

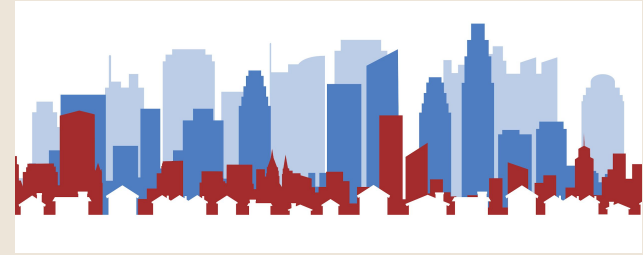


HOMEOWNERS  
OF AMERICA  
**UNITED**

# Overview of Common Interest Communities Current State, Challenges & Opportunities

Presentation by HOA United Co-Founder Steve Horvath

# About This Presentation



## ★ Common interest communities (CICs), better known as community associations or condos, co-ops and HOAs are everywhere.

- Industry [statistics](#) claim that the US is home to over 365,000 CICs with 72,000,000+ residents.
- US Census data shows that over 80% of new single-family homes are governed by HOAs.
- Brokerage data shows that, on average, the most affordable individually owned housing units are located in condominiums, followed by townhomes and single-family homes in HOAs.

## ★ This presentation will explore:

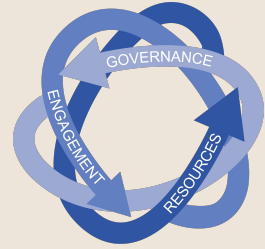
- How legislation influences CIC governance and operations across the nation
- Common causes of conflict in CICs
- The role of the business industry
- Challenges with the status quo
- Legislative solutions for Minnesota
- Why homeowner-centric advocacy and legislation matters

# About HOA United



- ★ [Homeowners of America \(HOA\) United](#) is a nonprofit organization led by volunteers that connects homeowners to provide advocacy, collaboration, education, empowerment, and inspiration to create positive, transformative impacts for common interest communities.
- ★ Membership is free. *HOA United* relies on the engagement and donations from members across the United States.

# About Condo Connection



- ★ [Condo Connection](#) is a volunteer passion project dedicated to maintaining healthy, vibrant common interest communities through access to information.
- ★ *Condo Connection* applies a pragmatic approach to provide access to the best concepts, content and ideas homeowners and volunteers can immediately apply in their communities and offers learning and engagement opportunities for individual homeowners, volunteer leaders, and community managers.
- ★ The bi-weekly [CIC Info Bytes newsletter](#) contains dozens of news articles and insights about topics that impact CICs.

# About Steve Horvath



- ★ Steve Horvath was born and raised in (and still frequents) Rochester, MN and currently lives in Downtown Seattle.
- ★ Steve has been a condominium owner for over 15 years and taken an active volunteer role as a multi-term Board member and committee member.
- ★ Steve founded [Condo Connection](#) in 2020 to provide free education and resources to anyone with an internet connection, the [SMAARTE Group](#) in 2022 to provide homeowner-centric consulting services, and co-founded [HOA United](#) in 2023 where he actively volunteers as a local and national advocate for legislative reforms that balance the reasonable expectations and needs of homeowners with the responsibilities of community associations.

# Community Association Governance Hierarchy



**STATUTE, ORDINANCE, CODE**

FEDERAL > **STATE** > COUNTY > CITY / MUNICIPAL

**CASE LAW**

**DECLARATION &  
BYLAWS**

Covenants, Conditions & Restrictions  
(CC&Rs) - *Dedictory Instruments*

**RULES &  
REGULATIONS**

**POLICIES &  
RESOLUTIONS**

**PROCEDURES**

**BOARD  
DISCRETION**

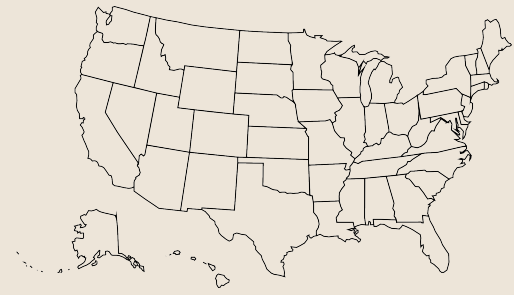
# Federal Legislative Impacts on CICs



## ★ 8 Federal rules and laws impact CIC governance:

- [Americans with Disabilities Act](#)
- [FCC Broadband Access Rule](#)
- [Corporate Transparency Act](#)
- [Fair Debt Collection Practices Act](#)
- [Fair Housing Act](#)
- [Freedom to Display the American Flag Act](#)
- [FCC Over the Air Reception Devices Rule](#)
- [Servicemembers Civil Relief Act](#)

# State Legislative Impacts on CICs



- ★ State statutes are THE most influential source of CIC governance.
- ★ The matrix linked below highlights some key differences in enacted legislation throughout the country.

GREEN = Complete																																											
Virtual Board Meetings																																											
Notice of Board Meetings																																											
Open Board Meetings																																											
Over Form Board Meetings																																											
Meeting Audio & Video Recording																																											
Board Action without a Meeting																																											
Board Executive Session																																											
Board Meeting Materials																																											
Members' Meetings - General																																											
Members' Meetings - Other																																											
Records & Disclosure																																											
Due Process & Enforcement																																											
Fines / Violation Penalties																																											
Election Candidates / Nominations																																											
Ballots, Proxies, Voting																																											
Other Election Rules, Etc.																																											
Free Speech & Anti-SLAPP																																											
Garbage, Recycling, Compost																																											
Garden Landscaping																																											
Leasing																																											
Rule-Making																																											
Parking and Roads																																											
Reserve Funding Requirements																																											
Reserve Funds Handling																																											
Reserve Accounts & Reserve Study																																											
Fund Commingling Prohibition																																											
Liens & Foreclosure																																											
Budgets																																											
Priority of Payments																																											
Developer Public Offering Rest.																																											
Rule of Payments																																											
ADR & Alternative																																											
Insurance																																											
Rela.																																											
STATE	#	Board Meetings										Elections										Powers & Regulatory Authority										Reserves					\$\$\$					🟢	
FEDERAL LAW																																											
Alabama (AL)	10																																										
Alaska (AK)	11																																										
Arizona (AZ)	25																																										
Arkansas (AR)	4																																										
California (CA)																																											
Colorado (CO)	32																																										
Connecticut (CT)	28																																										
Delaware (DE)	27																																										
District of Columbia (DC)	20																																										
Florida (FL)	37																																										
Georgia (GA)	8																																										
Hawaii (HI)	29																																										



# State Legislative Impacts on CICs - II



## ★ What does state legislation control? Everything below and so much more.

- **Board service:** including who can serve, length of terms, term limits, etc.
- **Elections:** ballots, proxies, voting, candidacy, inspectors of elections, etc.
- **Records and disclosure:** what to keep, what's confidential, how to provide records, etc.
- **Due process and enforcement** related to violations
- **Meeting requirements:** as open meetings, executive sessions, materials, recording, etc.
- **Notice** of meetings, rule-making, budget ratification, etc.
- **Budgets, assessments, special assessments and specially allocated expenses**
- **Collections, delinquency and foreclosure**, including priority of payments and much more
- **Freedom of expression** related to flags and signs
- **Electric vehicle (EV) charging, HVAC systems, gardens, landscaping, solar and more**
- **Insurance requirements**
- **Anti-retaliation and anti-SLAPP protections**
- **Professional regulation**, including licensure for managers
- **Dispute resolution and ombudsperson programs**

# Common Causes of Conflict in CICs


★ CICs are fertile ground for conflict because they:

- **operate in a regulatory environment absent reasonable remedies to correct things that go askew**
  - achieving accountability and transparency from attorneys, managers and Board members is challenging at best
  - lawsuits are often the only available remedy; the mental, emotional and financial toll is excessive
- **require shared leadership by a volunteer Board that lacks the experience, training and time to successfully govern and operationalize myriad requirements**
- **must simultaneously function as hyper-local governments AND nonprofit corporations with representative, non-authoritarian, non-hierarchical and inclusive leadership**
- **owners struggle to unify and focus on shared goals, mission and vision in the face of many challenging, complex, distinct and sometimes conflicting demands**
- **include a diverse set of homeowner members who have invested tremendous time and money, yet the vast majority of whom are relatively uninvolved in even the most basic forms of governance**
- **operate in a dynamic environment where a majority of the heavy-lifting is:**
  - outsourced to vendors without appropriate due diligence and lack of supervision; OR
  - in-sourced to volunteers who lack the education, experience, and resources necessary to succeed

# The Role of the Business Industry



★ **The Community Associations Institute (CAI)** is a business trade association that earns approximately 90% of its income from corporate members who profit from providing services to CICs. [CAI Report Card](#)

- CAI operates over 50 chapters and [7 political action committees \(PACs\)](#) across the country.
- Since 2010, CAI's Lobbying expenses have [increased 450%](#) while membership and total revenue have increase 68% and 66%, respectively.  [Map of revenue and lobbying.](#)
  - CAI organizes 36 "[Legislative Action Committees](#)" (LACs) primarily staffed by industry attorneys in order pursue its legislative goals and [public policies](#) that frequently collide with reasonable homeowner expectations.

## ★ Helpful reading:

- [Becker & Poliakoff law firm the 'nemesis' of condo safety reformers](#)
- [Condo Wars: After HOA corruption arrests, Florida's community management industry works to weaken reform bills](#)
- [When North Carolina HOAs want to block or pass legislation, they often get their way](#)

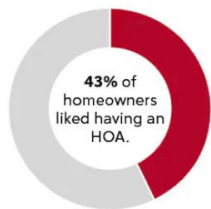
# Challenges with the CIC Status Quo



★ Multiple surveys paint a picture of CIC challenges across the country.

## HOA Happiness Among Homeowners

Homeowner Perspectives On Living With An HOA

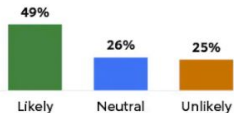


Among members of the HOA board, 37% dislike having an HOA.

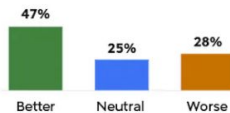


31% of homeowners feel their HOA board has too much power.

### Likelihood Of Buying In An HOA Neighborhood Again

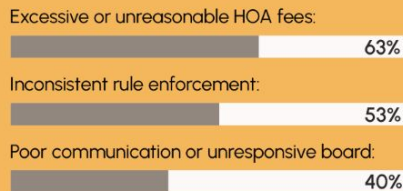


### Is Your Neighborhood Better Or Worse Than It Would Be Without An HOA?



1 in 3 have had an HOA experience that made them want to leave their community

### What happened?

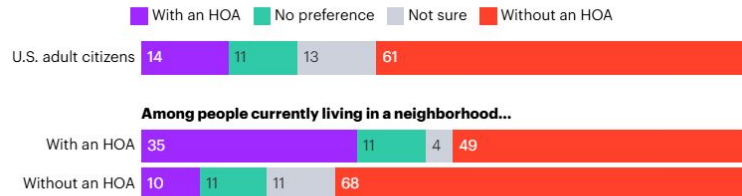


If they were to buy a home in the future, 70% would prefer a community without an HOA



## Most Americans prefer to live in a neighborhood without an HOA

An HOA, or homeowners' association, is a private organization made up of homeowners and paid for by their fees that governs the shared aspects of a neighborhood, enforcing rules and maintaining common areas. If you were buying a home, would you rather do so in a neighborhood with or without an HOA? (%)



# Challenges with the CIC Status Quo - II




★ [A 2023 - 2024 survey](#) organized by [Colorado's DORA DRE](#) garnered approximately 1,600 responses and found that over 50% of respondents were somewhat unsatisfied or very unsatisfied with their CIC. Here's a summary of the most significant concerns:

- [BOARD] Lack of communication and transparency
- [BOARD] Selective enforcement of rules and policies
- [BOARD] Failure to follow governing documents and state laws
- [BOARD] Board member competence and behavior: qualifications, lack of understanding of operations, and unprofessional conduct.
- [BOARD] Financial mismanagement: Improper use of funds, inadequate reserve funding, and failure to provide and explain budgets
- [BOARD] Lack of homeowner input and voice: Homeowners feel unheard and excluded from decision-making processes
  
- [MANAGEMENT] Poor communication and responsiveness: Management companies are often unresponsive and fail to provide timely updates or information.
- [MANAGEMENT] Lack of knowledge and competence: Lack of understanding of governing documents and state laws.
- [MANAGEMENT] Failure to perform duties and enforce rules
  
- [OTHER] Rising costs of insurance and services
- [OTHER] State legislation impacts
- [OTHER] Difficulty resolving disputes: Homeowners find it challenging to address grievances with their HOAs, often resorting to legal action due to lack of alternative dispute resolution mechanisms.

# Challenges with the CIC Status Quo - III



Evan McKenzie, a professor of political science at University of Illinois at Chicago, is probably the most prolific author and researcher of CICs (he prefers the term *CIDs* or *residential private governments*) best known for his 1994 book [\*Privatopia\*](#) and [\*Beyond Privatopia\*](#) in 2011. McKenzie has also authored many academic pieces, including one chapter of 2016's [\*Private Communities and Urban Governance: Theoretical and Comparative Perspectives\*](#) titled [\*Rethinking Residential Private Government in the US: Recent Trends in Practices and Policy\*](#).  [Listen to the audio summary](#).

*"...increased concerns about association finances highlight the extent to which the rapid spread of common interest housing has outpaced the public policy process, which is now trying to catch up."...*

*..."Despite the mounting evidence that CID private governments are overly reliant on owner resources and lacking in institutional support, policy makers have favored self-protective steps to insulate public institutions from the risk of loss, rather than bolstering the private governments that pose that risk.*

*Such policies are an improvement over the reckless promotion and unregulated privatization that marked the rise of residential private government. At least we appear to have discarded the cavalier assumption that no institutional support or regulation are necessary. But what is missing, still, is a proactive and forward looking approach."...*

*[The Community Associations Institute] CAI ... functions as an interest group that has substantial influence on legislation and court decisions..."*

*..."There is nothing improper about professionals advancing their interests in the press and through the policy process, but there is an enormous public interest in having a full understanding of what is going on in this privatized realm, and that will never come from private professionals who are making their living solving problems that could be prevented by more enlightened public policies."*

# Challenges with the CIC Status Quo - IV



## ★ The State of Illinois continues to renew its CIC Ombudsperson Act. *The General Assembly finds as follows:*

- ★ *Managing condominium property or common interest community property is a complex responsibility.*
- ★ *Unit owners AND persons charged with managing condominium property or common interest community property may have little or no prior experience in managing real property, operating a not-for-profit association or corporation, complying with the laws governing condominium property or common interest community property, and interpreting and enforcing restrictions and rules imposed by applicable instruments or covenants.*
- ★ *Unit owners may not fully understand their rights and obligations under the law or applicable instruments or covenants.*
- ★ *Mistakes and misunderstandings are inevitable and may lead to serious, costly, and divisive problems.*
- ★ *Effective education can prevent or reduce the severity of problems within a condominium or common interest community.*
- ★ *Anecdotal accounts of abuses within condominiums and common interest communities create continuing public demand for reform of condominium and common interest community property law.*
- ★ *This results in frequent changes to the law, making it difficult to understand and apply, and imposes significant transitional costs on these communities statewide.*
- ★ *By collecting empirical data on the nature and incidence of problems within these communities, this Act will provide a sound basis for prioritizing reform efforts, thereby increasing the stability of condominium and common interest community property law*

# Challenges with the CIC Status Quo - V



★ The below excerpt is directly quoted from CAI's [Community NEXT 2020 and Beyond](#):

*"All associations need well-qualified volunteers to serve on their boards. Savvy future developers as well as existing associations should be encouraged to set minimum requirements for board service, such as education level, professional experience, prior leadership positions and attendance at accredited board education programs.*

***At some point, board expertise and qualifications will have to be controlled more carefully.** As some already do, governing documents of the future may contain provisions for the automatic removal of inadequate board members. **In the absence of qualified volunteers, communities in the future will likely explore creative alternatives to seating competent board members, such as turning to professional board members or a corporate model.***

*Some associations in the future might pay a modest stipend to board members, similar to what city council members receive. Although such stipends would create an incentive for residents to volunteer, they would not ensure competence, which only will be achieved by requiring board members to attend accredited board education programs. **Eventually, state or local government statutes and ordinances also may require formal board education.** While mandatory requirements may reduce the number of people who volunteer, they will also eliminate at least some unsuitable candidates."*



# Legislative Solutions for Minnesota



- ★ Minnesota's adoption of [UCIOA](#) and [UCA](#) frameworks is based on models finalized in 1982 and 1977, respectively.
- ★ Minnesota should adopt language and concepts from [UCIOA's 2021 framework](#):
  - Washington State adopted the UCIOA 2021 framework in [2024 SB5796](#) which, as part of the updated methodology, repeals all prior statutes to bring all CICs under one "roof" in a single, uniform statute effective January 1, 2028.
  - Open meetings with mandatory owner feedback + availability of meeting materials
  - Significantly less deference to governing documents / the statute controls
  - Additional accountability and transparency for rule-making
  - Emergencies defined with specific powers granted
  - and more...

# Legislative Solutions for Minnesota - II



- ★ Look beyond UCIOA to states such as Arizona, California, Colorado, Florida, Nevada, Washington and others that have created legislative solutions that go beyond UCIOA.
  - Several dozen recommendations prepared for WUCIOA are wholly applicable to Minnesota and include linked references to legislation in the aforementioned states.

- ★ Create a universal statutory remedy to deter bad behavior (supported by UCIOA 4-117):

*An association that violates this Chapter is liable to the unit owner for actual damages, shall pay a civil penalty to the unit owner in an amount not to exceed \$1,000, and the court shall award reasonable attorneys' fees and costs to any prevailing unit owner. In addition, the court may award punitive damages to a prevailing unit owner in any case where an association, board member, managing agent, resident manager, attorney, unit owner, or any person acting on behalf of an association or a unit owner has demonstrated willful disregard for this Chapter or the governing documents.*

# Legislative Solutions for Minnesota - III



## ★ Prohibit Retaliation (Nevada and Hawaii lead the way on this):

*(a) An association, board, managing agent, resident manager, attorney, unit owner, or any person acting on behalf of an association or a unit owner shall not retaliate against a unit owner, board member, managing agent, resident manager, or association employee who, through lawful conduct undertaken in an effort to address, prevent, or stop a violation of this chapter or governing documents of the association:*


- (i) Complains in good faith about any alleged violation of any provision of this chapter or the governing documents of the association*
- (ii) Causes a complaint or report of an alleged violation to be filed with the association or other appropriate entity;*
- (iii) Participates in or cooperates with an investigation of a complaint or report filed with the association, or other appropriate entity;*
- (iv) Otherwise acts in furtherance of a complaint, report, or investigation concerning an alleged violation;*
- (v) Recommends the selection or replacement of an attorney, community manager or vendor; or*
- (vi) Exercises or attempts to exercise any right under this chapter or the governing documents of the association.*

*(b) A unit owner, board member, managing agent, resident manager, or association employee may file a dispute or action alleging a violation of this section. A court may issue an injunction or award damages, court costs, attorneys' fees, or any other relief the court deems appropriate.*

*(c) As used in this section, "retaliate" means to take any action that is not made in good faith and is unsupported by the association's governing documents or applicable law and that is intended to, or has the effect of, being prejudicial in the exercise or enjoyment of any person's substantial rights under this chapter or the association's governing documents.*

# Legislative Solutions for Minnesota - IV



- ★ Require alternative dispute resolution (ADR)  AUDIO OVERVIEW
- ★ Be precise! Replace the use of “adequate” and “reasonable” with specific deliverables, procedures, response times and other requirements.
- ★ Require the use of ballots and/or directed proxies for all votes of the unit owners and ensure that every owner who wants to be a candidate has an equal chance to be elected.
- ★ Prevent abusive practices that lead to delinquency, collections and foreclosure.
- ★ Limit regulatory overreach that creates frustration and fails to provide long-term benefits to CICs and their owners:
  - Allow gardens
  - Allow vehicles to be parked in driveways
  - Prohibit private enforcement of publicly-owned streets and rights-of-way
  - And more...

# Inspiring Quotes



- ★ *We have wonderful laws on the books, but if there's no access it doesn't matter.* — Sen. Manka Dhingra
- ★ *"Legal fees should not be prohibitive to seeking justice ..."* — Atty. Jesmany Jomarrón
- ★ *"In many cases, the threat of public accountability is enough to get condo boards to respond to complaints..."* — Heather Gillespie, VA CIC Ombudsman
- ★ *The system is very much skewed toward those who have more money... expensive litigation ... can be enough to intimidate people and stop them from doing "something that might be perfectly lawful."* — Irene Calboli, Texas A&M University School of Law
- ★ *...There is an intersection of need and opportunity with respect to access to civil justice...*  
*...Lack of access to justice is a problem that has serious social, legal, economic, and political consequences;*  
*...Access to justice is a basic principle of the rule of law, and it ensures that all persons, institutions, and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated. In the absence of access to justice, people are unable to have their voice heard, exercise their rights, challenge discrimination, or hold decision makers accountable.*  
*In 2021, the commission undertook a systematic statewide study to better understand the challenges facing those trying to resolve civil legal problems...The study revealed that, due to the complexity of legal matters and the prohibitive cost of legal help, barriers to access impact Coloradans of all backgrounds and from all walks of life... — [2021 - 2022 Listen & Learn Tour Final Report from the Colorado Access to Justice Commission](#)*

# Homeowner-Centric Advocacy



- ★ While the [2023 collapse of Champlain Towers South](#) and [multi-million dollar fraud at The Hammocks](#) make national news, CICs often fly under the radar despite housing over 72,000,000 residents and collecting an estimated \$110 billion in annual assessments. Read [hundreds of articles](#).
- ★ **Effective homeowner advocacy is critical for superlative legislative outcomes.**
  - There are [pockets of advocacy](#) across the country.
  - The United States lacks a sustainably funded nationwide nonprofit primarily focused on serving the best interests of CICs and their homeowners. This means CICs have no spokesperson and homeowners must be their own advocate in all but a [few states with dedicated programs](#).
  - Individuals concerned with CICs can be classified in three buckets:
    - **Learners** discover moving pieces that make community associations work.
    - **Fighters** contend that contracts (declaration/CC&Rs, bylaws, etc.) are invalid or unfair.
    - **Reformers** work to change the contracts by changing the law.

# Wrap Up



- ★ **The common interest community landscape is ripe for reform beginning with state law that impacts millions of citizens.**
  - State statutes trickle down to governing documents across thousands of individual associations.
- ★ **Homeowners and Board members need help!**
  - Help to educate and hold professionals accountable for the service they provide.
  - Help to improve state law that lacks reasonable precision.
  - Help to regulate an industry that prioritizes profit.
- ★ **Engagement matters!** Even one person can make a difference. Condos, co-ops and HOAs across the United States need support.