

Testimony for the Record  
Submitted to the  
Working Group on Common Interest Communities and Homeowners Associations

Working Group Meeting  
December 19, 2024

Homeowner

Representative Bahner, Senator Lucero, Representative Mekeland, Senator Pha and honorable members of the working group, thank you for inviting me to participate in the working group meeting, and thank you for your attention to this important topic.

I'm a homeowner, and, as such, I'm a member of a homeowners' association. My home is the first house I've owned, and I've worked hard to own it. I worked a full-time professional job, plus, for many years, a second job in the evenings and on weekends to be able to pay the mortgage and association dues. After approximately 25 years of paying the mortgage — and paying extra toward the principal each month — I'm close to paying off my mortgage. This house represents a major investment for me. It also represents security.

The problem is, due to the actions of the property management company, I don't feel secure. Every interaction with the property management company is a struggle, and I walk on eggshells wondering what unexpected, exorbitant charge for which they'll invoice me or what they will do to take advantage of us homeowners. Please let that sink in for a minute — I don't feel secure in my own home of 25 years.

It is now also the home of my spouse, who has a spinal cord injury and is disabled. I'm the sole income earner for our household.

As background, it's also pertinent to know that I have training and experience with procurement and contracting. In my professional position, I have managed procurement and contracting projects from research and development of requests for proposals to evaluation of proposals, writing contracts and contract award. This was done following rigorous State of Minnesota procurement rules and regulations set forth for government agencies.

I'm extremely concerned about retaliation from the property management company. Despite this, I'm speaking up, because this working group may be the only chance for homeowners.

I'd like to address three major issues.

## Kickbacks From Vendors and Hiring Subsidiary/Sister Companies

One major issue is that the property management company, [name redacted], engages in revenue sharing — or let's call it what it really is — kickbacks from companies hired to provide services or perform work on the exterior of our homes.

The property management company also hires a contractor owned by their parent company to perform work on our homes.

This raises serious concerns:

- We homeowners already pay a fee to the property management company to manage the property. A property management company should not be "double dipping." If they feel they need higher fees to manage the property, this should be reflected in the proposal they submit to earn the business. Submitting a proposal outlining fees and then taking kickbacks does not allow for fair competition or accurate evaluation of proposals. In my opinion, it is deceptive.
- This is a clear conflict of interests. Who will the property management company hire — the vendor who provides quality work and the best value to the homeowners or the one who provides the largest kickback to the property management company?
- These kickbacks inflate prices paid by the homeowners.

### Case in Point

Although homeowners were opposed to it, the property management company entered into an agreement with Comcast/Xfinity for cable and internet services. (I question if that is even allowed under our bylaws, as the association provides exterior maintenance only.) The fee was higher than I and another homeowner in the association were paying for internet service. We were forced to cancel our existing contracts with Comcast that had a lower-priced service and use the higher-priced program implemented by the property management company. (Consider if this is tortious interference with a contract.) This also resulted in me paying twice for a period that the contracts overlapped and only being reimbursed after three years and countless hours contacting Comcast/Xfinity. How is it that a company negotiating on behalf of hundreds or thousands of homes cannot negotiate a price lower than I could as one individual? A property management company customer service representative informed me that, as part of the contract with Comcast/Xfinity, the property management company was paid a fee to "administer the program."

Additionally, communications from the property management company to homeowners were deceptive. Emails sent by the property manager stated that participation in the cable and internet services program was voluntary. When I questioned an incorrect charge on my association account, I was told it was the fee for cable and internet services. I explained that I had not signed up for the program. I was told that participation was voluntary, but each homeowner would be charged the fee whether they participated or not.

### Proposed Solution

I respectfully ask this working group to propose and support legislation that makes it illegal for property management companies to engage in revenue sharing, rebates ("kickbacks") or any form of compensation

given by a vendor to the property management company, including contracts awarded to companies affiliated with the property management company.

## Dereliction of Duty

Currently, homeowners have no viable recourse when there is dereliction of duty.

Based on my experience and information shared in forums by other homeowners, it's common that access to the association board of directors and the property management company is difficult and restricted.

We homeowners are directed to use the property management company's Customer Service Center. Although well-meaning, the customer service representatives do not have the knowledge or experience to properly handle requests and emergencies. The Customer Service Center also appears to not be properly managed or staffed. This became alarmingly clear during an emergency, as detailed in the "Case in Point" below.

My experience and the experience relayed to me by another association homeowner is that when an owner does contact the management company property manager for our association, the property manager does not return phone calls. Even for serious, complicated issues, responses are only provided via email and are most often delayed, unclear, vague or, in the worst cases, misleading. This does not provide a homeowner with adequate or accurate information to make important decisions.

Work performed on my home has often been inferior, devaluing my largest asset.

This raises serious concerns:

- Rather than being mitigated, damage to our homes and personal property is exacerbated.
- Inferior work devalues one of the largest investments of our lifetimes.
- Delayed, unclear or inaccurate information negatively impacts a homeowner's decision making.
- These issues lead to a sense of insecurity and stress that pervades our lives.

## Case in Point

On [date redacted], 2024, at approximately 10 p.m., I returned home to discover water profusely leaking through the ceiling of my home. I did not know the source, as plumbing for multiple homes runs through my ceiling. I called the property management company emergency number, which routed me to the customer service center. I was on hold for an estimated 30 to 45 minutes before a representative answered. I answered questions, such as my address and what was occurring. Then the call dropped.

I called back and was again on hold for an estimated 20 to 30 minutes before a customer service representative answered. This entire time, water was pouring through my ceiling. To expedite the process, I requested to speak with the original customer service representative. I was told this was not possible; there was no record of the issue. Customer service representative No. 2 stated she was placing me on hold while she reached out to the property management company manager on duty.

After being on hold for an estimated 15 to 20 minutes, a new customer service representative answered. Customer service representative No. 3 began the process from the beginning, asking my name and address. I explained that a customer service representative was in the process of contacting the manager on duty and asked if she could please look up the case in their system to continue from this point. She rudely stated that she was trying to help and could only do so if I answered these same questions.

Eventually, I received a call from the property management company manager on duty. He stated that an employee from the fire suppression system company would call me and to let him know if I didn't receive a call. An hour later, I had still not received a call and called the manager on duty to inform him. He said he would contact them to determine what was happening.

I then received a call from the fire suppression system company employee, who stated he had 40 minutes of travel time to reach my home. He also asked me for the code to access the doghouse where the valve was located. Homeowners are not given that information. I stated that the manager on duty would need to provide the code, creating yet another delay.

When the fire suppression system employee arrived, he determined that the fire suppression system (sprinkler system) was not leaking. He stated that he saw "another valve" that may shut off water to the entire building. He stated that this wasn't his area of knowledge, but he would turn the valve in the hope it would turn off the water to the building. Thankfully, it was the main water valve for the building, because there were no other resources provided by the property management company to handle this emergency.

In summary, I called to report the leak at approximately 10 p.m. and the water was not shut off until approximately four hours later at 2 a.m. or 2:30 a.m. (with water continuing to leak until the pipes drained). This caused more extensive damage to my home and personal property than would have occurred had there been timely and competent performance of duties. Additionally, the lengthy amount of time on the phone took time away from placing and emptying buckets of dirty water and moving personal property.

Early the next morning, I called plumbing companies. One declined, as he did not want to work on a condominium. Another only agreed to an appointment if I guaranteed payment at the time of service. I texted the property management company manager on duty, asking him to grant the plumber access to the doghouse. There was no reply. I also asked him to refrain from turning on the water to the building until I notified him that repairs were complete. Despite multiple text messages to the manager on duty, I received no response. It was extremely distressing to worry about the water being turned on and water pouring through my ceiling again and having no means to stop it. It was also stressful wondering if a plumber, which I would need to pay, could not gain access to the valve. The leak was in a pipe that services my neighbor's home, not mine.

Over the course of the next three days, I received calls from vendors asking me for access to the doghouse and plumbing apparatus, so they could turn on the fire suppression system. One stated that it was not legal to have the fire suppression system turned off for this length of time. I stated that I didn't have the ability to provide access and directed them to the property management company. From their answers to my questions, I got the impression that they were not receiving responses from the property management company, and, therefore, turned to me. Months later, I was contacted by the fire suppression system services vendor about an overdue bill for more than \$2,000. Inexplicably, my address was listed on the invoice. I explained that I had not ordered the service and was not responsible for this bill.

This is the second leak from a neighbor's pipe within a year that has flooded my home. I'm terrified that another pipe will leak and that the property management company — instead of sending an employee to turn off the water — will call a plumbing company and charge me an exorbitant amount of thousands of dollars for this.

Following the flooding of my home, I received vague, even misleading, email replies from the property manager regarding repairs. She indicated I should contact the water mitigation company on contract to

perform the work and have bills "sent to the office." This implied the bills would be paid by the association. Upon pressing for an answer, she wrote that it may not meet the association's insurance policy deductible (\$25,000), and, if so, the homeowners association would not get involved.

This stress impacts all areas of my life. Like other homeowners in this association, my spouse and I are considering selling our home and moving to get away from the property management company. Because of our on-going negative experiences with this property management company, we will not choose to live in a home that requires the services of a property management company.

## **Proposed Solution**

Homeowners need protection against a property management company's nonperformance of a contract, dereliction of duties and performing inferior work on our homes, including work performed by vendors that is not properly supervised or quality checked by the management company. Homeowners need protection from instances in which a property management company does not follow the bylaws and declarations. It is cost prohibitive for a homeowner to settle these matters in court, particularly, with threats of being charged for the property management companies' legal fees. Therefore, we have no recourse.

I ask that you please propose and support legislation for a neutral third party to address these issues and enforce remedies. To be effective, the legislation should include a clause that a property management company and board of directors cannot hold the homeowner responsible for legal fees for responding to these issues.

## **Lack of Transparency and Withholding Information from Homeowners**

As a homeowner, I should have a right to know how our association dues are managed and spent, as well as the terms of contracts entered into on behalf of owners. I should also have the right to bring forward concerns and communicate to the board of directors. How can they represent us if we can't communicate with them?

My experience is that, at Annual Meetings, the property management company property manager does not provide an overview of the budget. At one meeting, she simply stated that the budget has been provided to residents. She provided no explanations, no definitions of line items, or how or why expenses occurred.

When I've requested to see a contract entered into on behalf of homeowners, I've been denied.

Homeowners are not provided adequate access to the association Board of Directors. Names of directors are not posted and do not appear in meeting minutes. Email addresses, even a general email address to the board, is not provided. The only access to board directors is during the open forum of the board meetings, where the property management company property manager is present, and your topic can be tabled or dismissed.

An attorney whom I asked to help interpret the association bylaws and declarations was stunned that the names of board members were not available to homeowners. He stated that he has experience litigating against associations and property management companies and has not encountered a situation in which the names of the members of the board of directors were not posted.

Meeting minutes are vague. Unless a homeowner attends the meeting, the owner will not be able to discern the issues being discussed and what transpired. For example, there was major work being performed to

mitigate water issues that were contributing to the houses settling (costing \$14,000 or more per home). In the meeting notes that I read, this project was alluded to in vague terms, not mentioning the magnitude. Homeowners experiencing similar issues had no idea this work was being done and, if needed, to request the work on their homes.

Additionally, a master board (forgive the term) was created, furthering insulating homeowners from being involved in decisions and being heard. I need to confirm, but I believe that now, instead of discussing a change of property management companies with our board, the decision of which property management company to hire is made by the master board. This makes it incredibly difficult for our association to change property management companies. To the best of my knowledge, the contract with the property management company auto-renews each year, unless the board actively chooses to terminate it.

### **Case in Point**

I requested to see the contract with Comcast/Xfinity. I explained to the property management company customer service representative that Comcast has a reputation for offering a low price for the first year followed by significant price increases.

The customer service representative stated that there was a clause in the contract that Comcast could only raise the price by a maximum of 3% per year. At the end of the first year of service, homeowners were notified that the price for cable and internet service would increase by 6%.

I contacted the property management company Customer Service Center and pointed out this inconsistency and asked for the price to be adjusted to remain within the agreed-upon maximum increase. The customer service representative stated that the cable fee increased by 3% and the internet fee increased by 3%, resulting in a total increase of 6%. Of course, we all know that this is not how percentages are calculated.

### **Proposed Solution**

I urge this working group to propose and support legislation that makes it mandatory for an association and property management company to provide documents and records that are created or used in the course of doing business on behalf of homeowners to homeowners upon request, including but not limited to:

- Proposals and bids.
- Evaluations of proposals and bids and contract award documents.
- Orders and purchase orders.
- Contracts.
- Invoices.
- Receipts and proof of payment.
- Bank statements.
- Accounting records, including but not limited to budgets, forecasts, records of monetary transactions, balance sheets and cashflow statements.

Not only does this help homeowners stay informed, but it is also a control to prevent abuse and fraud. (Homeowners are required to pay for coverage in our association's umbrella insurance policy for employee theft. We should not have to pay for this.)

To be effective, this should eliminate fees for providing these records. If not, property management companies could restrict access by making it cost prohibitive.

Legislation banning perpetual auto-renewing contracts is also needed, as it is incredibly difficult to terminate a property management company. Legislation such as this would encourage property management companies to act more responsibly. Competition is healthy.

I also ask that master boards are eliminated or banned. Master boards give too much power to the property management company. When there is a master board, a property management company only needs to appease a small group that comprises the master board. Decisions regarding communities should be made by the residents living in the community.

If your schedule allows, I encourage you to read the complaints filed with the Better Business Bureau for each of the property management companies. I found them to be alarming.

I greatly appreciate the opportunity to testify. Thank you. I would be pleased to answer any questions you have.