

2016 ANNUAL REPORT

HOA INFORMATION AND RESOURCE CENTER

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COLORADO

**Department of
Regulatory Agencies**

Division of Real Estate

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EXECUTIVE SUMMARY

In response to growing concern regarding unit owners' associations¹ ("HOAs"),² the Colorado legislature ("Legislature") created the HOA Information and Resource Center ("Center") in 2010.³ The Center is organized within the Division of Real Estate ("Division"), a division of the Department of Regulatory Agencies ("DORA"). As directed by Colorado ("State") law, the Center collects information from HOAs via registration and from the inquiries and complaints received. The Center is also responsible for providing information to unit owners ("homeowners"), HOA boards, declarants,⁴ and other interested parties about the rights and responsibilities set forth in the Colorado Common Interest Ownership Act⁵ ("CCIOA") and other applicable State law.

Pursuant to COLO. REV. STAT. § 12-61-406.5(3)(c), the HOA Information Officer ("Officer"), who administers the Center, presents an annual report to the Director of the Division ("Director") after analyzing the aforementioned information. This document ("Report"), the 2016 annual report, provides an overview of the experiences of homeowners and others in matters involving HOAs, and insight into the trends and statistics of the broader common interest community ("CIC") industry within Colorado.⁶ A variety of statistics on complaints received and registered HOAs are given especial coverage. The Report also contains a brief summary of the legislation enacted in 2016 that pertains to HOAs, select operational details of the Center, and notes on the future direction of the Center.

In conclusion, the Report is part of the Center's ongoing commitment to providing information, education, and resources to those affected by, involved with, or interested in HOAs and CICs that are subject to the CCIOA.

¹ As defined in COLO. REV. STAT. § 38-33.3-103(3).

² From COLO. REV. STAT. § 12-61-101(1.2):

"HOA' or 'homeowners' association' means an association or unit owners' association formed before, on, or after July 1, 1992, as part of a common interest community as defined in section 38-33.3-103, C.R.S."

³ HB10-1278 as codified in COLO. REV. STAT. § 12-61-406.5(1); effective January 1, 2011.

⁴ From COLO. REV. STAT. § 38-33.3-103(12):

"Declarant' means any person or group of persons acting in concert who:

(a) As part of a common promotional plan, offers to dispose of to a purchaser such declarant's interest in a unit not previously disposed of to a purchaser; or
(b) Reserves or succeeds to any special declarant right."

The declarant is typically the developer of the community.

⁵ COLO. REV. STAT. §§ 38-33.3-101 to -402 (2016).

⁶ From COLO. REV. STAT. § 38-33.3-103(8):

"Common interest community' means 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 forty years, including renewal options. The period of the leasehold interest, including renewal options, is measured from the date the initial term commences."

LEGISLATIVE UPDATE

The Legislature passed three HOA-related bills during the 2016 session; this legislative update contains summaries of those bills. Note that these summaries do not attempt to acquaint readers with all the aspects of the bills. We recommend that those who desire a comprehensive understanding review the bills in their entirety.

2.1 HB16-1005 – CONCERNING THE USE OF RAIN BARRELS TO COLLECT PRECIPITATION FROM A RESIDENTIAL ROOFTOP FOR NONPOTABLE OUTDOOR USES.

This bill allows the use of a rain barrel to collect precipitation from a residential rooftop in accordance with certain provisions and restrictions.⁷

This bill amends section 38-33.3-106.5 of the CCIOA, adding a new part (j) that sets forth prohibitions contrary to public policy within the CIC.⁸ This new part refers to the use of a rain barrel, as defined in COLO. REV. STAT. § 37-96.5-102, to collect precipitation from a residential rooftop in accordance with COLO. REV. STAT. § 37-96.5-103.

A rain barrel is defined as a storage container with a sealable lid that is located aboveground outside of a residential home, and that is used for the collection of precipitation from a downspout of a rooftop. A single family residence is defined in the bill as a private residence that is a separate building or an individual residence that is part of a row of residences joined by common sidewalls.

Precipitation from a rooftop may be collected if: (1) no more than 2 rain barrels with a combined storage capacity of 110 gallons or less are utilized; (2) precipitation collected is from a building that is used primarily as a single-family residence or a multi-family residence with 4 or fewer units; (3) the collected precipitation is used for outdoor purposes including irrigation of lawns and gardens; and (4) the collected precipitation is used on the residential property on which it is collected.

Furthermore, the collected precipitation cannot be used for drinking water or indoor household purposes, and the use of a rain barrel does not constitute a water right. The State Engineer's Office will monitor the use of rain barrel precipitation collection and has the right to curtail its future usage.

The use of the rain barrel precipitation collection as is applicable to CICs does not confer upon a resident in a CIC the right to place or connect a rain barrel on any property that is (a) leased, except with permission of the lessor; (b) a common or limited common element of a CIC; (c) maintained by the HOA for a CIC; or (d) attached to one or more other units, except with permission of the other homeowners.

In addition, a CIC may impose reasonable aesthetic requirements that govern the appearance and placement of a rain barrel. The effective date of this act is August 10, 2016.

2.2 HB16-1149 – CONCERNING A REQUIREMENT THAT THE EXECUTIVE BOARD OF A COMMON INTEREST COMMUNITY CREATED IN COLORADO BEFORE JULY 1, 1992, COMPLY WITH THE BUDGET REPORTING PROVISION OF THE COLORADO COMMON INTEREST OWNERSHIP ACT.

This bill amends COLO. REV. STAT. § 38-33.3-117 of the CCIOA by adding this budget reporting requirement for all CICs created prior to July 1, 1992 (Pre-CCIOA), with respect to events and circum-

⁷ COLO. REV. STAT. § 37-96.5-(101-105)

⁸ COLO. REV. STAT. § 38-33.3-106.5(j)

stances occurring on or after July 1, 2017, unless any such community is exempt as a small preexisting cooperative or planned community under COLO. REV. STAT. § 38-33.3-119 of the CCIOA.⁹

The applicable budget reporting requirement can be found in COLO. REV. STAT. § 38-33.3-303 of the CCIOA, in Part (4)(a)(I), which sets forth that within ninety days after adoption of a proposed budget for the CIC, the executive board shall mail, by first-class mail, or otherwise deliver, including posting the proposed budget on the association's website, a summary of the budget to all the homeowners and shall set a date for a meeting of the owners to consider the budget. The meeting must occur within a reasonable time after mailing or other delivery of the budget summary, or as allowed for in the CIC's bylaws, with the executive board providing notice of the meeting to the owners as set forth in the bylaws.¹⁰

This bill also amended COLO. REV. STAT. § 38-33.3-116 of the CCIOA (the exemption for new small cooperatives and small and limited expense planned communities provision), in that it increased the limited expense planned community annual average common expense liability cap from \$300 to \$400, with the cap to be hereafter annually adjusted for inflation according to the U.S. Department of Labor's consumer price index for the Denver-Boulder metropolitan area.¹¹

The effective date of this act is July 1, 2018, and it applies to budgets adopted by a HOA's board on or after the applicable effective date of this act.

2.3 HB16-1426 – CONCERNING INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE ANIMAL.

This bill requires health care licensees to perform certain duties when documenting their patient's request for an assistance animal with regard to seeking a reasonable accommodation in housing. The licensee must make a written finding that either the patient has a disability, and that the need for the animal is related to that disability, or that there is insufficient information to determine that a disability exists or that there is a disability-related need for the animal.¹²

If the person seeking the right to have an assistance animal as a reasonable accommodation in housing intentionally misrepresents an animal as an assistance animal, they commit a class 2 petty offense, with increased fines for subsequent offenses.¹³

The Division of Civil Rights is authorized under this bill to educate the public about the definition of assistance and service animals through its website, public service announcements, signage in places of public accommodation, creating and publicizing forms for use by interested parties, and creating educational programs for law enforcement.¹⁴

The effective date of this act is July 1, 2017.

⁹ COLO. REV. STAT. § 38-33.3-117

¹⁰ COLO. REV. STAT. § 38-33.3-303(4)(a)

¹¹ COLO. REV. STAT. § 38-33.3-116

¹² COLO. REV. STAT. § 12-43-226.5

¹³ COLO. REV. STAT. § 18-13-107.3

¹⁴ COLO. REV. STAT. § 24-34-309

2.4 COMMUNITY ASSOCIATION MANAGER (CAM) PROGRAM RULES AND POSITION STATEMENTS.

On January 5, 2016, the Division held a rule-making hearing and made an amendment to rule A-5 (Community Association Manager license examination expiration and application requirements), which clarified that a passing score for only the State law portion of the examination is valid for one year, and must be within the year prior to an application being received by the Division.¹⁵

On January 13, 2016, the Division issued its first Position Statement (DP-1), concerning record retention requirements for CAMs and management companies. The intent of this position statement is for the CAM or CAM company to keep and retain copies of the CIC's documents that the CAM or CAM company has produced or been involved with during their tenure of representation of the CIC. That would not include documents of the CIC that the CAM or CAM company was not involved with prior to their representation of the CIC, or any publicly recorded documents.

On September 28, 2016, the Division issues its second Position Statement (DP-2), concerning the supervision of a person holding an apprentice license. The intent of this position statement is to clarify the supervision requirements of a licensed manager who has direct supervision over an apprentice licensee. An apprentice is someone who has not completed the education and examination requirements for obtaining a community association manager license; is learning and performing practices of a community association manager; and is under the control and direct supervision of a licensed community association manager.

The Director's position is that an apprentice performing any activities requiring a license must have the designated manager or a licensed manager who has been delegated supervisory authority physically present at all times when performing those management activities. The licensed manager must oversee licensed activities as they occur and provide constant direction, feedback and assistance to the apprentice. For any activities an apprentice performs not requiring a license, such as the performance of any clerical or ministerial task, the licensed manager is not required to be physically present. Any licensed manager who accepts supervisory authority over an apprentice will bear the responsibility for ensuring compliance by the supervised apprentice with all statutes and Director rules. As of December 31, 2016, the types and numbers of CAM licensees are as follows:

Entity (ENT)	442
Individual Proprietors (IM)	184
Responsible Managers (RM)	475
Associate Managers (AM)	678
Apprentice Managers (CAP)	100

Table 2.1 Active Licensees

The Colorado Department of Regulatory Agencies, through its Office of Policy and Research, is currently conducting a Sunset Review of the licensing of community association managers, pursuant to COLO. REV. STAT. § 24-34-104. This statutory review is used to determine whether the program should be continued, and if so, how to make it more effective and efficient. A report will be released to the public on October 15, 2017.

¹⁵ 4 COLO. CODE REGS. § 725-7, rule A-5 (2015); amendment made in 2016.

REGISTRATION

State law mandates every HOA to register and renew their registration on an annual basis.¹⁶ Every registering HOA must also submit a fee and update any relevant information in their registration within ninety days of any change.¹⁷ An HOA that fails to register or allows its registration to lapse may not impose or enforce certain liens and is limited in the actions it may pursue or specific means of enforcement it may utilize, until it is validly registered.¹⁸

The Center is charged with the task of registering HOAs in Colorado. Furthermore, the Center collects the information provided in these registrations into a database.¹⁹ As of December 31, 2016, 7,753 HOAs are registered with the Center.

3.1 COMPLIANCE

A lack of widespread knowledge about the need for HOAs to register coupled with the absence of authority to enforce the registration requirement hinders the Center in its efforts to register all HOAs within Colorado. The only encouragement given to HOAs to register is the aforementioned lien provision, which is solely an affirmative defense to be employed in applicable legal proceedings in the unlikely circumstance that a homeowner happens to know that their HOA has not registered with the Center.

The CCIOA compounds this problem by omitting COLO. REV. STAT. § 38-33.3-401 from COLO. REV. STAT. § 38-33.3-116 subsections 1 and 2, and COLO. REV. STAT. § 38-33.3-119. These exemptions, targeting small and limited expense CICs, are meant to reduce the burden on those CICs, yet the registration requirement explicitly exempts HOAs with \$5,000 or less in annual revenue from paying the registration fee, which many of the HOAs of these CICs would qualify for. Considering that the one-time initial registration can be completed online in twenty minutes or less, the rationale for not explicitly including COLO. REV. STAT. § 38-33.3-401 seems tenuous. Ascertaining the characteristics of the CIC industry is the primary intent behind collecting registration information, and weak data on small CICs not only skews the statistics, it denies those CICs a voice in decisions based upon them.

Beyond failing to register, another source of inaccuracy is incorrect registration data provided on behalf of some HOAs. Although verifying all the data in registrations would be impossible without conducting a census-like effort, at least 203 HOAs have invalid Secretary of State IDs in their registrations. Not all of the errors in these registrations are typographical in nature, and it appears that some HOAs are abusing COLO. REV. STAT. § 38-33.3-401(4)(a) to claim that they are validly registered while providing blatantly erroneous data such as stating that the name of the association is “HOA” and that the address has a zip code of 99999. Granting the Division statutory authority to revoke registrations that are clearly deceptive or nonsensical would add an incentive to be truthful.

¹⁶ From COLO. REV. STAT. § 38-33.3-401(1):

“Every unit owners’ association shall register annually with the director of the division of real estate, in the form and manner specified by the director.”

¹⁷ COLO. REV. STAT. § 38-33.3-401(2)(a)

¹⁸ COLO. REV. STAT. § 38-33.3-401(3)

¹⁹ Pursuant to COLO. REV. STAT. § 12-61-406.5(3)(a)(I).

3.2 UNITS

A unit, as defined by the CCIOA, is a physical space set aside for separate ownership or occupancy.²⁰ The sum of the unit counts accompanying all the registrations provided by HOAs is 811,526 as of December 31, 2016. The mean (average) number of units per CIC is 104.7 with a standard deviation of 423.2; the median is 39.

3.2.1 Timeshares

Time-sharing is a form of ownership of a unit, or more specifically, a time share unit, which is divided temporally, creating time share estates.²¹ Within the scope of registration, a time share unit is tallied as one unit, not the number of time share estates it is divided into. Hereafter, no distinction is made between time share units, as defined in the Condominium Ownership Act, and units, as defined in the CCIOA.

3.3 COMMON INTEREST COMMUNITIES

The CCIOA requires that the declaration of a CIC state whether the CIC is a condominium, cooperative, or planned community,²² and HOAs are required to provide the same information when registering with the Center. The distinction in the CCIOA between condominiums, cooperatives, and planned communities is made on the basis of ownership of real estate, not on the physical characteristics of the CIC; it is certainly possible for a CIC that resembles the one described under *Condominiums* to be a planned community or vice versa.

3.3.1 Condominiums

A condominium is a CIC in which real estate that is not designated for separate ownership by homeowners is owned in common by those homeowners.²³ Many CICs registered as condominiums contain one or more multi-family dwellings, each of which is further divided into multiple units. Much of the remaining real estate (e.g., structures that do not contain units, the parts of buildings that contain, but are not within units, and unenclosed spaces) is owned in

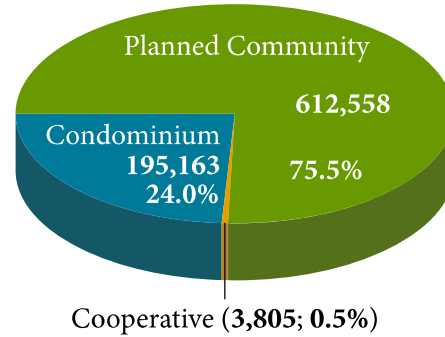


Figure 3.1 Chart of units by CIC type.

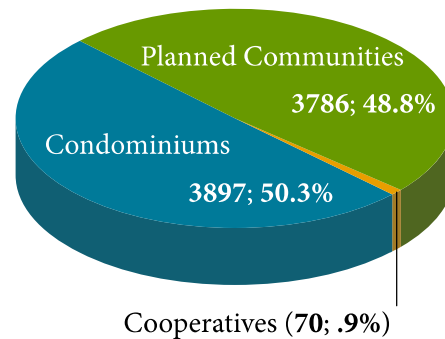


Figure 3.2 Chart of HOAs by CIC type.

²⁰ As defined in COLO. REV. STAT. § 38-33.3-103(30).

²¹ Definitions related to time-sharing can be found in COLO. REV. STAT. § 38-33-110, a section of the Condominium Ownership Act, which precedes, but is not entirely superseded by, the CCIOA.

²² COLO. REV. STAT. § 38-33.3-205(1)(a)

²³ COLO. REV. STAT. § 38-33.3-103(9)

common by all homeowners; these parts are called common elements. The mean (average) number of units per condominium is 50.1 with a standard deviation of 88.3; the median is 24.

3.3.2 Cooperatives

The least common type of CIC is the cooperative. In a cooperative, the HOA owns the real estate and homeowners are granted exclusive possession of a unit on the basis of ownership in the HOA.²⁴ The mean (average) number of units per cooperative is 54.4 with a standard deviation of 122.4; the median is 25.5.

3.3.3 Planned Communities

A planned community is simply defined as a CIC that is neither a condominium nor a cooperative; however, a planned community may contain condominiums or cooperatives.²⁵ Commonly, CICs registered as planned communities encompass many single-family houses, each of which is equivalent to a single unit; the structure of the house and a small surrounding area are owned exclusively by the homeowner. The mean (average) number of units per planned community is 161.8 with a standard deviation of 593.3; the median is 64.

3.3.4 Pre-CCIOA Common Interest Communities

With the entry of HB13-1134 into State law, the issue of whether pre-CCIOA HOAs are required to register has been resolved. HB13-1134 amended the list of CCIOA sections applicable to preexisting CICs²⁶ to add the registration mandate.²⁷

This change, however, does not affect the applicability of other sections of the CCIOA to preexisting CICs, thus the Center continues to compile statistics on the portion of HOAs that may be covered by exemptions that apply to preexisting CICs. The Center uses the Secretary of State ID issued to an HOA to ascertain whether the CIC may qualify for the aforementioned exemptions; the IDs are collected from HOAs as part of the registration process.

HOAs may exercise other exemptions in the CCIOA as well, such as the exemption for large planned communities,²⁸ exemptions for small or limited expense CICs,²⁹ and exemptions for timeshares.³⁰ HOAs are not currently required to indicate the exemptions they exercise when registering, so the Center is limited in its ability to conduct a comprehensive survey on the use of these exemptions.

²⁴ COLO. REV. STAT. § 38-33.3-103(10)

²⁵ COLO. REV. STAT. § 38-33.3-103(22)

²⁶ COLO. REV. STAT. § 38-33.3-117

²⁷ COLO. REV. STAT. § 38-33.3-401

²⁸ COLO. REV. STAT. § 38-33.3-116.3, *et alibi*. HOAs are not required to state the acreage of associated CICs when registering. 214 HOAs (2.8%) stated that associated CICs contain 500 or more units.

²⁹ COLO. REV. STAT. §§ 38-33.3-116, 38-33.3-119, *et alibi*. From registration data: 1,299 CICs (16.8%) contain no more than 10 units, and 2,485 (32.1%) contain no more than 20 units. No information is available on the number of CICs that may be exempt due to limiting the annual average common expense liability.

³⁰ COLO. REV. STAT. §§ 38-33.3-209.4(4), 38-33.3-209.7(2), 38-33.3-302(4)(b), 38-33.3-303(4)(b)(V), 38-33.3-308(2)(b)(II), 38-33.3-308(2.5)(c), 38-33.3-310(1)(b)(II), 38-33.3-317(1)(e), 38-33.3-317(3)(g), *et alibi*.

Status	HOAs	HOAs – %	Units Encompassed	Units – %
Pre-CCIOA ³¹	2,317	29.9%	280,610	34.6%
ID issued in 1992 ³²	130	1.7%	11,506	1.4%
CCIOA ³³	5,103	65.8%	464,829	57.3%
Invalid ID supplied	203	2.6%	54,581	6.7%

Table 3.1 HOAs by potential eligibility for preexisting CIC exemptions.

3.3.5 Geographical Distribution of Common Interest Communities

HOA registrations provide the Center with information from which the location of Colorado’s CICs can be extrapolated.

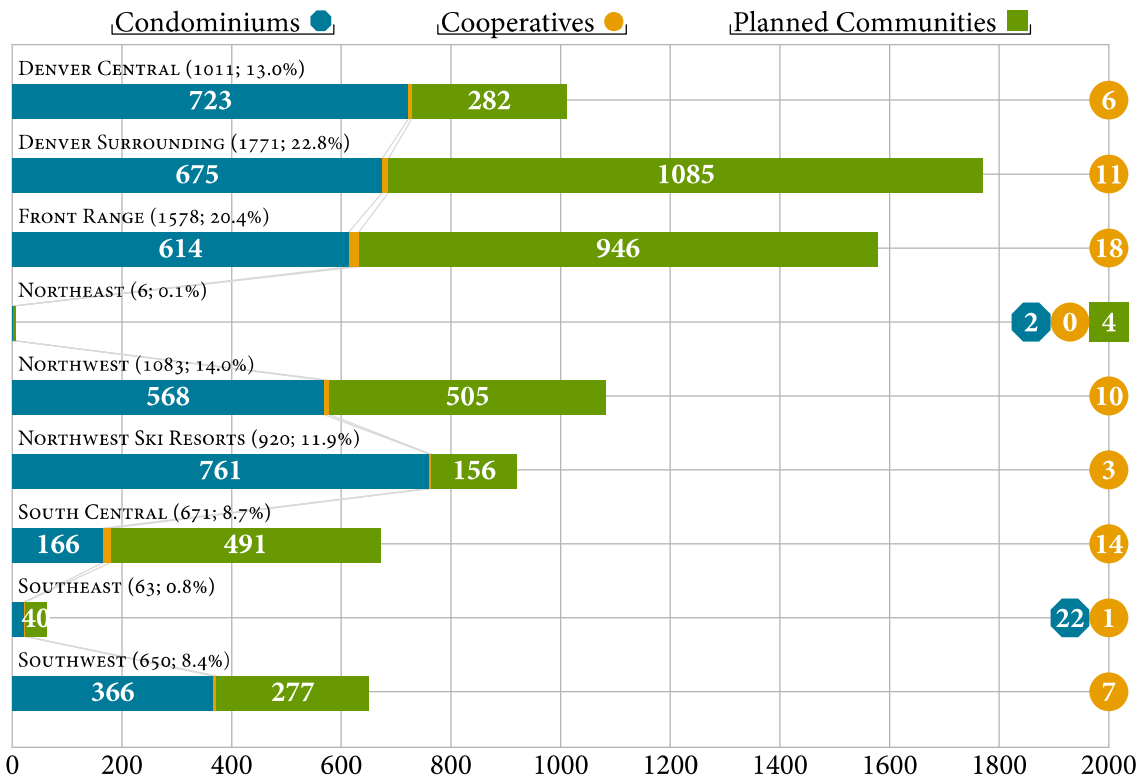


Figure 3.3 Chart of CICs in Colorado, by region.

³¹ Some CICs formed prior to July 1, 1992 have elected treatment under the CCIOA pursuant to COLO. REV. STAT. § 38-33.3-118. These CICs, as a result, do not qualify for the exemptions normally granted to pre-CCIOA CICs.

³² The first four digits of a Secretary of State ID denote the year of issuance, however, the ID does not provide additional detail regarding the month; therefore, the Center could not determine whether HOAs with IDs issued in the year of 1992 are eligible for the exemptions. The footnote associated with the status CCIOA applies, *mutatis mutandis*, as well.³³

³³ It is possible that some CICs were formed sufficiently far in advance of their HOAs obtaining a Secretary of State ID that they may still qualify for the preexisting CIC exemption despite being counted as CCIOA.

Region	Cities (HOAs; unit mean; unit standard deviation)
DENVER CENTRAL	Cherry Hills Village (5; 100.2; 40.1), Denver (933; 75.0; 221.4), Englewood (72; 144.3; 239.2), and Glendale (1; 270.0; 0.0).
DENVER SURROUNDING	Arvada (142; 108.8; 144.7), Aurora (354; 173.0; 259.3), Brighton (48; 229.8; 221.4), Broomfield (86; 203.1; 317.9), Centennial (99; 212.8; 311.0), Commerce City (15; 246.5; 188.9), Eastlake (7; 182.3; 223.8), Golden (82; 93.5; 164.1), Greenwood Village (44; 123.9; 145.6), Henderson (7; 259.7; 237.6), Highlands Ranch (54; 839.7; 4005.7), Lakewood (182; 75.0; 74.5), Littleton (231; 151.6; 321.0), Lone Tree (31; 171.9; 196.3), Morrison (18; 83.0; 70.6), Northglenn (8; 270.2; 414.9), Parker (114; 270.4; 469.7), Thornton (113; 180.1; 178.9), Watkins (3; 30.0; 22.4), Westminster (103; 120.1; 123.7), and Wheat Ridge (30; 36.2; 49.7).
FRONT RANGE	Alma (1; 22.0; 0.0), Bailey (3; 165.7; 132.0), Bennett (2; 29.5; 16.5), Berthoud (20; 32.4; 28.2), Black Hawk (3; 99.7; 86.3), Boulder (269; 54.8; 84.6), Buffalo Creek (1; 57.0; 0.0), Carr (1; 9.0; 0.0), Castle Pines (17; 346.9; 756.1), Castle Rock (84; 278.4; 682.8), Central City (1; 235.0; 0.0), Conifer (2; 6.5; 2.5), Dacono (2; 944.0; 756.0), Drake (2; 149.0; 137.0), Dumont (1; 39.0; 0.0), Eaton (8; 51.2; 66.7), Elbert (2; 32.0; 14.0), Elizabeth (8; 117.4; 150.9), Erie (31; 332.7; 540.8), Estes Park (61; 42.1; 85.5), Evans (6; 127.0; 138.2), Evergreen (46; 70.3; 110.6), Fairplay (6; 215.7; 199.7), Firestone (10; 251.8; 179.3), Fort Collins (424; 91.9; 119.7), Fort Lupton (3; 167.0; 140.9), Franktown (5; 55.4; 66.0), Frederick (13; 136.0; 112.2), Georgetown (3; 38.7; 23.6), Glen Haven (1; 195.0; 0.0), Greeley (65; 74.0; 91.3), Hartsel (3; 825.3; 478.2), Hudson (3; 84.0; 70.2), Idaho Springs (2; 16.0; 16.0), Indian Hills (2; 18.0; 11.0), Jefferson (4; 326.8; 388.1), Johnstown (7; 153.7; 193.4), Keenesburg (1; 8.0; 0.0), Kersey (1; 13.0; 0.0), Lafayette (49; 157.2; 254.5), Lake George (2; 87.5; 2.5), Laporte (4; 65.2; 38.1), Larkspur (7; 57.3; 63.5), Livermore (3; 338.0; 444.1), Lochbuie (1; 388.0; 0.0), Longmont (138; 101.8; 117.0), Louisville (39; 57.7; 43.7), Loveland (105; 91.0; 117.8), Lyons (5; 39.4; 29.8), Masonville (1; 12.0; 0.0), Mead (6; 121.3; 105.4), Milliken (4; 330.0; 261.3), Niwot (12; 66.8; 50.6), Pierce (1; 110.0; 0.0), Pine (4; 62.2; 61.8), Pinecliffe (1; 37.0; 0.0), Platteville (1; 186.0; 0.0), Red Feather Lakes (2; 1642.0; 16.0), Rollinsville (1; 21.0; 0.0), Sedalia (10; 48.6; 41.6), Strasburg (2; 166.5; 48.5), Superior (7; 469.9; 956.0), Timnath (7; 74.0; 83.5), Wellington (11; 145.5; 171.9), and Windsor (31; 131.1; 221.0).
NORTHEAST	Fort Morgan (2; 19.0; 9.0), and Sterling (4; 34.2; 41.4).
NORTHWEST	Avon (155; 91.5; 400.7), Basalt (35; 38.0; 38.0), Battlement Mesa (9; 345.7; 816.9), Blue River (1; 36.0; 0.0), Carbondale (70; 44.7; 90.8), Clark (5; 146.8; 241.8), Clifton (8; 86.4; 111.1), Cordillera (4; 22.5; 11.7), Craig (1; 809.0; 0.0), De Beque (2; 21.5; 2.5), Dillon (64; 54.5; 69.3),

Table 3.2a Cities with registered HOAs, by region.

Region	Cities (HOAs; unit mean; unit standard deviation)
	Eagle (27; 88.0; 263.5), Eagle-Vail (3; 29.3; 17.2), Edwards (77; 81.7; 175.2), Fraser (25; 33.3; 49.7), Frisco (65; 28.8; 35.3), Fruita (26; 69.2; 71.5), Glade Park (1; 18.0; 0.0), Glenwood Springs (45; 53.8; 114.6), Granby (26; 107.8; 208.0), Grand Junction (207; 58.3; 59.9), Grand Lake (15; 86.2; 156.3), Gypsum (17; 116.3; 204.6), Hayden (2; 27.0; 13.0), Hot Sulphur Springs (2; 63.0; 7.0), Kremmling (2; 92.0; 75.0), Leadville (5; 22.4; 15.1), Loma (1; 8.0; 0.0), Mack (1; 36.0; 0.0), Meeker (1; 66.0; 0.0), Meredith (1; 8.0; 0.0), Mesa (2; 39.0; 9.0), Minturn (2; 12.0; 5.0), New Castle (12; 90.1; 219.5), Oak Creek (8; 328.2; 743.7), Palisade (4; 15.5; 11.7), Redstone (1; 15.0; 0.0), Rifle (18; 25.7; 21.1), Silt (6; 22.5; 17.2), Silverthorne (101; 48.0; 88.7), Snowmass (8; 41.6; 34.2), Tabernash (2; 83.5; 35.5), Walden (2; 40.0; 10.0), Wolcott (6; 28.2; 22.9), and Woody Creek (8; 9.2; 6.2).
NORTHWEST SKI RESORTS	Aspen (185; 25.2; 38.6), Beaver Creek (4; 50.5; 26.2), Breckenridge (166; 42.2; 65.1), Copper Mountain (25; 61.6; 97.9), Keystone (54; 64.1; 136.1), Snowmass Village (27; 77.5; 154.3), Steamboat Springs (214; 33.6; 36.3), Vail (154; 31.3; 37.2), and Winter Park (91; 102.9; 453.4).
SOUTH CENTRAL	Alamosa (2; 28.5; 24.5), Antonito (2; 117.5; 24.5), Buena Vista (17; 36.6; 34.3), Calhan (1; 14.0; 0.0), Cañon City (5; 165.6; 219.1), Coal Creek (1; 75.0; 0.0), Colorado Springs (507; 116.6; 278.9), Cotopaxi (7; 165.3; 277.7), Crestone (1; 3884.0; 0.0), Cripple Creek (2; 827.5; 772.5), Del Norte (1; 93.0; 0.0), Divide (8; 129.9; 103.5), Florissant (6; 314.8; 579.8), Fort Garland (2; 1875.0; 1471.0), Fountain (9; 157.4; 176.9), Howard (1; 70.0; 0.0), La Jara (1; 98.0; 0.0), Manitou Springs (11; 46.4; 99.6), Moffat (1; 400.0; 0.0), Monte Vista (2; 32.0; 20.0), Monument (24; 255.8; 587.2), Nathrop (3; 130.3; 126.9), Palmer Lake (1; 54.0; 0.0), Peyton (8; 176.9; 259.6), Poncha Springs (1; 156.0; 0.0), Salida (18; 21.4; 16.5), San Luis (1; 63.0; 0.0), Silver Cliff (1; 6.0; 0.0), South Fork (4; 107.0; 48.6), Villa Grove (1; 17.0; 0.0), Westcliffe (13; 123.3; 177.2), and Woodland Park (9; 60.3; 53.6).
SOUTHEAST	Beulah (2; 33.0; 13.0), Colorado City (3; 158.7; 140.7), Cuchara (1; 6.0; 0.0), La Veta (7; 42.7; 33.8), Pueblo (33; 47.9; 37.9), Pueblo West (3; 146.7; 143.4), Rye (2; 83.0; 75.0), Trinidad (7; 110.6; 143.0), Walsenburg (4; 343.8; 252.0), and Weston (1; 51.0; 0.0).
SOUTHWEST	Almont (5; 38.6; 27.5), Austin (1; 16.0; 0.0), Bayfield (7; 66.6; 40.4), Cedaredge (3; 103.3; 111.8), Chromo (3; 36.7; 35.6), Cimarron (1; 21.0; 0.0), Cortez (4; 92.5; 90.4), Creede (3; 40.0; 22.4), Crested Butte (98; 34.1; 100.5), Delta (3; 44.3; 30.9), Dolores (3; 24.7; 3.4), Durango (160; 35.0; 54.5), Gunnison (32; 38.1; 77.8), Hesperus (2; 21.0; 14.0), Lake City (4; 37.8; 36.0), Mancos (1; 35.0; 0.0), Montrose (49; 77.1; 128.0), Mount Crested Butte (20; 64.9; 131.8), Mountain Village (26; 154.7; 665.4), Olathe (2; 15.5; 4.5), Ophir (1; 20.0; 0.0), Ouray (11; 7.8; 3.9), Pagosa Springs (43; 202.6; 993.9), Paonia (1; 14.0; 0.0), Parlin (1; 13.0; 0.0), Placerville (5; 14.0; 7.5),

Table 3.2b Cities with registered HOAs, by region.

Region	Cities (HOAs; unit mean; unit standard deviation)
	Powderhorn (1; 623.0; 0.0), Rico (1; 18.0; 0.0), Ridgway (12; 62.8; 77.2), and Telluride (147; 25.3; 38.1).

Table 3.2c Cities with registered HOAs, by region.

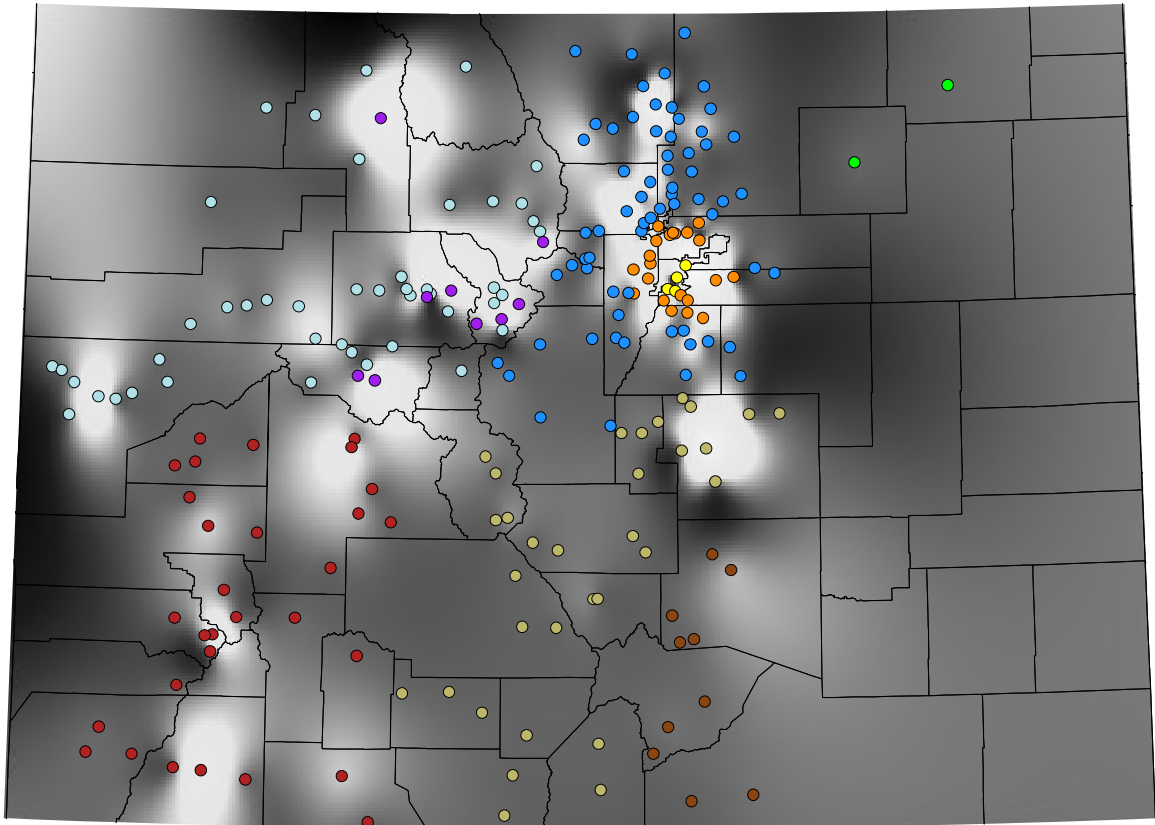


Figure 3.4 Map of Colorado with a monochrome overlay depicting the concentration of CICs, black outlines of counties, and colored dots indicating cities in which CICs are present. Lighter shades around cities correspond to a higher density of CICs. The colors of the dots represent the different regions.

3.3.6 Common Interest Community Size Data

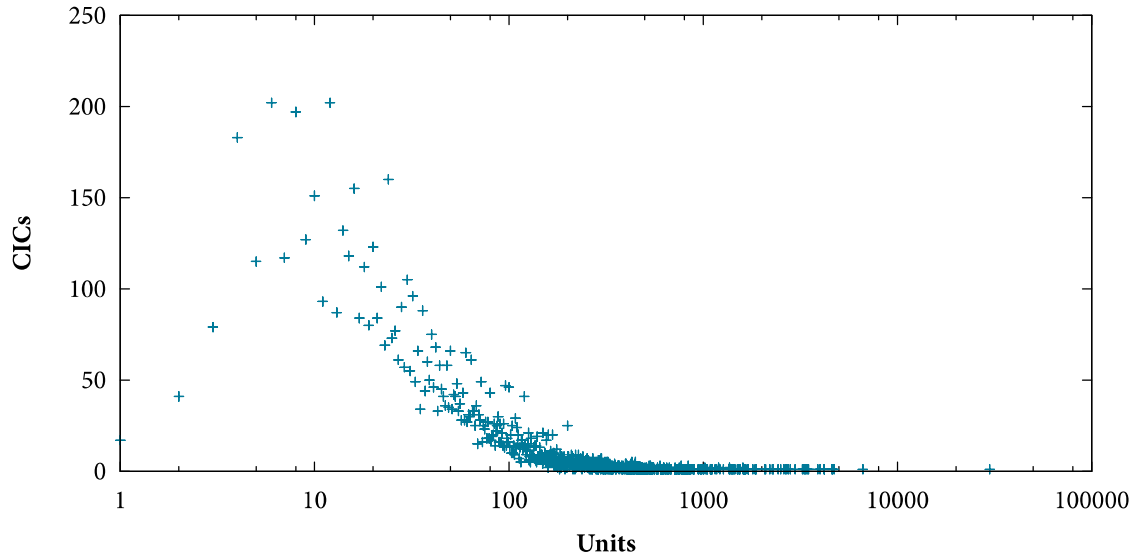


Figure 3.5 Plot of CICs by unit count; the *Units* axis is scaled logarithmically.

3.4 REGISTRATION FEE

Throughout 2016, the registration fee was \$27. HOAs that are not authorized to make assessments and do not have any revenue or HOAs with annual revenues of \$5,000 or less are not required to pay this fee.³⁴ This provision does not, however, absolve any such HOA from still registering.

As the Center is responsible for collecting registration fees, HOAs are required to inform the Center whether they are exempt from paying the fee or not.

Fee Status	HOAs Total		Condominiums		Cooperatives		Planned Communities	
Exempt	531	6.8%	161	30.3%	19	3.6%	351	66.1%
Not Exempt	7,222	93.2%	3,736	51.7%	51	0.7%	3,435	47.6%

Table 3.3 HOAs by fee status.

HOA Fee Status	Units Total		Condominium		Cooperative		Planned Community	
HOA Exempt	23,427	2.9%	2,773	11.8%	1,607	6.9%	19,047	81.3%
HOA Not Exempt	788,099	97.1%	192,390	24.4%	2,198	0.3%	593,511	75.3%

Table 3.4 Units by HOA fee status.

³⁴ COLO. REV. STAT. § 38-33.3-401(2)(b)

INQUIRIES

One of the main objectives of the HOA Information and Resource Center is to provide information to interested parties about HOAs and CICs that are subject to the CCIOA. In accordance with State law, the HOA Information Officer acts as a clearinghouse for information concerning the basic rights and duties of unit owners, declarants, and HOAs.³⁵

The Center logged 7,080 separate inquiries during year 2016. In responding to these inquiries, the Center answered questions and provided referrals to applicable legal, alternative dispute resolution, and government services. Parties that contacted the Center for information include: homeowners, tenants, community association managers, HOA board members, attorneys, government agencies, vendors, and declarants.

Most of the inquiries to, and assistance from, the Center pertained to the following areas:

- The governing documents of an HOA, namely, the map or plat, declaration, articles of incorporation, bylaws, and rules and regulations;
- Election and quorum issues, as well as the use of proxies in voting, and election monitoring;
- Meeting issues, including: quorums, meeting notices, meeting minutes, owner's meetings, board meetings and executive sessions, as well as meeting procedures and best practices in running a meeting;
- Harassment, intimidation and retaliation concerns in the community;
- The use of mediation in HOA disputes;
- Communication issues including membership lists, newsletters and community websites;
- The CCIOA law and its applicability to pre and post-CCIOA communities;
- The Colorado Revised Non-Profit Act and its applicability to HOAs;
- The basic rights and responsibilities of homeowners;
- Transparency concerns of an association;
- The financial aspects of an HOA, including assessments (both general and special), accounting and budgeting, insurance, audits and reserves;
- Maintenance responsibility and neglected upkeep of the community, major community repairs, and community safety issues;
- The enforcement capabilities of an HOA, such as levying fines on homeowners, filing liens and foreclosing on units, collection practices, and due process rights with enforcement;
- Maintenance of records by the HOA, and the disclosure and production of HOA records to homeowners;
- Issues concerning the managing and operation of self-managed associations;
- Senior issues and concerns living in a CIC;
- The new community association manager program, including who is and who is not required to be licensed;
- Declarant issues, including disclosure of documents, transfer of control, and enforcement of governing documents;
- Regulatory compliance concerning HOA registrations;
- Marijuana issues, including medicinal and recreational use, as well as illegal grow operations affecting communities;
- Rental restrictions and condominium FHA certification;

³⁵ COLO. REV. STAT. § 12-61-406.5(3)(a)

- The functions and duties of the Center (e.g., how it assists homeowners, registers HOAs, and processes complaints); and
- The statutes that constitute, and the bills that impact, HOA law.

The Officer or his assistant answered inquiries via telephone, email, and in-person meetings, thereby assisting homeowners and other interested parties. To preemptively address many of these inquiries, the Center has greatly expanded the scope of the resources available on its website, with an emphasis on providing access to relevant State law; towards the same end, the Center has also implemented an electronic mailing list through a series of email blasts to forward important information concerning HOAs to subscribers.

By discussing the concerns homeowners have about their HOAs, the Center aims to provide avenues for solutions in the form of information and referrals, and thus empowers consumers with the knowledge that they need to work within their HOAs, and if necessary, to effectuate change for the better.

COMPLAINTS

From January 1, 2016 to December 31, 2016, the Center received 1,953 complaints via mail, phone, e-mail, submission in person, and the Center’s website. The complainants were homeowners and others involved with HOAs.

Beyond the complaint itself, information collected includes the location of the HOA and details on the party or parties against whom the complaint is directed, as applicable. For complaints directed against HOAs these details include the name, type, and contact information of the HOA, and whether the HOA is managed by a third-party, and if so, the name of that third-party.

5.1 GEOGRAPHICAL DISTRIBUTION OF COMPLAINTS

The Center uses information collected from submitted complaints to determine the geographical area of the HOA concerned.

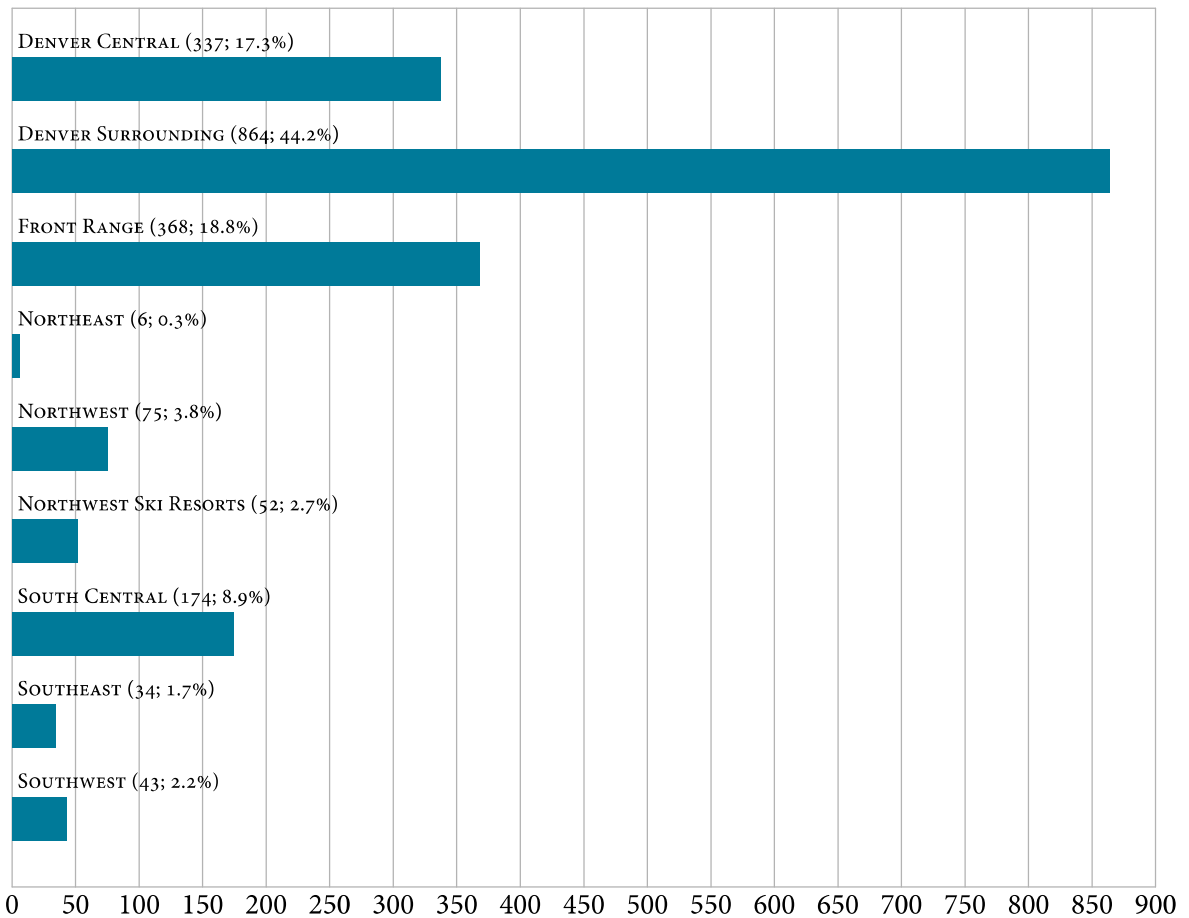


Figure 5.1 Chart of complaints by region. The cities included in each region are listed in [table 3.2](#), on [page 9](#).

5.2 CLASSIFICATION OF COMPLAINTS

The Center categorizes the complaints it receives according to type. Types that accounted for fewer than seven complaints were placed under *Miscellaneous*.

The nature of complaints associated with condominiums and planned communities were very similar. Of the 1,953 complaints against an HOA in general or its board of directors that were received, 23 were directed towards declarant-controlled boards. Complaints overall have gone up again this year over last, and since July 1, 2015, when the community association manager licensing program started, the number of non-manager complaints has substantially increased. Also, with regard to all of the complaints received by the Center, 70% involved professionally-managed communities, with the remainder being reported in self-managed communities.

Since July 1, 2015, any complaints against a community association manager or management company are directed to the new community association manager licensing program for processing and possible investigation. Thus, statistics pertaining to complaints against community association managers are no longer included in this report.

Allegations of the association not enforcing any covenants or rules and regulations at all, improperly enforcing those covenants against an owner, selectively enforcing a covenant or rule and regulation against one owner but not another, or having lax enforcement for the benefit of a board member or officer accounted for the largest number of complaints received by the Center, with nearly 57% of those complaints pertaining to planned communities.

The second highest number of complaints received centered on ignoring or intentionally not following the covenants, conditions and restrictions (“CC&Rs”) of the association, its declarations, bylaws, or rules and regulations. These complaints were nearly equal for condominiums and planned communities. Examples of these concerns included board members and managers not knowing what provisions were contained in the association’s governing documents, and executive boards making important decisions without reviewing relevant document provisions. In addition, there were many reports of board members intentionally not following obvious governing document provisions and proceeding with matters contrary to those provisions, as well as contrary to professional legal advice. Also reported to the Center were instances that the association’s governing documents had not been updated to comply with many provisions of the CCIOA where required, and that those statutory provisions were not being followed by the association.

Not performing maintenance and repairs was the next most common type of complaint received in 2016, and nearly 71% of these complaints were associated with condominiums. Examples include common building structures and amenities not undergoing routine maintenance leading to major repairs, and essential repairs being ignored and not addressed, frequently resulting in safety and liability concerns to homeowners. A large number of complaints in this category have to do with neglected maintenance over many years, which later resulted in either much higher repair bills, a large increase in assessment dues, or a large special assessment for owners as a result of underfunded reserves.

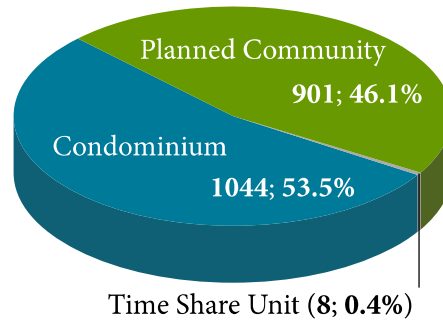


Figure 5.2 Chart of complaints by CIC type.

Where safety issues are concerned, complainants were directed to their local housing and building enforcement departments.

Communication continues to be a major complaint area, with accusations of owners not properly or adequately being informed of owner and board member meetings, little or no communication to the owners of ongoing events in the community, no immediate access to community information (which could often be resolved with a simple association website, newsletter, or e-mail to homeowners), and board members ignoring or being dismissive toward owner concerns. Condominium associations and planned developments received nearly an equal number of these communication complaints.

A combined area of complaints pertaining to meetings and elections included: not obtaining quorum requirements for meetings; utilizing improper meeting procedures and motion practices; not allowing owners to attend board meetings; the improper use of board member executive sessions; not allowing owners to speak on issues of concern as well as issues being voted on by the board of directors; the improper use, assignment and counting of proxies in voting by board members; not holding elections of board members when required to do so; lack of transparency and no independent oversight of elections and their results; and not keeping records of owner meeting quorum and election results. The Center also received complaints about not informing owners of regularly scheduled board meetings and association boards not recognizing special meeting requests pursuant to statute.

An important area of complaints pertained to poor accounting practices, inadequate budgeting for the association, and the increase of assessments to cover those deficient practices. These matters accounted for 9.11% of all complaints received by the Center, with nearly 63% of these complaints relating to condominium communities. Many complaints related that the budget information and bank information did not reconcile, reserves were underfunded, and that associations greatly underestimated expenses, resulting in sharp assessment increases in order to cover the deficits. There were also complaints relating to inaccuracies with owners' accounts, resulting in owners being charged incorrect late charges, interest, and fines. There were also some reported instances of board members misappropriating funds and not fully disclosing the financial state of the HOA. Connected with some of these misappropriation instances were conflicts of interest of board members and vendors, sometimes where the board members themselves were paid for work not bid out for the community, vendor kickbacks, and board members being paid for being on the board when it was not allowed by the governing documents.

COMPLAINTS

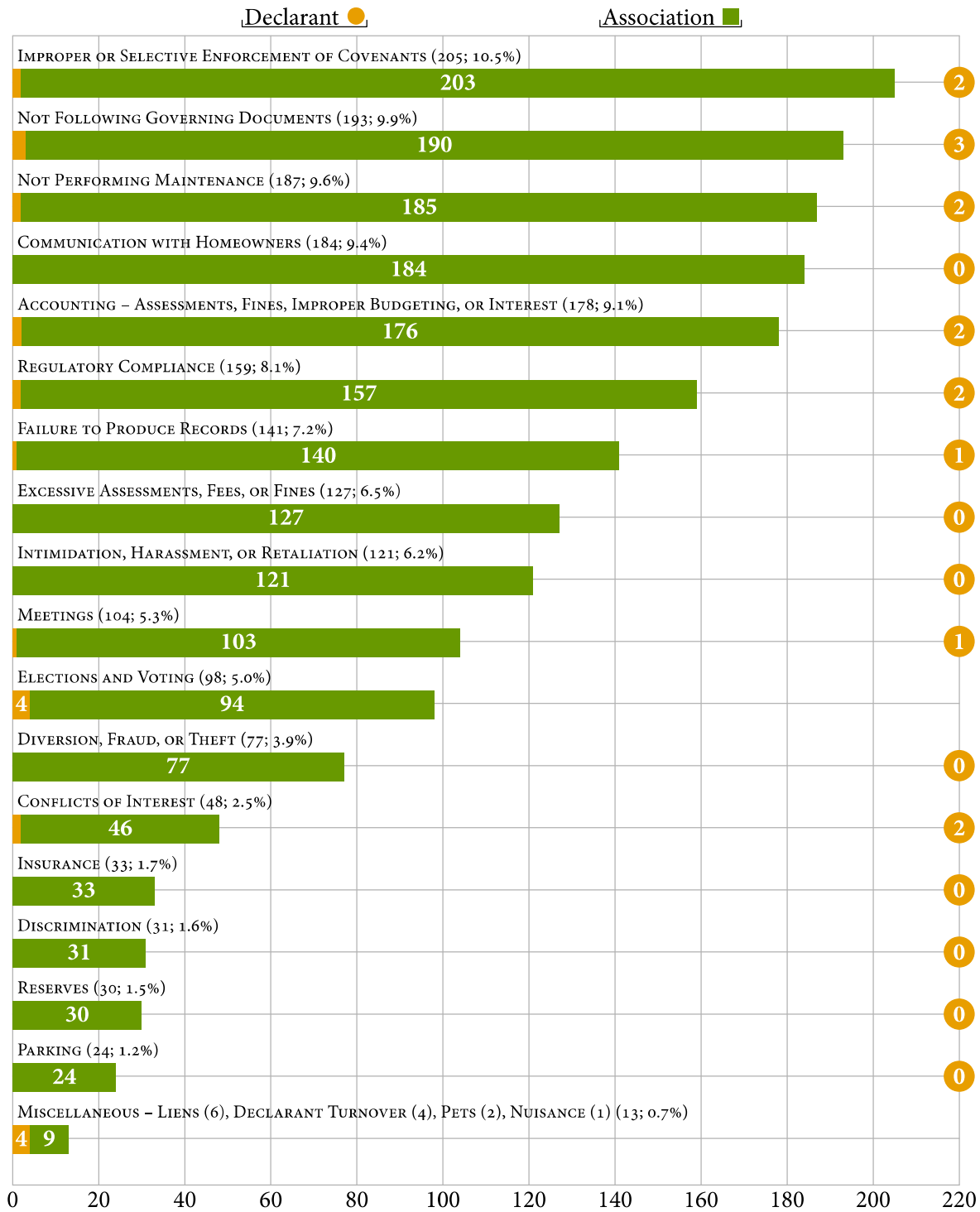


Figure 5.3 Chart of all complaints submitted to the HOA Information and Resource Center, by type.

ACCOMPLISHMENTS AND OBJECTIVES

6.1 REVIEW OF 2016

Throughout 2016, the HOA Information and Resource Center has endeavored to make its website more relevant and useful for homeowners, HOA board members, and other interested parties. Providing pertinent State and Federal law and other resources online in one place is a priority for the Center. The website contains statutes, bills affecting HOA law, educational materials (including electronic slide shows), legal and alternative dispute resolution resources, and a frequently asked questions section. Highly ranked by major search engines for relevant queries, the Center's website continues to experience significantly increased web traffic.

Besides handling over 7,000 inquiries for information and assistance, the Center has participated in sixty-five public HOA forums, seminars and conferences, including senior fairs and town hall meetings. Guest presenters and industry writers have added to the Center's educational efforts and resources.

A wide variety of topics at HOA forums were presented, including homeowner education, an interactive session with professional mediators that discussed the benefits of mediation concerning HOA disputes, and joint presentations with the Colorado Division of Civil Rights regarding housing discrimination in HOAs. Teaming up with the Drug Enforcement Agency ("DEA") regarding illegal marijuana grow operations in HOAs, and local law enforcement and fire protection services, the Center held joint forums and presentations on safety in HOA communities. The Center also teamed up with the City of Boulder for its "HOA Days" presentations, participated in neighborhood events with the Council of Neighbors and Organizations ("CONO") in Colorado Springs, and had consumer informational booths at the Jefferson County Senior Law Day and Safety Fair. In addition, the Center held forums on senior issues in HOAs, educational classes for board members, including board member due diligence and communication, insurance requirements for HOAs and the use of alternative dispute resolution ("ADR") in HOAs, and participated in a radio show concerning one's rights and responsibilities when living in an HOA.

6.2 DIRECTION OF THE CENTER IN 2017

Homeowners and executive directors have continued to express the need for more educational materials covering HOAs that cater to non-professionals and self-managing boards of directors. The Center is investigating ways that new technology can bring this education to more people in HOAs, and aims to broaden its educational offerings with practical and concise information for homeowners and HOA board members. Collaborating with other government agencies and industry groups and professionals will also be a priority for the Center. The Center will continue to increase its outreach through public service announcements, webinars, and attending and arranging for events by the Officer in cities and towns throughout Colorado.

The continued lack of knowledge about the Center and its functions remains an area of concern. The Center is continuing its efforts to inform the public about its existence and availability to assist those with HOA questions and issues. HOA workshops, educational sessions, forums, and the availability of additional educational materials for homeowners will continue to be goals of the Center. Finally, should legislation be enacted that concerns additional functions and duties of the Center, it would be eager to undertake any efforts necessary to offer the best service possible.