



Capitol Chronicles:

Community Association Manager Licensure in Colorado: A Fait Accompli?

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As Chair of CAI's Colorado Legislative Action Committee ("CLAC"), I'm thrilled to be writing this inaugural installment of The Capitol Chronicles. My goal for this column is to keep the members of CAI in the loop on significant legislative and regulatory initiatives in the Colorado General Assembly and United States Congress. As we enter the 2012 legislative session in Colorado, this column will be supplemented by timely email updates from CLAC on the status of important state issues and Calls to Action.

As the first edition of **The Capitol Chronicles** goes to press, the 2012 legislative session in Colorado has not yet begun. In addition, we are anxiously awaiting publication of the first report to the Director of the Colorado Division of Real Estate on complaints received by the HOA Information and Resource Center pertaining to homeowners' associations. Based upon preliminary information received, we do know that many of the complaints focus on transparency and governance issues relating to managers and the boards who govern these communities. While **Aaron Acker**, the HOA Information Officer, does not currently have the authority to investigate these complaints—we believe the trends outlined in this report will serve as a roadmap for legislative initiatives during the 2012 and future legislative sessions. I look forward to updating you on this report in my next column.

Since the legislative session has not yet opened, I thought this would be the perfect time to provide you with an update on the status of community association manager licensure in Colorado. As I write this column on a snowy morning in early December, here are the facts and latest information available on the initiative:

- Several years ago, the Colorado chapters of CAI formed a Manager Licensure Committee to investigate the need for regulating community association managers in Colorado. Based upon focus group and survey findings gathered by this Committee, the reported complaints received by the HOA Information and Resource Center on managers and management companies, and legislative and regulatory trends in Colorado and other states—CLAC made the decision to get out in front of this issue and submit a Sunrise Review Application to the Colorado Department of Regulatory Agencies ("DORA") to formally investigate the need for regulating managers. CLAC determined that it was essential to take a proactive approach in dealing with this issue as opposed to reacting to a non-industry led initiative.
- On November 4, 2011, the Manager Licensure Task Force of CLAC submitted a Sunrise Review Application to DORA to determine whether the licensure of community association managers is necessary to prevent harm to the

citizens who reside in these communities.

- DORA has 120 days to review the Sunrise Review Application, investigate and publish a report on whether the regulation of managers is necessary. While this report may be published before the 120 day period elapses, the report is expected to be published on March 2, 2012.
 - When reviewing whether the regulation of managers would prevent harm to citizens, DORA is required to consider the following:
 1. 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;
 2. Whether the public needs, and can be reasonably expected to benefit from, an assurance of initial and continuing professional or occupational competence; and
 3. Whether the public can be adequately protected by other means in a more cost-effective manner.
 - At this time, CLAC has not voted to proceed with the introduction of manager licensure legislation during the 2012 legislative session. CLAC will not make this decision until the DORA report and recommendation has been published. While CLAC is permitted to introduce a bill even if DORA does not recommend proceeding with manager regulation, this course of action is highly unlikely absent a compelling reason to move forward. In the event DORA recommends the regulation of managers, CLAC has two years from the date the report is published to proceed with legislation.
 - If DORA ultimately recommends proceeding with manager regulation, CLAC has been reviewing "white paper" concepts on what should be included in legislation. However, a bill has not yet been drafted, sponsors for the legislation have not been lined up and conversations with key stakeholders have not yet taken place. The only thing we can say with certainty is that CLAC would only introduce a bill in which the Certified Manager of Community Associations® credential (CMCA) is the foundation for any required license.
- The bottom line is that we are in the midst of the DORA Sunrise Review process. Until the report and recommendation from DORA is published, CLAC cannot make any final decisions on what a bill would look like or whether to proceed with the introduction of legislation during the 2012 or 2013 legislative sessions. For important updates, keep your eye on this column and for email communications from CLAC. ⬆