

From: Buck Bailey-GM
Date: April 17, 2019
Subject: HB19-1212 Recreation of Community Association Manager Licensing

Dear Members of the House Finance Committee,

Please allow the Community Association Manager Licensing Program to remain repealed.

Licensing managers was an attempt at curing a symptom rather than curing the problem. Licensing clearly has not improved governance and management of Common Interest Communities in Colorado. Attached are a few of my notes and suggestions based on my review of publicly available data/information about the CAM Licensing program from July 1, 2015 to March 2019.

If you must continue some form of regulation of the managers, please consider amending HB19-1212 to help CIC/HOA Boards of Directors better oversee the operations at their communities. I understand that an amendment may be offered today to change the Mandatory Licensing to a Voluntary Certification Program. I wholeheartedly encourage you to seriously consider adopting that amendment to HB19-1212.

One effort in HB19-1212 is to establish an Advisory Committee. I think this is misplaced by being focused on manager licensing. A better place to put any new advisory committee would be the HOA Information and Resources Office where the committee can be more effective in finding solutions to the root causes of the complaints and problems members of a CIC have. Additionally, the fiscal note for HB19-1212 does not adequately address the expenses that will be associated with the proposed Committee. While the committee members would not be compensated, it is unreasonable to expect that the costs (travel/lodging/clerkal/etc) associated with attending committee meetings should be born by the volunteers.

Speaking of the fiscal note, it seems there are a couple of notable errors in it. 1) There are only 426 current entity licenses while the fiscal note assumes 919 new management company licenses will be issued on July 1, 2019. 2) The estimation that revenue from fines is minimal doesn't reflect the fact that \$37,432 have been collected.

Since the Information and Resource Office is up for Sunset Review next year, DORA's review is beginning now with the report due in October. This is the perfect opportunity to take the time from now until October to review the past 10 years' worth of experience with efforts to improve HOA governance and management. Good solid recommendations for legislation can be an outcome of the review process.

I hope to be able to make it to the hearing on the HB19-1212 today. However, the weather has created extra work this morning at Plaza de Monaco Towers Condominiums and I may not make it there. I sincerely hope you will leave licensing repealed for this year and take the opportunity to strengthen the HOA Information and Resource Office during next year's Legislative Session.

Respectfully,
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Unit owner and General Manager at Plaza de Monaco Towers Condominiums Association, Inc.
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Notes on CAM Licensing by Buck Bailey
For Finance Committee Hearing April 11, 2019

- If the purpose of licensing managers was to reduce the number and severity of complaints, it is clearly not working to do that. On March 10th, my CORA requests to DORA produced the decision records of 85 completed CAM discipline actions for the life of the program. 47 more were still under investigation and were not yet public records.
 - Fully 67% of the completed discipline actions were for infractions that have nothing to do with how well or badly an individual was performing management activities for a CIC/HOA. (Failures in Continuing Education requirement + Cease and Desist + No Insurance.)
 - Licensing purports to protect consumers of HOA management services. Yet 58.7% of the completed discipline actions are effectively hidden from the public (LOAs and Diversions)
 - Previous CORA requests have indicated that 1,173 complaints about managers had been received by DORA since July 1, 2015. 1,019 (87%) of those have been closed without any publicly available information.
 - **Solution: Require DORA to produce public record summaries of all complaints received and their current status on an ongoing basis.**
- Management companies continue to dodge regulation of the companies. There are minimal requirements to obtain and keep an "Entity" license.
 - "Entity" is not defined in the HB19-1212 or the previous law. **Solution: Define "Entity"**
 - DORA interprets the law as previously written (HB19-1212 doesn't currently change wording) to not require company license to be renewed once received. **Solution: In pre-amended version of HB19-1212 on pg 52 line 19 (page 19 line 2) insert "or Entity's" after Manager's**
 - Discipline actions seldom applied to companies. Only 3 out of the 85 completed discipline actions reviewed mentioned the management company associated with the action. Yet, 59 of the 85 were to individuals who worked for management companies. **Solution: Discipline actions against individuals who are employees of a management company should also be actions against the management company.**
- HB19-1212 as currently written will require virtually all employees of a CIC/HOA to become licensed. (See Definition of Community Association management on pgs 37-38 and 3-4)
 - It is not practical or desirable to hire single purpose employees and keep them restricted to doing only clerical filing or maintenance work with no interactions with the owners and residents as indicated in the "Does not mean" sections of the Bill found on pgs 38, 39, 4, and 5.
 - **Solution: Page 40 line 12-13 (page 6 line 17-18) of the pre-amended version: insert "(IX) W-2 employee of a CIC."**

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CAM Licensing Disciplinary Actions –July 1, 2015 to March 10, 2019

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

| | | |
|-------------------------|----|-------|
| 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% |
| Totals | 92 | |

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