating for two years, it is difficult to assess how well it is working."

Solution: Postpone Indefinitely any further action on HB18-1175 and allow the "Community Association Manager Practice Act" to sunset.

#2 From Buck Bailey

Title: Fees for management company license renewal

Problem: Recommendation 2 from the 2017 Sunset Review is not currently included in HB18-1175. DORA's 2012 Sunrise Review: Common Interest Community Association Managers, March 2, 2012 (upon which this licensing program is based) concluded with a single recommendation: "**Regulate management companies.**" The Division maintains an "ENT" list of licensed management companies. The costs of maintaining this list, monitoring management companies, and taking enforcement/disciplinary action with respect to management companies should be recovered by direct fees paid annually by licensed management companies.

Solution:

- 1) Restore the language removed by the committee at the hearing held on January 30, 2018 to accept 2017 Sunset Review report and introduce HB18-1175 for consideration by the legislature.

Details in HB18-1175:

- 1) The language of the DORA recommended Bill does not currently appear to be publicly available. It is impossible to make specific recommendations for an amendment to language that is unavailable.

#3 From Buck Bailey

Title: Define Community Association Manager License

Problem: Community Association Manager (CAM) License is not defined in 12-61-1001. On the Division of Real Estate's e-license program there are multiple different license types for Community Association Manager licenses (RM, ENT, IM, AM) and for CIC or HOA registered agents (DA). None of these license types are clearly defined in the CRS or the implementation rules. Additionally, there is no listing of Apprentice licenses on the e-license website.

Solution:

- 1) Specify in the CRS that there is only one level of CAM license. Or
- 2) Clearly define in the CRS the various levels of CAM license that the Director is allowed to establish. Ensure that implementing rules do not establish levels not defined in the CRS.

Details in HB18-1175:

- 1) Make the following amendments to 1175:
 - a. Page 4 following line 6. Insert the following new language:
(5.4) COMMUNITY ASSOCIATION MANAGER (CAM) LICENSE MEANS THE LICENSE ISSUED IN COMPLIANCE WITH THE RULES ESTABLISHED BY THE DIRECTOR. THERE SHALL BE ONLY ONE LEVEL OF CAM LICENSE.
 - b. Add a new section 11 to the bill. In this section delete all current references to Apprentice License and apprentice licensing.

OR

- 2) Implementation of this solution would require addition of additional sections to 1175 and may very well be beyond what is allowed in title. In any case there is a significant amount of work to be done to identify the various levels of licensing desired by the Director.

| HOA related complaints | | | | | | |
|--|-------------------|--------------------|--------------------------------|----------------------|---|---|
| Data compiled from Annual Reports and e-mail contact to DRE by Buck Bailey | | | | | | |
| Year | # of Complainants | Total # Complaints | # Complaint involving managers | # Mgr Cases Resolved | # Resolved w/ no merit/no disciplinary action | # Cease and Desist (limited info avail) |
| 2013 | 327 | 1248 | 504 | N/A | N/A | N/A |
| 2014 | 409 | 1440 | 548 | N/A | N/A | N/A |
| (overlap data?) 2015 | ? | 2027 | 667 | 93 | ? | 0 |
| 2016 | ? | 1953 | 329 | 263 | ? | 7 |
| 2017 | 389 | 1226 | 278 | 210 | 234 | 13 |
| 2018 | | | | | | 2 so far |
| Active licenses from e-license | | | | | | |
| | No. of HoAs | 7638 | | | | |
| | No. of DAs | 3694 | | | | |
| | No. of RMs | 482 | | | | |
| | No. of ENTs | 442 | | | | |
| | No. of IMs | 193 | | | | |
| | No. of AMs | 711 | | | | |
| Roster of Apprentices not available | | | | | | |