

ProPublica	8/30/22	Nearly \$30K Vanished From the HOA's Account. The State Can't I
BusinessDen	6/20/23	Property manager accused of embezzling must pay \$2M
Grand Junction	11/9/22	Grand Junction woman sentenced to prison for HOA fraud scheme
9News	1/18/24	HOA rates increase in northern Colorado as police investigate sus
BizWest	11/22/23	HOA files adversarial case in bankruptcy action, seeks late claim fil
Western Slope	11/18/22	Local realtor breaks down HOA scheme
	12/7/19	After 8 years homebound with severe depression, 70-year-old Love
	2/12/12	Horror stories prompt industry group to ask Colorado to regulate HO
	11/20/23	Property-management firm faces lawsuits over HOA management
	9/2/22	Like most states in the U.S., Colorado fails to regulate HOA commu

Community association managers run most of Colorado's 10,000 <https://www.propublica.org/article/colorado-hoa-managers>
<https://businessden.com/2023/06/20/property-management-companies-run-colorado>
https://www.gjsentinel.com/news/western_colorado
Loveland Police are investigating a property management company <https://www.9news.com/article/news/investigations/loveland-police-investigating-property-management-company>
The claim says that fraud should preclude the discharge of a director <https://bizwest.com/2023/11/22/hoa-files-advocate>
Nearly two dozen HOAs on the Western Slope fell victim to an <https://www.westernsloopenow.com/top-stories/nearly-two-dozen-hoas-on-the-western-slope-fell-victim-to-an>
Idaho woman in danger of losing home due to unpaid HOA fees <https://www.reporterherald.com/2019/12/07/idaho-woman-in-danger-of-losing-home-due-to-unpaid-hoa-fees>
HOA managers <https://www.denverpost.com/2012/02/12/hoa-managers>
agreements <https://bizwest.com/2023/11/20/property-management-companies-run-colorado>
Community association management companies. That needs to change <https://independentamericancommunities.com>

[hoa-management-companies-investigation](#)
[y-manager-accused-of-embezzling-must-pay-2m/](#)
[olorado/grand-junction-woman-sentenced-to-prison-for-hoa-fraud-scheme/article_d11e16ca-5fa4-11ed-988a-bl](#)
[ations/loveland-hoa-funds-investigation-police/73-262da119-8773-4577-9a1e-14957d1a1d18](#)
[/ersarial-case-in-bankruptcy-action-seeks-late-claim-filing/#](#)
[s/local-realtor-breaks-down-hoa-scheme/](#)
[after-8-years-homebound-with-severe-depression-70-year-old-loveland-woman-in-danger-of-losing-home-due-t](#)
[ror-stories-prompt-industry-group-to-ask-colorado-to-regulate-hoa-managers/](#)
[agement-firm-faces-lawsuits-over-hoa-management-agreements/](#)
[m/2022/09/02/like-most-states-in-the-u-s-colorado-fails-to-regulate-hoa-community-association-management-c](#)

[o1817f1663c.html](#)

[to-unpaid-hoa-fees/?clearUserState=true](#)

[companies-that-needs-to-change-nationwide/](#)

PUBLICATION	DATE	HEADLINE	SUB-HEADER
The Real Deal	11/20/23	<p data-bbox="444 197 906 224">supervision over condo, HOA fraud</p> <p data-bbox="444 233 906 306">residents' and then 'used fees to buy after embezzling \$80K from Orange</p> <p data-bbox="444 315 906 342">charged with theft of property first</p> <p data-bbox="444 350 906 378">more than \$754K from HOAs, faces 13</p> <p data-bbox="444 386 906 413">years after pleading guilty to</p> <p data-bbox="444 422 906 449">prison for HOA embezzlement</p> <p data-bbox="444 457 906 485">manage finances for Rock Hill HOA.</p> <p data-bbox="444 493 906 520">embezzling HOA money</p> <p data-bbox="444 529 906 556">Lane pushes alleged missing funds to</p> <p data-bbox="444 564 906 592">closed, many others empty or drained</p>	enforce it"

[g-80k-from-orange-county-hoa/article_f039d70e-3584-11ee-8a35-97544fde60e8.html](#)

[erty-first-degree](#)

[-pay-bills/](#)

[ioa-money/](#)

[ock-hill-hoa-now-shes-facing-new-embezzlement-charges/](#)

[02/](#)

[merican-property-management-services-alleged-fraud/7074124001/](#)



Delivery By Hand

MEMORANDUM

**TO: Colorado Department of Regulatory Agencies (DORA)
Office of Policy, Research and Regulatory Reform**

**FROM: Colorado Legislative Action Committee (CLAC) Licensing Task Force
Community Associations Institute (CAI)**

DATE: November 4, 2011

**RE: SUBMITTAL OF SUNRISE REVIEW APPLICATION
LICENSURE OF COMMON INTEREST COMMUNITY ASSOCIATION
MANAGERS**

Please accept the attached documentation as our application for Sunrise Review. We look forward to working with your office in our request for licensure of Common Interest Community Association Managers.

Kind regards,
Chris Pacetti, PCAM®
Chair, Colorado Legislative Action Committee (CLAC) Licensing Task Force
Community Associations Institute (CAI)



1. The name, address, telephone number, and organizational affiliation of the person(s) designated to represent the applicant.

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President-Elect, Rocky Mountain Chapter of the Community Associations Institute (CAI)

2. What is the occupational group for which the applicant is seeking regulation? Is this group known by more than one name? If so, please specify.

The occupational group is known by several names:

- **Homeowner Association Managers**
- **Community Association Managers**
- **Association Business Managers**
- **Common Interest Community Association Managers**
- **Property Managers (in it's broadest terminology)**

3. Identify the associations, organizations and other groups representing the practitioners. Please provide contact information for each organization.

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4. Please estimate the number of Colorado practitioners in each group.

In our estimation there are 1,250 Community Association Managers in the State of Colorado.

This number is based upon the following factors:

- **Estimated that there are 10,000 Common Interest Community (“CIC” or “community”) Associations (commonly referred to as Homeowner’s Associations or HOAs) in Colorado;**
- **The average best-practice ratio of manager-to-association is 1-to-8. ****

****This figure is based upon a query of several industry professionals who all have a 25-year+ framework of experience and best practice implementation in allocating the efficient and results-oriented Manager to Association ratios.**

In addition, we do know that Colorado currently has 565 individuals who hold the Certified Manager of Community Associations (CMCA) designation

Source: The National Board of Certification for Community Association Managers (NBC-CAM)

Furthermore, it is estimated* that:

- **850,000 Coloradans live in a community association;**
- **\$67 billion is the value of homes in all community associations in Colorado;**
- **\$670 million is the total annual operating revenue for Colorado community associations; and**
- **\$580 million is the value of investment accounts held for long-term maintenance and replacement for community associations in Colorado.**

***Estimates are based U.S. census statistics and national statistics of the Community Associations Institute (CAI)**



Please note that these estimated numbers continue to be refined through the data collection currently underway by the HOA Information Office located in DORA's Division of Real Estate. Beginning on January 1, 2011, the Division was required to register all Community Associations in the State of Colorado. Stiff legal penalties were to be given for those Community Associations which fail to register. As of September 4, 2011, a total of 7,932 Community Associations have registered with the State of Colorado. There will be a more accurate number of Community Associations at the end of 2011 and subsequently a more accurate number of Community Association Managers. However, it should be noted that the Division of Real Estate published a Position Statement stating that Pre-CCIOA Community Associations (meaning associations created prior to July 1, 1992) are not required to register. As a result, the number of Community Associations that ultimately register will not accurately reflect the total number of Associations in Colorado. In fact, based upon our experience in the industry, it is our belief that there are several thousand Community Associations in Colorado which fall into the Pre-CCIOA category.

5. Describe the functions performed by members of this occupational group. Note which functions are unsupervised or supervised and by whom. In addition, indicate functions which are similar to those performed by other groups and identify those groups. How do the functions performed by this group vary from the other groups' functions?

Background

Common Interest Community Associations are created under Colorado law to govern and operate common interest communities (commonly referred to as "Community Associations" and "Homeowners' Associations"). The vast majority of Common Interest Communities are created as nonprofit corporations under Colorado law and are comprised of the owners of units located in these communities who are the members of these nonprofit corporations.

Volunteer Board Members are members of their Community Associations by virtue of owning a home in that Association. Election to these volunteer Boards of Directors generally requires no experience or knowledge; just an interest in serving on the volunteer Board of Directors. The natural legal and business structures of Community Associations place these institutions, and the people who serve them, in control of hundreds of thousands to millions of dollars of assets; often without consistent education or expertise. Directors serving on these volunteer Boards have a fiduciary duty to protect and

preserve the common property in these communities and the property values of their fellow individual homeowners within the association. Directors often rely upon the expertise of their Community Managers for advice and assistance in carrying out their fiduciary duty, making decisions of significance, managing the finances of the Association and implementing policies and decisions of the Board.

The specific tasks the Community Manager is responsible for carrying out in any given Association are generally enumerated in a contract the Manager has with the Community Association. However, it is safe to say that the Community Manager generally fulfills the role of agent and administrative support to the Association and volunteer Board of Directors. Detailed tasks are outlined below, but in general the Manager is frequently responsible for keeping the records of the Association (minutes, corporate report, financial statements, owners' files, contracts, maps, etc.), inspecting the community for maintenance needs and for compliance with community standards (rules) or other legal requirements, supervising maintenance activities (planned, regular, routine, preventive, emergency) and providing guidance and expertise to the Board to assist the Directors in fulfilling their fiduciary duty to the Association.

The Community Manager typically provides advice to the volunteer Board on when to seek legal counsel or the guidance from other experts.

The guiding document on the responsibilities of the Community Manager is the contract between the Association and the Community Manager.

Functions performed by members of this occupational group are similar to business managers, accountants, property managers and construction supervisors. What is unique about this occupation is that the volunteer Board Members who hire, supervise and are responsible for the actions of Community Association Managers are often inexperienced and lacking knowledge regarding the governance and operations of Community Associations and the applicable laws in Colorado. In addition, Community Managers carry out the unique function of facilitating the governance of these nonprofit Community Associations.

Functions & Duties

Community Association Managers generally provide many of the functions listed below:

Accounting

- Establish bank accounts for Community Associations. Community Association Managers are usually not signers on the account and it

- generally takes two volunteer Board Member Signatures to sign all checks (supervised with Board oversight);
- Preparation of checks for payment of contractor invoices (unsupervised);
 - Collection of homeowner maintenance fees; also referred to as dues or assessments (unsupervised);
 - Work with Association Attorneys regarding collection of delinquent assessments (commonly referred to as “dues”), special assessments or maintenance fees. Attend court when necessary (unsupervised);
 - Maintain a general ledger (unsupervised);
 - Maintain payment ledgers for each owner within a Community Association (unsupervised);
 - Produce monthly financial statements for Board review (unsupervised);
 - Reconcile all bank statements on a monthly basis (unsupervised);
 - Help to prepare annual budgets (unsupervised);
 - Establish ACH deductions for homeowners interested in that service (unsupervised); and
 - Provide the Community Association’s CPA with the necessary financial information and business records to perform an audit and prepare state and federal tax returns for the Community Association. Work with and provide information to the CPA to answer questions that may arise (unsupervised).

Administrative

- Arrange meeting facilities for meetings. Prepare notices, agendas, minutes, reports, bids, contracts, and other documents for Board or Member Meetings (unsupervised);
- Attend all Board and Member Meetings, record key decisions and rationale, participate in the meeting and follow up with directives from the volunteer Board (supervised by Board);
- Advise the volunteer Board on the components of the Community Association’s governing documents. In the event of any legal issue, the Community Association Manager advises the volunteer Board to seek a written legal opinion from their Attorney (supervised by Board and attorney);
- Advise the volunteer Board on good business decisions (supervised by Board);
- Prepare and maintain “Colorado Common Interest Ownership” (CCIOA) policies as required by law (unsupervised);
- Promptly prepare closing documents for the sales of homes within the Community Association (unsupervised);
- Maintain 24/7 emergency response protocol and communications for emergency situations (unsupervised);

- Provide communication options for all owners and residents within the Community Association. (office access, phone, mail, email, fax, website) (unsupervised);
- Prepare and produce newsletters for the Community Association on a monthly to quarterly basis (supervised by the Board);
- Respond to calls and concerns by owners and residents. Document activity (unsupervised);
- Inspect the community property and common elements for violation of the Community Association Community Standards. Follow through with notices to owners and follow up inspections, hearings (if the violation continues) and closing of the violation (unsupervised);
- Maintain business records for the Community Association. Prepare a records retainage policy and adhere to that policy (unsupervised);
- Administer design review committee applications. Meet with applicants, visit the site, and manage the application from start to finish (unsupervised); and
- Administer keys and access information for pools, clubhouses and other Community Association-owned common areas. Administer clubhouse calendars (unsupervised).

Physical

- Inspect common elements and property of the Community Association on a routine basis for maintenance issues, rules violations and design review issues (unsupervised);
- Write specifications for bidding work and maintenance jobs (painting, asphalt repair, roof replacement, siding repairs, sidewalk replacements, pond, pools and spas) (unsupervised);
- Send and receive bids from contractors for projects that the volunteer Board is considering (unsupervised);
- Prepare an analysis of the bids for Board consideration (supervised by Board) ;
- Contract with the Board approved contractor for the project (supervised by Board) ;
- Monitor the job and check progress and the finished job (unsupervised);
- Maintain all required insurance coverages necessary for contractors working in managed Community Associations (unsupervised); and
- Maintain supplies for Community Association equipment (unsupervised).

6. Describe the client group(s) with which this occupational group deals.

The occupational group manages Community Associations that can comprise of a number of different types of residential and mixed use Associations such as:

- **Planned Unit Developments (Single family Community Associations)**
- **Condominium Associations**
- **Townhome Associations**
- **Patio Home Associations**
- **Loft Associations**
- **Master Associations**
- **Multi-use and mixed-use Associations (a combination of residential and commercial units)**

7. Describe and provide examples of typical work settings of this group.

This occupational group generally operates out of one of the following settings:

- **Office space**
- **Club house**
- **A home located within the Community Association**

8. Does the applicant propose licensure, certification, registration, or another type of regulation? Why? (Under licensure, it is illegal for anyone to engage in an occupation without a license, and only persons who possess certain qualifications are licensed. Certification protects specific occupational titles of persons who have met certain educational and experiential standards. Only persons certified in that occupation may use the protected title, although anyone may practice the occupation. Under registration, any person may engage in an occupation, but he or she is required to submit information concerning the location, nature, and operation of the practice.)

It is in the best interest of the citizens of this state, of Common Interest Communities located in this state and the individuals who reside and/or own property in them, to provide for the licensure of Managers of Common Interest Communities to insure that persons who hold themselves out as possessing professional qualifications as Managers of Common Interest Communities, also commonly known as Community Associations, are, in fact, qualified to render management services of a professional nature. Licensure will ensure such individuals provide for the maintenance of high standards of professional conduct by those licensed as Managers of Common Interest Communities.



We seek licensure of Community Managers because:

- **The Volunteer Boards who govern Community Associations have significant fiduciary responsibilities. They govern the Association and are stewards of the physical assets of the Community which is an essential function in preserving and enhancing property values. They are responsible for protecting the value of an individual's most costly personal investment – their home. Volunteer Boards routinely rely upon the professional guidance and assistance of their Community Association Managers in carrying out these essential functions. Without licensure; there are no assurances that the Community Managers have the specialized knowledge necessary to provide this assistance and advice to the Boards and communities they serve. In addition, without licensure, there is no mandatory system of checks and balances and no standards with which a Community Association Manager is required to comply.**
- **Sadly, many national and Colorado-specific instances exist in which either volunteer Board's of Directors or Community Association Managers have embezzled large amounts of money in which they were the designated fiduciary.**
- **Licensure will not stop embezzlement per se; however, with licensure comes standards of operation and penalties for violating those standards. However, if an individual applying for licensure as a Community Manager has a criminal history of embezzlement, we believe that individual should be prohibited through the licensure scheme from entering the profession in Colorado.**
- **This occupational group can currently obtain industry certifications through the Community Associations Institute (CAI); however, those certifications are not mandatory.**
- **In the State of Colorado, this occupational group is not required to be registered, licensed or certified. Anyone can operate as a Community Association Manager without any qualifications.**
- **This occupational group is hired by volunteer Boards of Directors who are not required to have any prior knowledge of the industry, any experience, any education or any business knowledge.**
- **Licensing of Community Association Managers would provide additional consumer protection to homeowners who live in a community association and would elevate the level of professionalism of association management.**

We seek licensure in the following manner:

- **It is in the best interest of such citizens, Common Interest Communities located in this state and the individuals who reside in them, to limit and**



restrict the issuance of the Certified Manager of Community Association credential (which will be identified as the required “license” in Colorado) by the National Board of Certification for Community Association Managers (NBC-CAM), under the auspices of the Colorado Department of Regulatory Agencies, Division of Real Estate, to Common Interest Community Managers who through passage of an examination created by NBC-CAM which measures the core competencies of community association management are identified as possessing the necessary knowledge in, but not limited to, the following subjects: governance matters, legal matters, budgets, reserves, investments, assessments, risk management and insurance, maintenance, contracting, meetings management and human resource management. These subjects directly relate to the management and operation of Common Interest Communities.

- The NBC-CAM has developed a proven credentialing program for Common Interest Community Managers that complies with standards established by the National Commission for Certifying Agencies (NCCA). The program was developed to assure quality professional common interest community management.
- The purpose of NCCA accreditation is to provide the means to identify certification programs that serve the public’s and other stakeholders’ competency assurance needs.
- The CMCA examination will be comprised of two parts. Part A of the examination will measure the core competencies of practicing Community Association Management and Part B will measure knowledge of essential and applicable provisions of Colorado law.
- It is in the best interest of the citizens of this state, Common Interest Communities located in the state and the individuals who reside in them, that all Common Interest Community Managers obtain and hold in good standing the Certified Manager of Community Associations (CMCA) certification as developed by the NBC-CAM as a prerequisite to being authorized to manage common interest communities in the State of Colorado. This CMCA certification will serve as the foundation of the recommended license in Colorado.

We further acknowledge that this approach recognizes that state budget issues can present a significant hurdle to enacting licensure. This request for licensure balances the needs to protect consumers, raise standards of professionalism while not to overly burdening the businesses engaged in assisting in the management of Colorado Common Interest Communities.



9. What would be the impact of the proposed regulation on the supply of practitioners in the occupation, including the degree to which existing practitioners would be precluded from practice?

Implementation of Manager licensing should not impact the number of Association Managers within the industry. The proposal for licensure calls for new Managers entering this industry to have obtained their Certified Manager of Community Associations (CMCA) certificate or equivalent and to have successfully completed the appropriate classes which cover the applicable Colorado laws prior to earning the title of Community Association Manager.

Managers of Common Interest Communities in the state of Colorado holding the NBC-CAM Board's CMCA certification or the Community Associations Institute's (CAI) Professional Manager of Community Associations (PCAM) or Association Management Specialist (AMS) designations at the time this proposal becomes effective, shall not be required to satisfy the pre-certification educational requirement (except for the requirement to take an educational course on Colorado law relating to Common Interest Communities) or sit for an examination. Managers holding, in good standing, the PCAM or AMS designation from Community Associations Institute as of this proposal's effective date shall be deemed to have met the certification requirements presented in this proposal. However, all managers holding one or more certifications or designations set forth in this provision, shall be required to comply with all other applicable requirements of this proposal prior to being grandfathered in as a credentialed manager of common interest communities in the state of Colorado.

In order to protect the health, safety and welfare of the individuals who live in Common Interest Communities and the physical and financial assets of those communities, it is in the best interest of the citizens of this state to ensure that credentialed managers of Common Interest Communities shall not have been convicted of or pled guilty to a felony or other similar offense or offenses within the last 10 years related to issues of honesty, breach of fiduciary duty, financial matters or other issues involving the moral turpitude prior to applying for the Certified Manager of Community Associations certification. The candidate must not have had a license or certification in another state which regulates Community Association Managers revoked or suspended within the last 10 years. Under all of these circumstances, the Manager will not be eligible to hold or maintain the credential and shall not manage Common Interest Communities in this state.

An additional limitation that may prevent individuals from obtaining their license would be the failure to clear the required criminal background check. There is also a strong belief that any person convicted of being a sex offender, regardless of the 10 year time frame, should not be permitted to obtain the license since the core functions of the position make it impossible to insulate a manager from coming into contact with individuals who may be at risk. It is estimated that this prohibition would impact a very small percentage of managers, if any.

10. To what degree would the proposed regulation either directly or indirectly affect the cost of goods or services provided by the occupational group? Specify those costs as they exist now and as they would change after the imposition of regulation.

Presently, management companies or Community Managers individually pay for the initial and continuing education classes to obtain and/or maintain their CMCA certification. This would not change as it has not been suggested nor it is recommended that continuing education requirements change. The implementation of manager licensing would increase educational costs to the Manager or the management company for Colorado legal classes and the cost of the license. However, these are not cost prohibitive and can be completed within a reasonable amount of time.

It is anticipated that guidance provided to volunteer Boards and homeowners would be enhanced given that a licensed manager would have a consistent comprehensive body of knowledge with which to enact their professional responsibilities. It is expected that fiduciary accuracy, administrative efficiencies and complaint reductions would be positively impacted. We believe this would lead to an increase in well-managed Community Associations and better served and informed consumers/homeowners.

It is difficult to determine if the cost of services would increase with the passage of manager licensing. It is projected that some management companies would absorb the additional cost of education and licensing and others would increase the cost of services based on a higher level of knowledge and services provided to community associations.

11. What is the applicant seeking to gain through regulation of the occupational group?

A person's home is typically their largest personal investment. Those in positions of management and trust of these assets should be held to a uniform level of accountability, education and service to deliver the



expectations denoted in a Common Interest Community's governing documents.

The primary goal of manager licensure is to insure that persons who hold themselves out as possessing "professional" qualifications as Managers of Common Interest Community Associations are, in fact, qualified to render management services of a professional nature. It is critically important for Community Association Managers to demonstrate proficiency in reading and understanding annual budgets, reserve studies, management reports, legal opinions and other policy documents that affect Community Association operations, master plans and any other significant documents of the Community Association.

12. Indicate how the public would be protected by regulation of this occupational group?

Within the proposal for licensure, parameters will be established for enforcement procedures should a complaint be validated against a manager. Penalties up to and including fines, suspension or loss of the license, could be handed down by a hearing panel comprised of industry peers (or by means of an appointed Board or Commission).

No statutes pertaining to Common Interest Communities, including the Colorado Common Interest Ownership Act (CCIOA CRS 38.33.3), SB05-100, SB06-89, etc., currently provide for any type of enforcement mechanisms. In addition, no legislation or statutes currently regulate the management of Common Interest Communities in Colorado. As a result, any complaints levied against Community Managers may only be addressed in the following ways:

- a) complaints may be forwarded to management company leadership, which may or may not take action;**
- b) legal action may be brought against the Community Manager by the Community Association or a homeowner. If the infraction is not deemed serious enough and the associated costs are high, often no action is taken;**
- c) ignore steps a or b, and the Community Association will change management companies; or**
- e) no action is taken.**

Volunteer Board members or homeowners also have the option of filing a complaint with the National Board of Commissioners of Community Association Management (NBC-CAM). The down side of this option is that the majority of volunteer Boards and certainly even a larger percentage of homeowners are not aware of this option. Complaints are filed at a national level rather than with the State. Furthermore, currently this option may only



be utilized in complaints against Community Managers who voluntarily hold the CMCA credential.

With the enactment of the proposal of licensure, for the first time, definable steps are included so that action can be taken against any Community Manager for infractions that may put an Association at risk.

13. Within the usual practice of this occupation, document the physical, emotional or financial harm to clients resulting from failure to provide appropriate service, or erroneous or incompetent service. Give specific, verifiable examples.

PLEASE SEE ATTACHED APPENDIX FOR INITIAL BACKGROUND DOCUMENTATION PERTAINING TO THE FOLLOWING EXAMPLES

Mismanagement/Bad Practices:

- A. Manager worked with the Board on a contract to replace roofs at a condominium community with approximately 175 homes. Contract for approximately \$750,000 was signed by the manager. At no time was the financial condition of the association reviewed to ensure that the Association was adequately funded so payment for the work could be made, which they were not. Manager was ignoring situation while work continued until lawsuit was threatened. Due to the lack of adequate financial review on the part of the manager, it put the Association at financial risk and also threatened the viability of a company who was not being paid for the work done.
- B. Management Company steered an association, and their attorney, down an overly aggressive path for foreclosure against a property regarding late fees associated with a trashcan violation, despite the fact that the owner was paying the monthly dues. The property eventually sold in foreclosure, the owner lost the tenants that were in the property, and the case settled. The entire situation could have been avoided had the manager directed the attorney to communicate with the owner.
- C. Charging fees against an owner's account which are excessive for transferring files for collection to an attorney. This places a larger financial burden on the owner in addition to the past due account.
- D. Assessing fees in an association not built out against unoccupied units. Management charged their regular fee based on the number of homes in the Community, which is standard practice. When it was discovered that an entire building that was bank owned was part of the Community, management demanded that the association pay for increased fees based on the number of home in the unoccupied building.



- E. Management Company advocates their associations pursue foreclosures for every single delinquency regardless of the amount.**

Failure to Perform:

- A. Management Company did not conduct background checks and hired someone who had been in jail for embezzlement.**
- B. Manager did not secure a background check when retaining a controller and the controller for the association had a record of embezzlement.**
- C. Board fires the current manager. A resident then forms a management company and takes on the responsibility of management. The manager fails to follow the corporate formalities and for example uses association funds to provide meals for the Board at nearly every meeting in a restaurant. Owners eventually stand up to the actions of the manager and the Board hires a different manager. The association is currently in litigation with the former manager regarding payment of fees and monies owed, the manager believes he is owed money and the association is claiming they are owed a substantial sum of money.**
- D. Management Company failed to do much of anything while the developer was in control of the Community. Board meetings were not held. Reserves were not created. Management Company is fired and transitions very few documents. The developer who was in control of the association, allegedly mismanaged funds and left the association with little resources and left the state. The association wrote off the monies taken, as the cost of collection was too great and the chance of collection small.**

Missing Funds:

- A. Portico: The board gave the onsite manager a debit card and she spent \$308,000 (mostly at Black Hawk).**
- B. Vista Management: The management company accountant stole \$720,000 over a three year period from various associations.**
- C. A Vail Management Company was infiltrated by the Russian Mafia and significant dollars were stolen. Three associations, insured by Travelers, lost about \$100,000 each. Three other associations, insured by Farmers, suffered the same fate. Of these six associations, only two had insurance coverage, through Travelers, for computer fraud and wire transfers. The remaining four uncovered in these two areas.**

Accounting Failures:

The following are examples of practices experienced in Common Interest Communities with non-credentialed Managers:

- A. Checking or savings accounts with only one signature necessary to open, close, transfer, freeze or empty an association checking or savings account with board member signature authority.
 - B. Checking or savings accounts with only one signature necessary to open, close, transfer, freeze or empty an association checking or savings account with an HOA Manager with signature authority.
 - C. Accounts payable with no supporting documentation (invoices, contracts, etc) explaining what the expenditure was for. Payees that are not traceable
 - D. Invoices that do not match the disbursement amount
 - E. Unrecorded and undocumented expenses (expenses not shown on the financial statement but reflected in the bank statement)
 - F. Unreconciled financial statements. Financial statements that do not include the bank statement
 - G. Accounts receivable ledgers (owner payment ledgers) with undocumented miscellaneous charges or unsubstantiated charges.
 - H. Accounts receivable ledgers (owner payment ledgers) with late charges not supported by a delinquency policy or inconsistent with that policy
 - I. In the case where an association purchases preprinted checks, missing groups of undocumented checks.
 - J. Payment from reserves for operating costs
 - K. Unreconciled petty cash funds
14. Do clients have access to this occupational group directly, or are they referred by members of another occupational group.

Yes. Community Association Managers and their staff have direct contact with property owners. Sometimes a "help" center (managed by the Community Association Manager) is available to assist property owners with questions and concerns. Contact is typically made by phone, e-mail, regular mail or by appointment at the management office. It is common that 24/7 assistance is available for emergencies. Due to the nature of many of the calls, Community Managers are responding to property owners for repairs, regarding communications and possible emergencies. It is important that property owners have access to their Community Association Manager or assistant and that responses are given in a timely manner.

Contact can also be made by third parties or other occupational groups such as landscapers, plumbers, painters, etc. Frequently, vendors are on-site providing contracted services to property owners. Often, this involves



informal or formal communication regarding the contracted work or information regarding a property owner. The Community Association Manger will frequently be involved in these interactions.

15. Does the current lack of regulation of this group make its practitioners ineligible for third party insurance payments or federal grants?

No.

16. Describe the minimum competencies necessary to enter this occupation.

At the present time, anyone showing an interest in Community Association Management can hold themselves out as a Manager. There are no current entry level education requirements or background checks and someone with absolutely no knowledge of association management can “hang their shingle” and call themselves a Manager in Colorado.

This proposal for licensure would raise the bar on the profession and in turn protect Community Associations, property owners, residents and volunteer Boards by requiring a person interested in becoming a manager to obtain licensure.

Proposed minimum competencies would be:

- **Must be at least 18 years old;**
- **Hold at least a High School diploma;**
- **Shall not have been convicted of a felony within the past 10 years;**
- **Shall have demonstrated knowledge of the fundamentals of Common Interest Community (CIC) management as evidenced by passage of the CMCA exam;**
- **Shall have demonstrated knowledge of the laws of Colorado that govern CIC's specifically: CCIOA and the Nonprofit Act as evidenced by passage of an exam;**
- **Shall agree in writing to abide by a standard of professional conduct; and**
- **Shall not have failed to cooperate with any law enforcement or regulatory agency in any investigation of any law enforcement or regulatory investigation.**

Initial Licensure Application

- Existing managers would have twelve months to fully comply with the provisions of the Act; and
- Managers holding the CMCA or PCAM certification when the Act becomes effective would not be required to re-certify but would be required to follow all other requirements within a twelve month period.

Length of Licensure Term: Two years

17. List institutions, program titles and contact information for such programs offering accredited and nonaccredited programs in Colorado to prepare practitioners for entry into this occupation. What is the cost of completing these programs? If programs are not available in Colorado, what is the cost of out-of-state programs? If no formal training or education is required, how does the practitioner learn the occupation?

Community Associations Institute (CAI) offers education programs around the world for the practice of Community Association Management.

Community Associations Institute (CAI)

www.caionline.org OR (888) 224-4321

OVERVIEW

The Professional Management Development Program (PMDP) consists of three levels of courses designed to give new managers a knowledge base and experienced managers a deeper understanding of all aspects of association management. Courses focus on such topics as insurance, finance, leadership, governance, communications and maintenance.

The skills and contacts made in this program can help maintain a competitive edge and increase earning potential. Earning professional designations in community management starts with the PMDP—and can result in higher salaries, respect from clients, and a bright future in a growing field.

Associations are looking for qualified, knowledgeable professionals to advise and manage their communities.

CORE PROGRAM— The Core PMDP Program includes seven courses with a total of 88 hours of learning plus a two-day case study. Following is a listing of each course. Course summary content is listed below.



1. **M-100: The Essentials of Community Association Management (online and classroom)**
(16 hours)
Classroom in Colorado: December 1-3, 2011, March 8-10, 2012, June 21-23, 2012 and December 6-8, 2012.
2. **M-201: Facilities Management (online and classroom)**
(10 hours)
3. **M-202: Association Communications**
(10 hours)
Classroom in Colorado: October 20-21, 2011
4. **M-203: Community Leadership**
(10 hours)
Classroom in Colorado: August 16-17, 2012
5. **M-204: Community Governance**
(14 hours)
Classroom in Colorado: May 31-June, 2012
6. **M-205: Risk Management (online and classroom)**
(14 hours)
Classroom in Colorado: February 9-10, 2012
7. **M-206: Financial Management (online and classroom)**
(14 hours)
Classroom in Colorado: October 18-19, 2012

PCAM Case Study

Classroom in Colorado: October 13-14, 2011 and September 20-21, 2012.

CORE PROGRAM COURSE DESCRIPTIONS

1. **M-100: The Essentials of Community Association Management - Seminar**
(16 hours)
This course is a comprehensive community association management course that provides a practical overview for new managers, an essential review for veteran managers, and an advanced course for board members. It's available as a 2 1/2 day seminar, an online course,

or a home-study course.

The Essentials of Community Association Management covers:

- The legal documents and statutes that enable a community to operate;
- Roles and responsibilities of managers, owners, committees, and the board;
- Management ethics for professional community association managers;
- Steps for developing and enforcing community association rules;
- Manager's role in organizing, assisting, and conducting board meetings;
- Manager's role in preparing the budget and funding reserves;
- Effective assessment collections policies and procedures;
- Remedies available for collecting delinquent payments from owners;
- Overview of financial statements, reporting methods, and operations;
- Characteristics of an effective risk management and insurance program;
- Methods for implementing and evaluating a maintenance program;
- Criteria for deciding whether to use association staff or contract work out;
- How to prepare a bid request or RFP and key contract provisions;
- Recruiting, screening, selecting, and managing personnel; and
- Basic areas of employment addressed by federal, state, and local law.

**2. M-201: Facilities Management
(10 hours)**

This course will teach how to more effectively preserve and enhance your association's property. Hear proven strategies on maintaining an association's physical assets and learn how to contract for specific needs. Gain tips for disaster and evacuation planning - knowledge that is essential for a well-prepared manager.

Facilities Management provides a hands-on approach to help analyze, evaluate, communicate, and plan for property maintenance. Benefits of this knowledge will provide an increased understanding of the various types of maintenance - routine, previous, emergency, corrective, and scheduled. An association will save valuable time and money when there is focus on each of these specific forms of maintenance and take the necessary actions required. This course covers:

- Inspect physical assets;

- Evaluate existing maintenance programs and management controls;
- Analyze a maintenance contract for weaknesses;
- Oversee maintenance of common areas using checklists and reports;
- Make maintenance requests and recommendations to the board;
- Identify the basic elements for a disaster plan;
- Prepare a request for proposal, including bid specifications;
- Review bid proposals;
- Monitor fulfillment of a contract; and
- Interpret and invoke contract warranties as necessary.

**3. M-202: Association Communications
(10 hours)**

One of the most essential skills in community association management is communications. Whether through written materials, daily interaction with residents, or dealing with board members, effective communication can greatly affect the outcome of your efforts. *Association Communications* will give guidance on top-notch communication techniques. This course can benefit new and experienced managers by providing the skills necessary to better understand owners and volunteers. Using community's letters and reports, there is opportunity to demonstrate new communication skills in the classroom, know how to better serve the needs of your community. This course covers:

- Implement proven association strategies;
- Teach staff the basics of good customer service;
- Identify owners' needs and respond effectively and quickly;
- Respond to complaints and handle angry owners;
- Manage public relations crises;
- Prepare effective annual meeting notices, management reports, and rule violation letters; and
- Write a readable, informative newsletter.

Interactive exercises include: role playing to respond to upset owners; group problem solving to deal with public relations crises; and in-class feedback on annual meeting notices, management reports, and newsletters.

**4. M-203: Community Leadership
(10 hours)**

Community Leadership is one of the building blocks of successful community association management. This course will teach how to work with board leaders, achieve management goals, and set a more positive tone for the whole community.

By preparing and organizing the board to do its job, a manager's job will be better prepared. Become better prepared to assist volunteer leaders and create an organized community operation. Practice techniques to run efficient, legal, business-like meetings and elections. Take this course to understand how to gain cooperation from board leaders and volunteers.

This course addresses:

- **Cut costs but not services;**
- **Make meetings shorter, more focused;**
- **Get more cooperation from volunteers;**
- **Take the stress out of meetings, elections, record keeping, and more;**
- **Motivate board and committee members to do their jobs;**
- **Help your board create, recruit, and motivate winning committees;**
- **Develop election procedures everyone will follow;**
- **Outline solutions for typical problem situations at meetings;**
- **Use an action-item list for management control;**
- **Lay out your community association's calendar of significant dates; and**
- **Organize records for retention purpose.**

**5. M-204: Community Governance
(12 hours)**

***Community Governance* begins where *The Essentials of Community Association Management (M-100)* left off. It helps master one of the most important aspects of successful association management - governance. In this course on the legal basis of community rules, policies, and procedures, a better grasp will be gained on board and management responsibilities. Learn how to steer clear of problems and give the board and owners the support and advice they need. Using community documents, learn how to spot potential problems, how to revise policies and procedures to comply with current laws, and how to recommend management practices. This course provides an understanding of a community association as a legal entity and clarifies the corporate, contractual, and ethical basis for a manager's role in community governance.**

This course will teach:

- **When to use an attorney;**
- **What the governing documents require;**
- **When a document amendment may be necessary;**

- Statutes and case law that affect community management;
- How to distinguish the corporate roles of community association boards, committees, and managers;
- How the management contract affects and protects the manager and the association;
- How to tell when you're legally acting as an agent;
- Which situations could lead to conflict of interest or unethical decisions;
- How to avoid common problems when developing and enforcing rules;
- How to revise existing rules and develop new ones; and
- How to enforce architectural rules.

6. Risk Management (12 hours)

Skills and knowledge in the area of risk management can make a significant difference on how a community fares when there is an insurance claim. With property coverage as the primary example, participants will see how to identify an association's current risk management situation and how to respond to those issues needing immediate attention.

This course will instruct how to:

- Research and assess an association's exposure to loss;
- Conduct an inventory of an association's current risk management situation;
- Identify an association's possible loss exposures;
- Recognize and respond to loss exposures that require immediate attention;
- Review alternative risk management techniques;
- Help your board select the right risk management techniques for your community;
- Develop an insurance request for proposal;
- Manage the insurance claims process; and
- Monitor and improve an association's risk management program.

7. M-206: Financial Management (12 hours)

Financial Management teaches managers how to analyze, manage, and develop an association budget. Understanding and applying the principles of financial management to community associations can make all the difference to a community association. Developing and adhering to a budget is a vital aspect of a manager's job. This two-day course will better prepare a manager to address, analyze, and report on association finances. See how the budget development process works,



from the identification of items and their importance through budget approval.

This course will instruct how to:

- Develop budget line items using zero-base budgeting and historical trend budgeting;
- Transform budget development into a financial planning process;
- Reconcile budget revenues and expenses—balance the budget;
- Recognize and analyze an association's various financial reports and records;
- Present financial reports to the board of directors in a professional and logical manner;
- Use budgets and financial reports as management and decision making tools;
- Create a budget using historical trends;
- Identify the level of service for an association budget;
- Understand replacement reserves and basic investment principles; and
- Assess the benefits of accrual and fund accounting for community associations.

PCAM Case Study

The Case Study is a comprehensive examination of an actual community association, combining classroom instruction with an extensive on-site inspection. Explore a community's profile in depth and meet with the community's manager, board of directors, and other key personnel.

A final narrative Case Study paper, covering the skills acquired in the PMDP courses, is due within 30 days of completing the Case Study.

Successful completion of the Case Study is the final step toward professional recognition as a PCAM designee.

ADVANCED/ SPECIALTY COURSE-WORK - These eight courses are advanced level coursework for the experienced community manager or community specializing their practice in a specific area of community association management. Each course consists of 14 hours of learning.

1. M-310: Management Company Administration (14 hours)

This course provides executive-level managers and CEOs with an opportunity to learn from their peers and improve efficiency and effectiveness. Learn how to market services, manage and train staff, and develop additional sources of income. This course will



explain the fundamentals of organizational theory that will help in setting up a management office and management systems.

**2. M-320: High-Rise Maintenance and Management
(14 hours)**

This course provides an in-depth analysis of the physical elements of a high-rise building. This course is designed for community managers wanting to have a 'hands-on' walk-through of a central plant, roof, and recreational amenities. Construction and operation details of a high-rise building are covered in this advanced level program. The class will visit a high-rise building, see major systems in operation, and will discuss maintenance operations and procedures with building staff.

**3. M-330: Advanced Insurance and Risk Management
(14 hours)**

This course, a follow-up to *Risk Management (M-205)*, is an in-depth examination of insurance and risk management issues. This course will allow for opportunities to evaluate properties, review inspection reports used by insurance companies, and study insurance policy details. Discover the importance of a variety of insurance coverages including workers' compensation, fidelity bonds/crime coverage, professional liability for managers, directors and officers coverage, and equipment and property coverage.

**4. M-340: Managing the Large-Scale Association
(14 hours)**

This on-site course examines the special needs of large-scale associations and gives you tips on how to meet these needs. Explore the relationships between large-scale associations and municipalities and between master associations and sub-associations. Learn to recognize open, commercial, and residential types of property. For this course, a large-scale association is defined as one that has more than 750 lots or units and an annual budget in excess of \$1 million

**5. M-350: Manager and the Law
(14 hours)**

Classroom in Colorado: May 17-18, 2012

This course is a follow-up to *Community Governance (M-204)*. Gain the opportunity to review cases pertinent to community associations, understand how the legal system works and review the anatomy of a case step by step. Learn about how the law affects managers and their day-to-day operations. Discover



realistic ways to deal with the challenges these laws and regulations create on the job.

**6. M-360: Leadership Practices in Building Community
(14 hours)**

Learn how to create a more cooperative, smoother running community in this course based on the most popular conference presentation in CAI's history. An experienced PMDP faculty member will teach you how to help your association become a more 'people-oriented' community. You'll gain the skills and techniques to use the latest management strategies as you learn to shift your focus from function to service. Discover how to give your homeowners more than they expect and look forward to better relations within the community as well as increased job satisfaction and career growth.

**7. M-370: Managing Developing Communities
(14 hours)**

Equip yourself with the necessary tools for managing a community undergoing transition. This course explores the various issues and challenges associated with managing developing communities.

This course will instruct on how to:

- discuss the initial stage for designing and creating successful communities;
- learn how to develop initial budgets and manage finances through transition;
- review the transition process after transfer of control to the owners;
- examine the importance of education, operational turnover, risk management; and
- discuss the challenges associated with transition and association and developer expectations.

**8. M-400: Contemporary Issues in Community Association Management
(14 hours)**

This course covers current issues that impact professional managers and the communities they manage. Topics vary and cover issues such as fair housing policy and practices, advanced company management, employment trends and effective recruitment strategies, or managing green communities. The course is offered in conjunction with CAI's national conferences



and will be an invaluable addition to your professional development.

INDUSTRY NOTE: In other states that have regulated managers, a cottage industry of education providers has arisen which helps to lower costs and provides diverse educational opportunities.

18. Is there an examination currently used to measure qualifications for entry? If so, who constructs and administers the examination? Please submit documentation on the validity and reliability of such exams.

The Certified Manager of Community Associations (CMCA) examination is recognized worldwide as an effective assessment of practical understanding of the body of knowledge required for an early career community association manager. The CMCA examination is administered by the National Board of Certification for Community Association Managers (www.nbccam.org) in cooperation with a third party testing agency.

The CMCA examination is an internationally developed standardized examination which has been validated by a recognized professional testing firm, approved by the NBC-CAM Board, and administered by an independent, recognized testing agency (HumRRO). It is a three-hour multiple choice exam consisting of 120 questions and is offered in paper and pencil format via computer based testing at over 1,000 test sites.

NBC-CAM adheres to a process of test development that helps to demonstrate that an examination is "content valid." Content validity is a critical characteristic that helps to assure the effectiveness of a test, as well as its legal defensibility. It is a process that helps assure that a test measures what it is supposed to measure and excludes material that is irrelevant or trivial. The contents of the examination are based on a study of related job requirements that is updated regularly. The current occupational analysis study identified 114 relevant tasks organized into eight categories: Association Administration, Community Governance, Financial Management, Risk Management and Insurance, Facilities management, Human Resource Management, and Communications Management. It also identified 72 knowledges that are required for successful performance of the tasks. In addition to the 100 scored test items, each CMCA Examination includes 20 items that are included on an experimental basis. These "pilot test" items are new or substantially revised items that we want to test before incorporating them on new versions of the



test as operational (i.e., scored) items. The examination uses the Angoff method for scoring and rating content validity. The CMCA examination is approved by the National Commission for Certifying Agencies (NCCA) – www.ncca.org

As noted above, we propose that the CMCA examination and associated CMCA credential be utilized as the required “license” in Colorado.

19. Is this occupational group affiliated with an association which sets and enforces standards? If so, please explain the process and standards.

Yes. The CMCA (Certified Manager of Community Associations) program is the only national certification program designed exclusively for condominium, cooperative and community association managers. The CMCA recognizes professionals who have demonstrated the fundamental knowledge needed to manage community associations.

However, there is no mandate for the CMCA to be the requirement for becoming a practitioner in the industry in Colorado. There are professional management firms that require this minimum standard in Colorado in order to work within that firm.

Once an individual passes the CMCA examination, they may earn their CMCA certification by attesting to adhere to CMCA Standards of Professional and Ethical Standards.



The National Board of Certification for Community Association Managers (NBC-CAM) develops and enforces the CMCA Standards of Professional Conduct.

CMCA Standards of Professional Conduct: A Certified Manager of Community Associations (CMCA®) shall:

Be knowledgeable, act, and encourage clients to act in accordance with any and all federal, state, and local laws applicable to community association management and operations.

Be knowledgeable, comply and encourage clients to comply with the applicable governing documents, policies and procedures of the Client Association(s) to the extent permitted by that Client.

Not knowingly misrepresent material facts, make inaccurate statements or act in any fraudulent manner while representing Client Association(s) or acting as a CMCA.

Not provide legal advice to Client Association(s) or any of its members, or otherwise engage in the unlicensed practice of law.

Promptly disclose to Client Association(s) any actual or potential conflicts of interest that may involve the manager.

Refuse to accept any form of gratuity or other remuneration from individuals or companies that could be viewed as an improper inducement to influence the manager.

Participate in continuing professional education and satisfy all requirements to maintain the CMCA.

Act in a manner consistent with his/her fiduciary duty. Conduct themselves in a professional manner at all times when acting in the scope of their employment in accordance with the terms and conditions of their contractual agreement and in accordance with local, state and federal laws.

Recognize the original records, files and books held by the manager are the property of the Client Associations to be returned to the Client at the end of the manager's engagement and maintain the duty of confidentiality to all current and former clients.

A violation of any of these Standards of Professional Conduct may be grounds for administrative action and possible revocation of the CMCA certification by the National Board of Certification for Community Association Managers.

Enforcement of the Standards of Professional Conduct

In order to maintain and enhance the credibility of the NBC-CAM certification program, the Board has adopted procedures to allow consumers and others to



bring complaints concerning a CMCA to the Board. In the event of a violation of the Standards of Professional Conduct, or of other substantive requirements of the certification process by a Certificant, the Board may impose sanctions against the Certificant. The grounds for sanctions under these procedures are as follows:

1. Conviction of a felony or other crime of moral turpitude under federal or state law in a manner related to the practice of, or qualifications for, professional activity;
2. Gross negligence or willful misconduct in the performance of professional services, or other unethical or unprofessional conduct based on demonstrable violations of the NBC-CAM Standards of Professional Conduct;
3. Fraud or misrepresentation in the application for or the maintenance of any professional membership, professional accreditation, or other professional recognition or credential; or
4. Loss of a state license required to practice community association management.

Additional information can be found at <http://www.nbccam.org/program/standards.cfm>. Standards of Professional Conduct

20. What federal, Colorado state, county, or local laws currently apply to the practice of this occupational group? Please provide copies of the relevant statutes, ordinances and rules.

There is one primary state statute that regulates Community Associations in Colorado: the Colorado Common Interest Ownership Act (CCIOA), which is found in CRS 38-33.3, *et. seq.* In addition to CCIOA, managers of common interest communities must have a working knowledge of the Colorado Revised Nonprofit Corporation Act since the vast majority of common interest communities are non-profit corporations. In addition, there are also a broad variety of State laws that affect the operation of Associations: State Insurance, labor, land use, foreclosure, debt collection, and many other relevant municipal laws.



In addition to state laws, managers of common interest communities must have a working knowledge of federal law and regulations which include: the Americans with Disabilities Act, the Federal Fair Housing Amendments Act, the Telecommunications Act of 1996, the FCC's Over-the-Air Receptions Devices Rule, HUD regulations on Fair Housing and becoming certified for FHA-backed loans, among other laws and regulations.

Generally, a properly qualified community manager knows which laws apply to the Associations or knows when to refer a question to a qualified attorney. However, the challenge is that not all Community Managers are consistently and properly educated and trained. As a result, it's difficult for them to spot legal issues of significance.

As a helpful reference point, following is an outline of the general hierarchy of Common Interest Community (CIC) laws and governing documents:

- o Federal and State Laws—(Constitutions, Federal and State, and State and Federal statutes i.e., CCIOA)**
- o Governing documents**
 - The Declaration (Declaration of Covenants, Conditions and Restrictions or CCR's)**
 - Map or plat of the Community**
 - Articles of Incorporation**
 - Bylaws**
 - Rules and Regulations, Architectural Guidelines and Association Policies and Procedures**

21. What type of private credentialing is or could be available as an alternative to government regulation?

The CMCA credential is available, however, so few managers have voluntarily sought this designation that it has not had a significant impact of protecting homeowners and their Community Association. More importantly, while a manager may have been stripped of these designations there is no mandate in Colorado to stop the manager from being employed in the State. Thus, a poor manager or one that has been stripped of credentials due to ethics violation, embezzlement or fraud or some egregious act can be employed in Colorado.

The Association of Professional Community Managers (APCM) provides the most comprehensive, expert education courses for community managers seeking to increase their skills, knowledge, and job opportunities and is offered only through CAI-National.



The Professional Management Development Program (PMDP) consists of three levels of courses designed to give new managers a knowledge base and experienced managers a deeper understanding of all aspects of association management. Courses focus on such topics as insurance, finance, leadership, governance, and communications.

Following the CMCA program noted above, the next credential is the AMS (Association Management Specialist). The manager must have two (2) years verified experience in financial, administrative, and facilities management of at least one association; successful completion of the M-100 course: The Essentials of Community Association Management (either classroom or home study/online format); successfully complete at least one M-200 series course (M-201 - M-206); successfully passed the CMCA exam administered by NBC-CAM; complete the application; pay the application fee; Member: \$150 (Individual Manager Membership) Nonmember: \$250; pay annual maintenance fees (due in August of each year); Member: \$75 (Individual Manager Membership) Nonmember: \$175; Re-designate every three years in August and meet continuing education requirements; Comply with the CAI Professional Code of Ethics.

The Professional Community Association Manager (PCAM) designation is the pinnacle of community association management. The PCAM designation is the highest professional recognition available nationwide to managers who specialize in community association management. Five years of direct community association management experience and successful completion of the PMDP M-100 and all six M-200 level programs (with the last PMDP course completed within the past five years); successfully passed the CMCA examination administered by NBC-CAM; Earn a minimum total of 125 points on the PCAM application, including: A minimum of 55 points in Section II, a maximum of 20 points is allowed for Professional Designations or Licenses; a maximum of 30 points is allowed for Formal Education; complete the PCAM application; complete the Case Study within one year. Submit the nonrefundable application fee with the PCAM application; Member: \$195 (Individual Manager Membership) Nonmember: \$295; pay annual maintenance fees (due in August of each year); Member: \$150 (Individual Manager Membership) Nonmember: \$250; Re-designate every three years in August and meet continuing education requirements; and comply with the CAI Professional Manager Code of Ethics.

22. If the occupational group has been deregulated (sunsetting) by the General Assembly, and the applicant is requesting re-regulation, the applicant should provide documentation on harm to consumers since deregulation that necessitates re-regulation by the state.

N/A



23. If the occupational group is a former applicant re-submitting a sunrise application, please include updated information that will substantiate the request for regulation.

N/A

24. Is mandatory continuing education part of the proposed regulation? If yes, you must complete an application for mandatory continuing education, which is available from the Office of Policy, Research and Regulatory Reform.

Yes it is. Please see attached form.

25. In how many other states is the occupation regulated? Please complete the following table. In addition to completing the table below, following is a helpful link to information on the states that currently have manager regulation:
<http://www.caionline.org/govt/managerlicensing/Pages/default.aspx>

State	Regulation		Comments
	Yes	No	
Alabama			
Alaska	X		
Arizona			
Arkansas			
California	X		
Colorado			
Connecticut	X		
Delaware			
Florida	X		
Georgia	X		
Hawaii			
Idaho			
Illinois	X		
Indiana			
Iowa			
Kansas			
Kentucky	X		
Louisiana			
Maine			
Maryland			
Massachusetts			
Michigan			
Minnesota			
Mississippi			
Missouri			
Montana			
Nebraska			
Nevada	X		
New Hampshire			
New Jersey			
New Mexico			
New York			
North Carolina			
North Dakota			
Ohio			
Oklahoma			
Oregon			
Pennsylvania			
Rhode Island			
South Carolina			
South Dakota			
Tennessee			
Texas			
Utah			

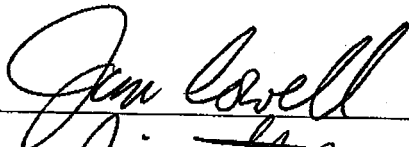
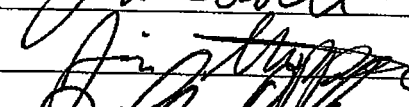

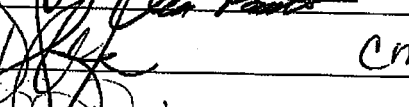
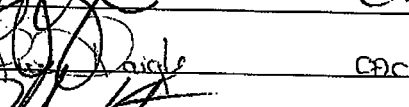
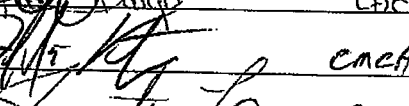
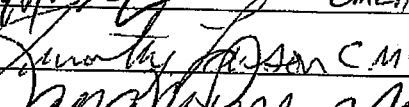
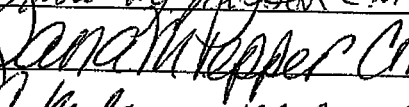
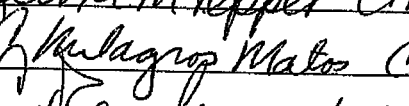
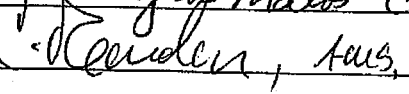


Vermont			
Virginia	X		
Washington			
West Virginia			
Wisconsin			
Wyoming			

The District of Columbia also has a version of manager regulation.

Note: Inquiries regarding sunrise applications may be made to the Department of Regulatory Agencies at (303) 894-2992.

Signatures in support of the regulation of _____

1.  CMCA PCAM
2.  CMCA PCAM
3.  PCAM
4.  CMCA, PCAM
5.  CMCA, AMS, PCAM
6.  CMCA, PCAM
7.  CMCA, PCAM
8.  CMCA, PCAM
9.  CMCA, PCAM
10.  AMS, CMCA, PCAM



Dora
Department of Regulatory Agencies

Executive Director's Office
Barbara J. Kelley
Executive Director

John W.
Hickenlooper
Governor

MANDATORY CONTINUING EDUCATION APPLICATION

Any group or association proposing a mandatory continuing education requirement for any occupation or profession the practice of which requires a State of Colorado license, certificate or registration must submit the information requested below to the Department of Regulatory Agencies' Office of Policy, Research and Regulatory Reform. Once the application is complete, the Department will issue a report that analyzes and evaluates the proposal within 45 days.

The application should be typed and dated. The burden of proving the need for mandatory continuing education is on the applicant. The more thoroughly the applicant can substantiate the need for mandatory continuing education, the easier it will be for the application to be reviewed. The application should be sent to:

Colorado Department of Regulatory Agencies
Office of Policy, Research and Regulatory Reform
1560 Broadway, Suite 1550
Denver, CO 80202

Please respond to the following questions in the order provided.

1. The name, address and telephone number of the group or association proposing mandatory continuing education.

Rocky Mountain Chapter of the Community Associations Institute (RMC-CAI)
333 South Allison Parkway, Suite 204
Lakewood, CO 80226
Scott Hall, Executive Director
303.951.4973
scott@hoa-colorado.org

Southern Colorado Chapter of the Community Associations Institute (CAI-SOCO)
P.O. Box 60628
Colorado Springs, Colorado 80960
Jan Mangum, Executive Director
105 East Moreno Avenue, 2nd Floor Colorado Springs, CO 80903

1560 Broadway, Suite 1550
Fax 303.894.7885

Denver, CO 80202
www.dora.state.co.us

Phone 303.894.7855
V/TDD 711



(719) 264-0301
Jan@caisoco.org
Legislative Division of (RMC-CAI)

Colorado Legislative Action Committee
333 South Allison Parkway, Suite 204
Lakewood, CO 80226
Molly Foley-Healy, Esq. Chairperson
Winzenburg Leff Purvis & Payne LLP
1660 Lincoln Street, Suite 1550
Denver, Co 80204
303.863.1870
Mfoley-healy@wlpplaw.com

2. The name, address, telephone number and organizational affiliation of the person(s) designated to represent the applicant.

Chris Pacetti, PCAM®
Executive Director
Ken-Caryl Ranch Master Association
7676 South Continental Divide Road
Littleton, CO 80127
(303) 979-1876 x 116
ChrisP@KCRANCH.ORG
Co-Chair, Colorado Legislative Action Committee (CLAC) Licensing Task Force
Community Associations Institute (CAI)

Dee Wolfe, CMCA® & PCAM®
Colorado Association Services, AAMC®
14142 Denver West Parkway, Suite 350
Lakewood, CO 80401
(303) 232-9200
dwolfe@associacolorado.com
Co-Chair, Colorado Legislative Action Committee (CLAC) Licensing Task Force
Rocky Mountain Chapter of the Community Associations Institute

3. For which professional or occupational group does the applicant seek to require mandatory continuing education? What is the name of the agency that regulates this profession or occupation?

The occupational group is known by several names:

- **Homeowner Association Managers**
- **Community Association Managers**
- **Association Business Managers**
- **Common Interest Community Association Managers**
- **Property Managers (in it's broadest terminology)**

4. Provide any information that shows that the knowledge base for the profession or occupation is changing.

The CMCA Examination content is the result of extensive and regular surveys of the survey and the specific knowledge, skills and abilities that the survey participants identified for the knowledge areas. The body of knowledge of a community association manager changes regularly with changes in the housing environment and changes in local laws. It is important for community association managers to remain up-to-date on current laws, trends and best practices to effectively serve their clients. (see attached document with the current body of knowledge).

5. Provide copies of any independent studies that show that mandatory continuing education is effective in assuring the competency of practitioners of this profession or occupation.

We have not found any independent studies; however, we gathered the following information through interviews with government officials in states with community association management licensure programs.

Virginia - There have been studies performed for Virginia regulatory boards; however the studies were not officially commissioned. It is the experience of the Common Interest Community Manager Board executive director, Trisha Henshaw, that an agency will not recommend the inclusion of continuing education because the impact on enforcement action.

Florida - Anthony Spivey, executive director for the Florida Council of Community Association Managers has experienced a correlation between continuing education and complaints. The more education required of managers, the less likely complaints will be filed against them. Tony feels the required continuing education for Florida Licensed Community Association Managers has helped them to be aware of the ever-changing Florida law. Currently, Florida is analyzing their complaints and will create specialized education based on the results.

Nevada - Nevada does require their managers to complete continuing education in specific knowledge areas, such as legal issues. Nevada has a commission that reviews and approves courses for continuing education.

Marilyn Brainard, Nevada Commissioner for the Common Interest Community Manager Commission, feels the NV legislation is often substantively changed, meaning the community association managers need to keep abreast of statute changes. This creates a system for practitioners to be knowledgeable of new laws.

Marilyn believes there is a correlation between continuing education and complaints - fewer complaints with adequate continuing education requirements.

6. Provide any assessment tools that show the effectiveness of mandatory continuing education

We have not found specific assessment tools that demonstrate the effectiveness of mandatory continuing education.

7. Provide information as to what types of sanctions should imposed upon members of the profession or occupation for noncompliance with the requirement of mandatory continuing education.

The first chart (Chart 1 – please see attached) illustrates noncompliance with mandatory continuing education in the community association management profession. The second chart (Chart 2 – please see attached) illustrates sanctions for noncompliance of mandatory continuing education requirements for a few professions in Colorado.

- **Chart 1: Attached is a chart displaying the sanctions for failing to complete continuing education requirements and the continuing education requirements for reinstatement. Each state, with the exception of Georgia, is hyperlinked to the appropriate regulations so you may see the full text, if necessary. Georgia is linked to the Real Estate Commission's Real Estate Continuing Education Requirements and not the appropriate regulation, because the statutes are listed on LexisNexis making it difficult to directly link to the statute. The language in the chart has been slightly paraphrased, so refer to the regulation and its section number to see the full text, including references to particular sections. Please note Illinois and Virginia are not included in this chart because the continuing education requirements are being determined. There are no continuing education requirements for Connecticut.**
 - **Chart 2: Attached is a chart of three professions regulated by the Department of Regulatory Agencies. For your reference, underneath the profession titles are the sanctions for failing to comply with continuing education requirements.**
8. Provide information on whether other states require this profession or occupation to complete mandatory continuing education. Please include the number of hours required in each state; the time period in which these hours must be completed; the subject areas in which credit is given; and whether courses or instructors are approved by the regulating entity.

If the requirement is for a real estate license, the required coursework is real estate transaction. If the license is for a community association manager, the required coursework is specific to community association management.

	Yes	No				Yes	No	Yes	No
New Jersey									
New York									
North Dakota									
Oklahoma									
Pennsylvania									
South Carolina									
Tennessee									
Utah									
Virginia									
West Virginia									
Wyoming									

Note: Inquiries regarding mandatory continuing education applications may be made to the Department of Regulatory Agencies at (303) 894-2992. |

	Yes	No			Yes	No	Yes	No	
Alaska	X				Limited Associate Real Estate Broker License	X		X	www.dced.state.ak.us/oc/pub/RE/Credulations.pdf
Arkansas									
Colorado									
Delaware									
Georgia	X		4 hours as a pre-requisite of approved coursework and 24	4 years Which must include state law specific		X		X	www.orec.state.ga.us/orec/recam.html State mandated license

Chart 1: Below is a chart displaying the sanctions for failing to complete continuing education requirements and the continuing education requirements for reinstatement. Each state, with the exception of Georgia, is hyperlinked to the appropriate regulations so you may see the full text, if necessary. Georgia is linked to the Real Estate Commission's Real Estate Continuing Education Requirements and not the appropriate regulation, because the statutes are listed on LexisNexis making it difficult to directly link to the statute. The language in the chart has been slightly paraphrased, so refer to the regulation and its section number to see the full text, including references to particular sections. Please note Illinois and Virginia are not included in this chart because the continuing education requirements are being determined. There are no continuing education requirements for Connecticut.

	Alaska	District of Columbia	Florida	Georgia	Nevada
Sanctions for failing to abide by education requirements	08.88.095. If a licensee fails to complete the educational requirements within the one-year period, the license automatically lapses 30 days after the end of the one-year period. However, the commission may reinstate the license.	2605.7-8. An applicant for the renewal of a license who fails to submit proof of having completed the continuing education requirements by or before the expiration date may renew the license within 60 days after expiration by submitting proof pursuant to of this section and by paying the required late fee. Upon renewal, the Commission will deem the applicant to have possessed a valid license during the period between the expiration of the license and its renewal. If an applicant for the renewal of a license fails to submit proof of completion of continuing education requirements within 60 days after the expiration of the applicant's license, the license shall be deemed to have lapsed on the date of expiration, and the applicant shall be required to apply for reinstatement of the expired license.	61E14-4.001. No license shall be renewed unless the licensee has completed the required continuing education during the preceding licensing period.	43-40-8. Failure to complete any of the educational requirements as shall be grounds for denial of a license or denial of renewal of a license without further hearing. No fees or portion of fees paid shall be refunded if a licensee fails to meet the continuing education provisions.	116A.140. If the holder of a certificate fails to complete the required hours of continuing education or fails to file an application for the renewal of the certificate before it expires, the holder may not engage in the management of a common-interest community until the certificate is reinstated.

<p>Reinstatement</p>	<p>08.88.241-242. A person whose real estate license has lapsed less than 24 months is eligible for reinstatement of the license if the person provides the required application, license fees, proof of continuing education for licensing periods during which the license was inactive or lapsed, proof of completion of the educational, if applicable, and any fee required.</p> <p>A real estate licensee whose license has been lapsed for more than 24 months is not eligible for reinstatement of the license and is eligible for the license only by meeting the qualifications applicable to initial licensure.</p>	<p>2605.7. An applicant for renewal of an expired license or reinstatement of a suspended or revoked real estate broker's, real estate salesperson's, or property manager's license which was suspended or revoked, shall submit proof of having completed all continuing education credits that the applicant would have been required to take per licensing cycle if the applicant's license had not been revoked, suspended, or expired.</p>	<p>61E14-4.004. As a condition for reactivating an inactive or delinquent license, an inactive status licensee shall be required to satisfactorily complete ten classroom hours of continuing education instruction of 50 minutes each for each year or any portion of a year the license was inactive. Two hours shall consist of the legal update seminar for the year in which the licensee is reactivating. The remaining hours of reactivation continuing education may be in any of the areas described in Rule 61E14-4.001, F.A.C., as appropriate.</p> <p>Notwithstanding the above section, no inactive status licensee shall be required to satisfactorily complete more than 20 classroom hours of continuing education, at least 50% of which must have been completed within the year prior to application for reactivation, in order to reactivate a license. An inactive licensee must take the two most recent legal update courses prior to reactivation.</p>	<p>43-40-8. No licensee whose license has been placed on inactive status shall be allowed to reactivate unless the continuing education provisions are met.</p>	<p>116A.145 1,4. A certificate holder whose certificate is on inactive status for a period of more than 1 year and who wishes to reinstate the certificate must submit an application to the Division on a form prescribed by the Division.</p> <p>(Among other things the certificate holder must provide)....documentation that the applicant possesses the education required pursuant to <u>NAC 116A.140</u>;</p> <p>If a certificate has not been renewed for a period that exceeds one year past its expiration date, an applicant must reapply for certification.</p>
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Chart 2: Below is a chart of three professions regulated by the Department of Regulatory Agencies. For your reference, underneath the profession titles are the sanctions for failing to comply with continuing education requirements.

	Real Estate Brokers	Insurance Producers (agents)	Electricians
Sanctions	<p>The Commission Update Course is a requirement for all active licensees. If you fail to complete these courses during each renewal cycle, and/or you fail to complete the additional hours of elective continuing education during a renewal period, you may be found delinquent on a continuing education random audit and assessed a fine under the license law.</p> <p>If you miss one of the Commission Update Courses during a license period, you may correct the delinquency by one of the following alternative methods of completing your full continuing education requirement:</p> <ol style="list-style-type: none"> Take and pass the Colorado part of the Broker examination. Once in your life, complete the 24-hour Brokerage Administration course. Once in your life, complete the 24-hour Broker Transition course. Complete 48-hours in Colorado Contracts & Regulations AND 24-hours in Real Estate Closings. Total = 72 hours <p>Continuing education delinquencies are enforced by random audit, and are generally disciplined by fines ranging from \$250 to \$600 depending on the severity of the delinquency and when the delinquent hours are made up.</p>	<p>Any person who fails to comply with the requirements of this section, or is found after a hearing before the division to have submitted a false or fraudulent certificate of compliance to the commissioner, shall have his or her license suspended until such person satisfactorily demonstrates to the commissioner that all of the requirements of this section, and any other applicable licensing requirement or other statute, has been met.</p>	<p>On or after January 1, 2011, the department shall not renew a license unless the applicant has demonstrated competency through an assessment of competency, which may be performed by private entities in accordance with rules promulgated by the board. Any person whose license has expired shall be subject to the penalties provided in this article or section 24-34-102 (8), C.R.S.</p> <p>24-34-102 (8)(c) The director shall allow for a grace period for licenses, certificates, and registrations from licensing boards or commissions within the division of registrations. A licensee, registrant, or certificate holder shall have a sixty-day grace period after the expiration of his or her license, registration, or certificate to renew such license, registration, or certificate without the imposition of a disciplinary sanction for practicing on an expired license, registration, or certificate by the director, licensing board, or commission for such profession. The licensee, registrant, or certificate holder shall satisfy all renewal requirements pursuant to the applicable practice act and shall pay a delinquency fee</p>



Dora
Department of Regulatory Agencies

Office of Policy, Research and Regulatory Reform

**2012 Sunrise Review:
Common Interest Community
Association Managers**

March 2, 2012





Dora
Department of Regulatory Agencies

Executive Director's Office

Barbara J. Kelley
Executive Director

John W. Hickenlooper
Governor

March 2, 2012

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunrise reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed its evaluation of the sunrise application for regulation of common interest community association managers and is pleased to submit this written report. The report is submitted pursuant to section 24-34-104.1, Colorado Revised Statutes, which provides that DORA shall conduct an analysis and evaluation of proposed regulation to determine whether the public needs, and would benefit from, regulation.

The report discusses the question of whether there is a need for regulation in order to protect the public from potential harm, whether regulation would serve to mitigate the potential harm, and whether the public can be adequately protected by other means in a more cost-effective manner.

Sincerely,

Barbara J. Kelley
Executive Director



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Background

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection – only those individuals who are properly licensed may use a particular title(s) – and practice exclusivity – only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements – typically non-practice related items, such as insurance or the use of a disclosure form – and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency – depending upon the prescribed preconditions for use of the protected title(s) – and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

Sunrise Process

Colorado law, section 24-34-104.1, Colorado Revised Statutes (C.R.S.), requires that individuals or groups proposing legislation to regulate any occupation or profession first submit information to the Department of Regulatory Agencies (DORA) for the purposes of a sunrise review. The intent of the law is to impose regulation on occupations and professions only when it is necessary to protect the public health, safety or welfare. DORA must prepare a report evaluating the justification for regulation based upon the criteria contained in the sunrise statute:¹

- (I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
- (II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence; and
- (III) Whether the public can be adequately protected by other means in a more cost-effective manner.

Any professional or occupational group or organization, any individual, or any other interested party may submit an application for the regulation of an unregulated occupation or profession. Applications must be accompanied by supporting signatures and must include a description of the proposed regulation and justification for such regulation.

Methodology

DORA has completed its evaluation of the proposal for regulation of common interest community association managers (community managers). During the sunrise review process, DORA performed a literature search, contacted and interviewed representatives of the applicant, reviewed licensure laws in other states, received comments from and interviewed citizens/homeowners, and interviewed representatives of associations who frequently interact with community managers. In order to determine the number and types of complaints filed against community managers in Colorado, DORA contacted and received information from the Colorado Division of Real Estate and the Colorado Civil Rights Division. To better understand the practice of community managers, DORA staff observed community managers in a variety of settings.

¹ § 24-34-104.1(4)(b), C.R.S.

Profile of the Profession

Common interest community association managers (community managers) are frequently also known as:

- Homeowner association managers;
- Community association managers;
- Association business managers; and
- Property managers.

To understand the tasks performed by community managers, it is first necessary to understand the context in which they work.

A common interest community is defined as,

real estate described in a declaration with respect to which a person, by virtue of such person's ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in a declaration. Ownership of a unit does not include holding a leasehold interest in a unit of less than 40 years, including renewal options.²

Common interest communities vary considerably in size and complexity. Some common examples include condominium complexes or buildings and covenant-controlled communities of single-family homes.

A common interest community association (community association) is a legal entity created to govern and operate a particular common interest community. Some common examples include homeowners' associations or condominium owners' associations.

Like the communities they govern, community associations vary in size and complexity. A community association may cover only two properties, such as a townhouse, or it may cover many thousands of properties, such as in a planned community. In larger developments, a community association may contain sub-associations, each one of which is a community association in its own right. They can also contain commercial properties, in addition to residential properties.

In general, the owners of the properties within the geographical boundaries of the community association are members of the community association. They generally pay dues for the operation of the community association. They also elect a board of directors to govern the community association. In general, one need only be a member of the community association to be elected to the board of directors.

² § 38-33.3-103(8), C.R.S.

In addition to any applicable laws, community associations are governed by their own, individual governing documents, such as declarations, covenants and bylaws, to which all members, at least tacitly, agree to abide when they purchase a property within the community association.

Regardless of the size or complexity of the community association, there are many day-to-day operational needs of such an association. They can include:

- Recordkeeping, such as taking and keeping minutes of the meetings of the board of directors, filing any necessary corporate reports, maintaining financial records, and maintaining homeowner files;
- Bookkeeping, such as receiving, recording and depositing dues payments, keeping track of delinquencies, monitoring operational and reserve accounts, paying taxes and vendors, and preparing financial statements;
- Maintenance and enforcement, such as inspecting the community for maintenance needs and for compliance with community association-approved standards (i.e., holiday displays/decorations, painting, architectural modifications, and landscaping);
- Securing necessary services, such as trash removal, snow removal, landscape care and maintenance, and routine maintenance; and
- Participating in the transfer of property, such as providing buyers and their lenders with governing documents, status letters and other documents necessary to close on a real estate transaction.

To assist in the day-to-day operations of running the community association, the board of directors has several options. It may choose to “self-manage.” This can take several forms and can consist of something as simple as a community member(s) volunteering to perform some or all of the above-enumerated duties, or it can consist of directly employing staff to perform these duties.

A common alternative to self-management is to contract with an individual community manager or with a community association management company (management company), which may, in turn, employ community managers. In this type of arrangement, the contract between the community association and the management company enumerates the responsibilities of the management company, which generally include the above-enumerated duties of the community association.

In addition, the management company will typically assign a single community manager to work with a community association. Typically, the community manager works closely with the board of directors to ensure that the needs of the community are satisfied.

Depending on the structure of the management company, the community manager may, or other staff may, perform many of the aforementioned duties. Typical duties that are performed by other staff include bookkeeping and the maintenance of the community association's financial records, as well as the preparation of documents necessary for the transfer of real estate.

Typical duties that the community manager may perform personally include inspecting the community for maintenance needs and compliance with community association-approved standards, supervising maintenance activities, securing bids for the provision of services, interacting with homeowners as a representative of the community association, attending board meetings, presenting financial statements at board meetings, and providing advice to board members.

Very often, the community manager becomes the face of the community association and many community members have a difficult time distinguishing between the two.

Community Associations Institute (CAI) is an international organization that purports to be "dedicated to fostering vibrant, competent, harmonious community associations," the members of which include members of community association boards of directors and other volunteer leaders, community managers, management companies and other professionals and companies that provide products and services to community associations.³

CAI offers four types of credentials to community managers:⁴

- Certified Manager of Community Associations (CMCA);
- Association Management Specialist (AMS);
- Professional Community Association Manager (PCAM); and
- Large-Scale Manager (LSM).

³ Community Associations Institute. *About Us: Building Better Communities*. Retrieved January 16, 2012, from www.caionline.org/about/Pages/default.aspx

⁴ Community Associations Institute. *CAI Designations – For New and Experienced Community Managers*. Retrieved January 16, 2012, from www.caionline.org/career/designations/Pages/managers.aspx

To obtain the CMCA credential, a candidate must successfully complete CAI's "The Essentials of Community Association Management" or "M-100" course,⁵ which covers:⁶

- The legal documents and statutes that enable a community association to operate;
- Roles and responsibilities of managers, owners, committees and the board of directors;
- Management ethics for professional community managers;
- Steps for developing and enforcing community association rules;
- Community manager's role in organizing, assisting, and conducting board meetings, and in preparing budgets and funding reserves;
- Effective assessment collections policies and procedures;
- Remedies available for collecting delinquent payments from owners;
- Overview of financial statements, reporting methods, and operations;
- Characteristics of an effective risk management and insurance program;
- Methods for implementing and evaluating a maintenance program;
- Criteria for deciding whether to use association staff or contract work out;
- How to prepare a bid request and key contract provisions;
- Recruiting, screening, selecting and managing personnel; and
- Basic areas of employment addressed by federal, state and local law.

A candidate may complete the M-100 course by attending a seminar, taking the course online or via home study. In 2012, the two and a half-day seminar will be offered in Colorado three times: twice in Denver and once in Colorado Springs. The cost of the seminar is \$445 for CAI members and \$545 for non-members.⁷

Candidates opting to complete the course online must do so within 90 days of beginning the course. The cost of the online course is \$395 for CAI members and \$445 for non-members.⁸

⁵ Community Associations Institute. *CAI Designations – For New and Experienced Community Managers*. Retrieved January 16, 2012, from www.caionline.org/career/designations/Pages/managers.aspx

⁶ Community Associations Institute. *M-100: The Essentials of Community Association Management – Seminar*. Retrieved November 14, 2011, from www.caionline.org/events/managers/pmdp/Pages/M100.aspx

⁷ Community Associations Institute. *M-100: The Essentials of Community Association Management – Seminar*. Retrieved November 14, 2011, from www.caionline.org/events/managers/pmdp/Pages/M100.aspx

⁸ Community Associations Institute. *M-100 Online: The Essentials of Community Association Management*. Retrieved November 14, 2011, from www.caionline.org/events/managers/pmdp/Pages/M100OL.aspx

Candidates opting to complete the course via home study must do so within 90 days of ordering the course. The cost of the home study course is \$345 for CAI members and \$395 for non-members.⁹

Successful completion of the M-100 course also requires the candidate to pass a 90-minute, multiple-choice examination.¹⁰

Candidates for the CMCA credential must also complete the CMCA examination,¹¹ which is owned by the National Board of Certification for Community Association Managers (NBC-CAM). The CMCA examination is a three-hour, 120 question multiple-choice examination covering the following topics in the indicated percentages:¹²

- Meetings (11 percent);
- Governance and legal issues (22 percent);
- Budgets, reserves, investments and assessments (15 percent);
- Financial controls (12 percent);
- Risk management and insurance (10 percent);
- Property maintenance (8 percent);
- Contracting (14 percent); and
- Human resources management (8 percent).

NBC-CAM has contracted with Laser Grade for administration of the CMCA examination,¹³ and Laser Grade maintains six test centers in Colorado: Centennial, Fort Collins, Colorado Springs, Pueblo, Grand Junction and Durango.¹⁴

The cost of the CMCA examination is \$300 for candidates who take the computer-based version and \$250 for those who take the pencil and paper version.¹⁵

⁹ Community Associations Institute. *M-100 Home Study: The Essentials of Community Association Management*. Retrieved November 14, 2011, from www.caionline.org/events/managers/pmdp/Pages/M100HS.aspx

¹⁰ Community Associations Institute. *M-100: The Essentials of Community Association Management – Seminar*. Retrieved November 14, 2011, from www.caionline.org/events/managers/pmdp/Pages/M100.aspx

¹¹ Community Associations Institute. *CAI Designations – For New and Experienced Community Managers*. Retrieved January 16, 2012, from www.caionline.org/career/designations/Pages/managers.aspx

¹² *CMCA Handbook*, NBC-CAM, 7th Edition (2010), p. 16.

¹³ *CMCA Handbook*, NBC-CAM, 7th Edition (2010), p. 11.

¹⁴ Laser Grade. *Nearest Testing Centers*. Retrieved November 14, 2011, from www.lasergrade.com/cgi/locatepsi.cgi

¹⁵ *CMCA Handbook*, NBC-CAM, 7th Edition (2010), p. 10.

To obtain the AMS credential, a candidate must have:¹⁶

- Successfully completed the M-100 course and at least one M-200 series course;
- Passed the CMCA examination;
- Obtained two years of experience in financial, administrative, and facilities management of at least one community association; and
- Paid the fee of \$150 for CAI members and \$250 for non-members.

To obtain the PCAM credential, a candidate must have:¹⁷

- Successfully completed the M-100 course and all six of the M-200 series courses;
- Passed the CMCA examination;
- Obtained five years of direct community association management experience;
- Completed a comprehensive “case study” exercise; and
- Paid the fee of \$195 for CAI members and \$295 for non-members.

To obtain the LSM credential, a candidate must have, among other things, obtained the PCAM credential and be the manager of a large-scale community (a single, contiguous community association with an on-site, full-time community manager; at least 1,000 units or 1,000 acres; and an annual operating budget of at least \$2 million). The fee for the LSM credential is \$95 for CAI members and \$195 for non-members.¹⁸

¹⁶ Community Associations Institute. *CAI Designations – For New and Experienced Community Managers*. Retrieved January 16, 2012, from www.caionline.org/career/designations/Pages/managers.aspx

¹⁷ Community Associations Institute. *CAI Designations – For New and Experienced Community Managers*. Retrieved January 16, 2012, from www.caionline.org/career/designations/Pages/managers.aspx

¹⁸ Community Associations Institute. *CAI Designations – For New and Experienced Community Managers*. Retrieved January 16, 2012, from www.caionline.org/career/designations/Pages/managers.aspx

To maintain these credentials, CAI requires that individuals pay annual fees and adhere to its Standards of Professional Conduct which require CMCA credential holders to:¹⁹

- Be knowledgeable of, act, and encourage clients to act in accordance with any and all federal, state and local laws applicable to community association management and operation;
- Be knowledgeable of, comply and encourage clients to comply with the applicable governing documents, policies and procedures of the client association to the extent permitted by that client;
- Not knowingly misrepresent material facts, make inaccurate statements or act in any fraudulent manner while representing client community associations or acting as a CMCA;
- Not provide legal advice to client community associations or any of their members, or otherwise engage in the unlicensed practice of law;
- Refuse to accept any form of gratuity or other remuneration from individuals or companies that could be viewed as an improper inducement to influence the community manager;
- Promptly disclose to client community associations any actual or potential conflicts of interest that may involve the community manager;
- Participate in continuing professional education and satisfy all requirements to maintain the CMCA;
- Act in a manner consistent with his or her fiduciary duty;
- Conduct themselves in a professional manner at all times when acting in the scope of employment, in accordance with the terms and conditions of any contractual agreements and in accordance with local, state and federal laws;
- Recognize that the original records, files and books held by the community manager are the property of the client community association to be returned to the client at the end of the community manager's engagement; and
- Maintain the duty of confidentiality to all current and former client community associations.

¹⁹ Colorado Legislative Action Committee Licensing Task Force of Community Associations Institute, *Sunrise Application*, November 4, 2011, p. 30.

Proposal for Regulation

The Colorado Legislative Action Committee Licensing Task Force of Community Associations Institute (Applicant) has submitted a sunrise application to the Department of Regulatory Agencies (DORA) for review in accordance with the provisions of section 24-34-104.1, Colorado Revised Statutes (C.R.S.). The application identifies state licensure of common interest community association managers (community managers) as the appropriate level of regulation to protect the public.

The Applicant's proposal would require that candidates for licensure possess the Certified Manager of Community Associations (CMCA) credential²⁰ and:²¹

- Be at least 18 years old;
- Hold at least a high school diploma;
- Demonstrate knowledge of Colorado's laws governing common interest communities, such as the Colorado Revised Nonprofit Corporation Act and the Colorado Common Interest Ownership Act; and
- Agree to abide by a standard of professional conduct.

Additionally, the Applicant proposes excluding from licensure those who have been convicted of a felony within the previous 10 years and those who have failed to cooperate with any law enforcement or regulatory agency in any investigation of any law enforcement or regulatory investigation.²²

Community managers who currently hold the CMCA or Professional Community Association Manager certifications would not be required to re-certify as such, but would be required to comply with all other licensing requirements.²³

To maintain a community manager license, the Applicant further proposes that licensees be required to obtain continuing professional education. However, the Applicant does not specify the number of hours or the types of continuing education that should be mandated.

²⁰ Colorado Legislative Action Committee Licensing Task Force of Community Associations Institute, *Sunrise Application*, November 4, 2011, p. 11.

²¹ Colorado Legislative Action Committee Licensing Task Force of Community Associations Institute, *Sunrise Application*, November 4, 2011, p. 18.

²² Colorado Legislative Action Committee Licensing Task Force of Community Associations Institute, *Sunrise Application*, November 4, 2011, p. 18.

²³ Colorado Legislative Action Committee Licensing Task Force of Community Associations Institute, *Sunrise Application*, November 4, 2011, p. 19.

Rather than proposing sanctions for failure to obtain the mandated continuing education, the Applicant provides examples of the sanctions in other states as well as those pertaining to three other professions currently regulated in Colorado. These examples, generally, consist of non-renewal of the license until such time as the continuing education requirement is fulfilled.²⁴

Finally, the Applicant proposes a unique scheme whereby the National Board of Certification for Community Association Managers (NBC-CAM), a private entity, would administer the licensing process under the auspices of the Colorado Division of Real Estate (DRE). All fees would be determined and payable to NBC-CAM. However, the DRE would have the authority to investigate complaints and to take disciplinary action.²⁵

²⁴ Colorado Legislative Action Committee Licensing Task Force of Community Associations Institute, *Mandatory Continuing Education Application*, November 4, 2011, Chart 1.

²⁵ Colorado Legislative Action Committee Community Associations Institute, *Licensure of Common Interest Community Association Managers: A White Paper*, Working Draft, November 2011, pp. 6-8.

Summary of Current Regulation

The Colorado Regulatory Environment

Common interest community association managers (community managers) are not regulated in Colorado, not at the local, state or federal levels.

However, the common interest community associations (community associations) with which they contract are subject to a variety of Colorado laws, including, but not limited to:

- The Colorado Revised Nonprofit Corporation Act (CRNCA);
- The Condominium Ownership Act (COA); and
- The Colorado Common Interest Ownership Act (CCIOA).

Most community associations are nonprofit corporations, and as such, are subject to the provisions of the CRNCA. In general, CRNCA addresses topics such as:

- Incorporation;²⁶
- Purposes and powers;²⁷
- Members and membership;²⁸
- Members' meetings and voting;²⁹
- Directors and officers;³⁰ and
- Records, information and reports.³¹

As its title implies, COA's applicability is limited to condominiums, and, in general, enumerates the required contents of a condominium association's declarations and bylaws.³² However, COA's applicability is further limited to those condominium associations created prior to July 1, 1992.³³ Condominium associations created after this date are subject to the provisions of CCIOA.

CCIOA is a complex law, the applicability of which can be difficult to determine. Applicability is, in most cases, predicated on the date on which a community association was created, with July 1, 1992 being a key date.

²⁶ § 7-122-101, *et seq.*, C.R.S.

²⁷ § 7-123-101, *et seq.*, C.R.S.

²⁸ § 7-126-101, *et seq.*, C.R.S.

²⁹ § 7-127-101, *et seq.*, C.R.S.

³⁰ § 7-128-101, *et seq.*, C.R.S.

³¹ § 7-136-101, *et seq.*, C.R.S.

³² §§ 38-33-105.5 and 38-33-106, C.R.S.

³³ § 38-33.3-115, C.R.S.

However, many of CCIOA's more substantive provisions apply to all community associations, regardless of the date of creation.³⁴ Some examples include:

- Definitions of key terms;³⁵
- Remedies;³⁶
- The construction and validity of community association declarations and bylaws;³⁷
- Required public disclosures, including budgets, financial statements, certain information relating to insurance policies, bylaws, rules and regulations, the name of the community association's community manager, and the minutes of board meetings;³⁸
- The imposition of responsible governance policies, including the requirement to maintain accurate and complete accounting records and the adoption of policies concerning collection of unpaid assessments, handling of conflicts of interest involving board members, enforcement of covenants and rules (including notice and hearing procedures), inspection and copying of community association records by community members, investment of reserve funds and procedures for addressing disputes between the community association and community members;³⁹ and
- The powers of a community association, including the power to adopt and amend bylaws and rules, to adopt budgets, to collect assessments, to hire and terminate managers and other contractors, to make contracts and incur liabilities, to impose charges for late payment of assessments, and recover attorney fees and other legal costs.⁴⁰

Importantly, community managers are subject to CCIOA to the same extent as their community association clients. A community association's contract with a community manager is terminable for cause without penalty to the community association.⁴¹

³⁴ § 38-33.3-117, C.R.S.

³⁵ § 38-33.3-103, C.R.S.

³⁶ § 38-33.3-114, C.R.S.

³⁷ § 38-33.3-203, C.R.S.

³⁸ § 38-33.3-209.4, C.R.S.

³⁹ § 38-33.3-209.5, C.R.S.

⁴⁰ § 38-33.3-302(1), C.R.S.

⁴¹ § 38-33.3-302(3), C.R.S.

CCIOA also requires community associations organized under CCIOA to register with the Colorado Division of Real Estate (DRE).⁴² Within the DRE is the HOA Information and Resource Center (HOA Information Office), the head of which is the HOA Information Officer.⁴³ The HOA Information Officer is tasked with acting as a clearing house for information concerning the basic rights and duties of owners under CCIOA, as well as tracking community association-related inquiries and complaints.⁴⁴ Neither the HOA Information Office nor the HOA Information Officer has any investigatory or enforcement authority.

Indeed, none of these laws is enforced by any state entity. Rather, community members who desire to enforce a provision of any of them, must bring suit in civil court.

Finally, though not related to the governance of a community association, there are other laws with which community associations must comply, and with which community managers must be familiar, including laws covering insurance, labor, land use, foreclosure, debt collections and anti-discrimination.

Regulation in Other States

At least eight states regulate community managers: Alaska, California, Connecticut, Florida, Georgia, Illinois, Nevada and Virginia.

Most of these states require some combination of education and the passage of an examination prior to obtaining a license, though the amount of education varies considerably from one state to the next.

Alaska requires community managers to be licensed as real estate brokers. As such, the level of education and the examination required depends upon the type of real estate broker license held by the individual.

California requires candidates to obtain 30 hours of pre-licensure education and to pass a knowledge, skills and aptitude examination.

Connecticut requires community managers to maintain a separate fidelity bond for each community association the community manager manages. The bond must cover the maximum amount of funds that will be in the custody of the community manager at any time.

⁴² § 38-33.3-401, C.R.S.

⁴³ § 12-61-406.5(1), C.R.S.

⁴⁴ § 12-61-406.5(3), C.R.S.

Florida requires candidates to have a criminal history background check completed, complete 18 hours of education and pass an examination. Florida also requires the completion of 20 hours of continuing education every two years.

In Georgia, in addition to passing an examination, a candidate must complete either a 25-hour course or complete four quarter hours, or two semester hours, of course work that is eligible for a major in real estate. Additionally, licensed community managers must be covered by a fidelity bond or fidelity insurance. Georgia also requires the completion of 24 hours of continuing education every four years.

Illinois requires candidates to complete 20 hours of education, pass an examination and be of good moral character. Additionally, licensed community managers must have fidelity insurance.

Nevada requires candidates to complete either 60 hours of education or possess four years of active experience in community management, and passage of a fingerprint-based criminal history background check. Nevada also requires the completion of 18 hours of continuing education every two years.

Virginia has several paths to licensure:

- Possession of the Certified Manager of Community Associations credential;
- Possession of the Association Management Specialist credential;
- Possession of the Professional Community Association Manager credential; or
- Completion of a 16-hour training course.

In addition, Virginia requires two years of experience and requires licensees to have a fidelity bond of at least \$10,000.

Although the scope of practice of community managers varies from state to state, some common elements include:

- Performing duties for compensation;
- Providing financial services, such as the preparation of budgets and financial statements, and receiving and collecting dues;
- Contracting for maintenance or repair operations, and insurance;
- Supervising the day-to-day operations of the community association; and
- Assisting in the conduct of community association meetings.

The grounds for discipline also vary from state to state, but some common examples include:

- Committing deeds of dishonesty;
- Having criminal convictions;
- Failing to account for or remit community association funds;
- Commingling funds; and
- Failing to complete any required continuing education.

Analysis and Recommendations

Public Harm

The first sunrise criterion asks:

Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument.

This criterion implies that regulation is only justified if the public is being harmed in the absence of regulation, or if the potential for harm is clear.

What constitutes harm must be evaluated on a case-by-case basis in each sunrise review. In the present review, given the scope of what common interest community association managers (community managers) do, harm can reasonably be expected to take the form of financial harm and the less tangible, infringement of rights of owners.

One challenge in looking for and analyzing the examples of harm during this sunrise review arose from the fact that it is often difficult to distinguish between the actions of a common interest community association's (community association's) board of directors, which are not the subject of this sunrise review, and the community managers with which they contract, which are the subject of this sunrise review.

To determine whether harm is occurring, the Department of Regulatory Agencies (DORA) requests that sunrise applicants submit examples of harm as part of the sunrise application process. Additionally, DORA independently sought such examples through research and contacts made during the course of this sunrise review. Further, DORA received information from the Colorado Division of Real Estate (DRE) and the Colorado Civil Rights Division (CCRD).

The sunrise application submitted by the Colorado Legislative Action Committee Licensing Task Force of Community Associations Institute (Applicant) contains general information related to 13 examples of harm. The application breaks harm into four somewhat overlapping categories: mismanagement/bad practices; failure to perform; missing funds; and accounting failures. The level of detail provided is minimal.

Representatives of DORA proactively sought examples of harm and also received citizen comments via email, in-person meetings, and telephone calls. DORA received input from approximately 70 individuals, including property owners, community managers, attorneys, real estate brokers and representatives of management companies, lenders, and others.

In January 2012, the DRE's HOA Information and Resource Center (HOA Information Office) released its first annual report. Of the 478 complaints the HOA Information Office received between June 2010 and December 2011, 157 (33 percent) were either about the community manager or the community manager was involved.⁴⁵

According to a representative of the HOA Information Office, these complaints, in general, include failure to provide access to community association records (17 percent), aggressive collection and foreclosure practices (6 percent), lack of transparency and poor communication (13 percent), harassment and selective enforcement (19 percent), and the unauthorized practice of law. These proportions track, relatively consistently, with complaints that did not involve a community manager.

DORA also contacted the CCRD. Between fiscal years 09-10 and 10-11, the CCRD closed 25 housing cases involving community associations. Twenty-one of these cases resulted in investigations and the issuance of a letter of determination (LOD), and four settled prior to the issuance of an LOD, so information is of minimal value to this review.

A community manager was a named respondent in all but 4 of the 21 cases actually investigated, but the role the community manager played was clear in only five. In three of those cases, the community manager seemed to have played a positive role. The manager seemed to have played a negative role in two cases.

To present all of these examples in this review, while providing detail, would be somewhat repetitive. Many stories contain multiple and overlapping issues. As a result, the types of harm discovered during this sunrise review are summarized here, in no particular order:

- **Advice to aggressively pursue lien foreclosures.** A community association may obtain a lien on a property when the property owner, for example, fails to pay dues or fines. While these are funds that may be legitimately owed, the liens are a source of considerable discontent, as many believe that community associations pursue this avenue of recourse for sums that are so low that such drastic action appears unjustified. While it is the community association that determines whether to obtain a lien, many contend that community managers play a large role in advising community associations as to whether to pursue this course, or other, more "customer friendly" routes. This type of harm can be both financial (for the community association and the property owner) and can result in a property owner losing his or her home.

⁴⁵ 2011 Annual Report of the HOA Information and Resource Center, Colorado Division of Real Estate, p. 13.

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- **Imposing excessive fees.** Management companies/community managers generally charge two types of fees: management fees and duty-specific fees. Management fees are those paid by the community association on a monthly basis, usually based on some combination of the number of units in the community association and the services to be provided. Duty-specific fees are typically paid by individual property owners for specific items, such as a status letter when a property is to be sold or transferred, or copies of community association records. Duty-specific fees can also include extraordinary items to be paid by the community association, such as litigation management (for example, foreclosure proceedings or construction defect proceedings) or project management. While these fees are payable to the management company, they are generally spelled out in the contract between the management company and the community association. During this sunrise review, representatives of DORA heard many stories of “excessive” duty-specific fees (such as \$1,000 fee for a status letter, where the industry norm is approximately \$300), as well as allegations that community managers encourage litigation so as to collect additional fees.
 - **Lack of transparency.** This type of harm takes many forms, some of which are directly attributable to a management company/community manager, and some of which are, allegedly, based on community manager-advice. Examples include failing to hold meetings of the board of directors, failing to provide notice of such meetings, failing to permit property owners to attend or participate in such meetings, failing to provide boards of directors with current and/or accurate financial statements, and failing to permit property owners access to community association records (such as financial statements, board of director meeting minutes, names of vendors, and the like). Unfortunately, where community manager advice is involved, it is not clear whether such advice is predicated on a lack of knowledge of legal requirements, or disregard of those requirements. This type of harm infringes on property owner rights.
 - **Theft of community association funds.** The examples of theft discovered during this sunrise review can be generally categorized as theft by a community manager and theft by a management company back office employee (such as an accountant). Although theft is a crime, and regulation is inherently ill suited to addressing such conduct, absent regulation, even convicted thieves can resume their activities upon release from incarceration. This is true of, for example, a Colorado-licensed real estate broker who had her license revoked for stealing funds from rental property clients, and who immediately opened a management company.

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- **Poor customer service.** Examples of poor customer service include failing to return phone calls, excessive delay in preparing documents necessary for a real estate closing, and being rude to and intimidating property owners. While the delivery of poor customer service is generally not a reason to discipline a licensee in other practices, in the context of community managers, such conduct can infringe on a property owner's ability to sell his or her property or to enjoy that property.
 - **Undisclosed conflicts of interest.** One of the more intriguing examples of undisclosed conflicts of interest discovered during this sunrise review has been characterized by some as a "kickback scheme." One management company in metro Denver receives invoices from at least one vendor, and places its own invoice on top of the vendor invoice, including 100 percent of the cost on the vendor's invoice. The management company then submits this to the community association's board. The community association pays the management company 100 percent of the invoice, but the management company pays only 90 percent of the price listed on the invoices, retaining the remaining 10 percent.
 - **Differing interpretation of community association governing documents.** One of the more contentious issues that arose during this sunrise review pertained to property owners interpreting a community association's governing documents (such as bylaws and covenants) differently than either the board of directors or the community manager. It is not clear what role regulation could play in such disputes, but such disputes appear to be common and the parties passionate.
 - **Mismanagement of community association contracts.** Several stories were heard of community managers/management companies failing to renew insurance policies, or allowing certain insurance coverages, such as hail damage coverage, to lapse. The affected community associations then suffered financial harm when the policies did not cover damage that occurred.
 - **Accounting failures.** Examples of this type of harm are so numerous, it is easiest to simply enumerate them:
 - Community association checking or savings accounts with only one signature (either that of a single board member or of the community manager) necessary to open, close, transfer, freeze or empty such accounts;
 - Accounts payable with no supporting documentation;
 - Invoices that do not match the disbursement account;
 - Unrecorded and undocumented expenses;
 - Unreconciled financial statements;
 - Accounts receivable ledgers with undocumented miscellaneous charges or unsubstantiated charges;

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- Accounts receivable ledgers with late charges not supported by a delinquency policy or inconsistent with that policy;
 - In the case where a community association purchases preprinted checks, missing groups of undocumented checks;
 - Payment from reserves for operating costs; and
 - Unreconciled petty cash funds.

The examples of harm highlighted above are but examples of the types of harm complained of during the course of this sunrise review. Types of harm include:

- Theft of funds;
- Mismanagement of funds;
- Undisclosed conflicts of interest;
- Inadequate accounting and recordkeeping practices; and
- Lack of transparency in terms of board meetings and access to community association records.

That harm occurs is clear. That harm occurs at the hands of community managers is less clear. Many of the instances of harm highlighted above, and heard during the course of this sunrise review, could be attributed to management companies and some of their non-community manager employees, as well as to the community associations themselves.

Need for Regulation

The second sunrise criterion asks:

Whether the public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional or occupational competence.

In short, this criterion asks whether the harm identified above is attributable to a lack of competency.

Of the various types of harm identified above, only three can arguably be attributed to lack of competency, or knowledge of certain legal requirements:

- Undisclosed conflicts of interest;
- Inadequate accounting and recordkeeping practices; and
- Lack of transparency.

The Colorado Common Interest Ownership Act (CCIOA) addresses all of these issues, in one form or another.

An assurance that community managers are aware of the legal requirements imposed upon community associations could serve to enhance consumer protection.

Alternatives to Regulation

The third sunrise criterion asks:

Whether the public can be adequately protected by other means in a more cost-effective manner.

The Applicant has proposed licensing community managers, but the third sunrise criterion demands that DORA explore alternatives. Since licensure is the highest form of regulation, obvious alternatives include certification and registration of community managers.

The Applicant's proposal for licensure, in essence, amounts to little more than a certification program. The Applicant proposes that licensees obtain the CMCA credential and pass an additional examination on Colorado-specific law. Therefore, certification is not actually an alternative.

Registration is not a viable alternative either, since some of the examples of harm illustrated above actually pertain to knowledge of laws or possession of certain skills.

However, an analysis of the harm discovered during this sunrise review suggests that harm can be, and often is, inflicted by management company employees who are not necessarily community managers.

Many of the tasks associated with managing a community association need not, and frequently are not, performed by the community manager personally. Rather, they are performed by other staff. Examples include:

- Accounting;
- Bookkeeping;
- Recordkeeping;
- Preparation of financial statements; and
- Processing accounts receivable and payable.

In a smaller management company, the individual community managers may perform these duties. However, in larger and mid-size management companies, the community manager may be responsible for oversight of these functions, but other employees actually perform these tasks.

Therefore, it is reasonable to explore, as an alternative to licensing community managers, regulating management companies. Regulation of management companies would impose greater accountability for back office functions, such as those enumerated above. Additionally, any regulation could require management companies to ensure that the property managers they employ are properly trained.

Additionally, community associations typically contract with a management company, not an individual community manager. Since so much of what community managers do is driven by the contract, it is logical to regulate the signatory to the contract, rather than an employee of the signatory. This will provide a clear line of accountability.

Thus, all of the types of harm identified earlier in this report could be addressed by imposing responsibility on management companies for the people they employ.

Conclusion

There is no shortage of horror stories related to common interest community living. The media is replete with them, and many were heard during the course of this sunrise review. However, it is often difficult to discern whether these horrors are attributable to the management company, the community manager, the community association's board of directors or individual directors, the individual doing the complaining, or some combination thereof.

The issues at the hearts of these stories can also be difficult to discern. Some arise from community association boards failing to perform their fiduciary duties. Some arise from differing interpretations of community association governing documents or applicable laws. Some arise from poor customer service or poor business practices. Some arise from community association members not fully understanding what it means to live in a community governed by a community association. Finally, of course, some arise from interpersonal conflicts or criminal intent.

Regulation of community managers may address some of these issues, such as knowledge of governing documents, applicable laws and the hierarchy among them. Additionally, regulation of community managers could serve to impose some accountability on community managers and help to ensure that they have a minimum knowledge base.

Proponents also argue that regulation will serve to instill greater professionalism among community managers. While this may have some merit, it is irrelevant to a sunrise analysis, where the focus is on consumer harm, not professional advancement or status.

Importantly, and despite all the horror stories, community managers and community association members are far from unanimous in their support for regulation. Some argue that community association boards of directors, though comprising volunteers with diverse backgrounds, are well equipped to determine their needs and the qualifications of the community managers they hire.

Another primary concern is the cost of regulation. The cost to each community manager will be approximately \$1,000 to comply with the Applicant's proposal for initial licensure, including the cost of the M-100 course, the Certified Manager of Community Associations (CMCA) examination, criminal history background checks, and license and application fees. The fear among many is that these costs will be passed through to client community associations, and this will likely be the case.

However, the typical portfolio for a community manager working for a management company is approximately six to eight community associations. So, the cost to individual community association members should be negligible.

The true cost of regulation, though, may lie in the more theoretical realm of supply and demand. While no one knows for certain how many community managers are working in Colorado today, the Colorado Legislative Action Committee Licensing Task Force of Community Associations Institute (Applicant) estimates the number to be approximately 1,250. There are only 565 community managers who currently hold the CMCA credential. Therefore, approximately half of all community managers in Colorado would either need to obtain the credential or cease business. This can reasonably be expected to drive up the cost of contracting with community managers.

Finally, representatives of DORA heard from many individuals who favor regulation of community managers, management companies, or both, but who oppose the Applicant's proposal. These individuals would prefer to see a regulatory program housed in and operated entirely by a state entity, such as the Colorado Division of Real Estate, as opposed to the Applicant. They further argue that any educational and examination requirements should be established by the regulator; no specific organization or examination should be articulated in statute.

In the end, regulation is justified and widely supported. Given the types of harm identified during the course of this review and the legitimate concerns surrounding the cost of regulation, it is logical to conclude that the best course of action is to regulate management companies.

As such, this recommendation should not be interpreted as an endorsement of the Applicant's proposal. Rather, it is presented as an alternative.

For the most part, community associations contract with management companies, not individual community managers. As such, management companies are ultimately responsible to their client community associations for the acts and omissions of all of their employees, including, but not limited to, community managers. Regulating the management company, therefore, would help to address many of the concerns that arise from the fulfillment of the terms of that contract, such as fees to be assessed and the scope of the work to be performed. The affirmative obligation to employ qualified people, including, but not limited to community managers, should rest with the management company. Regulation of the management companies will provide a clear line of accountability, both to those with whom the management companies contract, and with the regulating entity.

Recommendation – Regulate management companies.





COLORADO

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

**2017 Sunset Review:
Community Association Management
Practice Act**

October 13, 2017



COLORADO

**Department of
Regulatory Agencies**

Executive Director's Office

October 13, 2017

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Since that time, Colorado's sunset process has gained national recognition and is routinely highlighted as a best practice as governments seek to streamline regulation and increase efficiencies.

Section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), directs the Department of Regulatory Agencies to:

- Conduct an analysis of the performance of each division, board or agency or each function scheduled for termination; and
- Submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination.

The Colorado Office of Policy, Research and Regulatory Reform (COPRRR), located within my office, is responsible for fulfilling these statutory mandates. Accordingly, COPRRR has completed the evaluation of the licensing of community association managers. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2018 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Part 10 of Article 61 of Title 12, C.R.S. The report also discusses the effectiveness of the Director of the Division of Real Estate and staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Marguerite Salazar
Executive Director





COLORADO

Department of Regulatory Agencies

Colorado Office of Policy, Research &
Regulatory Reform

2017 Sunset Review Community Association Management Practice Act

SUMMARY

What is regulated?

Community Association Managers oversee the daily business and supervise the maintenance of property and facilities in common interest communities. Community Association Managers also collect monthly fees, prepare financial statements and budgets, negotiate with contractors and help to resolve community complaints.

Why is it regulated?

The laws that govern Community Association Managers, both individuals (Managers) and entities (Management Companies), protect homeowners in common interest communities from abuses, such as theft or mismanagement of funds, inadequate accounting and recordkeeping practices, and lack of transparency in board meetings and association records. Licensing also ensures that Managers have the basic knowledge necessary to provide community association management services.

Who is regulated?

In fiscal year 16-17, the Director of the Division of Real Estate (Director) licensed 1,413 Managers, 70 Apprentices and 471 Management Companies.

How is it regulated?

Community Association Managers must be licensed by the Director. In order to be licensed, an applicant must obtain credentials from the Community Association Managers International Certification Board (CAMICB) or the Community Associations Institute (CAI). In lieu of the credentials from CAMICB or CAI, an applicant may complete 24 hours of education approved by the Director and pass an examination to demonstrate competency. Additionally, all applicants must pass an examination of relevant Colorado laws and submit to a state and national fingerprint-based criminal history record check.

What does it cost?

In fiscal year 16-17, the total expenditures to oversee the program were approximately \$279,175, and there were 2.66 full-time equivalent employees dedicated to the program.

What disciplinary activity is there?

In fiscal year 16-17, the Director issued 12 cease and desist orders to one entity and 11 individuals, issued 8 letters of admonition to individuals, censured two individuals, denied a license to one individual and revoked the license of one individual. The Director also issued seven fines to one entity and six individuals, totaling \$5,750.

KEY RECOMMENDATIONS

Continue the Community Association Management Practice Act for five years, until 2023.

A Community Association Manager oversees the daily business of a common interest community (association), which includes collecting monthly fees, preparing financial statements and budgets, and negotiating with contractors. A Community Association Manager is in a position of power that could easily be abused. Therefore, the General Assembly should continue the licensure of Community Association Managers for five years, until 2023.

Authorize the Director to establish renewal fees for Management Companies.

The licensing of Community Association Managers, like most licensing programs, is cash funded. If Management Companies were paying renewal fees, the cost of regulation would be allocated more fairly.

Amend the supervision requirements for the Apprentice license type.

Many Management Companies find the Apprentice license type to be too restrictive. Rather than requiring direct supervision of licensed Apprentices, the General Assembly should simply require general supervision and clarify that failure to adequately supervise an Apprentice is grounds for discipline.

METHODOLOGY

As part of this review, Colorado Office of Policy, Research and Regulatory Reform staff interviewed Division of Real Estate staff, reviewed records, interviewed officials with professional associations, interviewed other stakeholders, hosted a town hall, surveyed licensed Community Association Managers, reviewed Colorado statutes and rules, and reviewed the laws of other states.

MAJOR CONTACTS MADE DURING THIS REVIEW

American Resort Development Association
Colorado Association of Home Builders
Colorado Association of Realtors
Colorado Civil Rights Division
Colorado Division of Real Estate
Colorado Office of the Attorney General
Colorado HOA Forum
Colorado NAIOP
Community Associations Institute
HOA Owners Advocates

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are prepared by:
Colorado Department of Regulatory Agencies
Colorado Office of Policy, Research and Regulatory Reform
1560 Broadway, Suite 1550, Denver, CO 80202
www.dora.colorado.gov/opr



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Background

Introduction

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

¹ Criteria may be found at § 24-34-104, C.R.S.

-
- Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (i) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification; and
 - Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Types of Regulation

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection - only those individuals who are properly licensed may use a particular title(s) - and practice exclusivity - only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements - typically non-practice related items, such as insurance or the use of a disclosure form - and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency - depending upon the prescribed preconditions for use of the protected title(s) - and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR's website at: www.dora.colorado.gov/opr.

The functions of the Director of the Division of Real Estate (Director and Division, respectively) as enumerated in Part 10 of Article 61 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2018, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the program pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed program to regulate Community Association Managers should be continued and to evaluate the performance of the Director and the staff of the Division. During this review, the Division must demonstrate that the program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, COPRRR staff interviewed Division staff, reviewed records, interviewed officials with professional associations, interviewed other stakeholders, hosted a town hall, surveyed licensed individuals (Managers) and licensed entities (Management Companies), reviewed Colorado statutes and rules, and reviewed the laws of other states.

Profile of the Profession

Community Association Managers work for common interest communities, such as condominiums, co-ops, retirement communities, timeshares and other housing developments.

Condominiums are governed by a homeowner's association (HOA). Single family homes may also be governed by an HOA.²

The primary purpose of an HOA is to maintain community standards in order to assure stable property values. An HOA collects fees to pay for the maintenance of common areas, such as a park, tennis courts, elevators, a swimming pool and a clubhouse. Fees may also pay for services, such as trash collection and snow removal. When an HOA lacks sufficient funds in its budget to pay for repairs, it may impose a special assessment on members in order to cover the additional costs.³ A special assessment may be necessary because of an unexpected event such as hail damage, or it may be necessary because the HOA did not set aside sufficient funds in reserve.

Homeowners automatically become members of an HOA when they purchase property in a community governed by an HOA. Members of an HOA elect a board of directors (executive board) to oversee and enforce the HOA governing documents.⁴ An executive board generally has the authority to enforce HOA rules, levy fines and file lawsuits against homeowners for nonpayment of dues.⁵

In Colorado, approximately 1.9 million residents live in 9,500 communities governed by HOAs.⁶

In addition to residential common interest communities, a common interest community may be reserved entirely for commercial businesses or it may be a mix of residential and commercial units.⁷

An executive board typically hires a Community Association Manager to oversee the daily business and supervise the maintenance of the property and facilities shared by the community. A Community Association Manager also collects monthly fees, prepares

² FindLaw. *What Is a Common-interest Community*. Retrieved on August 3, 2017, from <http://realestate.findlaw.com/owning-a-home/what-is-a-common-interest-community.html>

³ Investopedia. *Homeowner's Association - HOA*. Retrieved on August 3, 2017, from <http://www.investopedia.com/terms/h/hoa.asp>

⁴ Investopedia. *Homeowner's Association - HOA*. Retrieved on August 3, 2017, from <http://www.investopedia.com/terms/h/hoa.asp>

⁵ FindLaw. *What Is a Common-interest Community*. Retrieved on August 3, 2017, from <http://realestate.findlaw.com/owning-a-home/what-is-a-common-interest-community.html>

⁶ Community Associations Institute. *National and State Statistical Review for 2016*. Retrieved on August 3, 2017, from <https://www.caionline.org/AboutCommunityAssociations/Pages/StatisticalInformation.aspx>

⁷ New Jersey Law Blog. *Commercial Condominiums and Common Interest Community Associations*. Retrieved on July 26, 2017, from <http://www.njlawblog.com/2008/07/articles/community-associations/commercial-condominiums-and-common-interest-community-associations/>

financial statements and budgets, negotiates with contractors and helps to resolve community complaints.⁸

In some cases, HOA's rely on volunteers who are members of the community to handle management duties.⁹

Community Association Managers are similar to property or real estate managers, who manage residential, commercial or industrial properties in order to ensure the property is well maintained and preserves its resale or leasing value. Property managers may also handle the financial aspects of income-producing property on behalf of owners, such as collecting rents, paying bills and finding tenants.¹⁰ Property managers must be licensed as real estate brokers, and they are not the subject of this report.

For someone entering the field, there is no specific career track or degree required to become a Community Association Manager. Some companies expect Community Association Managers to learn on the job and others offer formalized classroom education and practical training to newly hired employees.¹¹

Community Association Managers may obtain credentials from one of the following private, professional associations:

- The Community Association Managers International Certification Board (CAMICB), or
- The Community Associations Institute (CAI).

CAMICB offers a Certified Manager of Community Associations credential, and CAI offers the following credentials:

- Association Management Specialist, and
- Professional Community Association Manager.

Community Association Managers, both individuals and entities, are required to be licensed in Colorado, seven other states and the District of Columbia. The qualifications required for licensure vary by state.¹²

⁸ U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved on August 3, 2017, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

⁹ Community Associations Institute. *About Community Associations*. Retrieved on September 5, 2017, from <https://www.caionline.org/AboutCommunityAssociations/Pages/default.aspx>

¹⁰ U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved on August 3, 2017, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

¹¹ First Service Residential. *So You Want to Become a Property Manager or Community Association Manager*. Retrieved on August 14, 2017, from <https://www.fsresidential.com/corporate/news-and-events/articles/so-you-want-to-become-a-property-manager-or-commun>

¹² U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved on August 3, 2017, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

Legal Framework

History of Regulation

In 2012, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) conducted a sunrise review of Community Association Managers and found that although there was clear evidence of harm related to common interest communities (associations), it was often difficult to unravel whether the harm was caused by the individual manager, the management company or the homeowner’s association board of directors (executive board). In the end, COPRRR recommended regulating management companies since doing so would provide a clear line of accountability.

In 2013, the General Assembly enacted House Bill 13-1277, requiring all Community Association Managers, individuals and entities, to obtain a license from the Director of the Division of Real Estate (Director and Division, respectively) as of July 1, 2015.

The following year, the General Assembly passed House Bill 14-1254, which required Community Association Managers to disclose all fees to the executive board that governs an association.

In 2015, the General Assembly amended the law again in order to:

- Clarify the term “community association management,”
- Create a new license type for an Apprentice working under the direct supervision of a licensed manager, and
- Exempt time shares.

Legal Summary

The Director is vested with the authority to regulate Community Association Managers by the Community Association Management Practice Act (Act), located in Part 10 of Article 61 of Title 12, Colorado Revised Statutes (C.R.S.). The Director may promulgate rules to carry out the duties necessitated by the Act.¹³

Any Community Association Manager who is engaged in community association management for compensation must be licensed by the Director.¹⁴

¹³ § 12-61-1002(2), C.R.S.

¹⁴ §§ 12-61-1001(5)(a) and 12-61-1002(1), C.R.S.

Community association management includes any of the following practices:¹⁵

- Acting with the authority of an association in its business, financial, legal or other transactions;
- Executing the resolutions and decisions of the executive board;
- Enforcing the rights of the association secured by statute, contract, covenant, rule or bylaw;
- Administering or coordinating maintenance of the property or facilities of the association;
- Administering applications for architectural review;
- Arranging, conducting or coordinating meetings of the association's membership or executive board;
- Maintaining the association's records pursuant to its governing documents and applicable provisions of the Colorado Common Interest Ownership Act (CCIOA); and
- Administering an association's funds.

However, community association management does not include any clerical, ministerial, accounting or maintenance functions.¹⁶

A Community Association Manager may be an individual (Manager) or an entity (Management Company), who engages in community association management for compensation.¹⁷

A Community Association Manager does not include:¹⁸

- A person who, under the direct supervision of a Manager, performs any clerical, ministerial, accounting, or maintenance functions;
- Any public official conducting official business;
- A receiver, trustee, administrator, conservator, executor or guardian acting under proper authorization;
- An individual or entity who is engaged in acquiring or in negotiating to acquire any interest in real estate;
- An attorney who is practicing law on behalf of his or her clients; or
- A corporation which, through its regularly salaried employees or officers, is engaging in the ordinary course of its business activities which are of a non-property management nature.

An independent contractor who performs any clerical, ministerial, accounting or maintenance functions is also not considered a Community Association Manager as long as he or she is not otherwise engaged in community association management.¹⁹

¹⁵ § 12-61-1001(4)(a), C.R.S.

¹⁶ § 12-61-1001(4)(b), C.R.S.

¹⁷ § 12-61-1001(5)(a), C.R.S.

¹⁸ § 12-61-1001(5)(b), C.R.S.

¹⁹ § 12-61-1001(5)(b)(VI), C.R.S.

The Director has the authority to issue an order to cease and desist to anyone violating the Act or the Director’s rules. The Director may also seek an injunction, a restraining order or any other appropriate order in court.²⁰

The Director may audit business records and accounts of anyone licensed as a Community Association Manager.²¹

Licensure

To qualify for a license, an applicant must be at least 18 years old and have a high-school diploma or an equivalent.²² An applicant must also have one of the following credentials:²³

- A Certified Manager of Community Associations (CMCA) designation from the Community Association Managers International Certification Board;
- The Association Management Specialist (AMS) designation from the Community Associations Institute; or
- The Professional Community Association Manager (PCAM) designation from the Community Associations Institute.

In lieu of the credentials listed above, the Director allows applicants to complete 24 hours of classroom or distance learning instruction and pass courses approved by the Director:²⁴

- Eight hours covering CCIOA, Colorado Revised Nonprofit Act and other applicable provisions of Colorado law;
- Seven hours of financial, risk and facilities management;
- Five hours of governance and legal documents of an association; and
- Four hours of ethics, bid requests and contract provisions.

Additionally, an applicant must pass an examination. The first part, or General Portion, must test the applicant’s competency in carrying out the core functions of community association management. The second part, or the Colorado Portion, must test the applicant’s understanding of the basic provisions of legal documents and Colorado law related to community association management.²⁵

However, an applicant who has a CMCA, AMS or PCAM credential and has maintained the credential in good standing is not required to pass the General Portion of the examination.²⁶

²⁰ §§ 12-61-1002(3)(a) and (b), C.R.S.

²¹ § 12-61-1002(3)(c), C.R.S.

²² § 12-61-1003(4), C.R.S.

²³ § 12-61-1003(5)(a)(I), C.R.S.

²⁴ 4 CCR 725-7 § A-3, Community Association Management Rules

²⁵ § 12-61-1003(5)(a)(III), C.R.S.

²⁶ § 12-61-1003(5)(a)(IV), C.R.S.

The Director may also require additional education as a condition of licensure.²⁷

In order to apply for a license, an individual must undergo a state and national fingerprint-based criminal history record check.²⁸

An applicant must be truthful, honest and of good moral character. This includes any partner, manager, director, officer, member or stockholder of a Management Company if such person has a substantial interest, either directly or indirectly, in the applicant prior to the issuance of a license.²⁹

If an applicant's license has been revoked or suspended in any other jurisdiction that regulates Community Association Managers, he or she may not be licensed. However, the Director may make an exception if at least two years have lapsed and the applicant proves that he or she is otherwise fit to be licensed.³⁰

The Director must consider the following if an applicant has been convicted of a crime:³¹

- The nature of the conviction;
- Whether there is a direct relationship between the conviction and the duties and responsibilities of a Community Association Manager and the impact that the conviction may have on the fitness or ability to perform these duties and responsibilities;
- Any information provided by the applicant regarding his or her rehabilitation and good conduct; and
- The amount of time that has passed since the conviction.

Regardless, an applicant is disqualified for a license if he or she has been convicted of any of the following over the past 10 years:³²

- Unlawful sexual behavior;
- First or second degree burglary; and
- Any felony involving fraud, theft, larceny, embezzlement, fraudulent conversion or misappropriation of property.

Any Colorado resident licensed as a Community Association Manager must maintain a place of business in Colorado.³³ If a Community Association Manager maintains more than one place of business in the state, he or she must supervise all licensed activity that occurs at those businesses.³⁴

²⁷ § 12-61-1003(5)(a)(II), C.R.S.

²⁸ § 12-61-1003(1)(b)(I), C.R.S.

²⁹ § 12-61-1003(3)(a), C.R.S.

³⁰ § 12-61-1003(3)(b), C.R.S.

³¹ § 12-61-1003(3)(c), C.R.S.

³² § 12-61-1003(3)(d), C.R.S.

³³ § 12-61-1003(2), C.R.S.

³⁴ § 12-61-1003(2), C.R.S.

The Director will issue a license to a person who has been licensed in another jurisdiction for at least two years as long as he or she:³⁵

- Provides evidence of having qualifications that are substantially equivalent to those required by Colorado,
- Submits certification of licensing history from each jurisdiction in which he or she has been licensed, and
- Has fingerprint-based criminal history results that are satisfactory.

Within 30 days of receiving the license, an applicant who was previously licensed in another jurisdiction must complete the Colorado Portion of the examination.³⁶

Licenses must be renewed annually.³⁷ However, the Director is authorized to establish a renewal period of up to three years.³⁸

To satisfy the continuing education requirements in order to renew a license, the Director requires licensed individuals to successfully complete one of the following prior to renewal:³⁹

- Eight hours of continuing education in courses approved by the Director, or
- The Colorado Portion of the examination.

The Director is authorized to establish licensing fees, including renewal fees for Managers. However, the Director is not authorized to establish renewal fees for Management Companies.⁴⁰

An Apprentice is someone who has not completed the education and examination requirements for a license, and they work under the control and direct supervision of a licensed Manager for the purposes of learning to be a Manager.⁴¹

An Apprentice must be licensed by the Director,⁴² but an Apprentice license may not be renewed.⁴³

If the applicant is an entity, it must designate a qualified Manager (Designated Manager) to be responsible for the supervision and management of the entity, who must be licensed as a Designated Manager by the Director. A Designated Manager must qualify for a license as Manager.⁴⁴

³⁵ § 12-61-1003(5)(d), C.R.S.

³⁶ 4 CCR 725-7 § A-8, Community Association Manager Rules

³⁷ 4 CCR 725-7 § D-2, Community Association Manager Rules

³⁸ § 12-61-1009(3), C.R.S.

³⁹ 4 CCR 725-7 § D-9-2, Community Association Manager Rules

⁴⁰ § 12-61-1009(1), C.R.S.

⁴¹ § 12-61-1001(1), C.R.S.

⁴² § 12-61-1001(1), C.R.S.

⁴³ § 12-61-1009(4), C.R.S.

⁴⁴ § 12-61-1003(6)(b), C.R.S.

There are no additional requirements for an individual to be licensed as a Designated Manager other than the qualifications required for a Manager.

In case a Designated Manager is refused a license or ceases to be the Designated Manager for the entity, the Director may issue a temporary license to another person designated by the entity. The temporary license may not exceed 90 days.⁴⁵

The Director must maintain and publish on the Division's website a record of all Community Association Managers, including the names, addresses and any other nonproprietary information that the Director considers useful to the public.⁴⁶

Insurance

Every person licensed as a Community Association Manager must maintain sufficient insurance, determined by rule, necessary to cover all community association management activities.⁴⁷

By rule, the Director requires every company and sole proprietorship to carry errors and omissions insurance that covers at least \$1 million per claim and \$1 million annual aggregate. A deductible may not exceed \$5,000 unless the company or sole proprietorship deposits the amount in a bank account or certificate of deposit assigned to the Division for the use of the people of the State of Colorado.⁴⁸

In addition to errors and omissions insurance, every company and sole proprietorship must carry a crime fidelity insurance policy, which covers any dishonest acts of employees, covering at least two months of assessments plus reserves. Deductibles may be no greater than one percent of the value of the policy.⁴⁹

Accounting

Each licensed individual and entity must have written internal accounting control policies that establish adequate checks and balances over financial activities.⁵⁰ Accounting records must be compliant with Generally Accepted Accounting Principles established by the American Institute of Certified Public Accountants.⁵¹

Management Fees

Every Community Association Manager must disclose to the executive board, annually and during contract negotiations, all fees and any other amounts that the Community Association Manager will charge to the association, unit owners or buyers.⁵²

⁴⁵ § 12-61-1003(6)(c), C.R.S.

⁴⁶ § 12-61-1007, C.R.S.

⁴⁷ § 12-61-1004, C.R.S.

⁴⁸ 4 CCR 725-7 § D-2(c) and (e), Community Association Manager Rules

⁴⁹ 4 CCR 725-7 § D-10-2, Community Association Manager Rules

⁵⁰ 4 CCR 725-7 § E-1, Community Association Manager Rules

⁵¹ 4 CCR 725-7 § E-3, Community Association Manager Rules

⁵² § 12-61-1004.5(1), C.R.S.

A Community Association Manager may not enforce any fee or other amount, including a transfer fee, to an association, unit seller or buyer without:⁵³

- Disclosing it clearly in the Community Association Manager’s contract, or
- Documenting it on a clearly identifiable line item on a settlement statement.

Disciplinary Authority

The Director may investigate the activities of any Community Association Manager based on a motion by the Director or a written complaint from any person.⁵⁴ The Director also has the authority to subpoena witnesses and the production of books, papers, records or other evidence in an investigation or disciplinary hearing.⁵⁵

Anyone who files a complaint or participates in an investigation or hearing in good faith is immune from liability.⁵⁶

If a Community Association Manager commits any acts deemed grounds for discipline according to the Act, the Director may take the following disciplinary actions:⁵⁷

- Issue a fine up to \$2,500 for each separate offense,
- Censure the license,
- Place a license on probation,
- Suspend a license, and
- Revoke a license.

Fines are credited to the Division’s cash fund.⁵⁸

The Director may also revoke or suspend the license of a Designated Manager if the entity that the Designated Manager is responsible for commits any act that is grounds for discipline under the Act.⁵⁹

The following acts are grounds for discipline:⁶⁰

- Knowingly making any misrepresentation or knowingly making use of any false or misleading advertising;
- Violating, directly or indirectly, any applicable provision of Colorado or federal fair housing laws;
- Knowingly violating or knowingly directing others to violate CCIOA;
- Failing to account for or to remit, within a reasonable time, any funds that belong to others and failing to keep records of funds;

⁵³ § 12-61-1004.5(2), C.R.S.

⁵⁴ § 12-61-1010(1), C.R.S.

⁵⁵ § 12-61-1011(4), C.R.S.

⁵⁶ § 12-61-1011(8), C.R.S.

⁵⁷ § 12-61-1010(1), C.R.S.

⁵⁸ § 12-61-1010(6), C.R.S.

⁵⁹ § 12-61-1010(2), C.R.S.

⁶⁰ § 12-61-1010(1), C.R.S.

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- Converting funds of others, diverting funds of others without proper authorization, commingling funds of others with the Manager's own funds, or failing to keep such funds of others in a segregated account with some bank or recognized depository in this state;
 - Disregarding or violating, or aiding or abetting any violation of, the Act or a Director rule or order;
 - Performing any act that leads to a conviction of, entry of a plea of guilty to, or entry of a plea of *nolo contendere* to any crime specified in the Act, such as assault, unlawful sexual behavior, theft, burglary, trespassing and fraud;
 - Having demonstrated unworthiness or incompetency to act as a Community Association Manager by conducting business in such a manner as to endanger the interest of the public; and
 - Failing to exercise reasonable supervision over the activities of employees.

Additional grounds for discipline include:⁶¹

- Failing to make a full and true disclosure of fees, charges and remuneration as required by the Act;
- Claiming, arranging for or taking any secret or undisclosed amount of compensation, commission or profit, or failing to reveal to the principal or employer the full amount of the licensee's compensation, commission or profit in connection with community association management;
- Having a license or a subdivision developer's registration suspended or revoked in any jurisdiction, or having any disciplinary action taken against the Community Association Manager or subdivision developer in any other jurisdiction if the licensee's or subdivision developer's action would constitute a violation of the Act;
- Acting outside the scope of authority granted by the issuance of a license; and
- Any other conduct that constitutes dishonest dealing.

⁶¹ § 12-61-1010(1), C.R.S.

The Director may also take action against a licensed or unlicensed Manager if, within the last five years, a Manager has a license, registration or certification revoked or suspended for fraud, deceit, material misrepresentation, theft or breach of a fiduciary duty, and such discipline denied the person the ability to practice as a:⁶²

- Mortgage broker or mortgage loan originator,
- Real estate broker or salesperson,
- Real estate appraiser,
- Insurance producer,
- Attorney,
- Securities broker-dealer,
- Securities sales representative,
- Investment advisor, or
- Investment advisor representative.

All disciplinary actions, including denial of a license, are subject to judicial review by the Colorado Court of Appeals.⁶³

⁶² § 12-61-1010(1)(p), C.R.S.

⁶³ § 12-61-1011(5), C.R.S.

Program Description and Administration

The Director of the Division of Real Estate (Director and Division, respectively), located within the Colorado Department of Regulatory Agencies, is vested with the authority to regulate Community Association Managers, which includes both individuals (Managers) and entities (Management Companies). The Director is responsible for licensing, investigating complaints, performing audits and enforcing the Community Association Management Practice Act (Act), located in Part 10 of Article 61 of Title 12, Colorado Revised Statutes (C.R.S.). Rulemaking authority rests with the Director.

The period under review represents the entire life of the program. Any individual or entity managing a common interest community (association) for compensation was required to be licensed as of July 1, 2015.

During the initial phase of the program, the Director convened an advisory committee to assist with the development of the education and examination requirements. While the Director occasionally meets with stakeholders when issues arise, no ongoing advisory committee has been established.

The program is cash funded by licensing fees. While Managers are required to pay fees to renew their licenses, the Director is not authorized by statute to establish renewal fees for Management Companies.

Table 1 illustrates the program expenditures and full-time equivalent (FTE) employees dedicated to the program.

Table 1
Program Expenditures

Fiscal Year	Total Program Expenditures	FTE
14-15	\$58,732	0.50
15-16	\$172,491	2.25
16-17	\$279,175	2.66

The total program expenditures reported in Table 1 include personal services, cash expenditures and legal services. The FTE reported in Table 1 do not include employees in other sections of the Division, who provide licensing, administrative, technical and enforcement support to the program, and the cost of those employees is also not reflected in the program expenditures.

In fiscal year 14-15, staffing levels and program expenditures were minimal since the program was not fully operational until fiscal year 15-16.

In fiscal year 16-17, there were 2.66 FTE dedicated to the program:

- **Compliance Investigator, Team Lead (1.0 FTE)**, who administers the Community Association Manager program and manages investigations;
- **Compliance Investigator (0.66 FTE)**, who plans and conducts investigations to determine whether allegations constitute violations of the Act and reports on the results; and
- **Financial/Credit Examiner II (1.0 FTE)**, who plans and conducts audits and investigations to determine compliance with the Act and reports on the results.

Table 2 provides the licensing fees for Managers and Management Companies in fiscal year 16-17.

**Table 2
Licensing Fees**

Fee Type	Fiscal Year 16-17
Initial License Application	\$205
Apprentice License Application	\$205
Renewal Application	\$174
Reinstatement Application	\$257
Management Company Application	\$305
Change of Management Company Application	\$10
Manager Transfer Application	\$10

Managers must renew their licenses annually on July 1; however, Management Companies are not required to renew their licenses.

When a Manager is licensed, they must include the name of the Management Company they are associated with, if any, in the application for a license. If a Manager transfers to a new Management Company, they are required to notify the Director of this change through an online form, the Manager Transfer Application, and pay a \$10 fee.

Licensing

The Act requires any Manager or Management Company to be licensed by the Director in order to manage an association for compensation.

Managers

In order to be licensed as a Community Association Manager, an applicant must obtain credentials through one of the following private, professional associations:

- A Certified Manager of Community Associations (CMCA) certification from the Community Association Managers International Certification Board (CAMICB),
- The Association Management Specialist (AMS) designation from the Community Associations Institute (CAI), or
- The Professional Community Association Manager (PCAM) designation from CAI.

The CMCA certification demonstrates that a Manager has the basic knowledge necessary to manage an association. In order to obtain the CMCA certification, a candidate must fulfill one of the following prerequisites:⁶⁴

- Successfully complete a prerequisite course approved by the CAMICB;
- Have five years of experience in community association management; or
- Be licensed in Arizona, California, Florida or Nevada.

CAMICB may approve any prerequisite course to fulfill the educational requirement. The prerequisite courses must cover the following topics:⁶⁵

- Budgets, reserves, investments and assessments;
- Contracting;
- Financial controls;
- Governance and legal issues;
- Human resource management;
- Meetings;
- Property maintenance;
- Risk management and insurance; and
- Ethics.

One course approved by CAMICB is the M-100: The Essentials in Community Association Management.⁶⁶ The M-100 is a two and a half day course, which costs \$459 for CAI members and \$559 for nonmembers.⁶⁷

⁶⁴ Community Association Managers International Certifications Board. *CMCA Program Overview*. Retrieved on August 16, 2017, from <https://www.camicb.org/get-certified>

⁶⁵ Community Association Managers International Certifications Board. *Prerequisite Course Providers Overview*. Retrieved on August 16, 2017, from <https://www.camicb.org/Pages/Prerequisite-Course-Provider-Overview.aspx>

⁶⁶ Community Association Managers International Certifications Board. *Prerequisite Course Providers Overview*. Retrieved on August 16, 2017, from <https://www.camicb.org/Pages/Prerequisite-Course-Provider-Overview.aspx>

⁶⁷ Community Associations Institute. *M-100: The Essentials of Community Association Management*. Retrieved on August 16, 2017, from <https://www.caionline.org/LearningCenter/Education-for-Managers/M100/Pages/default.aspx>

The next step is to submit an application for certification to CAMICB. Once CAMICB approves an application, a candidate has one year to pass the CMCA examination.⁶⁸

The CMCA examination is a three-hour, computer-based examination, comprised of 120 multiple-choice questions covering the topics required to be covered in the prerequisite course.⁶⁹

The CMCA examination is administered by Pearson Vue at 12 locations throughout the state:⁷⁰

- Colorado Springs,
- Edwards,
- Glenwood Springs,
- Grand Junction,
- Greeley,
- Greenwood Village,
- Lakewood,
- Littleton,
- Longmont,
- Pueblo,
- Steamboat Springs, and
- Westminster.

The CMCA application costs \$300, which pays for the application, the examination and one year of certification. The CMCA examination may be retaken as many times as necessary for \$250 each attempt.⁷¹

The AMS designation demonstrates a higher level of knowledge and expertise than the CMCA certification. In order to obtain the AMS designation, a candidate must:⁷²

- Have two years of experience in financial, administrative and facilities management with at least one association;
- Successfully complete at least two M-200 level courses through CAI; and
- Successfully pass the CMCA examination.

⁶⁸ Community Association Managers International Certifications Board. *CMCA Examination*. Retrieved on August 16, 2017, from <https://www.camicb.org/Pages/CMCA-Examination.aspx>

⁶⁹ Community Association Managers International Certifications Board. *CMCA Examination*. Retrieved on August 16, 2017, from <https://www.camicb.org/Pages/CMCA-Examination.aspx>

⁷⁰ Pearson Vue. *Test Center Search*. Retrieved on August 16, 2017, from <https://www1.pearsonvue.com/testtaker/registration/SelectTestCenterProximity/HUMRRO/2870575>

⁷¹ Community Association Managers International Certifications Board. *CMCA Examination*. Retrieved on August 16, 2017, from <https://www.camicb.org/Pages/CMCA-Examination.aspx>

⁷² Community Associations Institute. *Association Management Specialist (AMS)*. Retrieved on August 16, 2017, from <https://www.caionline.org/LearningCenter/credentials/Pages/AMS.aspx>

Once the experience and education have been completed, a candidate must submit an AMS application, which costs \$150 for CAI members and \$375 for nonmembers.⁷³

The PCAM credential demonstrates advanced skills and knowledge. In order to obtain a PCAM credential, a candidate must have the following prerequisites:⁷⁴

- Five years of direct experience in community association management,
- Successfully complete six courses offered by CAI, and
- Successfully pass the CMCA examination offered by CAMICB.

Then a candidate must submit an application for the PCAM designation to CAI. In order to earn the designation, a candidate must earn a total of 125 points on the application,⁷⁵ which is scored according to the following criteria:⁷⁶

- Formal education (a maximum of 30 points),
- Professional designations or licenses (a maximum of 20 points), and
- CAI and industry-related experience and service (a minimum of 55 points).

The PCAM application costs \$195 for CAI members and \$430 for nonmembers.⁷⁷

In lieu of the CMCA, AMS or PCAM designation, an applicant may complete 24 hours of education approved by the Director and pass the first part of the state examination, known as the General Portion, in order to demonstrate competency in carrying out the core functions of community association management.

Additionally, all applicants must pass the second part of the state examination, known as the Colorado Portion, to demonstrate an understanding of relevant Colorado laws and submit to a state and national fingerprint-based criminal history record check.

Applications and fees must be submitted through an online licensing system; the Division does not accept paper applications.

The Division processes applications in approximately 10 business days. However, it may take significantly longer to issue an initial license since the Division must wait for the results of the criminal history background check from the Colorado Bureau of Investigation.

Applicants have the opportunity to check the status of their application through the online licensing system.

⁷³ Community Associations Institute. *Association Management Specialist (AMS)*. Retrieved on August 16, 2017, from <https://www.caionline.org/LearningCenter/credentials/Pages/AMS.aspx>

⁷⁴ Community Associations Institute. *Professional Community Association Manager (PCAM)*. Retrieved on August 16, 2017, from <https://www.caionline.org/LearningCenter/credentials/Pages/PCAM.aspx>

⁷⁵ Community Associations Institute. *Professional Community Association Manager (PCAM)*. Retrieved on August 16, 2017, from <https://www.caionline.org/LearningCenter/credentials/Pages/PCAM.aspx>

⁷⁶ Community Association Institute. *Professional Community Association Manager (PCAM) Designation Application*.

⁷⁷ Community Association Institute. *Professional Community Association Manager (PCAM) Designation Application*.

If an applicant is concerned that previous conduct, criminal convictions or actions against a professional license may have a negative impact on an application, he or she may request a preliminary advisory opinion from the Director prior to submitting an application.

Table 3 demonstrates the total number of Managers licensed by the Director for the two fiscal years since the program became fully operational.

**Table 3
Manager Licenses**

Fiscal Year	Initial	Endorsement	Renewal	Total
15-16	1,270	15	1,166	1,285
16-17	310	4	1,307	1,413

The license numbers in Table 3 do not add up to the Total number of licenses because some licenses may have been renewed prior to the end of the fiscal year and others after the new fiscal year began.

The program became fully operational on July 1, 2015 when Community Association Managers were required to be licensed. While the increase in fiscal year 16-17 may represent some growth in the industry, much of it is likely due to efforts by the Division staff to bring Managers into compliance with the licensing requirement.

All licenses are renewed annually through the online licensing system. In order to renew, Managers must provide evidence of completing eight hours of continuing education or by retaking the Colorado Portion of the examination.

An applicant who has not completed the education and examination requirements for a license may be licensed as an Apprentice if he or she successfully passes a state and national fingerprint-based criminal history record check. An Apprentice must work under the control and direct supervision of a licensed Manager. An Apprentice license expires one year after it is issued, and it may not be renewed.

Table 4 provides the total number of Apprentice licenses issued by the Director over the two-year period since the program became fully operational.

**Table 4
Apprentice Licenses**

Fiscal Year	Number
15-16	28
16-17	70

The authority to issue an Apprentice license was granted by the General Assembly in 2015.

Management Companies

Management Companies may submit applications and fees online. When a Management Company submits an application, it must select a Designated Manager to be responsible for the licensed actions of the Management Company, and it must provide evidence that the Management Company is authorized to do business in Colorado and is in good standing with the Secretary of State.

Actively licensed Management Companies are also required to maintain errors and omissions insurance and crime fidelity insurance, and they must attest that each insurance policy complies with Director’s rules and provide the Director with the insurance company’s name, policy number and date of expiration.

Table 5 shows the total number of Management Companies licensed by the Director for the two fiscal years since the program became fully operational.

**Table 5
Management Companies Licenses**

Fiscal Year	Total
15-16	448
16-17	471

Management Companies were required to be licensed as of July 1, 2015. While the increase in Management Companies in fiscal year 16-17 may be due in part to growth in the industry, much of it is likely due to the efforts by the Director to bring companies into compliance with the licensing requirement.

A Designated Manager is responsible for the supervision and management of a Management Company. A Designated Manager must qualify to be licensed as a Manager and be licensed by the Director as a Designated Manager. If a Designated Manager ceases to work for the Management Company or is refused a license by the Director, the Director may issue a 90-day temporary license to another individual selected by the Management Company.

Table 6 provides the total number of Designated Managers licensed for the two fiscal years since the program became fully operational.

Table 6
Designated Managers

Fiscal Year	Initial License	Endorsement	Renewal	Total
15-16	434	3	399	437
16-17	58	1	451	468

The license numbers in Table 6 do not add up to the Total number of licenses because some licenses may have been renewed prior to the end of the fiscal year and others after the new fiscal year began. Additionally, many of the initial licenses issued in fiscal year 15-16 were likely renewed prior to the end of that same fiscal year.

While the increase in Designated Managers in fiscal year 16-17 may be due to growth in the industry, much of it is likely due to efforts by the Division to bring Management Companies into compliance.

Examination

Once a candidate has completed the educational requirements, he or she is eligible to take the Community Association Manager Examination (state examination).

The state examination consists of two parts:

- The General Portion tests the individual’s competency to manage an association, and
- The Colorado Portion tests the individual’s knowledge of laws relevant to managing an association in Colorado.

The state examination is developed by the Director and administered by PSI at the following examination centers throughout the state:⁷⁸

- Centennial,
- Colorado Springs,
- Durango,
- Fort Collins,
- Grand Junction,
- Pueblo, and
- Wheat Ridge.

⁷⁸ *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), pp. 6-7. Retrieved from https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf

The state examination costs \$44.95 for the first attempt. If an applicant fails to pass the examination, he or she may take one or both portions of the state examination again. Any following attempts cost \$42.50, whether one or both portions are taken.⁷⁹

Each portion of the state examination takes 90 minutes.⁸⁰ The state examination is computer-based, so candidates are provided their scores immediately after completing the examination.⁸¹

The General Portion consists of 55 questions. To earn a passing score, a candidate must answer 43 questions correctly.⁸²

The General Portion tests:⁸³

- Legal documents required of an association (8 questions),
- Governance of an association (8 questions),
- Bid requests (4 questions),
- Contract provisions (5 questions),
- Principles of financial management (10 questions),
- Principles of risk management (5 questions),
- Facilities management (10 questions), and
- Ethics (5 questions).

The Colorado Portion consists of 45 questions. To earn a passing score, a candidate must answer 35 questions correctly.⁸⁴

⁷⁹ *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 9. Retrieved from https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf

⁸⁰ *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 3. Retrieved from https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf

⁸¹ *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 8. Retrieved from https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf

⁸² *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 3. Retrieved from https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf

⁸³ *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 3. Retrieved from https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf

⁸⁴ *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 3. Retrieved from https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf

The Colorado Portion tests:⁸⁵

- General common interest community regulations in Colorado (4 questions);
- HOA disclosure, governance and education (4 questions);
- Association rules and restrictions (4 questions);
- Enforcement and collections (3 questions);
- Colorado rules for financial management (3 questions);
- Colorado rules for association meetings and elections (6 questions);
- Powers of the association and executive board (4 questions);
- Registration and recordkeeping requirements (4 questions);
- Articles of incorporation and bylaws (3 questions);
- Directors and officers (3 questions);
- Colorado Fair Housing and Civil Rights Act (3 questions); and
- Additional Colorado statutes (4 questions).

Neither portion of the examination is open book.⁸⁶

PSI works with the Director to ensure that the state examination accurately measures knowledge of the required material.⁸⁷ The state examination is intended to ensure Managers have the minimum competency necessary to manage common interest communities.

Anyone who holds a PCAM, AMS or CMCA certification is not required to complete the General Portion of the state examination.

Table 7 illustrates the number of examinations taken and the pass rates for each portion of the state examination.

Table 7
State Examination

Fiscal Year	General Portion Number of Examinations	Pass Rate	Colorado Portion Number of Examinations	Pass Rate
14-15	905	78%	1,202	77%
15-16	376	64%	472	64%
16-17	267	61%	329	66%

Managers were required to be licensed as of July 1, 2015, which is the reason so many examinations were taken in fiscal year 14-15. In order to be licensed, they must first complete 24 hours of education and then pass the state examination. Not all applicants

⁸⁵ *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 4. Retrieved from https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf

⁸⁶ *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 3. Retrieved from https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf

⁸⁷ *Community Association Manager Candidate Information Bulletin*, PSI (June 1, 2017), p. 2. Retrieved from https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=712&bulletinurl=.pdf

are required to complete the General Portion of the state examination, which is intended to demonstrate competency. Individuals who have credentials outlined in statute are simply required to complete the Colorado Portion of the state examination, which tests knowledge of Colorado law relevant to managing an association.

The pass rates were higher in fiscal year 14-15, the first year the state examination was offered, because many of the test takers were experienced Community Association Managers. In the following years, many of the test takers were new to the occupation and, therefore, had less experience and knowledge of the industry to rely upon.

Audits

Although the Division has authority to conduct audits, it has not conducted any at this time.

Complaints & Disciplinary Actions

The Director has the authority to open a complaint on his or her own motion, and anyone may file a complaint against a Community Association Manager. Upon receiving a complaint, staff reviews it to determine whether it falls within the Director's jurisdiction. If it does, the Division forwards a copy of the complaint to the Community Association Manager and requests a response.

Table 8 demonstrates the complaints against Managers in fiscal years 15-16 and 16-17.

**Table 8
Complaints Against Managers**

Nature of Complaints	FY 15-16	FY 16-17
Unlicensed Activity	90	38
Acting Outside Scope of Authority	0	0
Criminal Conviction	0	9
Having License Denied/Revoked in the Last Five Years for Fraud, Deceit, Material Misrepresentation, Theft, or Breach of a Fiduciary Duty	0	0
Dishonest Dealings	0	0
Misrepresentation/False, Misleading Advertising	0	0
Procuring a License by Fraud, Misrepresentation or Deceit	0	0
Violating Fair Housing Laws	0	0
Violating the Colorado Common Interest Ownership Act (CCIOA)	5	19
Failing to Account for or Timely Remit Association Funds	0	0
Misappropriating Association Funds	10	18
Demonstrating Unworthiness or Incompetency	10	37
Failing to Supervise Employees	0	0
Failing to Disclose Fees, Charges, Remuneration	0	0
Unfilled Request for Documents or Charging a Fee to Fulfill Document Request*	31	8
Total	146	129

*The Division often receives complaints regarding Managers failing to fulfill requests for documents, in compliance with CCIOA. A Manager may charge a reasonable fee to fulfill such requests, but they are required to notify the executive board of the fee in advance when they report all the fees that they will charge the association.

In addition to the numbers reported above, there were 20 complaints for violating CCIOA and 12 complaints for misappropriation of funds, in which the Division was unable to report whether the complaint was against an individual or an entity.

In fiscal year 15-16, a majority of the complaints against Managers were related to unlicensed activity. While the number of complaints related to unlicensed activity decreased considerably in fiscal year 16-17, the total number of complaints against Managers only decreased by about 10 percent.

The number of complaints regarding unfilled requests for documents or charging a fee to fulfill document requests decreased considerably in fiscal year 16-17. However, the number of complaints alleging unworthiness or incompetency and complaints alleging violations of CCIOA increased considerably in fiscal year 16-17. There were also a significant number of complaints alleging misappropriation of funds and criminal convictions in fiscal year 16-17 compared to the previous year.

Table 9 demonstrates the complaints against Management Companies in fiscal years 15-16 and 16-17.

**Table 9
Complaints Against Management Companies**

Nature of Complaints	FY 15-16	FY 16-17
Unlicensed Activity	14	10
Acting Outside Scope of Authority	0	0
Criminal Conviction	0	0
Having License Denied/Revoked in the Last Five Years for Fraud, Deceit, Material Misrepresentation, Theft, or Breach of a Fiduciary Duty	0	0
Dishonest Dealings	0	0
Misrepresentation/False, Misleading Advertising	0	0
Procuring a License by Fraud, Misrepresentation or Deceit	0	0
Violating Fair Housing Laws	0	0
Violating CCIOA	32	18
Failing to Account for or Timely Remit Association Funds	0	0
Misappropriating Association Funds	16	24
Demonstrating Unworthiness or Incompetency	73	73
Failing to Supervise Employees	0	0
Failing to Disclose Fees, Charges, Remuneration	0	0
Unfilled Request for Documents or Charging a Fee to Fulfill Document Request	7	7
Total	142	132

Unlike complaints against Managers, a majority of complaints against Management Companies were related to unworthiness or incompetency. Interestingly, the number of complaints in this category did not decrease in fiscal year 16-17.

In fiscal year 15-16, the second highest number of complaints against Management Companies related to violations of CCIOA. In fiscal year 16-17, complaints in this category decreased significantly while complaints against Management Companies alleging misappropriation of funds increased.

The Director has the authority to suspend or revoke a license, censure a license and place a license on probation. The Director also has the authority to issue a fine of up to \$2,500 for each offense.

Table 10 details the disciplinary actions taken against Managers and Management Companies over two fiscal years.

**Table 10
Total Disciplinary Actions**

Type of Action	FY 15-16 Entity	FY 15-16 Individual	FY 16-17 Entity	FY 16-17 Individual
License Revocation/Surrender/Voluntary Relinquishment	1	2	0	1
License Suspension	0	0	0	0
Probation	0	0	0	0
Censure	0	0	0	2
Letter of Admonition	0	0	0	8
License Denied	0	0	0	1
Fine	0	0	1	6
Cease and Desist Order	0	4	1	11
Total Dismissals	63	52	84	52
Total Disciplinary Actions	1	6	2	29

In fiscal year 15-16, the Director revoked two Manager’s licenses based on theft of funds from an association, one for a criminal conviction and another for theft. The Director also revoked a Management Company’s license related to the case of theft.

In fiscal year 16-17, the Director issued one cease and desist order against a company and 11 cease and desist orders against individuals and revoked one Manager’s license.

All of the cease and desist orders issued by the Division were related to unlicensed activity.

The Division did not impose any fines in fiscal year 15-16, but in fiscal year 16-17, it imposed seven fines for a total of \$5,750.

Collateral Consequences – Criminal Convictions

Section 24-34-104(6)(b)(IX), C.R.S., requires the Colorado Office of Policy, Research and Regulatory Reform to determine whether the agency under review, through its licensing processes, imposes any disqualifications on applicants or registrants based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

The Director has the authority to deny a license if an applicant has been convicted of a crime. However, the Director must consider:⁸⁸

- The nature of the conviction;
- Whether there is a direct relationship between the conviction and the duties and responsibilities of a Manager and the impact the conviction may have on the fitness or ability to perform these duties and responsibilities;
- Any information provided by the applicant regarding his or her rehabilitation and good conduct; and
- The amount of time that has passed since the conviction.

Nevertheless, the Director must deny a license to an applicant who, over the past 10 years, has been convicted of:⁸⁹

- Unlawful sexual behavior;
- First or second degree burglary; and
- Any felony involving fraud, theft, larceny, embezzlement, fraudulent conversion or misappropriation of property.

In section 12-61-1010, C.R.S., the Director has the authority to suspend or revoke a license based on criminal convictions specified in statute, including crimes against a person, crimes against property and other crimes.

During the period under review, the Director revoked one license based on a conviction of theft of funds from an association.

⁸⁸ § 12-61-1003(3)(c), C.R.S.

⁸⁹ § 12-61-1003(3)(d), C.R.S.

Analysis and Recommendations

Recommendation 1 – Continue the Community Association Management Practice Act for five years, until 2023.

The laws that govern the regulation of Community Association Managers are located in Part 10 of Article 61 of Title 12, Colorado Revised Statutes (C.R.S.). The Director of the Division of Real Estate (Director and Division, respectively) in the Department of Regulatory Agencies is vested with the authority to regulate Community Association Managers, including both individuals (Managers) and entities (Management Companies).

A Community Association Manager oversees the daily business of a common interest community (association) and supervises the maintenance of the property and facilities shared by the community, which may include the grounds, a clubhouse, a pool and other amenities. A Community Association Manager also collects monthly fees, prepares financial statements and budgets, negotiates with contractors and helps to resolve community complaints.⁹⁰

Sunset reviews are guided by statutory criteria found in section 24-34-104, C.R.S., and the first criterion questions whether regulation is necessary to protect the health, safety and welfare of the public.

An association is a non-profit corporation that is represented by an executive board made up of owners who volunteer to govern the community. The knowledge and background of board members varies widely from association to association. In cases in which board members do not have experience managing budgets, making general business decisions or reviewing reserve studies, they must rely on the Community Association Manager to help them to make important decisions affecting the entire community. In these cases, a Community Association Manager is in a position of power that could easily be abused.

During the 2012 Sunrise Review of Common Interest Community Managers, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) identified clear evidence of harm that warranted regulation. The types of harm included:⁹¹

- Theft of funds,
- Mismanagement of funds,
- Undisclosed conflicts of interest,
- Inadequate accounting and recordkeeping practices, and
- Lack of transparency in terms of board meetings and access to association records.

⁹⁰ U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved on August 3, 2017, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

⁹¹ Colorado Office of Policy, Research and Regulatory Reform. *2012 Sunrise Review: Common Interest Community Association Managers*. March 2, 2012.

The licensing program has only been in place for a few years, so there is little data to rely on in determining how much harm related to management activities exists. 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.

However, two Managers and one Management Company have already been disciplined for misconduct related to management activities. All of these cases were related to theft of association funds. Additionally, many of the complaints received by the Division and reported during the sunset review reflect the findings of the 2012 sunrise review.

Community Association Managers have access to association funds, which is often in the millions of dollars. An association relies on these funds to ensure the common areas, facilities and, in some cases, buildings are well maintained, and the loss or mismanagement of these funds can be devastating to a community. As a result, the owners may suffer large assessments in order to bring the reserves up to an amount necessary to pay for the daily operation of the community, which may include water bills, trash removal, landscaping and professional services, not to mention necessary upkeep such as repainting buildings, replacing old roofs, repairing driveways and any emergency situations that may arise.

Ensuring Community Association Managers do not steal or mishandle association funds is an important reason to regulate the industry. The Division has the ability to audit the business records of Community Association Managers, and through these audits, the Division may uncover misconduct.

The sunset criteria in section 24-34-104, C.R.S., question whether the agency operates in the public interest.

Community Association Managers have only been licensed since July 1, 2015, so there are only two years of data available to determine how effective the program is at addressing the potential harm.

In order to be licensed to manage an association for compensation, a Manager must obtain certification through one of the following private organizations:

- The Community Associations Institute, or
- The Community Association Managers International Certification Board.

In place of obtaining certification from these organizations, a Manager may instead complete 24 hours of education approved by the Director and pass an examination to demonstrate competency in community association management.

Additionally, all applicants must pass an examination of relevant Colorado law and submit to a state and national fingerprint-based criminal history record check.

In fiscal year 16-17, the Director licensed 1,413 Managers, 70 Apprentices and 471 Management Companies. Of the 1,413 Managers, 468 were also licensed as Designated Managers.

The Director has the authority to protect the public through investigating complaints against Managers and Management Companies and taking enforcement actions against their licenses. If the Director finds a Manager or Management Company has violated the Act or the program rules, the Director has the authority to censure, suspend or revoke a license. The Director also has the authority to place a licensee on probation or issue a fine of up to \$2,500 for each offense.

In fiscal year 16-17, the Director issued one cease and desist order against a company and 11 cease and desist orders against individuals, and revoked one individual license.

As authorized in section 24-34-104, C.R.S., the General Assembly may continue this program for any period between 1 and 15 years.

The period under review represents the entire life of the program. Since this program has only been operating for two years, it is difficult to assess how well it is working. For this reason, the program should be continued for at least five years in order to provide sufficient data from which the effectiveness of the program may be evaluated.

Therefore, the General Assembly should continue the Community Association Management Practice Act (Act) for five years, until 2023.

Recommendation 2 – Authorize the Director to establish renewal fees for Management Companies.

According to section 12-61-1009(1), C.R.S., the Director does not have the authority to establish renewal fees for Management Companies.

The licensing of Community Association Managers, like most licensing programs, is cash funded, which means that license fees pay for the cost of regulation. However, Management Companies are not required to pay renewal fees. Only individual Managers pay fees to renew their licenses.

While both companies and individuals are regulated under this program, most of the revenue is paid for by individual Managers.

If Management Companies were paying renewal fees, the cost to renew an individual Manager license would be reduced.

Some stakeholders maintain that it is the Managers who provide the services, so they must be the source of any regulatory activity. If this were true, then regulation of Management Companies would not be warranted.

Management Companies control the activities of their employees. They determine which employees to hire, what their qualifications are, how to train employees and how to utilize those employees. Management Companies direct the actions of their employees, set the policies and determine the fees and the terms of management agreements.

Moreover, Management Companies determine which employees must be licensed and may direct unlicensed employees to engage in activities that require a license. All of these activities may drive regulatory actions.

Over the two years that the program has been in place, the majority of the investigative, enforcement and legal services have been directed at unlicensed activity. Management Companies contribute to unlicensed activity and drive many of the complaints. There is a cost to bringing Management Companies into compliance with the licensing requirement, and there also is a cost to the other regulatory activities involving Management Companies.

Some companies may argue that they should not be required to pay to renew their license since they already pay for their employees to be licensed as Managers. While many companies do pay for their employees to be licensed, they are not required by law to do so; it is a business decision made by the companies and a perk for their employees. Not all companies pay for their employees to be licensed.

Therefore, the General Assembly should authorize the Director to establish renewal fees for Management Companies, and the renewal fees should be effective July 1, 2019.

Recommendation 3 – Amend the definitions of the terms, “community association management” and “Community Association Manager,” and authorize the Director to promulgate rules clarifying the supervision requirements for support staff who are providing clerical, ministerial, accounting or maintenance functions to a licensee and specify any activities that would trigger support staff to be licensed.

There are several areas in the Act that limit the work that support staff in Management Companies can do without a license. This has resulted in Management Companies securing licenses for employees who should not be required to be licensed.

A Manager oversees the daily business of an association. He or she supervises the maintenance of the property and facilities. A Manager also collects monthly fees, prepares financial statements and budgets, negotiates with contractors and resolves community complaints.⁹²

Some Managers may also handle administrative duties such as answering phone calls, sending out email blasts and reserving meeting rooms for executive board meetings. However, the essential functions of a Community Association Manager are handling the higher level functions related to running an association. In order to do this effectively, Managers, especially those in larger Management Companies, must be able to delegate much of the routine duties to support staff.

⁹² U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved on August 3, 2017, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

Sunset criteria question whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest.

Administrative assistants and other support staff should not be required to be licensed as long as they are being supervised by a licensed Manager. Managers spend a significant amount of time in the field, so they need staff in the office to be available to answer routine questions from association members and members of the public.

One part of the definition of community association management, highlighted below, is problematic since it seems to require support staff to be licensed as Managers in order to respond to phone calls and emails from members of the association and the public.⁹³

In interactions with members or nonmembers of the common interest community, acting with the authority of the common interest community with respect to its business, legal, financial, or other transactions [emphasis added].

Repealing the words, “In interactions with members or nonmembers of the common interest community” would create a more clear definition of community association management without risking consumer protection, and it would be consistent with the definition used in Virginia.

Another part of the definition that is problematic is section 12-61-1001(4)(a)(VI), C.R.S., which, in part, defines community association management as:

Arranging, conducting, or coordinating meetings of the common interest community’s membership or executive board [emphasis added].

Few would dispute that only licensed Managers should be conducting executive board meetings, but coordinating and arranging meetings may be delegated to administrative assistants. While these terms may relate to functions such as scheduling or finding a meeting room, they may also relate to creating an agenda or drafting documents for a meeting, all of which may be accomplished by an administrative assistant under the supervision of a licensed Manager. By including this language in the definition, it limits these activities to licensed individuals.

Because CCIOA has several requirements related to executive board meetings, Managers must supervise these activities, but it is not necessary for them to perform the activities themselves.

Managers may be disciplined for failing to comply with CCIOA, so if an unlicensed person acting as an administrative assistant is coordinating an executive board meeting, the Manager must still ensure that the activities are compliant with the requirements of CCIOA. Further, a Manager may be disciplined for failing to adequately supervise an unlicensed person.

⁹³ § 12-61-1001(4)(a)(I), C.R.S.

Another section of law that is problematic is section 12-61-1001(5)(b)(I), C.R.S., which exempts from the definition of a Community Association Manager:

A person who, under the *direct* supervision of a Manager, performs any clerical, ministerial, accounting, or maintenance function [emphasis added].

This paragraph is unnecessarily restrictive since it requires “direct supervision” of functions performed by office and maintenance staff. Direct supervision, is a high level of supervision, which implies that the Manager is in the office with staff while they are performing their duties. Clearly, this is an unreasonable requirement. While the Manager should be responsible for the activities of unlicensed staff, this does not necessarily require his or her presence in the office while these duties are being performed.

According to the grounds for discipline, in section 12-61-1010, C.R.S., the Manager’s license is at risk if he or she fails to exercise reasonable supervision over the activities of employees.

As long as the Manager is supervising staff activity, the public should be adequately protected. Direct supervision, however, is excessive. Since Managers cannot comply with this requirement and, at the same time, oversee the business of an association, it is equivalent to requiring support staff to be licensed.

It is unnecessary and overly burdensome to require a receptionist, administrative assistant or a maintenance worker to be licensed as a Manager. The Management Company is already licensed, and a Designated Manager is responsible for the activities of the Management Company. Moreover, Management Companies are responsible for reasonable supervision of the activities of unlicensed staff.

In order to prevent support staff from being unnecessarily licensed, the General Assembly should amend the Act as follows:

- Repeal from section 12-61-1001(4)(a)(I), C.R.S., “In interactions with members or nonmembers of the common interest community”;
- Repeal from section 12-61-1001 (4)(a)(VI), C.R.S., “arranging” and “coordinating” meetings of the common interest community’s membership or executive board; and
- Repeal from section 12-61-1001(5)(b)(I), C.R.S., “direct” from “under the direct supervision of a Manager.”

The General Assembly should also authorize the Director to promulgate rules clarifying the supervision requirements for support staff that provide clerical, ministerial, accounting, or maintenance functions to a licensee and specify any activities that would trigger support staff to be licensed.

Recommendation 4 – Amend the supervision requirements for the Apprentice license type, and require the Director to define by rule the appropriate level of supervision related to specific activities of an Apprentice and detail any supervision requirements that are necessary to protect the public.

The Act creates an Apprentice license type for anyone in training to become a Manager. In order to be licensed as an Apprentice, a candidate must complete an application and a fingerprint-based criminal history record check. An Apprentice is not required to have completed the education and examination requirements, but an Apprentice must work under the control and direct supervision of a licensed Manager. An Apprentice license expires one year after it is issued, and it may not be renewed.

According to the Division, a licensed Apprentice is treated by the Director as an unlicensed person. Since it is unnecessary to license anyone to perform tasks that do not require a license, this license is meaningless.

The question then is: Should the General Assembly sunset the license type? Or, should it amend the statute to create a true training license that is worthwhile to Management Companies?

The sunset criteria question whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest.

Many Management Companies do see value in having a license type for Managers in training, but they find this license type to be too restrictive.

Section 12-61-1001(1), C.R.S., requires an Apprentice to work under the “control and direct supervision” of a fully licensed Manager, and section 12-61-1003(10), C.R.S., states that an Apprentice may not perform any act that requires a Manager license unless he or she is under the direct supervision of a licensed Manager. This is a high level of supervision. Generally, control implies that the supervisor is checking the work of an individual, and direct supervision implies that the supervisor is physically present or on the premises and readily available.

Many companies simply forgo the Apprentice license type and fast track Managers-in-training through the education and examination requirements within a few days of hiring them.

Consumers may be better protected with a training license that allows the candidate to be trained, take classes and pass the examinations without condensing this process into a period of a few days, allowing someone to be fully licensed prematurely. In this way, the trainee would likely absorb more of the education and training than he or she would by being rushed through the process.

An Apprentice is not the same as an unlicensed person since an Apprentice is training under the license of a fully licensed Manager, and he or she should not be treated as an unlicensed person.

Not everyone agrees on the level of supervision necessary for an Apprentice.

Clearly, an Apprentice should not be allowed to do all the work of a fully licensed Manager without some oversight since the Apprentice has not completed the courses or the examination. However, it is unreasonable for the Apprentice to always be in the presence of a fully licensed Manager as long as the Manager is responsible for the work that the Apprentice performs.

The one setting where nearly all stakeholders agree that an Apprentice should not be allowed to work without direct supervision is in executive board meetings.

It is likely that the level of supervision should be graduated as the training progresses. However, this is difficult to regulate, and it is likely best left to the Management Companies to determine based on their practices, the types of associations they serve and the progress and aptitude of individual Apprentices. As long as an Apprentice is supervised by a fully licensed Manager and the Manager and the Management Company are responsible for the activities of the Apprentice, the public should be protected.

If an Apprentice is not properly supervised, the Director can discipline the entity, the Designated Manager and any Managers who were charged with supervision.

Therefore, the General Assembly should amend the requirement for direct supervision and replace it with general supervision instead. It should also require any supervising Managers, the Designated Manager and the Management Company to be responsible for the activities of an Apprentice, and clarify that it is grounds for discipline to fail to adequately supervise the activities of an Apprentice.

The General Assembly should specify that an Apprentice may not conduct or assist in the conduct of an association meeting without the presence of a fully licensed Manager, and it should also require the Director to define by rule the appropriate level of supervision related to specific activities of an Apprentice and detail any other supervision requirements that are necessary to protect the public.

Recommendation 5 – Repeal any references to private, professional credentials and authorize the Director to approve, by rule, any credentials, examinations or education deemed equivalent or superior to the education and examination otherwise required by the director.

In order to become licensed, an applicant must hold one of the following credentials:⁹⁴

- A Certified Manager of Community Associations (CMCA) certification from the Community Association Managers International Certification Board (CAMICB),
- The Professional Community Association Manager (PCAM) designation from the Community Associations Institute (CAI), or
- The Association Management Specialist (AMS) designation from CAI.

⁹⁴ § 12-61-1003(5)(a)(I), C.R.S.

The Director also has the authority to approve other credentials by rule.

If an applicant does not hold the above credentials from CAI or CAMICB, the Director provides an alternative route to licensure. Instead, an applicant may complete 24 hours of classroom or distance learning courses approved by the Director.

Additionally, an applicant must pass an examination. The first part, or General Portion, tests the applicant's competency in carrying out the core functions of community association management. The second part, or Colorado Portion, tests the applicant's understanding of the basic provisions of legal documents and Colorado law related to community association management.⁹⁵

However, an applicant who has a PCAM, AMS or CMCA credential and has maintained the credential in good standing is not required to pass the General Portion of the examination⁹⁶ since it is assumed that an individual with one of these professional credentials has already passed an examination in order to demonstrate competency.

The sunset criteria question whether agency operations are impeded or enhanced by existing statutes.

While the current education and examination provided by the enumerated professional organizations may be the best in the industry today, this status can change over time. An educational course or an examination may cease to be relevant to the profession, or it may no longer provide content that protects the public. Additionally, since the statute simply requires an individual to hold certification from CAI or CAMICB, it is possible that one or both of these organizations may cease to require any education or examination as a condition of certification; they could simply require candidates to pay a fee for certification. The professional association could also develop unfair or discriminatory policies and practices. Finally, they may simply cease to exist or change their names.

In order to ensure applicants are qualified, the specific names of credentials should be repealed, and the Director should simply have the authority to approve any credentials used to qualify for a license by rule.

The Director may still approve the credentials offered by CAI and CAMICB, but the Director would have the ability to repeal approval if he or she determines any of the credentials no longer protect the public.

In summary, the General Assembly should repeal the names of any private, professional associations and their credentials, and it should, instead, authorize the Director to approve, by rule, any credentials, examinations or education deemed equivalent or superior to any education and examination required by the Director.

⁹⁵ § 12-61-1003(5)(a)(III), C.R.S.

⁹⁶ § 12-61-1003(5)(a)(IV), C.R.S.

Recommendation 6 – Enhance the due process protections of a cease and desist order.

To date, cease and desist orders entail the majority of enforcement activity in the program. Unfortunately, the language addressing cease and desist orders is extremely limited compared to that of other regulatory programs.

Section 12-61-1002(3)(a), C.R.S., simply states:

If the Director has reasonable cause to believe that a person is violating [the Act] or a rule adopted under [the Act], the Director may enter an order requiring the person to cease and desist the violation.

The Act does not provide any direction regarding time frame or due process procedures.

The statutes creating other licensing programs in the state offer provisions that allow for due process and provide a timeline for the issuance of cease and desist orders.

For example, the Dental Practice Act gives the Colorado Dental Board two options:

1. To issue a cease and desist order if the activity is an immediate threat to the public, and then the respondent has 10 days to request a hearing before an administrative law judge, or
2. To issue a show cause order and have a prompt hearing prior to the Dental Board issuing a final cease and desist order.

Some other licensing programs that have similar language are those regulating:

- Accountants,⁹⁷
- Audiologists,⁹⁸
- Electricians,⁹⁹
- Engineers,¹⁰⁰
- Landscape architects,¹⁰¹
- Mental health providers,¹⁰²
- Pharmacists,¹⁰³
- Plumbers,¹⁰⁴
- Private investigators,¹⁰⁵ and
- Veterinarians.¹⁰⁶

⁹⁷ § 12-2-126, C.R.S.

⁹⁸ § 12-29.9-110, C.R.S.

⁹⁹ § 12-23-118, C.R.S.

¹⁰⁰ § 12-25-109, C.R.S.

¹⁰¹ § 12-45-114, C.R.S.

¹⁰² § 12-43-223, C.R.S.

¹⁰³ § 12-42.5-124, C.R.S.

¹⁰⁴ § 12-58-110, C.R.S.

¹⁰⁵ § 12-58.5-109, C.R.S.

¹⁰⁶ § 12-64-111, C.R.S.

Adopting such provisions in the Act would outline a system of due process for respondents who may be engaging in a legitimate business practice.

Therefore, the General Assembly should:

- Authorize the Director to immediately issue a cease and desist order if the Director determines the activity to be an immediate threat to the public, and provide the respondent 10 days to request a hearing before an administrative law judge; and
- Authorize the Director to issue a show cause order and schedule a prompt hearing prior to issuing a final cease and desist order.

Administrative Recommendation 1 – The Director should create an advisory committee to assist with drafting rules regarding the use of unlicensed support staff and licensed Apprentices.

Recommendations 3 and 4 of this sunset report attempt to address issues related to the supervision of unlicensed staff and licensed Apprentices statutorily. However, rulemaking will be required to ensure that clear directives are created for the industry.

In order to ensure that the rules that are drafted consider the business practices of the industry while still protecting the public, the Director should appoint an advisory committee.

The advisory committee should be created to make recommendations regarding rules addressing:

- The supervision requirements for support staff,
- The activities that would trigger support staff to be licensed,
- The appropriate level of supervision related to specific activities of an Apprentice, and
- Any supervision requirements for Apprentices necessary to protect the public.

At a minimum, the advisory committee should include 12 members:

- Three representatives from licensed entities,
- Three licensed individuals,
- A representative from the Community Associations Institute,
- An attorney who represents Management Companies,
- An attorney who represents associations, and
- Three executive board members of common interest communities.

To the extent possible, membership should draw from different sized common interest communities, different sized management companies, and various geographic regions throughout the state.

In summary, the Director should create a Community Association Management Advisory Committee in order to better understand the business practices of the industry. Any recommendations of the advisory committee should ensure that regulation of Community Association Managers related to unlicensed staff and licensed Apprentices adequately protects the public without being unnecessarily burdensome to the industry.

Appendix A - Survey of Individual Licensed Managers

In July 2017, COPRRR conducted a survey of all actively licensed individual Community Association Managers. COPRRR sent the survey link to 1,468 licensees via email addresses provided by the Division of Real Estate. Of these, 345 individuals responded. This represents a response rate of approximately 24 percent.

1. Is regulation of individual community association managers necessary to protect the public?

Yes	188	54.5%
No	157	45.5%

2. Is regulation of management companies necessary to protect the public?

Yes	231	67%
No	114	33%

3. How many units do you manage?

Less than 250 units	134	38.8%
250 to 500 units	59	17.1%
501 to 750 units	23	6.7%
751 to 1,000 units	31	9.0%
Over 1,000 units	98	28.4%

4. How long have you worked as a community association manager?

Less than a year	20	5.8%
One to three years	66	19.1%
Four to six years	52	15.1%
Seven to ten years	49	14.2%
Eleven to twenty years	95	27.5%
Over twenty years	63	18.3%

5. Are you the sole proprietor of a community association management company?

Yes	86	24.9%
No	259	75.1%

6. Does the management company or homeowners association(s) you work for cover the cost of your license fee?

Yes	220	84.9%
No	39	15.1%

7. In addition to the state license, please indicate which, if any, of the following professional certificates related to community association management you hold:

Certified Manager of Community Association “CMCA”	160	46.4%
Association Management Specialist “AMS”	63	18.3%
Professional Community Association Manager “PCAM”	30	8.7%
None	171	49.6%

8. Which education provider did you utilize to complete the 24-hour course required to qualify for a CAM license?

Did not complete the 24-hour course since I already had a CMCA, AMS or PCAM credential.	96	27.8%
American Real Estate College	2	0.6%
Colorado Real Estate School	64	18.6%
Community Association Institute M-100, Colorado Edition	106	30.7%
Real Estate Training Center of Colorado	12	3.5%
Van Education Center	65	18.8%

9. What was the quality of the course?

Excellent	58	23.3%
Very good	79	31.7%
Good	79	31.7%
Needs improvement	30	12.0%
Poor	3	1.2%

10. Did you take the General portion of the exam provided by the Division of Real Estate?

Yes	231	92.8%
No	18	7.2%

11. What was the quality of the General portion of the exam?

Excellent	16	6.9%
Very good	57	24.7%
Good	88	38.1%
Needs improvement	54	23.4%
Poor	16	6.9%

12. What was the quality of the Colorado Law portion of the exam?

Excellent	19	5.5%
Very good	87	25.2%
Good	126	36.5%
Needs improvement	87	25.2%
Poor	26	7.5%

13. How efficient was the process to obtain a license?

Exceptionally efficient	5	1.4%
Very efficient	67	19.4%
Fairly efficient	156	45.2%
Needs improvement	86	24.9%
Inefficient	31	9.0%

14. Have you attempted to contact the Division of Real Estate regarding any licensing issues?

Yes	178	51.6%
No	167	48.4%

15. If so, how responsive was the Division?

Exceptionally responsive	18	10.1%
Very responsive	56	31.5%
Fairly responsive	57	32.0%
Needs improvement	45	25.3%
I never received a response from the Division.	2	1.1%

Appendix B - Survey of Licensed Companies

In July 2017, COPRRR conducted a survey of all actively licensed Management Companies. COPRRR sent the survey link to 460 licensees via email addresses provided by the Division of Real Estate. Of these, 90 entities responded. This represents a response rate of approximately 20 percent.

1. Is regulation of individual community association managers necessary to protect the public?

Yes	42	53.3%
No	48	46.7%

2. Is regulation of management companies necessary to protect the public?

Yes	54	60%
No	36	40%

3. Does your company cover the cost of a license for each individual community association manager it employs?

Yes	82	91.1%
No	8	8.9%

4. When your company obtained a license through the Division of Real Estate, was the process efficient?

Exceptionally efficient	2	2.2%
Very efficient	12	13.3%
Fairly efficient	40	44.4%
Needs improvement	22	24.4%
Inefficient	14	15.6%

5. Have you attempted to contact the Division of Real Estate regarding any licensing issues?

Yes	68	75.6%
No	22	24.4%

6. When you contacted the Division to address licensing issues, how responsive was the staff?

Exceptionally responsive	8	11.8%
Very responsive	18	26.5%
Fairly responsive	24	35.3%
Needs improvement	18	26.5%
I never received a response from the Division.	0	

7. On average, how much does your company charge in total fees related to the transfer of a property?

We don't charge any fees related to transferring property.	18	20%
Less than \$200	31	34.4%
\$200 to \$399	40	44.4%
\$400 to \$599	0	
\$600 to \$799	1	1.1%
\$800 to \$999	0	
\$1,000 or more	0	

8. How quickly does your company disclose fees associated with the transfer of a property when it receives a request?

All fees related to the transfer of property are available on the company website or the associations' websites.	25	27.8%
Within 24 hours	44	48.9%
Within 48 hours	10	11.1%
Within 72 hours	7	7.8%
Within 3 business days	2	2.2%
Longer than 3 business days	2	2.2%



COLORADO

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

2021 Sunrise Review

Community Association Managers



October 15, 2021



COLORADO

**Department of
Regulatory Agencies**

Executive Director's Office

October 15, 2021

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The General Assembly established the sunrise review process in 1985 as a way to determine whether regulation of a certain profession or occupation is necessary before enacting laws for such regulation and to determine the least restrictive regulatory alternative consistent with the public interest. Pursuant to section 24-34-104.1, Colorado Revised Statutes (C.R.S.), the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies (DORA) undertakes a robust review process culminating in the release of multiple reports each year on October 15.

A national leader in regulatory reform, COPRRR takes the vision of their office, DORA and more broadly of our state government seriously. Specifically, COPRRR contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient and inclusive regulations that reduce barriers to entry into various professions and that open doors of opportunity for all Coloradans.

As part of this year's review, COPRRR has completed its evaluation of the sunrise application for the regulation of community association managers and is pleased to submit this written report.

The report discusses the question of whether there is a need for regulation in order to protect the public from potential harm, whether regulation would serve to mitigate the potential harm and whether the public can be adequately protected by other means in a more cost-effective manner.

To learn more about the sunrise review process, among COPRRR's other functions, visit coprrr.colorado.gov.

Sincerely,

Patty Salazar
Executive Director



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Background

Sunrise Process

Colorado law, section 24-34-104.1, Colorado Revised Statutes (C.R.S.), requires that individuals or groups proposing legislation to regulate any occupation or profession first submit information to the Department of Regulatory Agencies (DORA) for the purposes of a sunrise review. The intent of the law is to impose regulation on occupations and professions only when it is necessary to protect the public health, safety or welfare. DORA's Colorado Office of Policy, Research and Regulatory Reform (COPRRR) must prepare a report evaluating the justification for regulation based upon the criteria contained in the sunrise statute:¹

- (I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
- (II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence;
- (III) Whether the public can be adequately protected by other means in a more cost-effective manner; and
- (IV) Whether the imposition of any disqualifications on applicants for licensure, certification, relicensure, or recertification based on criminal history serves public safety or commercial or consumer protection interests.

Any professional or occupational group or organization, any individual, or any other interested party may submit an application for the regulation of an unregulated occupation or profession. Applications must be accompanied by supporting signatures and must include a description of the proposed regulation and justification for such regulation.

Methodology

During the sunrise review process, COPRRR staff performed a literature search, contacted and interviewed the sunrise applicant, reviewed licensure laws in other states and interviewed stakeholders. To determine the number and types of complaints filed against community association managers in Colorado, COPRRR staff contacted the Division of Real Estate and professional associations.

¹ § 24-34-104.1(4)(b), C.R.S.

Profile of the Profession

Common interest communities, which include homeowner associations (HOAs), are formed by communities with single-family homes or multiple-unit buildings, such as condominiums.² The primary purpose of common interest communities is, among other things, to maintain community standards to ensure stable property values. Homeowners automatically become members of common interest communities when they purchase property in a community governed by common interest.

According to the Colorado Division of Real Estate, as of December 2020, there were at least 10,486 active HOAs throughout Colorado.

Residents within the community are charged with running a common interest community. Common interest communities have a board of directors, comprised of community residents, which is responsible for creating, modifying and enforcing rules and governing documents related to the community. The rules are highlighted in documents typically referred to as the Declaration of Covenants, Conditions and Restrictions (CC&Rs).³

The CC&Rs establish certain conditions on property owners, such as structural restrictions. Examples of structural restrictions include the type of allowable fencing, landscaping or color of paint for houses.⁴ CC&Rs usually outline penalties for violations of the HOA rules, which may include fines, forced compliance or in some cases, litigation.⁵

The common interest community board of directors is also responsible for establishing fees. Fees are collected to, among other things, maintain common areas (e.g., parks) and amenities such as swimming pools within the community. Fees may also be utilized for trash collection and snow removal services. Further, fees are assessed for administrative matters, such as obtaining documents necessary to close on the sale or refinancing of a property.

Often, common interest communities contract with third parties, known as community association managers (CAMs), to manage the day-to-day operations of the community. CAMs are the subject of this sunrise review. CAMs perform a variety of duties on behalf common interest communities, including, but not limited to: collecting the fees imposed on homeowners by the common interest community, scheduling board meetings, administering board elections, contracting with vendors to provide

² Investopedia. *Homeowners Association - HOA*. Retrieved July 20, 2021, from <https://www.investopedia.com/terms/h/hoa.asp>

³ Investopedia. *Homeowners Association - HOA*. Retrieved July 20, 2021, from <https://www.investopedia.com/terms/h/hoa.asp>

⁴ Investopedia. *Homeowners Association - HOA*. Retrieved July 20, 2021, from <https://www.investopedia.com/terms/h/hoa.asp>

⁵ Investopedia. *Homeowners Association - HOA*. Retrieved July 20, 2021, from <https://www.investopedia.com/terms/h/hoa.asp>

landscaping and other services and scheduling required maintenance of common areas and amenities.

CAMs also, among other things, prepare financial statements and budgets, and negotiate with contractors.⁶

A community association's contract with a CAM is terminable for cause without penalty to the community association.⁷

Common interest communities and CAMS are often conflated, and understandably so. In many situations, it can be difficult to discern whether a particular action was taken by the common interest community or the CAM that it directs. Regardless, the two are distinct and separate entities, as highlighted in the Colorado Revised Statutes.

Currently, the Community Association Managers International Certification Board (CAMICB) and the Community Associations Institute (CAI) offer several credentials related to community management. The CAMICB was created by CAI to develop and administer the international Certified Manager of Community Associations (CMCA) certification program.⁸

According to the CAI website,

The CMCA is the first step for a professional community manager to demonstrate the fundamental knowledge required to manage a community association.⁹

To qualify for a CMCA credential, an applicant must satisfy the following requirements:¹⁰

- Successfully complete an in-depth comprehensive training course covering the essentials of community association management;
- Possess five years of experience of community association management; or
- Possess a license in either Arizona, California, Florida, Nevada or Illinois.

⁶ U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved July 28, 2021, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

⁷ § 38-33.3-302(4)(a), C.R.S.

⁸ Community Association Managers International Certification Board. *Certified Manager of Community Associations Handbook*. Retrieved July 21, 2021, from <https://www.camicb.org/SiteCollectionDocuments/CMCAHandbook.pdf>

⁹ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

¹⁰ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

Applicants must also submit a CMCA application and comply with the CAMICB Standards of Professional Conduct.¹¹

In order to obtain the CMCA credential, a candidate must complete the aforementioned prerequisites and pass the CMCA examination, which is administered by the CAMICB. The CMCA examination is a computer-based examination consisting of 120 multiple-choice questions (100 questions are scored and 20 are unscored).¹² A candidate must complete the examination within two and one-half hours.¹³

The total cost for the CMCA examination is \$315.

CAMs who possess a CMCA credential must pay an annual service fee.¹⁴ To maintain a CMCA credential, a CAM must complete a minimum of 16 hours of continuing education (CE) every two years.¹⁵

In addition to the CMCA credential offered by CAMICB, CAI itself offers two additional credentials: Association Management Specialist (AMS) and Professional Community Association Manager (PCAM).

In order to qualify for the AMS credential, an applicant must satisfy the following requirements:¹⁶

- Possess two or more years of community association management experience;
- Successfully pass two CAI M-200 level courses, such as:¹⁷
 - Facilities management,
 - Association Communications,
 - Community Leadership,
 - Community Governance,
 - Risk Management, or
 - Financial Management.

¹¹ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

¹² Community Association Managers International Certification Board. *Certified Manager of Community Associations Handbook*. Retrieved July 21, 2021, from <https://www.camichb.org/SiteCollectionDocuments/CMCAHandbook.pdf>

¹³ Community Association Managers International Certification Board. *Certified Manager of Community Associations Handbook*. Retrieved July 21, 2021, from <https://www.camichb.org/SiteCollectionDocuments/CMCAHandbook.pdf>

¹⁴ Community Association Managers International Certification Board. *Certified Manager of Community Associations Handbook*. Retrieved July 21, 2021, from <https://www.camichb.org/SiteCollectionDocuments/CMCAHandbook.pdf>

¹⁵ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

¹⁶ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

¹⁷ Community Associations Institute. *M-200 Courses*. Retrieved August 2, 2021, from <https://www.caionline.org/LearningCenter/Education-for-Managers/Documents/Continuing%20Education%20Course%20Matrix.pdf>

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- Comply with the CAI Professional Manager Code of Ethics; and
 - Pass the CMCA examination.

CAMs who possess an AMS credential must pay an annual maintenance fee, which is \$85 for members of CAI and \$310 for non-members.¹⁸ To maintain an AMS credential, a CAM must complete a minimum of one CAI course and an additional eight CE hours every three years.¹⁹

According to CAI, the PCAM is the highest level of community association management credentials.²⁰ To qualify for a PCAM credential, an applicant must satisfy the following requirements:²¹

- Pass the CMCA examination,
- Successfully pass all six CAI M-200 level courses plus complete a case study,
- Complete five years or more of community association management experience (including AMS experience), and
- Comply with the CAI Professional Manager Code of Ethics.

CAMs who possess a PCAM credential must pay an annual maintenance fee, which is \$160 for members of CAI and \$385 for non-members.²² To maintain a PCAM credential, a CAM must complete either a 300 or 400 level CAI course or attend the CAI Annual Headquarters Conference, Law Seminar or the Chief Executive Officer Retreat every three years.²³

The CAI also offers the Accredited Association Management Company (AAMC) credential for companies. According to CAI, “The AAMC accreditation demonstrates a company’s commitment to providing the unique and diverse services community associations need.”²⁴

¹⁸ Community Associations Institute. *Association Management Specialist*. Retrieved August 2, 2021, from <https://www.caionline.org/LearningCenter/credentials/Pages/AMS.aspx>

¹⁹ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

²⁰ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

²¹ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

²² Community Associations Institute. *Professional Community Association Manager (PCAM)*. Retrieved August 3, 2021, from <https://www.caionline.org/LearningCenter/credentialQs/Pages/PCAM.aspx>

²³ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

²⁴ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

To qualify for an AAMC credential, an applicant must satisfy the following requirements:²⁵

- Possess a minimum of three years of experience providing community association management services;
- Employ at least three full-time employees, one of whom is a manager;
- Designate a PCAM as the company's senior manager;
- Employ a staff of which 50 percent of managers hold a CAI or CAMICB credential;
- Maintain fidelity, general liability and worker's compensation insurance in addition to adhering to applicable federal, state and local laws; and
- Be in compliance with the CAI Professional Manager Code of Ethics.

The initial application fee for an AAMC certification is \$300 for CAI members and \$550 for non-members.²⁶

²⁵ Community Associations Institute. *Community Associations Institute (CAI), Community Association Managers International Certification Board (CAMICB) Credentials*. Retrieved July 21, 2021, from <https://www.caionline.org/LearningCenter/credentials/Documents/Credentials%20One%20Sheet.pdf>

²⁶ Community Associations Institute. *Accredited Association Management Company (AAMC)*. Retrieved August 15, 2021, from <https://www.caionline.org/LearningCenter/credentials/Pages/AAMC.aspx>

Proposal for Regulation

The Colorado HOA Forum (Applicant) submitted a sunrise application to the Colorado Office of Policy, Research and Regulatory Reform within the Department of Regulatory Agencies for review in accordance with the provisions of section 24-34-104.1, Colorado Revised Statutes. The application identifies licensure of community association managers (CAMs) as the appropriate level of regulation.

The Applicant asserts that licensing CAMs would:

- Protect homeowner associations against improper accounting practices by defining rules on accounting for funds and recordkeeping and conflicts of interest in the competitive bidding process.
- Provide information to the public on property management companies that have been penalized for violations of law.
- Provide an accessible, affordable and non-litigious dispute resolution process for homeowners who file complaints with their property managers.

The Applicant's proposal would require that candidates for licensure meet the following requirements:

- Be at least 18 years of age;
- Hold at least a high school diploma;
- Demonstrate knowledge of the laws of Colorado that govern common interest communities, such as the Nonprofit Act and the Colorado Common Interest Ownership Act;
- Agree, in writing, to abide by a standard of professional conduct; and
- Submit evidence of insurance and evidence of satisfying bonding requirements to be established by the Department of Regulatory Agencies.²⁷

The Applicant also proposes excluding applicants for licensure who have been convicted of a felony within the past five years. Applicants for licensure who have failed to cooperate with any law enforcement or regulatory agency in any investigation of any law enforcement or regulatory investigation would also be excluded from licensure.

Summary of Current Regulation

Federal Laws and Regulations

Currently, there are no federal laws requiring community association managers to be licensed, certified or registered.

The Colorado Regulatory Environment

Many common interest community associations (community associations) contract with community association managers (CAMs), and they are subject to a variety of Colorado laws, including, but not limited to:

- The Colorado Revised Nonprofit Corporation Act (CRNCA),
- The Condominium Ownership Act (COA), and
- The Colorado Common Interest Ownership Act (CCIOA).

Most community associations are nonprofit corporations, and as such, are subject to the provisions of the CRNCA. In general, CRNCA addresses topics such as:

- Incorporation;²⁸
- Purposes and powers;²⁹
- Members and memberships;³⁰
- Members' meetings and voting;³¹
- Directors and officers;³² and
- Records, information and reports.³³

COA's applicability is limited to condominiums, and, in general, enumerates the required contents of a condominium association's declarations and bylaws.³⁴ However, COA's applicability is further limited to those condominium associations created prior to July 1, 1992.³⁵ Condominium associations created after this date are subject to the provisions of CCIOA.³⁶

CCIOA is a complex law, the applicability of which can be difficult to determine. Applicability is, in most cases, predicated on the date upon which a community association was created, with July 1, 1992 being a key date.

²⁸ § 7-122-101, *et seq.*, C.R.S.

²⁹ § 7-123-101, *et seq.*, C.R.S.

³⁰ § 7-126-101, *et seq.*, C.R.S.

³¹ § 7-127-101, *et seq.*, C.R.S.

³² § 7-128-101, *et seq.*, C.R.S.

³³ § 7-136-101, *et seq.*, C.R.S.

³⁴ §§ 38-33-105.5 and 38-33-106, C.R.S.

³⁵ § 38-33.3-115, C.R.S.

³⁶ Orten, Cavanaugh, Richmond & Holmes, L.L.C. - Attorneys at Law. *Introduction to the Colorado Condominium Ownership Act*. Retrieved August 3, from https://5150communitymanagement.com/hoa/wp-content/uploads/2014/03/The_Colorado_Condominium_Ownership_Act.pdf

CCIOA applies to homeowner associations (HOAs) that govern and operate as common interest communities (CICs). For purposes of CCIOA, CICs are communities that require mandatory assessments. Generally, CCIOA applies to a CIC if it was created after 1992.³⁷

Importantly, communities with voluntary assessments are generally not subject to the provisions of CCIOA.

CCIOA, among other things, specifies quorum requirements and other basic standards for meetings and voting. It also details powers and duties of the community association board, including, but not limited to reserve funds and audits.³⁸

CAMs are subject to CCIOA to the same extent as their community association clients.

CCIOA also requires community associations organized under CCIOA to register annually with the Colorado Division of Real Estate.³⁹

None of these laws are enforced by any state entity. Rather, community members who desire to enforce a provision of any of them must bring suit in civil court.

Regulation in Other States

According to the sunrise application, eight states currently regulate CAMs. In an attempt to understand the regulatory environment in other states, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) staff contacted several states: California, Florida, Illinois, Kentucky and Nevada.

Information obtained for this sunrise review indicated that each of these states requires CAMs to possess a certification or license to practice.

COPRRR requested information related to complaints and disciplinary actions imposed on CAMs in each of the states referenced above, but with limited success. COPRRR staff was able to find complaints filed against CAMs in Florida and Illinois only. In Florida, during fiscal year 18-19, there were 85 cases where probable cause was found that a CAM may have violated the statute. In Illinois, in January 2020 through June 2020, there were 86 complaints filed against CAMs. Of those complaints, 20 were dismissed at intake, and 66 were referred for additional investigation.

³⁷ Orten, Cavanaugh, Richmond & Holmes, L.L.C. - Attorneys at Law. *Understanding Colorado "Common Interest Communities."* Retrieved August 4, 2021, from

[https://www.ochhoalaw.com/media/documents/Understanding_Common_Interest_Communities_\(00565192\).PDF](https://www.ochhoalaw.com/media/documents/Understanding_Common_Interest_Communities_(00565192).PDF)

³⁸ Office of Legislative Legal Services. *Application of the Colorado Common Interest Ownership Act (CCIOA) in Subdivisions and Condominium Communities.* Retrieved August 4, 2021, from

<https://leg.colorado.gov/sites/default/files/application-of-ccioa-in-subdivisions-and-condos.pdf>

³⁹ § 38-33.3-401(1), C.R.S.

Analysis and Recommendations

Public Harm

Before moving forward in the analysis of harm concerning community association managers (CAMs), it is important to provide context related to past regulation of CAMs.

In 2012, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) conducted a sunrise review of CAMs. The sunrise report determined that community association management companies should be regulated.

The General Assembly enacted House Bill 13-1277, which required all CAMs, individuals and entities, to obtain a license from the Director of the Division of Real Estate (Division) by July 1, 2015. The General Assembly also required that a sunset review be completed in 2017.

The sunset report determined that regulation was necessary to protect the public; the report recommended the continuation of the Community Association Management Practice Act for five years.

However, since the program had only been in existence for two years prior to the sunset review, there was not a great deal of data to analyze related to complaints. As a result, the sunset report recommended continuation of the program to allow for additional time to gather relevant data.

Ultimately, the sunset bill (House Bill 18-1175) was postponed indefinitely in the Senate Finance Committee, sending the program into windup.

In 2019, the General Assembly passed House Bill 19-1212 (HB 1212), which would have reenacted the licensing program for CAMs. Also, HB 1212, among other things, set a sunset date of September 1, 2020, and created a seven-member advisory committee to advise the Director of the Division on issues such as rule changes, the adoption of guidelines and establishing a process for handling complaints.

The Governor ultimately vetoed HB 1212 because the bill, among other things, did not include the recommendations in the 2017 CAM sunset review. Consequently, the regulation of CAMs ended on June 30, 2019.

That same year, the Governor issued Executive Order D 2019 006 (Executive Order) that directed the Executive Director of the Department of Regulatory Agencies (DORA) and the Director of the Division to conduct a comprehensive review of how to better protect consumers and community and homeowner associations (HOAs).

Specifically, the Executive Order directed the Executive Director of DORA and the Director of the Division to develop and make recommendations on the following:

- Licensure of CAMs, considering recommendations from the 2017 sunset report, and whether licensure is cost-effective and necessary;
- Approaches to improve transparency among HOAs;
- Methods to reduce costs and improve the transparency of HOA fees and fee schedules; and
- Strategies to promote homeowner rights and consumer protections through the evaluation of the Colorado Common Interest Ownership Act and other related acts and rules.

On December 31, 2019, the Executive Director of DORA submitted a report to the Governor pursuant to the Executive Order. The Director of the Division, among other things, engaged in stakeholder meetings and conducted a survey to ascertain whether the public, including CAMs, were in favor of regulation. The Division held four stakeholder meetings where there were approximately 40 to 50 attendees, both homeowners and members of the CAM industry. At the stakeholder meetings, many issues were discussed, including whether CAMs should be regulated again in Colorado.

Additionally, the Division sent a survey to approximately 70,000 stakeholders, and received more than 500 responses. The survey asked, among other things, whether CAMs should be regulated. Seventy-five percent of the respondents agreed that regulatory oversight was necessary to protect the public. More specifically, 64 percent of respondents who identified as CAMs believed that regulation was necessary, and 82 percent of respondents who were homeowners were in favor of regulation.

In 2020, COPRRR received a sunrise application, once again, to conduct a sunrise review of CAMs to determine whether a regulatory program should be reenacted. This sunrise report is the result of that sunrise application.

The first sunrise criterion asks:

Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument.

CAMs perform a variety of duties on behalf common interest communities, including HOAs. For instance, CAMs collect the fees imposed on homeowners by common interest communities and schedule required maintenance of common areas and amenities.

CAMs also prepare financial statements and budgets, and they negotiate with contractors.⁴⁰

There are a variety of situations where CAMs could harm consumers, such as theft of funds and mismanagement.

In order to determine whether the regulation of CAMs is necessary in Colorado, COPRRR staff requested that the sunrise applicant (Applicant) and other stakeholders provide specific examples of harm.

It is important to note that the Applicant submitted the exact same examples of harm that were included in the 2011 sunrise application. The 2012 sunrise review of CAMs stated,

the application breaks harm into four somewhat overlapping categories: mismanagement/bad practices, failure to perform, missing funds and accounting failures. The level of detail provided is minimal.⁴¹

The examples of harm that were provided by the Applicant are as follows:

Mismanagement

- A manager worked with the board on a contract to replace roofs at a condominium community with approximately 175 homes. The contract was for approximately \$750,000 and was signed by the manager. At no time was the financial condition of the association reviewed to ensure that the association was adequately funded so payment for the work could be made, which it was not. The manager ignored the situation while work continued until a lawsuit was threatened. The asserted inadequate financial review on the part of the manager put the association at financial risk, and also threatened the viability of a company that was not being paid for the work done.
- The management company steered an association, and their attorney, down an overly aggressive path for foreclosure against a property regarding late fees associated with a trash can violation, despite the fact that the owner was paying monthly dues. The property was eventually sold in foreclosure, the owner lost the tenants who were in the property and the case settled. The entire situation could have been avoided had the manager directed the attorney to communicate with the owner.

⁴⁰ U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved July 28, 2021, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

⁴¹ Department of Regulatory Agencies. *2012 Sunrise Review: Common Interest Community Association Managers*. P.17.

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- A manager charged fees against an owner's account, which are excessive for transferring files for collection to an attorney. This places a larger financial burden on the owner in addition to the past due account.
 - Assessing fees in an association not built out against unoccupied units. The management charged their regular fee based on the number of homes in the community, which is standard practice. When it was discovered that an entire building that was bank owned was part of the community, management demanded that the association pay for increased fees based on the number of homes in the unoccupied building.
 - A management company advocates their associations pursue foreclosure for every delinquency, regardless of the amount owed.

Failure to Perform

- A management company did not conduct background checks and hired someone who had been in jail for embezzlement.
- A manager did not secure a background check when retaining a controller, and the controller for the association had a record of embezzlement.
- A board fired a manager. A resident then forms a management company and takes on the responsibility of management. The manager fails to follow the corporate formalities. For example, the manager uses association funds to provide for restaurant meals of the board at nearly every meeting. Homeowners eventually stand up to the actions of the manager, and the board hires a different manager. The association was in litigation with the former manager regarding payment of fees and monies owed. The manager believed that he was owed money, and the association claimed they were owed a substantial sum of money.
- A management company failed to do much of anything while a developer was in control of the community. Board meetings were not held, and reserves were not created. The management company was fired and transitioned very few documents. The developer who was in control of the association allegedly mismanaged funds, left the association with little resources and left the state. The association wrote off the monies taken, as the cost of collection was too great, and the chance of collection was small.

Missing Funds

- The board gave an onsite manager a debit card, and she spent \$308,000 at Black Hawk.
- A management company accountant stole \$720,000 over a three-year period from various associations.
- A Vail management company was infiltrated by the Russian Mafia and significant dollars were stolen. Three associations insured by an insurance company lost about \$100,000 each. Three other associations insured by an insurance company suffered the same fate. Of the six associations, only

two had insurance coverage for computer and wire transfers. The remaining four were uncovered in these areas.

Accounting Failures

- Checking or savings accounts with only one signature necessary to open, close, transfer, freeze or empty an association's checking or savings account with board member signature authority.
- Checking or savings accounts with only one signature necessary to open, close, transfer, freeze or empty an association's checking or savings account with an HOA property manager signature authority.
- Accounts payable with no supporting documentation (invoices, contract), (etc.) explaining what the expenditure was for. Payees that are not traceable.
- Invoices that do not match the disbursement amount.
- Unrecorded and undocumented expenses (expenses not shown on the financial statement but reflected in the bank statement).
- Unreconciled financial statements. Financial statements that do not include the bank statement.
- Accounts receivable ledgers (owner payment ledgers) with undocumented miscellaneous charges or unsubstantiated charges.
- In instances where an association purchases preprinted checks, missing groups of undocumented checks.
- Payment from reserves for operating costs.
- Unreconciled petty cash funds.

Although many of the examples highlighted above are concerning, they lack sufficient detail to perform an analysis. Instead, many of the examples are generalizations. Importantly, the examples of harm are at least 10 years old.

The lack of detailed examples of harm concerning CAMs, submitted by the Applicant, calls into question the need to reenact a regulatory program.

Stakeholders provided additional examples of harm to COPRRR staff for this sunrise review. One stakeholder provided several instances where there were assertions that the CAM acted inappropriately. Some of the examples include:

- Allegations of a CAM manipulating HOA board meeting minutes, such as removing negative information concerning the CAM from the meeting minutes;
- Not posting meeting minutes;
- Increased insurance premiums;
- Increase in HOA dues;
- Not responding to requests for financial statements;
- Excessive reserve fund balance;
- Minimal interest earning on reserve funds;

-
- Lack of transparency in spending funds;
 - Improperly handling elections; and
 - Intimidation.

The examples highlighted above, if true, are concerning and could compromise consumer protection. COPRRR staff interviewed other stakeholders concerning these assertions. According to information gleaned through interviews, the CAM does not take the meeting minutes or edit them. Instead, the board elects a secretary whose duty, among other things, is to accurately take minutes at the board meetings. Conversations with stakeholders indicate that meeting minutes are posted promptly.

The insurance premiums were, in fact, increased fairly substantially due to a variety of circumstances including wind damage and hail loss.

The increase in monthly dues is not the purview of the CAM. Instead, the board establishes the fee schedule based on the needs of the HOA community, such as fence repair, community center maintenance and the addition of a community garden.

Interviews with stakeholders indicated that information requests from HOA members are responded to in a timely manner.

Interviews also indicated that the large fund balance was due to the fact that the previous board membership moved forward, after surveying HOA residents, with installation of a pool. The decision was made based on survey results, which indicated that residents wanted a pool installed. Soon after, the board membership changed, and the new board decided to install a community garden instead of a pool. It is important to note, that the board, not the CAM, decided to install the community garden instead of the pool.

Ultimately, the decision to invest reserve funds at a specific business is vested with the board. The CAM, while acting as an agent of the board, deposits the funds at the business determined by the board.

Interviews with stakeholders indicate that the CAM willingly provides information such as financial statements to residents who request them.

Interviews with stakeholders asserted that there was an attempt to solicit and include additional votes for a board election after the election was closed. Consequently, the additional votes were disallowed.

The assertions referenced above, as well as the comments provided by other stakeholders who were interviewed, indicate that there appear to be issues related to communication and trust between community members and the CAM. It is difficult to ascertain if improper actions actually occurred, since the responses to the concerns were vastly different from the complaints.

The information referenced above was not indented to be a formal investigation; instead, it was information gleaned from stakeholder interviews.

As such, the need to re-establish a regulatory program concerning CAMs is called into question.

Additionally, in an attempt to identify harm to consumers related to the actions of CAMs, COPRRR staff reviewed the 2017 sunset review of the Community Association Management Practice Act, and contacted the Division of Real Estate (Division) staff. Recall that regulation of CAMs was sunsetted in 2018, and the program ended on June 30, 2019.

The 2017 sunset review, among addressing other issues, identified instances where the Director of the Division revoked the licenses of two individuals for theft of funds from an association. The Director also revoked the license of a management company for theft of an association's funds.

As a result, the sunset report determined that regulation was necessary to protect the public; the report recommended the continuation of the Community Association Management Practice Act for five years. Specifically, the report highlighted the three instances in two years where two individuals and one management company's licenses were revoked due to theft of funds as justification to continue regulatory oversight of CAMs.

The sunset review's recommendation to continue regulatory oversight is a compelling argument to re-establish regulatory oversight. The Director of the Division identified specific instances where licensees stole an association's funds, which harmed consumers financially. Importantly, the three instances where the Director of the Division revoked the licenses occurred within a short timeframe - two years.

COPRRR staff contacted the Division and requested information concerning complaints filed against CAMs since regulation was sunsetted. Division staff stated that per their record retention policy, they destroy all of the complaints received in February each year. Therefore, Division staff were unable to provide any complaint information related to CAMs.

Although some of the examples of harm provided for this sunrise report appear to have been recycled from the 2011 sunrise application, the assertions presented, are concerning. Issues such as mismanagement, failure to perform, missing funds and accounting failures, could compromise the protection of the HOA community members. However, because the examples lacked sufficient, detailed information in order to conduct an analysis, along with the fact that they were at least 10 years old, it is unclear whether those issues are currently occurring in Colorado.

Also, the examples provided by stakeholders, as well as other stakeholders' assertions to the allegations, appear to be related to communication and trust issues concerning

certain HOA community members and the CAM. Therefore, these examples do not provide a clear indication that the re-enactment of the CAM regulatory program is necessary.

However, the 2017 sunset review detailed instances where CAM licensees stole funds from the associations for which they worked. Although theft is a crime and could be punishable via the courts, a regulatory program could prevent the practitioners from practicing in the future, which may serve to enhance consumer protection.

Additionally, in 2019, as part of its activities to comply with Executive Order D 2019 006 (Executive Order), the Division sent a survey to approximately 70,000 stakeholders, and received more than 500 responses. The survey asked, among other things, whether CAMs should be regulated. Seventy-five percent of the respondents agreed that regulatory oversight was necessary to protect the public. More specifically, 64 percent of respondents who identified as CAMs believed that regulation was necessary, and 82 percent of respondents who were homeowners were in favor of regulation.

Although the survey does not highlight direct evidence of harm, it is an indication that harm may be prevalent enough for this many respondents to see a need for regulation.

Finally, during the course of this sunrise review, COPRRR staff reviewed the complaint and disciplinary data from other states. In Florida, during fiscal year 18-19, there were 85 cases where probable cause was found that a CAM may have violated the statute. Although these potential violations did not occur in Colorado, they demonstrate that CAMs may have harmed consumers in other states.

Thus, examining all of the evidence in its entirety, there is some evidence to suggest that CAMs are at least in a position to cause harm to Colorado consumers.

Need for Regulation

The second sunrise criterion asks:

Whether the public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional or occupational competence.

This criterion addresses the proposition of whether the state should require a certain level of education and/or impose a requirement that CAMs acquire a certain level of education and/or pass an examination before practicing in Colorado.

This sunrise review did not identify competency-related issues related to consumer harm. Instead, the harm that was identified was financial harm (theft of funds), which would not be averted by an initial assurance of competency. As such, there is insufficient evidence to justify requiring CAMs to possess a minimum level of education

or pass an examination in order to practice in Colorado. The implementation of minimum competency requirements could potentially impose an unnecessary barrier to entry for professionals.

Alternatives to Regulation

The third sunrise criterion asks:

Whether the public can be adequately protected by other means in a more cost-effective manner.

Public protection for consumers who live in common interest communities could be realized in a cost-effective manner by requiring CAMs to obtain a credential from the Community Association Managers International Certification Board (CAMICB) or the Community Associations Institute (CAI).

Generally, to obtain a credential with CAMICB or CAI, candidates are required to pass the Certified Manager of Community Associations (CMCA) examination, pay an annual service fee and complete continuing education.

Obtaining certification from either the CAMICB or CAI ensures that CAMs are qualified to practice in Colorado.

Consequently, the certifications offered by CAMICB and CAI might insulate consumers from incompetent practitioners.

The voluntary credentials offered by CAMICB and CAI are utilized by many practitioners throughout the country, including Colorado. In Colorado, the credentials are voluntary. Therefore, certification by one of the aforementioned organizations may be a viable option and an alternative to state regulation.

However, an individual may continue to practice if his or her certification is revoked.

Collateral Consequences

The fourth sunrise criterion asks:

Whether the imposition of any disqualifications on applicants for licensure, certification, re-licensure, or re-certification based on criminal history serves public safety or commercial or consumer protection interests.

The sunrise application asserts that one of the minimum requirements for CAM licensure is that an applicant must not have been convicted of a felony in the past five years.

During this sunrise review, there were three instances identified where CAMs who were formally regulated by the Division, were disciplined for theft of funds. As such, the implementation of a background check could serve to enhance consumer protection by prohibiting practitioners with a criminal history from practicing.

Conclusion

The sunrise application requested licensure of CAMs in Colorado. The Applicant asserts that licensing CAMs would:

- Protect HOAs against improper accounting practices by defining rules on accounting for funds and recordkeeping and conflicts of interest in the competitive bidding process.
- Provide information to the public on property management companies that have been penalized for violations of law.
- Provide an accessible, affordable and non-litigious dispute resolution process for homeowners who file complaints with their property managers.

Often, HOAs and other common interest communities are managed by CAMs. CAMs perform a variety of duties on behalf common interest communities, including, but not limited to: collecting the fees imposed on homeowners by the HOA and scheduling required maintenance of common areas and amenities. CAMs also prepare financial statements and budgets, and they negotiate with contractors.⁴²

In order to determine whether the regulation of CAMs is necessary, the sunrise application requires the sunrise applicant to submit specific, verifiable examples of harm. The sunrise application for this sunrise review contained the same examples of harm that were included in the 2011 sunrise application. The examples lack sufficient detail to conduct an analysis.

The absence of updated, more recent examples of harm related to CAMs calls into question the need to re-establish a regulatory program.

Additionally, the stakeholder feedback information provided for this sunrise review related to CAMs suggests that there may be communication and trust issues with assertions provided. It is difficult to ascertain if improper actions actually occurred, since the responses to the concerns were vastly different from the complaints.

Additionally, COPRRR staff reviewed the 2017 sunset review of the Community Association Managers Practice Act. The salient information contained in that report included the fact that three CAM licenses (one management company and two individuals) were revoked for theft of association funds. Importantly, theft is a crime and potentially punishable through the courts.

⁴² U.S. Bureau of Labor Statistics. *Property, Real Estate, and Community Association Managers*. Retrieved July 28, 2021, from <https://www.bls.gov/ooh/management/print/property-real-estate-and-community-association-managers.htm>

The revocations are compelling because there was only a two-year sunset period for the program. That is, the regulatory program was only in existence for two years and there were three revocations. This seems to support the notion that CAMs are in a position to harm the members of the community associations they manage.

Additionally, the Division sent a survey to approximately 70,000 stakeholders, and received more than 500 responses. The survey asked, among other things, whether CAMs should be regulated. Seventy-five percent of the respondents agreed that regulatory oversight was necessary to protect the public. More specifically, 64 percent of respondents who identified as CAMs believed that regulation was necessary, and 82 percent of respondents who were homeowners were in favor of regulation.

Although the survey does not highlight direct evidence of harm, it is an indication that harm may be prevalent enough for this many respondents to see a need for regulation.

During the course of this sunrise review, COPRRR staff reviewed the complaint and disciplinary data from other states. In Florida, during fiscal year 18-19, there were 85 cases where probable cause was found that a CAM may have violated the statute. Although the potential violations did not occur in Colorado, they demonstrate that CAMs may have harmed consumers.

Requiring the credentialing of CAMs prior to practicing in Colorado is an option. The examples of harm provided for this sunrise review as well as the harm identified in the 2017 sunset review included issues such as theft, which is not a competency-related issue. Therefore, requiring that CAMs obtain a competency-based credential to practice would be overly restrictive and would not serve to protect consumers.

Instead, a minimal regulatory program should be enacted to ensure that CAMs who commit acts such as theft are held accountable through regulatory oversight. Although regulation may not prevent thefts from occurring in the future, it would potentially prevent a practitioner from practicing again in Colorado, possibly placing HOA communities in financial danger. Importantly, the implementation of a regulatory program for CAMs should be responsible and cognizant of any additional costs that HOAs could incur.

Also, the sunrise application asserts that one of the minimum requirements for CAM licensure is that an applicant must not have been convicted of a felony in the past five years. Since there were instances of theft, the implementation of a criminal history background check should be established.

Recommendation - Regulate community association managers.



COLORADO

Department of
Regulatory Agencies

Division of Real Estate

Governor Jared Polis
200 E. Colfax Ave. Room 136
Denver, CO 80203

Senator Sonya Jaquez Lewis
Senate Committee on Local Government and Housing
200 E. Colfax Ave.
Denver, CO 80203

Representative Meg Froelich
House Committee on Transportation, Housing and Local Government
200 E. Colfax Ave.
Denver, CO 80203

December 8, 2023

Governor Polis, Senator Jaquez Lewis, and Representative Froelich:

HB23-1105 created two task forces to examine specific issues homeowners face when living in homeowner associations and metropolitan districts. The Act requires that on or before the second meeting of the HOA Homeowners' Rights Task Force, the task force shall determine the areas of focus for legislative recommendations for the 2024 legislative session. Please note that while the HOA Homeowners' Rights Task Force is being administered by the Division of Real Estate within the Department of Regulatory Agencies, these recommendations are strictly representative of the task force's considerations and are not to be construed as the recommendations of the Division of Real Estate or the Department of Regulatory Agencies. The Division of Real Estate reserves the right to evaluate any additional information and establish its own policy positions and recommendations.

The HOA Homeowners' Rights Task Force held its first meeting on October 24, 2023. The task force determined that the recommended areas of focus for the legislative considerations should be:

1. Explore the creation of an alternative dispute resolution process to address homeowner disputes.
2. Consider revising HB22-1137 to address special assessments and emergency fund availability
3. Consider revising HB22-1139 to address impacts on the public right of way
4. Explore the creation of a reserve bill that protects home values in communities and enables HOAs to have a funding source for emergencies
5. Consider the licensure community association managers, and possibly homeowner associations
6. Explore the creation of a voter reform bill to increase homeowner participation in the HOA budget approval process

On or before April 15, 2024, the HOA Homeowners' Rights Task Force will issue a report with its findings and conclusions regarding the matters that it examines.



Thank you for your consideration,

Marcia Waters

Marcia Waters
Division Director



ProPublica	8/30/22	Nearly \$30K Vanished From the HOA's Account. The State Can't I
BusinessDen	6/20/23	Property manager accused of embezzling must pay \$2M
Grand Junction	11/9/22	Grand Junction woman sentenced to prison for HOA fraud scheme
9News	1/18/24	HOA rates increase in northern Colorado as police investigate sus
BizWest	11/22/23	HOA files adversarial case in bankruptcy action, seeks late claim fil
Western Slope	11/18/22	Local realtor breaks down HOA scheme
	12/7/19	After 8 years homebound with severe depression, 70-year-old Love
	2/12/12	Horror stories prompt industry group to ask Colorado to regulate HO
	11/20/23	Property-management firm faces lawsuits over HOA management
	9/2/22	Like most states in the U.S., Colorado fails to regulate HOA commu

Community association managers run most of Colorado's 10,000 HOAs. <https://www.propublica.org/article/colorado-hoa-managers>

Loveland Police are investigating a property management company. <https://businessden.com/2023/06/20/property-management-companies-investigation>

The claim says that fraud should preclude the discharge of a debt. https://www.gjsentinel.com/news/western_colorado

Nearly two dozen HOAs on the Western Slope fell victim to an HOA scam. <https://www.9news.com/article/news/investigation/2023/06/20/property-management-companies-investigation>

Aland woman in danger of losing home due to unpaid HOA fees. <https://bizwest.com/2023/11/22/hoa-files-adv>

HOA managers are the problem. <https://www.westernsloopenow.com/top-stories/2023/11/22/hoa-files-adv>

HOA managers are the problem. <https://www.reporterherald.com/2019/12/07/hoa-managers-are-the-problem>

HOA managers are the problem. <https://www.denverpost.com/2012/02/12/hoa-managers-are-the-problem>

HOA managers are the problem. <https://bizwest.com/2023/11/20/property-management-companies>

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[hoa-management-companies-investigation](#)
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[/ersarial-case-in-bankruptcy-action-seeks-late-claim-filing/#](#)
[s/local-realtor-breaks-down-hoa-scheme/](#)
[after-8-years-homebound-with-severe-depression-70-year-old-loveland-woman-in-danger-of-losing-home-due-t](#)
[ror-stories-prompt-industry-group-to-ask-colorado-to-regulate-hoa-managers/](#)
[agement-firm-faces-lawsuits-over-hoa-management-agreements/](#)
[m/2022/09/02/like-most-states-in-the-u-s-colorado-fails-to-regulate-hoa-community-association-management-c](#)

[o1817f1663c.html](#)

[to-unpaid-hoa-fees/?clearUserState=true](#)

[companies-that-needs-to-change-nationwide/](#)

PUBLICATION	DATE	HEADLINE	SUB-HEADER
The Real Deal	11/20/23	supervision over condo, HOA fraud residents' and then 'used fees to buy after embezzling \$80K from Orange charged with theft of property first more than \$754K from HOAs, faces 13 years after pleading guilty to prison for HOA embezzlement manage finances for Rock Hill HOA. embezzling HOA money Lane pushes alleged missing funds to closed, many others empty or drained	enforce it"

[g-80k-from-orange-county-hoa/article_f039d70e-3584-11ee-8a35-97544fde60e8.html](#)

[erty-first-degree](#)

[-pay-bills/](#)

[ioa-money/](#)

[ock-hill-hoa-now-shes-facing-new-embezzlement-charges/](#)

[02/](#)

[merican-property-management-services-alleged-fraud/7074124001/](#)

HB22-1239 (AS AMENDED)

"REGULATE COMMUNITY ASSOCIATION MANAGERS"

WHAT THE BILL DOES

Creates a regulatory structure for businesses that provide community association management services. Begins on July 1, 2023 and expires on September 1, 2027, subject to Sunset Review.

LICENSING REQUIREMENTS

- Company must designate a controlling manager
- Controlling manager must have industry-specific education:
 - Controlling manager and CAMs will have education/experience requirements set through DORA/DRE rule-making
 - Demonstrable knowledge of Colorado HOA law
 - Minimum continuing education requirements
- Background checks for controlling manager:
 - CBI - fingerprint and name-based check
 - Application denied for certain criminal convictions within 5 years
 - Application denied if license/registration as a CAM was refused or revoked in any other state
 - CAM company must also have a policy in place to vet CAMs they employ
- Company must maintain a physical place of business in the state
- Company must be registered in the state and be in good standing
- Insurance
- License Fee (tiered with cost control in mind)
- License valid for two years

EXCLUSIONS

- Timeshares
- Persons who exclusively perform clerical, accounting or maintenance functions
- Persons who are directly employed by a single HOA

WHY THE BILL MATTERS

Colorado is **#4 in the US** for % population living in an HOA

- **10,486** known HOAs in Colorado
- Number of people living in an HOA = **2,611,763**
- Roughly **45%** of Colorado's population live in an HOA
- Approx. **60%** of all homeowners live in an HOA



HOA Information and Resource Center has received an **average of 1475 complaints per year** over the past decade.

A 2019 survey conducted per Governor's executive order revealed:

- 75% of all survey respondents agreed that regulatory oversight was necessary to protect the public
 - **64% of CAMs believed that regulation was necessary**
 - 82% of homeowners were in favor of regulation

OTHER BILL FUNCTIONS:

- Adds a requirement for each HOA to supply the name of their CAM when they renew their annual registration if hiring a CAM directly
- DRE to post all licensed entities on their website

HB22-1239 (AS AMENDED)

"REGULATE COMMUNITY ASSOCIATION MANAGERS"

ACCOUNTABILITY

- Points-based disciplinary system to be determined in rule-making
- Acts that can receive disciplinary points include, but are not limited to:
 - Financial misconduct
 - Knowingly violating or directing others to violate any law or any HOA covenant or rules
 - Licensing fraud
 - Failing to cooperate in legal or regulatory investigation
 - Failing to disclose conflicts of interest
 - Breach of contract with the HOA
 - Failing to provide criminal history records
 - Failing to ensure maintenance of required credentials and complete continuing education requirements
- Companies will be given an opportunity to cure violations
- Companies will be given an opportunity to reduce or eliminate points after a period of time with no additional violations



AUDITS & HEARINGS

- DRE will conduct random compliance audits
- DRE to conduct any investigation or hearings

DISCIPLINARY MEASURES

- Administrative fines (up to max \$5,000) and/or
- Temporarily or permanently revoke license
- Any decision or denial of licensure is subject to judicial review by the court of appeals
- Unlawful to act as a CAM without a license (Class 2 Misdemeanor)

FISCAL NOTES

This licensing program is expected to cost significantly less than previous CAM licensing program

- ~655 business entities are predicted for the entire state
- 2 FTE to conduct investigations and audits
- No impacts on criminal justice-related expenditures based on experience with comparable licensing in DORA
- Similarly, revenue from fines is expected to be minimal based on past experience and compliance

Rules will create: "EQUITABLE FEE STRUCTURE THAT CONTEMPLATES THE SIZE OF THE BUSINESS ENTITY, NUMBER OF EMPLOYEES PERFORMING COMMUNITY ASSOCIATION MANAGEMENT ACTIVITIES FOR THE BUSINESS ENTITY, AND THE NUMBER AND SIZE OF THE ASSETS MANAGED."

HB24-1078

"REGULATION OF COMMUNITY ASSOCIATION MANAGERS"

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Creates a basic regulatory structure for businesses that provide community association management services. Begins on July 1, 2025 and expires on September 1, 2029, subject to Sunset Review.

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HB24-1078

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