

House Business Affairs & Labor

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HB23-1105 HOA & Metro Dist Homeowners' Rights Task Forces

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Gary Helfeldt For themselves	A task force to review issues related to a non-profit association of *homeowners* should be represented by homeowners *with no* conflicts of interest linked to the for-profit entities that benefit commercially from the dues paid by the non-profit members of the association. I refer to the for-profit declarants, developers, and contractors (commercial management and service providers) who carry extraordinarily lopsided influence over our non-profit homeowner communities.

Colorado House Business Affairs and Labor Committee
200 E Colfax Avenue
Denver, CO 80203

Members of the Committee,

I am writing to express my strong support for the creation of a task force to assess issues and practices like those I have observed living in a Colorado metro district. In 2018, my family and I became some of the earliest residents of Sterling Ranch, Colorado and have since experienced some eyebrow-raising revelations about the workings of our community's metro districts. Below, I will summarize how the Sterling Ranch metro districts operate and elaborate on two of the many consequences residents face as a result.

Sterling Ranch is composed of seven metro districts. Our districts are all subordinated to a Community Authority Board (CAB) which has authority to issue debt, select community service providers, establish community standards/covenants, and owns all community improvements (parks, facilities, greenbelts). The CAB is important, and the metro districts are subordinated to it. Not coincidentally, the developer has granted themselves indefinite control over the CAB via permanent board majority by cleverly carving out several tiny, undeveloped parcels and designating them as tiny metro districts replete with massively outsized CAB representation. So long as the developer retains ownership of merely *two* of these one-acre-ish "districts", they may appoint a CAB majority.

Residents do elect our local metro district representatives. Again though, our districts are subordinated to the CAB which is indefinitely controlled by the developer and their chosen representatives. Thus, residents have no electoral recourse to the CAB's decision-making and potential self-dealing. In effect, the CAB is an unelected government through which the developer controls community finances, covenants, and service providers with absolutely no accountability.

One central issue with this governance structure is a throwback to the American Revolution: taxation without representation. Before tax-paying residents had control of any Sterling Ranch metro districts (the developer-owned districts pay no property tax), the developer-only CAB issued a high-interest \$27.6 Million junior subordinate bond to be repaid by residents' property taxes¹. Junior bonds are dangerous to taxpayers and lucrative to bondholders as they can compound to much higher rates than the average rate stated on the bond². Even if Sterling Ranch's residents unanimously passed a referendum in favor of refinancing said bond, we are unable to without CAB's (effectively the developer's) approval and could end up paying many-fold more than the bond's stated average interest rate. Further, this is not a hypothetical scenario that only happens if a developer is **accidentally** negligent with community finances. It is legal for developers to privately purchase the same junior bonds they issue as CAB representatives; so, developer-controlled CABs like ours can have a strong

¹ Colorado DOLA filings for Sterling Ranch Metro Districts entitled "[Notice of Issuance of GO Debt \(DLG32i\)](#)" dated 12/30/2019.

² See David Migoya's piece "[Colorado Metro Districts and Developers Create Billions in Debt, Leaving Homeowners With Soaring Tax Bills](#)" subheading "How a \$1.8 Million investment balloons to a \$22 Million payday" in The Denver Post (issue Dec 5th, 2019)

incentive to ***deliberately*** mismanage the community's tax revenue and allow these junior bonds to compound. To be clear, this is not a mutually beneficial, capitalist transaction gone awry because of taxpayers' lack of diligence in repayment. The developer, acting like a government (CAB), can give themselves a high ROI payday by indebting residents who pay that ROI. And residents have ***no electoral recourse...*** because the CAB is not elected by residents! This is taxation without representation.

Another issue with this no-accountability governance structure is conflicts of interest. In our particular case, the president of Sterling Ranch Development Company (DevCo) is the CAB president's young son. Is DevCo an exceptional service provider that gives CAB the best of many bids to build community infrastructure and parks? Or has the developer-controlled CAB just been funneling residents' tax dollars to the developer's son? What's more, the same father and son duo are on the board for Sterling Ranch's water provider: Dominion Water and Sanitation. Sterling Ranch CAB is the only "customer" of Dominion and the CAB "negotiates" water rates with them. Recap: the president of the CAB is also on the water district board and this person *negotiates (with himself?)* on behalf of the community. Probably not coincidentally, our water rates are very high – each resident pays over \$100 a month just to be hooked up to water and sewer.

I hope these issues demonstrate some of the critical governance failures going on with Sterling Ranch's metropolitan districts and the CAB they are beholden to. These issues are a genuine burden on residents and taxpayers. I am hopeful a task force can study our situation for the benefit of all Coloradans.

Thank you,

Jim Soiland
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Madam/Mr. Chair and Honorable Committee Members

My name is Ed Schoenheit, I am a senior HOA Board member of Ridgeview at Stetson Hills Master HOA, the largest HOA in Colorado Springs with over 3200 homes where I have served for 7 years. I am an unpaid volunteer Board member, a retired veteran and working engineer.

Please consider the following testimony as it pertains to needed amendments to this HOA Review Task Force Bill. I apologize for not being able to speak in person or virtually due to work conflicts.

I appreciate and respect Rep. Titone efforts on this bill and her past work on HOA issues. She has a keen understanding and respond for the challenges that HOA face from both sides of the aisle.

My request for this bill's amendment is as follows.

1. The Task Force have representation from large HOA and Metro Board members. A large HOA with over 1000 homes has specific challenges and expenses that small 50 unit HOAs do not.
2. Ensure that Property Managers for both large and small HOAs have a position on this task force. They provide critical insights and expertise on the core issues facing HOAs today. They deal with both owners and Board members as well as vendors that support HOAs.
3. That the Task Force does not approach things from a standpoint that HOAs and Metro are some terrible entity to be dismantled and destroyed because they have to collect assessments from owners or require owners to maintain their 23yr old home. Cities and Counties collect taxes to provide services and maintain public property. HOAs have a similar mission and responsibility and must be empowered to do the same thing. The State, Counties and Cities will never be able to care for and maintain HOA property or ensure communities don't turn into blight after 30 years of neglect. When HOAs and homes are new they are easy to maintain. After 6 owners and 25yrs not so much.

The genius of this Study was from concerns of certain HOA groups in how HOAs operate in accordance with CCIOA. While I can respect those views and opinions this Task Force must represent Community leaders that manage large HOA and that support HOAs in their critical mission to maintaining billions of dollars worth of residential communities, common area and facilities across the State. These HOAs and Metros provide essential services such as waste management, snow removal, landscaping maintenance, infrastructure maintenance and life cycle replacement, water services, playgrounds, insurance, and ensure that communities are maintained for decades beyond lifetimes of owners. HOA plan and operate long term. CCIOA is not broken, it is not perfect no but no bureaucratic process or State law is. That's why HOA have an elected Board. My direct experience is that 90% of homeowner do the right thing, care for their home, and pay their assessments. These assessments are part of the declarations for the maintenance and longevity of the community.

There has been several HOA law changes in the last three years. When not synchronized and fully understood they end up costing responsible owners more in assessments. I ask that this Task Force operates from a neutral viewpoint and respect the challenges that HOA face in service to the owners.

V/R