

2018 Annual Report

HOA Information & Resource Center

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COLORADO

**Department of
Regulatory Agencies**

Division of Real Estate

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Executive Summary

The HOA Information and Resource Center (“Center”) was created in 2010¹, and 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 Common Interest Communities (“CIC”) via registration and from the inquiries and complaints received. The Center is also responsible for providing information and resources to unit owners (“homeowners”), CIC boards, declarants², and other interested parties about the rights and responsibilities set forth in the Colorado Common Interest Ownership Act³ (“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 2018 Annual Report, provides an overview of the experiences of homeowners and others in matters involving CICs, and insight into the trends and statistics of the CIC industry within Colorado⁴. A variety of statistics on complaints received and registered CICs are given special coverage. The Report also contains a brief summary of the legislation enacted in 2018 that pertains to CICs, 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 CICs that are subject to CCIOA.

1 HB10-1278 as codified in Colo. Rev. Stat. § 12-61-406.5(1); effective January 1, 2011.

2 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.

3 Colo. Rev. Stat. §§ 38-33.3-101 to -402 (2017).

4 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.”

Definitions

Units: A unit, as defined by the CCIOA, is a physical space set aside for separate ownership or occupancy.⁵

Common Interest Communities (“CIC”): is 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.⁶

Condominiums: A condominium is a type of CIC in which real estate that is not designated for separate ownership by homeowners is owned in common by those homeowners.⁷

Cooperatives: A Cooperative is a type of CIC in which the HOA owns the real estate and homeowners are granted exclusive possession of a unit on the basis of ownership in the HOA.⁸

Planned Communities: Planned Communities are a type of CIC that is neither a condominium nor a cooperative; however, a planned community may contain condominiums or cooperatives.⁹ 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.

⁵ As defined in Colo. Rev. Stat. § 38-33.3-103(30).

⁶ As defined in Colo. Rev. Stat. § 38-33.3-103(8)

⁷ Colo. Rev. Stat. § 38-33.3-103(9)

⁸ Colo. Rev. Stat. § 38-33.3-103(10)

⁹ Colo. Rev. Stat. § 38-33.3-103(22)

Legislative

The following are the legislative bills that impacted CICs during the 2018 legislative sessions.

3.1 [HB 18-1342](#): Allow Pre-Colorado Common Interest Ownership Act Homeowners' Association Members to Veto Homeowners' Association Budget.

This bill amends Colo. Rev. Stat. § 38-33.3-117¹⁰ by requiring all pre-CCIOA communities, (i.e. communities formed prior to July 1, 1992), comply with the budget veto process found in Section 38-33.3-303(4)(a)(II)(A)¹¹ of CCIOA.

Section 303(4)(a)(II)(A) requires that the board adopt a budget, provide a copy of this adopted budget to the owners and set a meeting with the owners to provide them with an opportunity to veto the adopted budget. If the veto fails then the budget passes. However, if the budget is vetoed, the last budget that passed will remain in effect.

The only exception to the CCIOA budget process is for pre-CCIOA communities where the association's declaration sets a maximum assessment amount or limits the increase in an annual budget to a specific amount and the budget proposed by the board does not exceed such maximum or limit¹².

Note that this summary does not attempt to acquaint readers with all the aspects of the bill. We recommend that those who desire a comprehensive understanding review the bill in its entirety. This act went into effect on July 1, 2018.

3.2 [HB 18-1128](#): Protections for Consumer Data Privacy.

This bill amends Colo. Rev. Stat. § 6-1-713¹³ by requiring any entity that maintains paper or electronic documents that contain identifying information develop a written policy for the destruction or proper disposal of those documents¹⁴. The bill further requires any entity that maintains, owns, or licenses personal identifying information in the course of its business to:

- Implement and maintain reasonable security procedures and practices to protect against the unauthorized access, use, modification, disclosure or destruction of confidential and identifying information¹⁵; and
- Require any third party service provider to implement and maintain reasonable security procedures and practices in cases where the entity does not provide its own security protection for the data it provides to the third party service provider¹⁶.

¹⁰ Colo. Rev. Stat. § 38-33.3-117

¹¹ Colo. Rev. Stat. § 38-33.3-303(4)(a)(II)(A)

¹² Colo. Rev. Stat. § 38-33.3-303(4)(a)(II)(B)

¹³ Colo. Rev. Stat. § 6-1-713

¹⁴ Colo. Rev. Stat. § 6-1-713(1)

¹⁵ Colo. Rev. Stat. § 6-1-713.5

¹⁶ Colo. Rev. Stat. § 6-1-713.5(2)

The Bill also amends Colo. Rev. Stat. § 6-1-716¹⁷ requiring that when a breach occurs the entity conduct a good faith prompt investigation to determine the likelihood that personal information has been or will be misused, and provide notice to the affected Colorado residents within 30 days after the date that a breach occurred¹⁸.

Note that this summary does not attempt to acquaint readers with all the aspects of the bill. We recommend that those who desire a comprehensive understanding review the bill in its entirety. This act went into effect on September 1, 2018.

¹⁷ Colo. Rev. Stat. § 6-1-716

¹⁸ Colo. Rev. Stat. § 6-1-716(2)(a)

Registration

The Center is charged with the task of registering CICs in Colorado. Furthermore, the Center collects the information provided in these registrations into a database¹⁹. As of December 31, 2018, 7,881 CICs are registered with the Center.

The absence of authority to enforce the registration requirement hinders the Center in its efforts to register all the communities within Colorado. The effects of the lack of enforcement in CIC registration is illustrated in figure 4.1, which shows a disparity between registered and expired CICs between 2017 and 2018.

It is evident, that some associations are failing to comply with Colo. Rev. Stat. § 38-33.3-401(4)(a); registering once and then not renewing their registration for years on end or claiming that they are validly registered while providing erroneous data. Currently the Division lacks the statutory authority to impose other remedies for failing to renew or to revoke registrations.

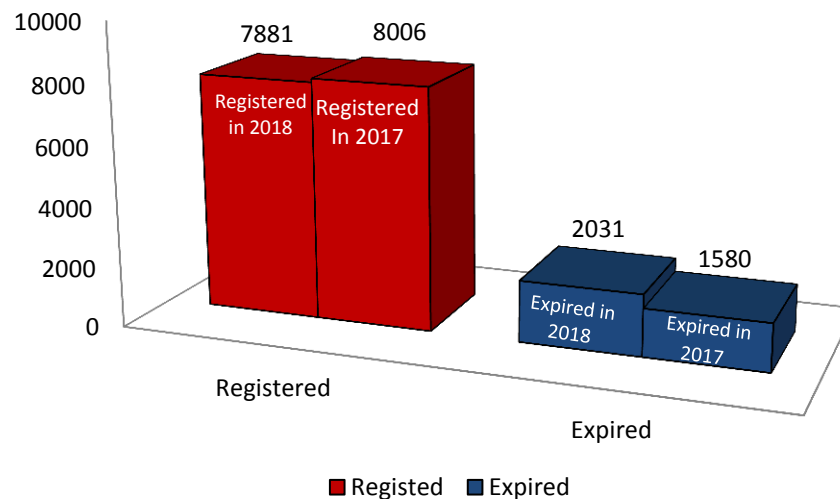


Figure 4.1 Registered & Expired HOAs in 2017 vs 2018

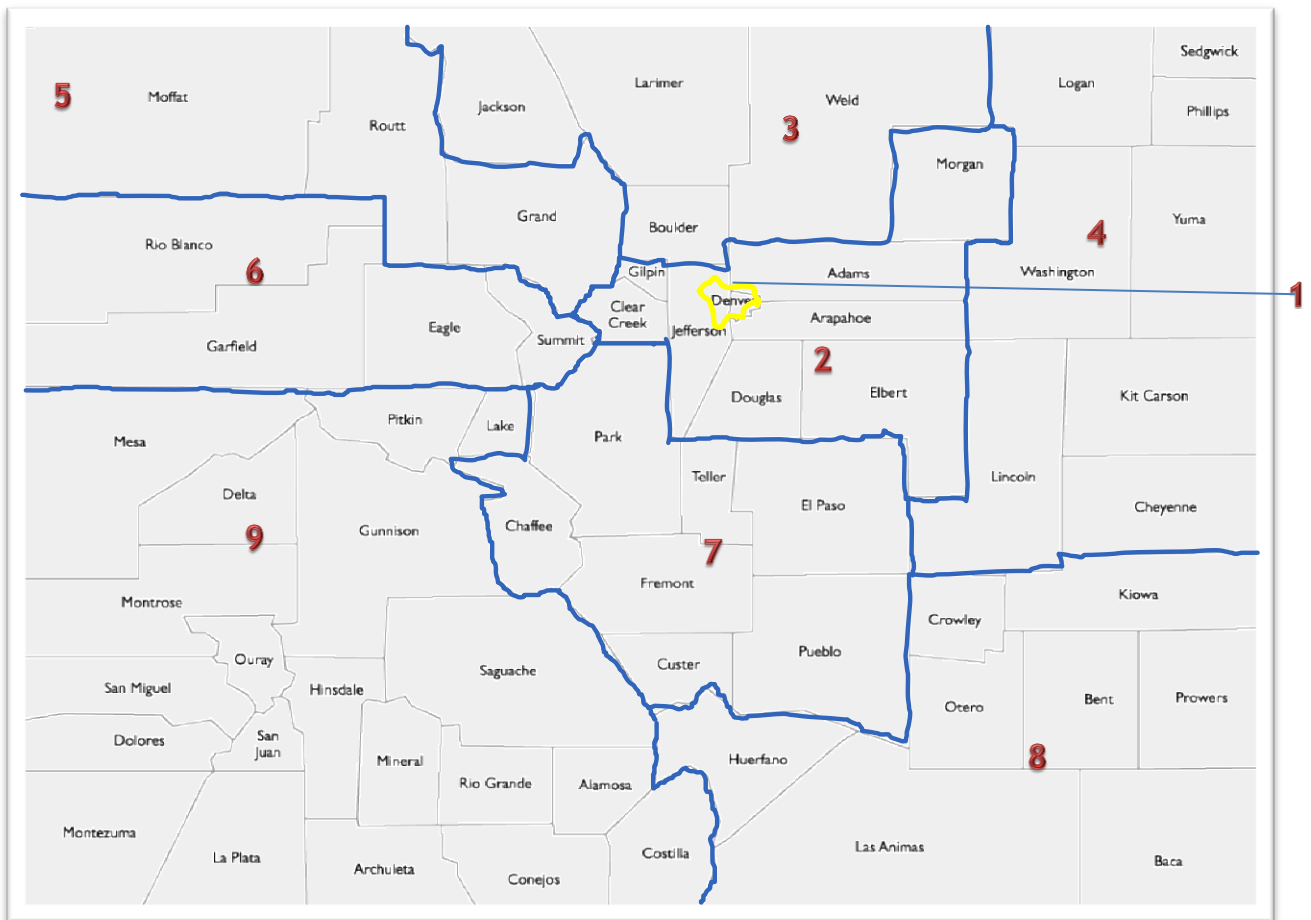
The only encouragement given to these communities to register and renew their registration is the lien provision²⁰ which is solely an affirmative defense to be employed only in applicable legal proceedings.

¹⁹ Pursuant to Colo. Rev. Stat. § 12-61-406.5(3)(a)(I).

²⁰ Colo. Rev. Stat. § 38-33.3-401(3)

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.

Figure 4.2 shows the breakdown of registered CICs in Colorado by region.



Regions	Registered
Region 1 - Denver	968
Region 2 - Denver Surrounding	1791
Region 3 - Front Range	1763
Region 4 - Northeast	7
Region 5 - Northwest	177
Region 6 - Northwest Ski Resorts	1061
Region 7 - South Central	762
Region 8 - Southeast	89
Region 9 - Southwest	1263
Total	7881

Figure 4.2 Registered CIC's by Region

Of the 7,881 registered CICs, 1,576 provided the Center with information regarding whether they were professionally managed or self-managed. Figure 4.3 illustrates the management status of the 1,576 CICs.

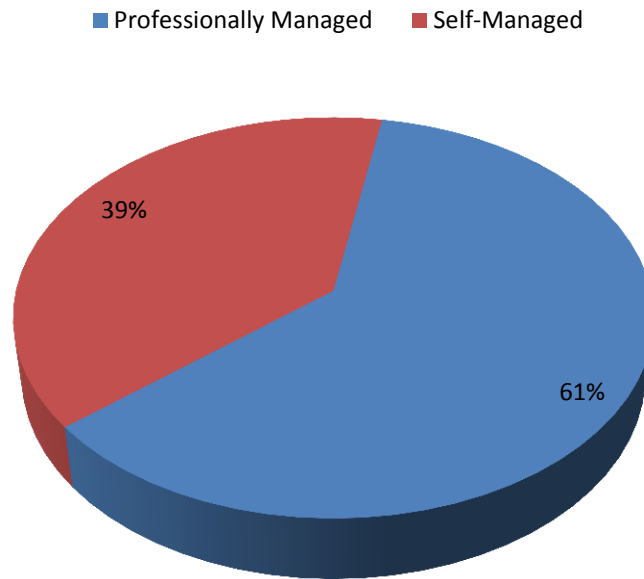


Figure 4.3 CICs Management Status

Figure 4.4 depicts the management status of the 1,576 CICs by CIC type.

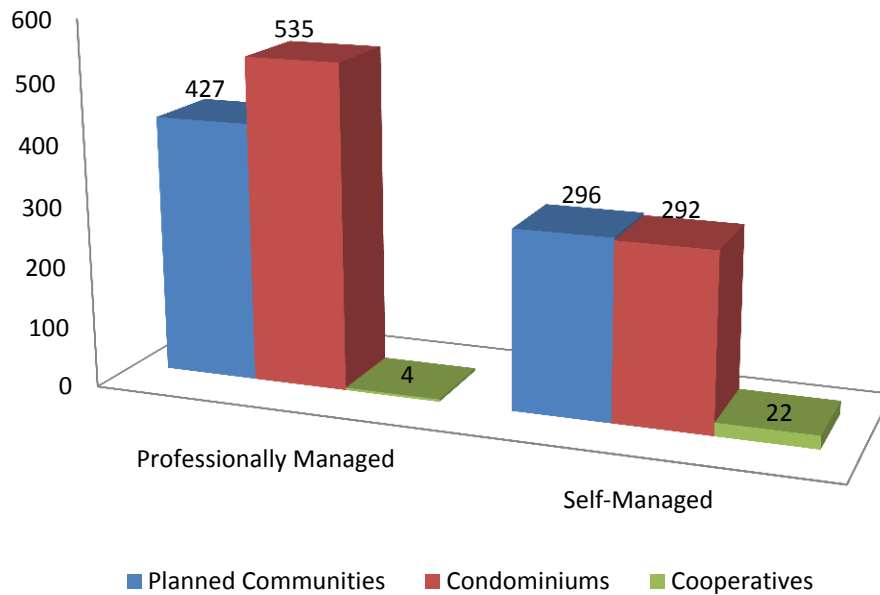


Figure 4.4 CIC Management Status by Type

Conversely, 2,031 CICs have failed to renew their registration as of Dec. 31 2018. The sum of the registered and expired CICs means that there are at least 9,912 CICs currently in the State of Colorado. Figure 4.5 illustrates the total 9,912 CICs in the state by CIC type, while figure 4.6 depicts how many registered and expired CICs there are by CIC type.

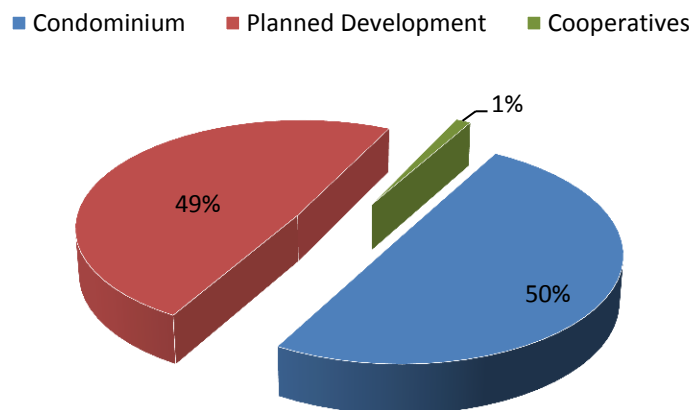


Figure 4.5 Total CICs by Type

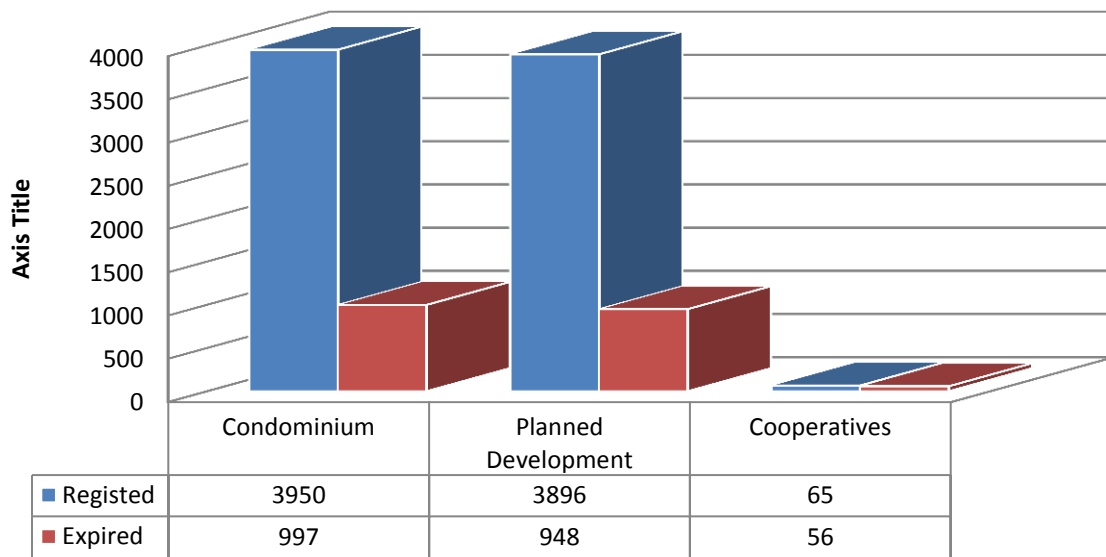


Figure 4.6 Registered & Expired CIC's by CIC Type

Information gathered from the registered and expired CICs, also includes the number of units in a CIC which is used to calculate the number of people in the state that reside in CICs.

A total of 939,861 units were in both registered and expired CICs in 2018. Taking the number of units and multiplying it by 2.63 (the U.S. Census' estimated persons per household) results in the number of Colorado residents that reside in CICs as of Dec. 31, 2018.

Based on the above calculations, an estimated 2,471,834 Colorado residents live in CICs. The population of Colorado was estimated at 5.68 Million²¹ in 2018. Thus, as of Dec. 31 2018 a surprising 44% of Colorado residents live in a CIC as shown in figure 4.7.

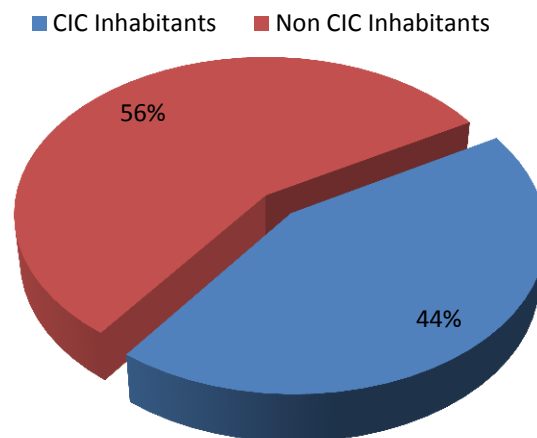


Figure 4.7 CIC vs Non CIC Owners

²¹ Population statistics gathered from <http://worldpopulationreview.com/states/colorado-population/>

Inquiries

The Center logged 4,212 separate inquiries during 2018. 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, board members, attorneys, government agencies, vendors, and declarants. Most of the inquiries to, and assistance from, the Center pertained to the following:

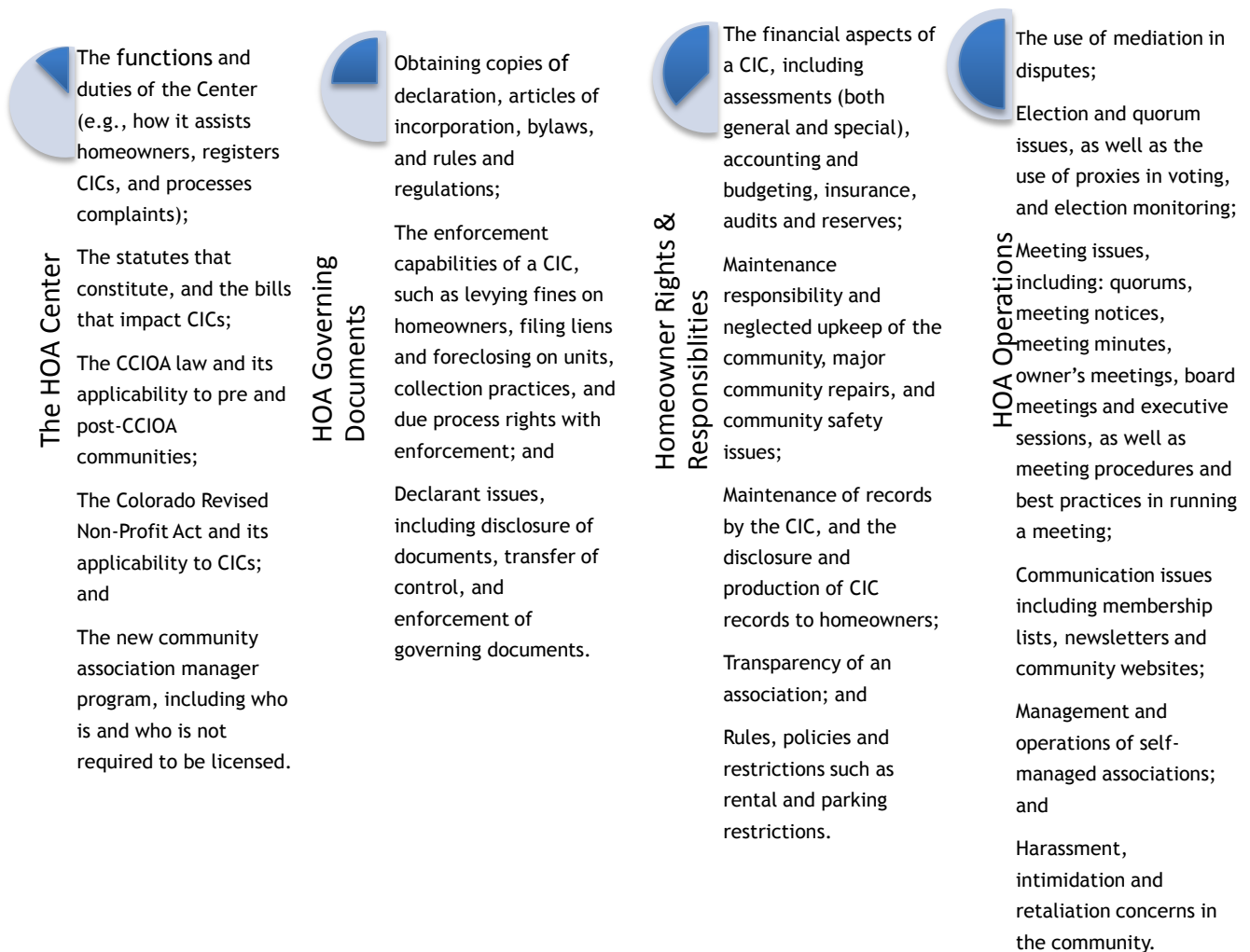


Figure 5.1 Inquiry Table

Complaints

From January 1, 2018 to December 31, 2018, the Center received 581 complaints via mail, phone, e-mail, submission in person, and the Center's website. The complaints originated from homeowners and others involved with CICs. Figure 6.1 compares the amount of complaints received in 2017 to 2018.

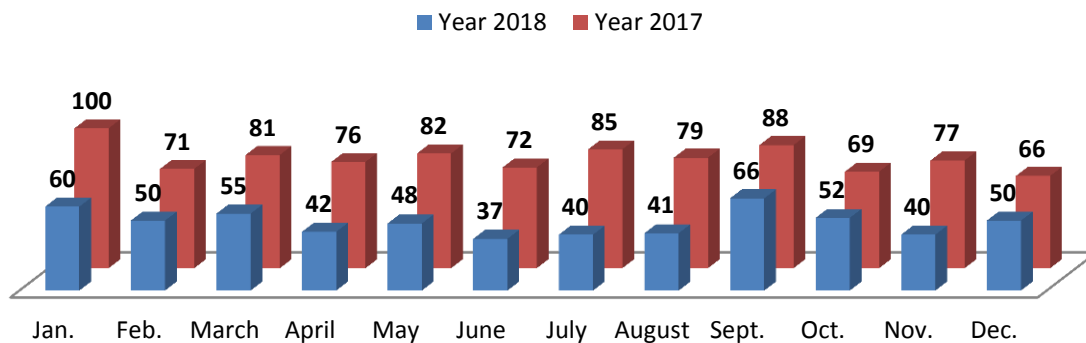


Figure 6.1 Complaints by Month over a Two Year Period

As can be seen from figure 6.1, there were 948 complaints in 2017 where as there were only 581 complaints in 2018.

This almost 39% drop in complaints can be attributed to several factors. As the Center increases its outreach and education on issues relating to CICs and regarding the Centers limitations with complaint investigations and resolutions fewer complaints have been filed. The decrease in complaints can also be attributed to the creation of the Community Association Management Program which now handles several of the complaints that the Center once received concerning CIC managers.

The Center categorizes the complaints it receives according to type i.e. complaints received from those living in Condominium, Planned Development or Cooperatives; figure 6.2 exemplifies this breakdown.

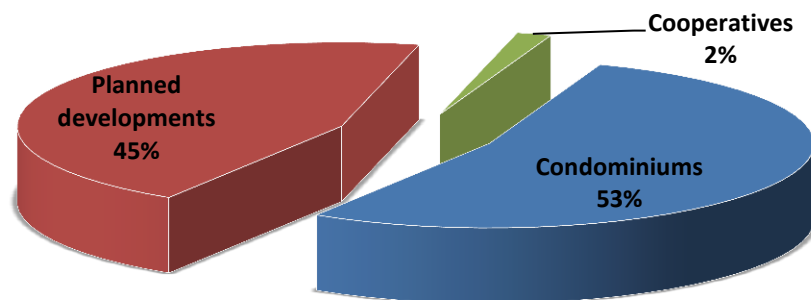


Figure 6.2 Complaint by CIC Type

Information collected from complaints against CICs includes whether the community the complaint was made against, is managed by a Community Association Manager or self-managed as shown in figure 6.3.

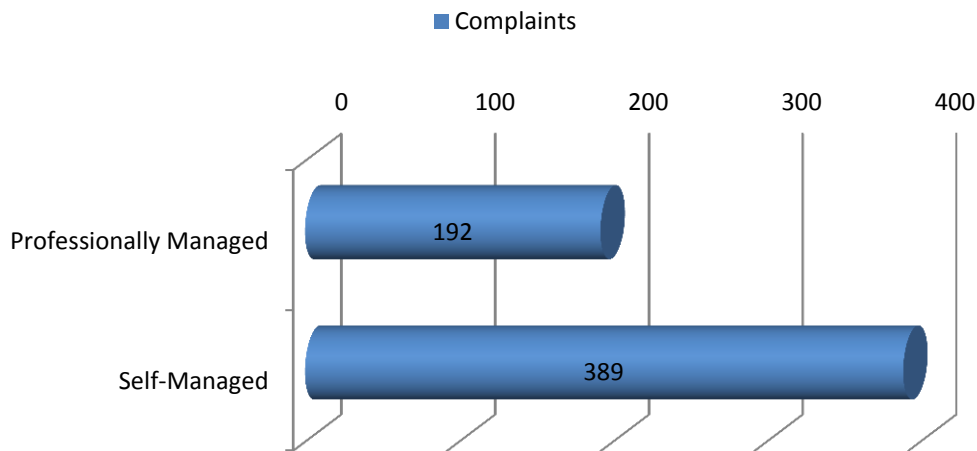


Figure 6.3 Complaints in Self-Managed vs. Professionally Managed communities

Furthermore, data collected from submitted complaints is used to determine the geographical area of the community concerned. Figure 6.4 illustrates the complaints the Center received by geographical region.

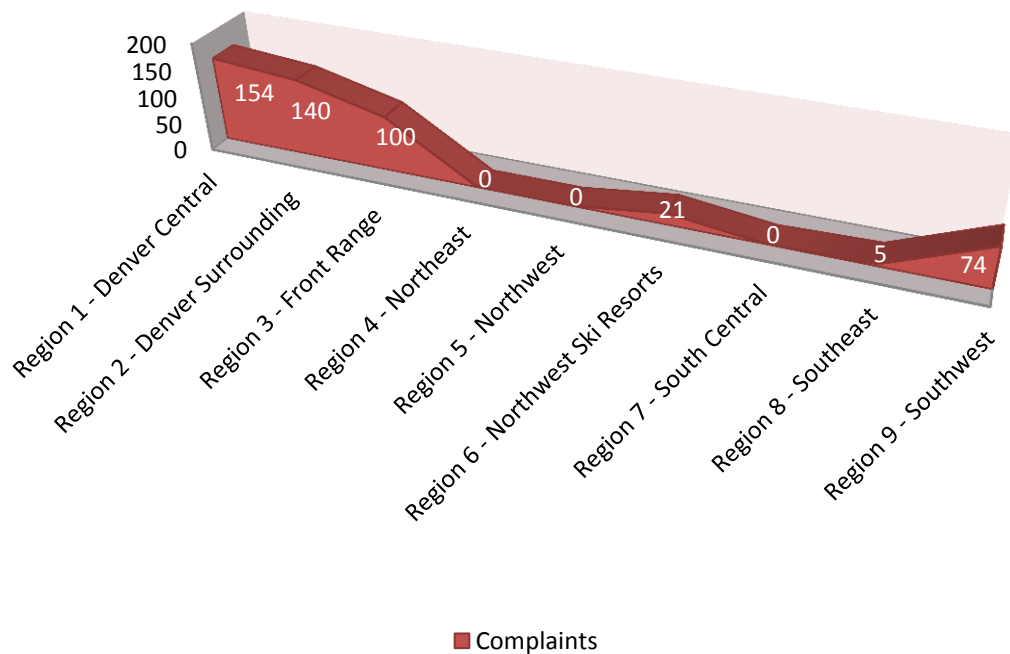


Figure 6.4 Complaints by Region

Overall, the nature of complaints associated with condominiums, planned communities, and cooperatives were very similar. The highest number of complaints received for 2018 centered on not performing maintenance and repairs. A large number of complaints were regarding allegations of the association not enforcing any covenants or rules and regulations; improperly enforcing those covenants; selectively enforcing a covenant or rule and regulation; or having lax enforcement for the benefit of a board member. Figure 6.5 depicts the number of complaints the Center received by category, while figure 6.6 depicts the number of complaints the Center received by category and by CIC type.

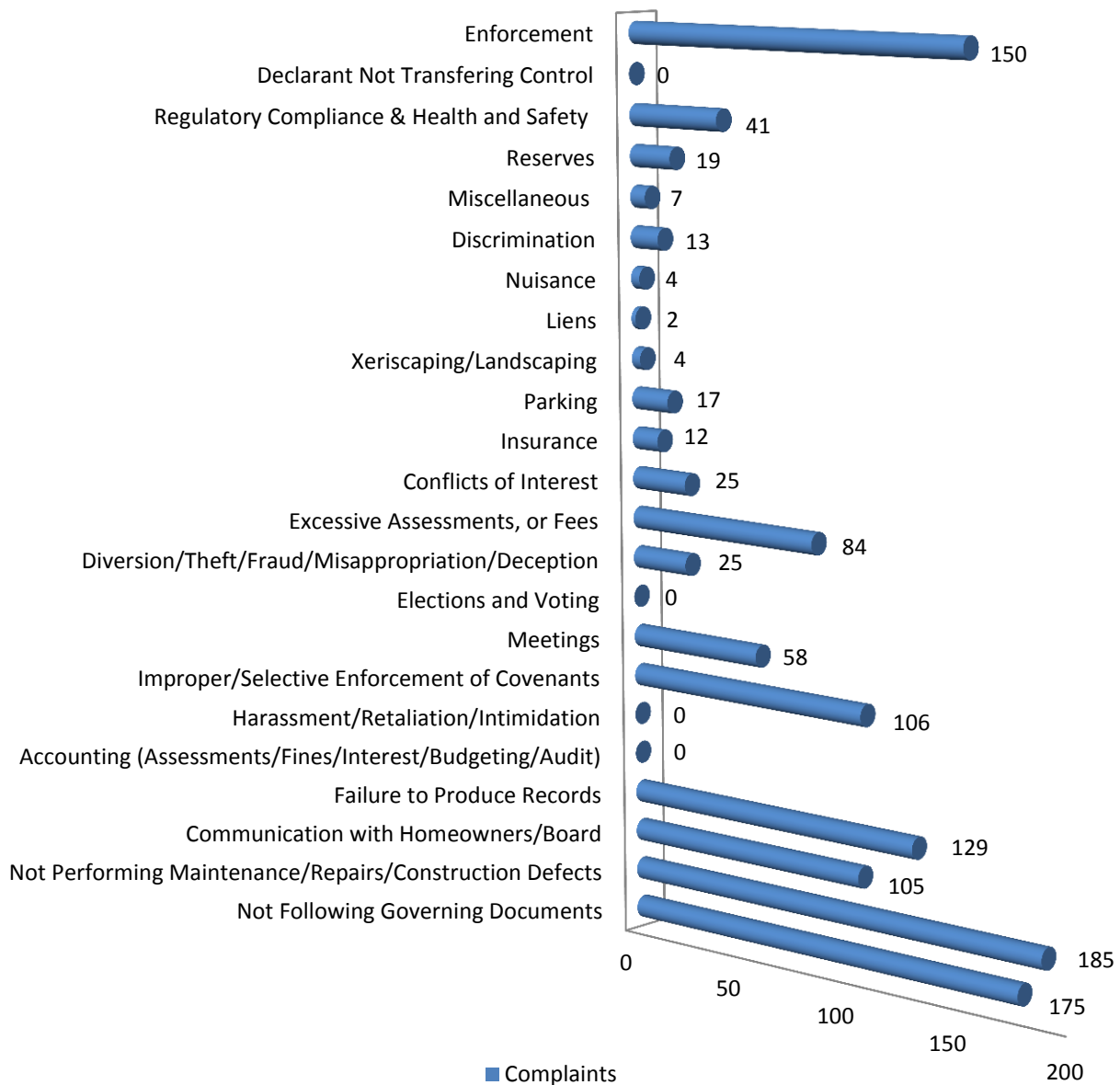


Figure 6.5 Complaints by Type

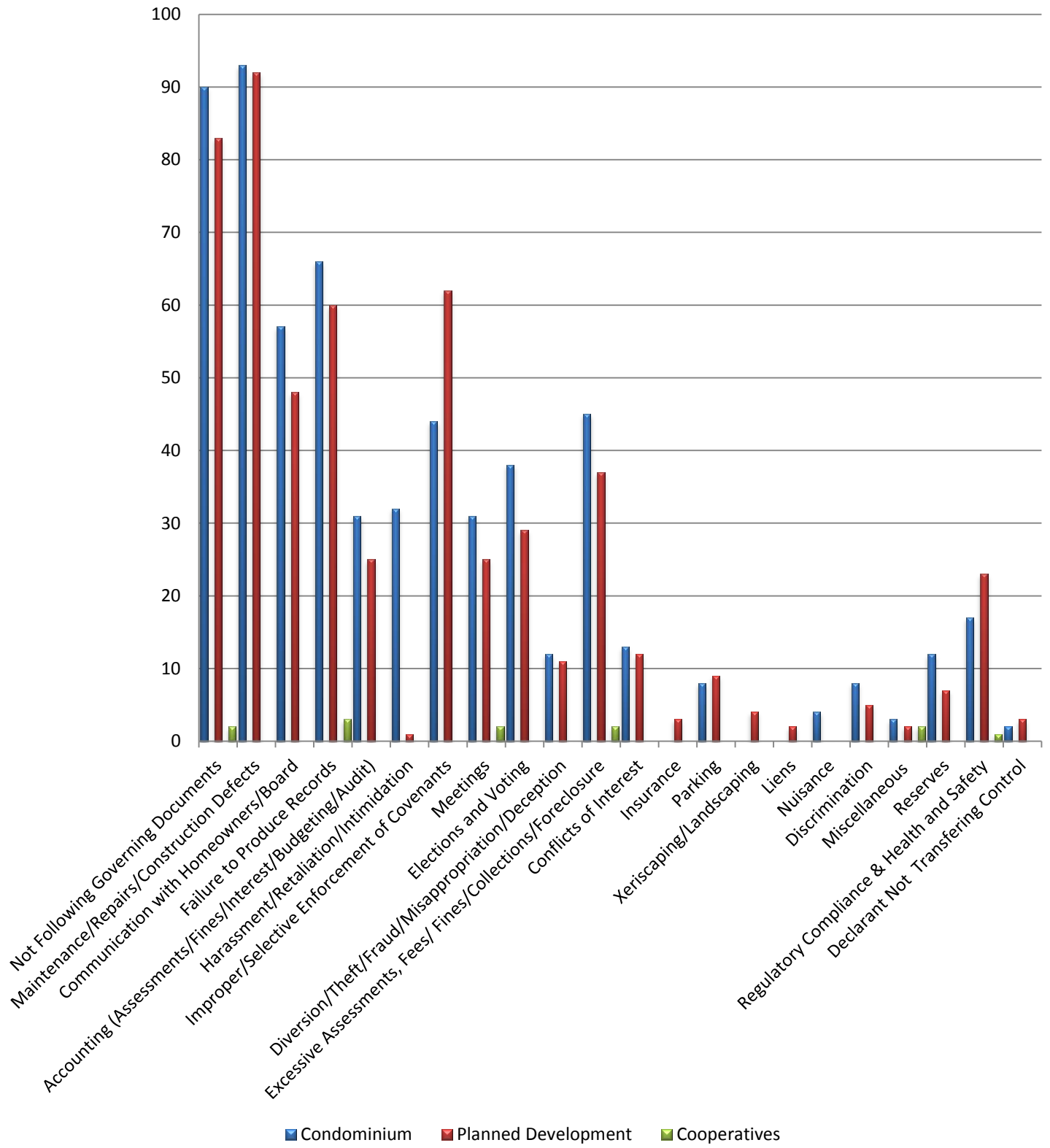


Figure 6.6 Complaint Topics by CIC Type

6.1 Consumer Expectations

A substantial majority of all complaints relate to examining or obtaining copies of the books and/or records of the community. The Center finds this to be a concerning; the law is very clear and straight forward regarding document disclosure, those requirements are set forth in the applicable statutes²².

Communication, transparency and poor accounting practices or inadequate budgeting remain major complaint areas. Accusations of excessive assessments, 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, and board members ignoring or being dismissive toward owner concerns are frequently made. Many of these issues could possibly be resolved with a simple community website, newsletter, or e-mail to homeowners.

The Center also receives feedback from owners who believe it should regulate CICs that are not in compliance with the requirements set forth in CCIOA. However, the Center lacks the statutory authority²³ to investigate or mediate disputes between homeowners and CIC boards, nor can the Center sanction boards for any violations of the applicable common interest community laws. The Center therefore strives to obtain compliance through guidance, information and education.

²² Colo. Rev. Stat. § 38-33.3-209.4

²³ Colo. Rev. Stat. § 12-61-406.5

Accomplishments & Objectives

7.1 Review of 2018

In 2018 The Center debuted a new dynamic website designed to provide a user-friendly experience with improved navigation and functionality, allowing consumers and industry partner's access to the latest common interest community laws, news, and information. The website contains statutes, bills, educational materials (including video forums, a monthly digest, and featured resources), legal and alternative dispute resolution resources, and a quick links section. Highly ranked by major search engines for relevant queries, the Center's website continues to experience significantly increased web traffic.

Along with handling over 4,000 inquiries for information and assistance; the Center participated in 19 public DORA HOA forums, 10 of which were hosted outside of the Denver area. The Center also attended, participated and presented at 11 seminars and 9 conferences, including 3 senior fairs and a town hall meeting. Guest presenters and industry writers added to the Center's educational efforts and resources.

A wide variety of topics at HOA forums were presented, including homeowner education, Q&A's and an interactive session with professional mediators, insurance agents and other industry professionals. The Center also teamed up with the City of Boulder and the Council of Neighbors for their "HOA Days" presentations, participated in neighborhood events with Denver News 7, and had consumer informational booths at the Jefferson County Senior Law Day and Safety Fair. In addition the Center participated in a radio show concerning the issues faced when living in a common interest community.

7.2 Direction of the Center in 2019

In 2019 the Center plans to expand its outreach and visibility by utilizing social media platforms, a series of ongoing informative mini videos and collaborating with other government agencies, industry groups and professionals who assists homeowners living in common interest communities. Providing CIC workshops, educational sessions, forums, and additional educational materials for homeowners will remain a priority for the Center.

Furthermore, the Center will continue to do outreach and expand its presence in Spanish speaking communities and assist them with their CIC related issues and questions.

Finally, should legislation be enacted that concerns additional functions duties and responsibilities for the Center, the Center would be eager to undertake any efforts necessary to offer the best services possible.