

Denver Post HOA article 8-21-2024 on-line story

Viviana Garcia and Jackeline Oquendo stood outside a row of two-story, comfortable-looking houses they have lived in for more than a decade in Longmont. The neighbors bought the homes, built by Habitat for Humanity, within a few months of each other.

Jason Pardikes and Mary Moore sat at a table on a backyard patio at a home in Todd Creek Farms, an upscale subdivision of 370 homes nestled among rolling hills near Brighton and stretching over 780 acres.

The settings are different, but the four, like many Coloradans, live in homes governed by homeowner associations. And they believe their communities would be better with changes in how HOAs work.

At least 40% of Coloradans live in an HOA and homeowners are reporting trouble keeping up with soaring home insurance rates, which are driving up monthly dues. Those who can't keep up with the increases face foreclosure or looking for a new home in one of the country's priciest housing markets. With the stakes increasingly higher, residents and lawmakers are pushing for more accountability from the pseudo-governmental HOA boards, made up of homeowners who volunteer for the job, and the companies hired to handle the daily management duties.

"I'm a retired teacher and I'm trying to supplement my income with substitute teaching," said Cynthia Masters, whose monthly HOA dues at her Lakewood townhome is nearing \$700. "This is just insane if your house payment is \$1,200 and you're adding \$700 more on that."

Masters said the board attributed the increases in dues to more expensive insurance. Older multifamily buildings have been hit particularly hard as some insurers have exited the market or significantly hiked their rates.

What is a homeowner association?

Homeowner associations can seem like a mystery, like a social group where sparsely attended meetings start with a secret handshake. According to NerdWallet, HOAs "govern a neighborhood or multi-unit building, primarily by making and enforcing rules to follow if you live there. HOAs are run by boards of directors, made up of — and elected by — neighborhood residents."

While the owners of single-family homes or condos in an HOA typically have their own insurance, the association's insurance policy covers common areas, such as roofs, pools and other structures or shared assets managed by the HOA. The policy also provides general liability coverage if someone is injured on common property, according to insurance.com.

Garcia and Oquendo and other residents in the eight units on the west side of the Cornerstone Condominiums HOA in Longmont said they're dealing with another common

complaint of HOA members: lack of communication. They said the association and the management company won't respond to questions about the termination of a landscaping service they believe they're still paying for. They said they can't get answers about rising monthly dues and the association's finances.

Now, the residents face a vote that would cut their units out of the HOA that includes four homes on the east side of the street.

At Todd Creek Farms, attempts to update the HOA's covenants and polices have spawned three lawsuits and death threats. Pardikes, the HOA board president, supports reforms and believes legislators can do more to ensure that homeowners aren't at the mercy of rogue boards or management companies.

"The ability for an HOA to actually change its covenants to meet its needs is really, really difficult," said Pardikes, who wants to see the threshold for changing association policy lowered, perhaps to a vote of 50%-plus one of the households.

And he'd like to see oversight of companies that manage HOAs. A bill by Rep. Brianna Titone, D-Arvada, that would have revived licensing requirements for the companies failed in the last legislative session.

Titone and Rep. Naquetta Ricks, an Aurora Democrat, are looking at reintroducing their HOA bills that didn't make it out of the 2024 Colorado General Assembly. Ricks' bill would have set a minimum sales bid when an HOA forecloses on a home to ensure that the owner walks away with some equity.

An investor can snap up a property after paying attorney's fees and the money owed to the HOA, leaving the former owner with the mortgage and no return on the investment. Ricks' bill would have factored in the home's fair market value when setting a bid.

Homeowner associations are second only to property tax entities when it comes to collecting debt in a foreclosure on an HOA property.

"The bill's coming back. We cannot sanction equity theft in Colorado," Ricks said. "I don't want people entering into homelessness because they've owned a home and the home gets sold for a little bit of nothing."

The 2024 legislative session was chock-full of bills on housing and homeowner associations. Colorado is grappling with a crisis in housing affordability and availability. Homeowner associations and metro districts, taxing authorities created by subdivision developers, remain under scrutiny after reports of people being foreclosed on for unpaid fines and attorney's fees for violating rules. Infractions like having cracked blinds or an oil-stained ~~X~~ driveway have led to liens on the property.

A 2022 law restricted an HOA's ability to foreclose on a home or condo for failure to pay fees or fines for violations. The law requires certain notices and caps attorney's fees. An HOA can

still impose liens for nonpayment of fines and foreclose for nonpayment of monthly and special assessments. Ricks was a main sponsor of the bill.

HOAs: They're everywhere

Homeowner associations can seem like a mystery, like a social group where sparsely attended meetings start with a secret handshake. They can be a mystery even to the people who live in one.

And a lot of Coloradans live in HOAs. Between 40% and 45% of the state's population lives in a homeowners association, according to the Colorado HOA Information and Resource Center. At the end of June, there were 8,217 registered HOAs with a total of 906,225 units. Using a U.S. Census Bureau formula of 2.57 people per household, an estimated 2,328,998 Coloradans live in buildings, complexes or subdivisions governed by HOAs. The number likely is higher because there are 3,000 associations considered inactive that might have disbanded or simply haven't registered, said David Donnelly, an education, communication and policy manager with the state Department of Regulatory Agencies, or DORA.

Although the HOA center is in the Division of Real Estate and housed in DORA, it isn't a regulatory agency. Associations are governed by what's called a declaration of covenants and a board of homeowners elected by other homeowners.

"Across the nation, there are very few states that have any real level of regulatory authority over homeowner associations. The primary reason is because the vast majority of them are created as nonprofit corporations," Donnelly said.

The state HOA center takes complaints about associations but doesn't investigate them or mediate disputes. The complaints are included in an annual report that helps track trends and is a resource for legislators in drafting bills. The center also provides information to homeowners on their rights and responsibilities.

The center got 328 complaints last year and the most common concerns dealt with lack of communication, followed by maintenance issues, excessive fees and assessments and foreclosures. About 70% of the complaints were lodged against the board and 29% against a manager or management company.

"Access to HOA records is one of the most common complaints that we receive in our office," Donnelly said.

People complain of boards refusing to hand over records, saying the records are lost or being quoted a large fee for the documents. Masters said the HOA board at her Lakewood townhome complex initially quoted the price of \$1,500 for requested records. After objections, the price for copies dropped to \$70.

The Colorado Common Interest Ownership Act spells out some basic standards and requirements. The law applies to voting, meetings, finances and insurance for an HOA community's common structures, such as swimming pools and roofs on condo buildings. Titone wants Colorado to require management companies to be licensed to provide more protection for homeowners. Her bill in 2019 to extend the requirement was vetoed by Gov. Jared Polis, who said he wasn't convinced the legislation would protect consumers in a cost-efficient manner.

Polis ordered DORA to make recommendations about licensing and protecting homeowners' rights.

"You're trusting the people who are volunteering to be on a board to be working in the best interest of the community, as well as the management company that they're hiring," Titone said. "But that doesn't always happen. When there is a breach of trust, in either the board or the management company, it can create chaos in a community."

Wendy Vernon-Dzaman hopes legislators will turn out for a rally calling for HOA reforms that is planned from 3 to 5 p.m. Sept. 14 on the state Capitol's west steps. Vernon-Dzaman was on the HOA board for a short time at Club Valencia condominiums in Arapahoe County. She was among 160 families displaced by a fire there in 2023.

"It's just been a bunch of us, talking about all the things we've gone through and realizing, 'Wait a minute, there are a lot of flaws and we need reform and we need representation,' " she said.

Death threats and lawsuits

Pardikes was elected to the HOA board at Todd Creek Farms in 2019 after settling with the board in a lawsuit over fines for alleged violations and attorney's fees. He said the former board attorney refused to say what some of the charges were for.

After other new members joined, the board held meetings and mailed notices on proposals to update the HOA's bylaws, which a majority of the community supported, Pardikes said. The amendments included a ban on foreclosures for violating the rules; allowing solar panels; and jettisoning rules that were outdated or conflicted with state law,

"We found more than 14 liens on people's homes. Most of them should have been released years and years ago," Pardikes said.

Retired school teacher Connie Hicks, who was dealing with serious health problems and couldn't finish repainting her house, had about \$3,600 deducted from her account to cover fines. She told the management company she planned to finish painting but she couldn't stop the automatic payment she had set up for her monthly dues.

"When they just keep zapping you for money, then you can be to the point where you don't have the money to do it," Hicks said.

Pardikes talked to her about the fines that had piled up and the board refunded the money. "Then I was able to hire some people to come and paint the front of the place," Hicks said.



Jason Pardikes, president of the Todd Creek Farms homeowner association, shows a shirt sent him to anonymously following conflicts over the board's decision to update the HOA's covenants. He has also received a death threat and the HOA has been sued by residents who claim the board violated the bylaws and state law when it held elections on board members and changes to the covenants. (Photo by Judith Kohler/The Denver Post)

While Hicks called the new board's approach "a breath of fresh air," some residents sued on grounds that the board elections and bylaw changes violated the HOA's covenants and state law. One lawsuit was settled and one was dismissed.

A third lawsuit filed in Adams County District Court by 21 households accuses the board of breach of contract as well as violations of HOA bylaws and state law. The trial is scheduled for April 2025. So far, the board has spent approximately \$150,000 on the lawsuit, Pardikes said.

Three of the plaintiffs were on the board when Pardikes sued over the fines he was assessed. He said most of the people suing supported an effort in 2022 to recall the new board. The attempt failed.

For now, the amendments to the covenants are on hold. Hicks and former HOA board member Stewart Setchfield wrote in an opinion column in The Denver Post that reforms "depend on the statutory cover that only the legislature can provide."

Pardikes has received anonymous letters and a T-shirt with the words "A liar and a cheat" emblazoned on it. In April, someone sent a letter in bold block letters that warned him to move before an accident happens, adding "You can't out smart (sic) my bullet."

Pardikes reported the letter to the police.

Moore, elected to the board five months ago, said she decided to run despite the turmoil because she cares deeply about the community. She felt the board could benefit from her 28 years of experience in accounting and information technology.

"One of the things I believe in is if you don't like what's happening, then become involved and put your best effort forth to change it," Moore said.

Weeding out the bad actors

Lee Freedman spends a lot of time trying to get more people involved in HOAs. Freedman, an attorney, is on the Colorado Legislative Action Committee of the [Community Associations Institute](#), or CAI, an international organization with state chapters that represents HOA management companies, association boards, homeowners, attorneys and contractors who do business with HOAs.

The organization lobbies legislators on bills as well as sponsors forums and workshops and provides resources for HOAs and industry professionals. The institute has a program that

issues its own certification for management companies that go through certain levels of training.

"The goal is to provide education and ultimately weed out those that are bad parties or are putting a black eye on the industry," Freedman said.

The institute was involved in writing the initial bill requiring that HOA management companies in Colorado be licensed, Freedman said. But given Polis' opposition to renewing the requirement, Freedman said it makes sense to focus on education or some kind of certification instead.

"I have gotten judgments against bad managers. We are pushing to look at all the ways to deal with those individuals that would pass muster with Gov. Polis," Freedman said.

Legislation that limits attorney's fees doesn't pass muster with CAI. Two of those are the 2022 law restricting the basis for foreclosures and a bill approved this year, [House Bill 24-1337](#), that limits attorney's fees for collecting assessments, such as monthly dues, or other charges a homeowner owes.

If the fees are capped, those costs could get passed onto homeowners because lawyers will do what they need to serve the best interests of their clients, Freedman said. He believes the discretion to determine awards should stay with judges.

A priority for CAI is looking at whether HOAs are properly maintaining buildings and funding their reserves. Freedman said putting off maintenance at the Champlain Towers South condominium in Surfside, Fla., likely contributed to the building's collapse in 2021 that killed 98 people.

[Federal investigators](#) are looking at construction flaws in the building's pool deck. [Older condo buildings are facing rising expenses](#) to comply with new regulations since the disaster and monthly dues are increasing to cover higher home insurance rates.

Needed: A new governing model

"I think they're here to stay, so if they're here to stay we have to find out how to make them work better."

That's how Connie Van Dorn's summed up HOAs. Van Dorn became an advocate for HOA reform after bad experiences with an association board at a Denver-area development where she had bought her "dream retirement home."

"Four of us who tried to work with the board decided to sell," Van Dorn said.

She helped start the Colorado HOA Homeowner Advocates, which played a prime role in writing House Bill 1137, the 2022 legislation dealing with foreclosures. She would like to see an alternative dispute resolution process set up so people don't have to resort to court.

Van Dorn sat on [a 2023 HOA task force](#) that reviewed homeowners' rights and complaints and made recommendations to legislators. She said the report "offered no meaningful findings" and that a deeper analysis of the data is required.

"I don't know what the answer is, but I think we need a new governing model," Van Dorn said.

She was the homeowner representative on the Rocky Mountain chapter of CAI for a couple of years. Van Dorn believes the organization's focus is looking out for a multibillion-dollar industry rather than protecting homeowners.

Data from a CAI-associated foundation show that [HOAs collected \\$3.9 billion](#) in Colorado in 2023 to maintain the communities.

Steve Horvath is founder of [HOA \(Homeowners of America\) United](#), a homeowner advocacy group based in Washington state that tracks trends and legislation nationally. Homeowners are frustrated with cost increases, Horvath said, but many times they don't understand where the money is going.

"I don't see there being excessive fees or really anything wrong with the increase in assessments," Horvath said. "It's simply passing along the cost of doing business that has been done for years. It's just that the cost of doing business is getting more and more expensive and the less the cost is understood by the people paying for it, the more angst there is about what those costs are."

Starting from scratch?

Garcia and other residents of Cornerstone Condominiums who bought Habitat for Humanity homes in the Longmont neighborhood said they have failed to get answers from the HOA management company about maintenance, monthly dues increases and overall finances.

Now, the owners of the eight homes must vote soon on a proposal to de-annex their units from four homes across the street. Separating from the other homes is scary and the residents don't know how to start an HOA from scratch, Garcia said. "But I believe we need to separate because I think it's probably for the best."

Garcia said the push to break resulted from people on her side of the street balking at a special assessment to pay for work on the other side. Peter Dauster, an attorney working with the HOA, didn't respond to a question about how the proposed separation came about.

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Dauster also didn’t respond to questions about whether the eight units are still paying for a landscaping service that ended in March

However, Dauster did write in an email that if residents asked that materials be made available in Spanish, “the association would have been (and is) happy to make that accommodation as required by law upon request.”

Garcia said she does what she can to keep residents who don’t speak or read English informed. “We’re all Latinos on the west side and we have been very frustrated. We feel we have been discriminated against from the beginning.”

Taking over the HOA

Residents of Pioneer Hills in Aurora were staring at special assessments in the thousands of dollars range for hail damage to roofs. Steven Bartkowski, who has lived in the development for two years, said the HOA board first said in late 2023 that the work could be done without additional money from homeowners.

A week later, Bartkowski found out the repairs would cost him \$18,900. The board also said that the regular monthly dues would rise from \$320 to \$640.

“I didn’t know there was damage on my roof. I didn’t see anything. We never saw any documents from the management company, board or roofing company,” Bartkowski said.

Homeowners couldn’t get records showing that the board voted to levy the assessment or got bids for the job. Bartkowski and about 10 other residents pooled their money to hire a lawyer and, following state law, requested a special board meeting. When the board refused, the homeowners held their own, voted out the board and elected new members.

Help us report on Colorado HOAs

We want to hear from you. What has been your experience as a resident living in a community with a homeowner association? Do you serve on a board? If so, share what you do and the challenges that come with being a part of an organization.

If you’re interested in sharing your information with reporters, please [fill out this form](#).

The new board is sorting through records, financial statements and other documents.

"They're starting to actually be transparent with our community members and make serious changes to our bylaws," Bartkowski said. "I think the moral of the story is that you have the right in the community to take over your board and figure things out, which is cool."

He is torn about whether to sell his home. His real estate agent told him there's a red flag on his community because the HOA dues are among the highest in the area.

"The silver lining in all of this is that difficult times brought the community together," Bartkowski said. "Now, we're trying to rally around the community and just make it better."

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Originally Published: August 21, 2024 at 6:00 a.m.

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