



Housing Justice Center
Dedicated to expanding
and preserving the supply
of affordable housing in
Minnesota and nationwide.

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Presentation by Housing Justice Center for The Working Group on Common Interest Communities and Homeowner Associations
(Written Copy)

Representative Bahner, Senator Lucero, and members of The Working Group on Common Interest Communities and Homeowner Associations:

My name is Shana Tomenes, and I'm an attorney at the Housing Justice Center. Housing Justice Center as an organization has a long-standing interest in the preservation and production of affordable housing and the protection of the rights of people to have safe, stable, and affordable places to call home that are free from discriminatory barriers. I submit this letter to the committee record in support of my oral testimony provided on January 10, 2025. By way of background, my expertise is not within Homeowner Associations (HOAs) specifically. Rather, I have worked within and advised Minnesotans who live in Common Interest Communities and resident-owned manufactured home communities. I have also lived in a townhome community in Stillwater, with a HOA, and my stepmother owns a townhome in an HOA community and rents out the property as a landlord.

I would be remiss to not first mention the historical context of HOAs and how the effects of HOAs still live on today. HOAs have a long history of discriminatory practices and systematic exclusion occurring across the United States, including in Minnesota, that still impacts the wealth gap generally, and the homeownership gap specifically. Although the Supreme Court ruled racially restrictive covenants unenforceable in 1948, HOAs continue to maintain racial, religious, ability, familial status, and economic exclusivity through less overt means. They often use the guise of "neighborhood standards" and "community control" to uphold *de facto* segregation by making homeownership in these communities difficult to obtain and harder to keep. This phenomenon has been well documented in research and in literature, such as the book *The Color of Law: A Forgotten History of How Our Government Segregated America*, by Richard Rothstein, which calls out these issues in Minnesota and nationwide. Knowing this background, the Housing Justice Center advocates for regulation and education to further the interests of racial and disability justice, and to protect homeowner interests.

In my experience working with HOAs and Common Interest Communities, regulation is





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needed to better advise and support the ecosystem—that of volunteer boards—that currently exist. Systems work best when everyone feels supported. Currently, there are scant resources and guidelines available to even the most well-meaning board. On an HOA board, each volunteer comes with a specific lens and there is no requirement to be representative of the community. Volunteers are given significant power over financial matters and community rules that affect the entire HOA membership specifically. Volunteers are not required to have or obtain expertise in important areas related to disability law, reasonable accommodation, or racial justice. Neighbors are often trying to just help neighbors by volunteering to be on the board and are not given tools necessary to best serve the community. The practical effect of this structure is that for homeowners that live within an HOA, the individual or family's biggest asset is left to the whims of a HOA board, which greatly impacts its property value and their daily enjoyment of their home.

The Housing Justice Center has three main recommendations:

- 1. Implementation of minimum standards for HOA rulemaking**
- 2. Legal safeguards for HOA homeowners who wish to use their property to be a landlord**
- 3. Legal Protections that allow for meaningful redress before a homeowner loses their home to an HOA**

The Housing Justice Center recommends the implementation of minimum standards for HOA rulemaking. Right now, there is no set standard for how rules are created and enforced in HOA communities. Rules can implicate things like when you can use your dishwasher or whether you can have a work vehicle at the property. While these rules exist when you move in, you are the behest of the HOA board to enforce and determine rules which deeply affect daily life. To protect the civil rights of current homeowners, we suggest a reasonableness standard for HOAs around rulemaking, similar to MN manufactured housing law (Minn. Stat. § 327C). These minimum standards should include:

- A prohibition of HOAs from making rules that conflict with a resident's privacy within their home and freedom of expression within the community, in compliance with fair housing law
- A requirement of 60 days written notice before rule changes take effect.
- A requirement for a notice period for proposed rule changes, including a 30-day comment period.
- A requirement that HOAs consider all comments before adopting new rules and give homeowners the right to disapprove a rule upon a vote of 51% of unit owners.
- A requirement that all HOA rule changes must be reasonable, and that any



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new rule that “substantially modifies” previous policies can only be enforced against new owners. Much like the definition that exists in Minnesota manufactured home law, we suggest Substantial modification to be explicitly defined as “significantly diminishing or eliminating the HOA or homeowner’s material obligation, significantly limiting resident’s rights, privileges, or freedom of action, or involving a significant new expense for a resident not required for health or safety purposes.”

- An affirmative requirement for religious accommodation for HOA rules not pertaining to health or safety.

The Housing Justice Center secondly recommends that protections needed for HOA homeowners who wish to use their property to be a landlord. Both historically and still today, some HOAs severely limit the ability of homeowners to rent their property. This conduct infringes upon the property interests of the homeowner and exasperates racial and social inequities through gatekeeping in HOA rules. Some common examples include limiting the age of a renter in an HOA community to 21 plus, requiring a homeowner to live in the home for a certain number of years before renting it out, and dictating the creditworthiness of the potential tenants. The practical effect of rules like this is to reduce the property value of the HOA home and make it difficult or impossible to allow homeowners to become landlords in their community. To promote the property interests of homeowners and civil rights of both would-be landlords and renters, the Housing Justice Center recommends:

- A prohibition of HOAs from enacting bans on renters who use any form of housing assistance consistent with the Minnesota Human Rights Act.
- A prohibition of HOAs from enacting blanket rental screening requirements (such as a requirement of no criminal history, requirement of a minimum credit score, etc.). This causes renters to be excluded from entire neighborhoods and takes away discretion from the person who bears the risk of loss: the landlord.

Lastly, the Housing Justice Center advocates that protections needed that allow for meaningful redress before a homeowner loses their home to an HOA. Violations of rules and delinquency on HOA dues can cause a homeowner to be foreclosed upon by the HOA. Due to the serious nature and power of these boards, it’s important to:

- Enact rules that require HOA boards to provide agendas for all board meetings and mandate that homeowners have the right to speak at board and association meetings before they are adjourned.
- Provide the Attorney General regulatory oversight over the state’s condominium law to enforce HOA laws and provide appropriate funding.



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- Resist efforts to exempt HOAs from following MN laws based on conflicts with previously existing clauses in governing documents.
- Create a Common Interest Communities Ombudsman Office.
- Require 60 days' notice for fee increases and special assessments, and cap fees increase amounts with a narrow exception standard for emergencies.
- Require payment plans for delinquent accounts, and prohibit payments from being credited to oldest debt first.

For many Minnesotans affected by these issues, living within an HOA community is their first experience as a homeowner: whether that is in a condominium, a townhome or a single-family home. The Housing Justice Center supports efforts to protect the interests of both homeowners and renters living under HOAs and efforts to provide guidance for HOA boards to make sure that the rights of all Minnesotans are protected. Thank you.

