

## **POSITION PAPER—HB 1290—Rep. Stephens**

Colorado Legislative Action Committee-Community Associations Institute-- 2/25/10

Our opinion of this bill is it removes certain statutory protections/assurances for some Colorado citizens who happen to reside in small HOA's and that those protections/assurances are very important and have been requested by other members of the General Assembly. As such CAI opposes this bill.

- The transparency of Association operations could be diminished for the affected residents in exempt communities that would no longer be subject to CCIOA. Additionally, we believe that important homeowner protective requirements in CCIOA would disappear for these exempt communities.
  - Under this bill, owners in exempt communities would not be aware of the Association's policies regarding capital reserves.
  - The bill would eliminate statutory protections to residents in small communities in the area of maps and plats of the community, disclosure of the community specifics, disclosure of the manager, eliminate required adoption of collection, fining and other significant policies, eliminate due process in the imposition of fines, and eliminate provisions for owner and Board member education.
- There already exists in CCIOA an exemption for small communities (<20) and limited expense communities (<\$400/year per unit) created after 1998 (38-33.3-116)
- This bill would allow more planned communities (those having under \$250k/year in annual revenue or expenditures) to be exempt from CCIOA. This is an exemption that does not currently exist in any meaningful manner, and does not necessarily relate only to what CCIOA currently defines as "small" or "limited expense" planned communities.
- Owners in associations that opt out will NOT have the same rights and remedies as owners in associations subject to CCIOA. Due to the widely varying quality of drafted association governing documents, owners will have less understanding of what rights and responsibilities are available to them.
- The portions of CCIOA concerning owners' rights in relation to developers will be eliminated for owners in these exempt communities. The prohibitions on discriminatory clauses in favor of the developer will not be applicable to these exempt communities. The directors appointed by the developer to operate the community during developer control will no longer owe a fiduciary duty to the association.

For further information or questions contact Amy Redfern (720/837-5435)