

# Conclusion for 20~~19~~<sup>21</sup> Sunrise Report on C.A.M.,

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.<sup>42</sup>

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.

<sup>42</sup> 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>

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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.

*Even though  
the Washington  
Requirements*

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.**

*Regulate does not mean License.*



Community Association Manager (CAM)  
 Program Discipline Data Summaries  
 As of March 20, 2019

1 Continuing Ed Failure	31	33.7%
2 Unlicensed/Improper/Expired	27	29.3%
3 Failed Supervision	9	9.8%
4 Mishandling Funds and/or Improper Record keeping	7	7.6%
5 No Insurance	4	4.3%
6 Demonstrated Unworthiness	3	3.3%
Criminal Offense	2	2.2%
Fraud, Lying	1	1.1%
Failed to Disclose Fees	1	1.1%
Unknown--LOAs	7	7.6%
<b>Totals</b>	<b>92</b>	

Stipulation-Diversion	47	51.1%
Stipulation-FAO	12	13.0%
Cease and Desist Orders	25	27.2%
ALJ-FAO	1	1.1%
LOAs(not public record)	7	7.6%
<b>Totals</b>	<b>92</b>	

Typical statements in Stipulation for Diversion

The Division's license history records may reflect that Respondent and the Director have executed this Stipulation for Diversion. However, the Division's license history records shall not reflect that formal disciplinary action has been taken against Respondent's community association manager license in this matter.

The Director shall not publish the terms of this Stipulation for Diversion, or a summary thereof, in the "Real Estate News" or any other Division publication. However, Respondent and the Director stipulate and agree that this Stipulation for Diversion shall remain a public record in the custody of the Division and shall be treated as such, unless otherwise provided by the Colorado Open Records Act, the community association manager licensing law statutory provisions or the rules and regulations of the Director.

Community Association Manager (CAM)  
 Program Discipline Data Summaries  
 As of March 20, 2019

Total \$ Collected by DORA for fines	\$ 37,431.50
Total \$ Stayed by DORA for fines	\$ 51,947.50
Total Fines	\$ 89,379.00
Total complaints received	1173
Total complaints closed by discipline	107
Complaints dismissed at intake	228
# Complaints remain open	47
# Complaints closed other	791
Following Discipline Action	
Total number of orders issued	92
Expired or Inactive licenses	11
Revoked Licenses	7
Suspended Licenses	1

Roster Name	Results	Active	Inactive
AM - Community Association Manager - Associate - Active	711 records found	711	
AM - Community Association Manager - Associate - Inactive	122 records found		122
ENT - Community Association Manager - Entity - Active	426 records found	426	
IM - Community Association Manager - Individual Proprietor - Active	176 records found	176	
IM - Community Association Manager - Individual Proprietor - Inactive	19 records found		19
RM - Community Association Manager - Responsible - Active	463 records found	483	
RM - Community Association Manager - Responsible - Inactive	43 records found		43
CAM License Totals	1980	1796	184
HOA - Home Owner's Association - Active	7634 records found		
DA - HOA Designated Agent - Active	4078 records found		
DA - HOA Designated Agent - Inactive	6 records found		
e-license info as of 4-6-2019			

CAM Program July 1, 2015 to March 1, 2019		
Total complaints received	1,089	
Intake Dismissal	228	20.9%
Total complaints investigated	861	
Complaints Closed with no Discipline action being completed	722	66.3%
Completed Discipline actions	92	8.4%
Cases currently Open	47	4.3%

Completed Disciplinary Actions	FY 2016	FY 2017	FY 2018	FY 2019	Prgm Totals
Cease & Desist Orders	5	16	5	0	26
LOA's	0	6	0	0	6
Final Agency Orders	3	3	6	2	14
Diversions	0	3	20	23	46
Totals	8	28	31	25	92

Tables based on data received from open records requests as of March 6, 2019