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RE: Legislation Affecting Common Interest Communities
HB13-1134; HB13-1186; HB13-1276; HB13-1277; SB13-126; SB13-183

Dear Board of Directors:

This purpose of this correspondence is to inform you of recent legislation from the Colorado House of Representatives and the Colorado Senate which affect common interest communities.

1. HB13-1134 – HOA Information Resource Registration.

Signed by the Governor on May 11, 2013, HB13-1134 slightly modifies the common interest community and owner association ("HOA") registration requirements and mandates that DORA conduct a study of HOA compliance throughout Colorado. Specifically, Associations with annual revenues of more than $5,000 are required to file with their annual registration the following information updated within ninety days after any change:

a. The Name of the Association, as shown in the Colorado Secretary of State's records;
b. The Name of the Association's management company, managing agent, or designated agent, which may be the Association's registered agent, as shown in the Colorado Secretary of State's Records, or any other agent that the executive board has designated for purposes of registration under this section;
c. The physical address of the HOA;
d. A valid address; email address, if any; web site, if any; and telephone number for the Association or its management company, managing agent, or designated agent; and
e. The number of units in the Association.

Further, should the Association fail to register, or if its registration has expired, the right "to impose or enforce a lien for assessments under §38-33.3-316 C.R.S. or to pursue an action or

employ an enforcement mechanism otherwise available to it under §38-33.3-123 C.R.S is suspended" until registration is current and valid.

2. HB13-1186 – Special District Meetings Notices and Disclosures.

Signed by the Governor on April 4, 2013, HB13-1186 is limited to a special district that provides domestic water or sanitary sewer services, allowing them to "fix or increase fees, rates, tolls, penalties, or charges for domestic water or sanitary sewer services only after consideration of the action at a public meeting held at least thirty days after providing notice stating that the action is being considered and stating the date, time, and place of the meeting at which the action is being considered." Residents or customers of the special district's domestic water or sanitary sewer services must be provided notice in one or more of the following ways:

a. Mailing of the notice separately to each customer of the service on the billing rolls of the district;
b. Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, or other notice of action, or other informational mailing sent by the special district to the customers of the district;
c. Posting the information on the official web site of the special district if there is a link to the district's web site on the official web site of the division; or
d. For any district that is a member of a statewide association of special districts formed pursuant to section §29-1-401, C.R.S., by mailing or electronically transmitting the notice to the statewide association of special districts, which association shall post the notice on a publicly accessible section of the association's web site.

Further, §32-1-104.8 C.R.S. requires that a Special District Public Disclosure document regarding taxes and debt, along with a map of the district be recorded with the Clerk and Recorder on or before December 31, 2014.

We are available to assist with the drafting and recording of this Disclosure document should it be applicable to your common interest community.

3. HB13-1276 – HOA Debt Collection Limitations.

Signed by the Governor on May 28, 2013, HB13-1276 requires Association's to adopt and comply with an assessment collection policy which imposes several new restrictions on the efforts of an Association in collecting delinquent assessments and other past-due amounts from unit owners. The HOA may not refer a unit owner's account to a collection agency or attorney without first giving the unit owner notice of the total amount due and how it was determined, offering the unit owner a one-time opportunity to enter into a 6-month payment plan, and listing the legal remedies, including foreclosure, that are available to the HOA. Section 2 of HB13-1276 prohibits an HOA from foreclosing its lien for past-due assessments unless the total amount is at least equal to 6 months of regular assessments and unless the HOA's executive board has formally approved the foreclosure action on an individual basis. Section 3 specifies the terms and conditions of the repayment plan that must be offered. The plan must permit the unit owner to

pay off the deficiency in equal installments over a period of at least 6 months; however, the plan requires the unit owner to remain current on regular assessments as they come due during the period and allows the HOA to pursue collection if the unit owner fails to comply with the plan, has previously been subject to a payment plan, or is a bank that has acquired the unit as a result of default by a borrower. For purposes of Section 3, "assessments" include fees, charges, late charges, attorney fees, fines, and interest on common expense assessments. Section 4 of the bill applies its provisions to common interest communities created before July 1, 1992, the effective date of the "Colorado Common Interest Ownership Act", as well as to those created after that date.

Your Association's Assessment Collection Policy should be reviewed to ascertain if it meets with the new requirements of HB13-1276. These minimum requirements include the following:

a. The date on which assessments must be paid to the entity and when an assessment is considered past due and delinquent;
b. Any late fees and interest the entity is entitled to impose on a delinquent unit owner's account;
c. Any returned-check charges the entity is entitled to impose;
d. The circumstances under which a unit owner is entitled to enter into a payment plan with the entity pursuant to §38-33.3-316.3 C.R.S. and the minimum terms of the payment plan mandated by that section;
e. That, before the entity turns over a delinquent account of a unit owner to a collection agency or refers it to an attorney for legal action, the entity must send the unit owner a notice of delinquency specifying:
f. The total amount due, together with an accounting of how the total amount claimed due was determined;
g. Whether the opportunity to enter into a payment plan exists pursuant to §38-33.3-316.3 C.R.S. and instructions for contacting the entity to enter into such a payment plan;
h. The name and contact information for the individual the unit owner may contact to request a copy of the unit owner's ledger in order to verify the amount of the debt; and
i. That action is required to cure the delinquency and that failure to do so within thirty days may result in the unit owner's delinquent account being turned over to a collection agency, a lawsuit being filed against the owner, the filing and foreclosure of a lien against the unit owner's property, or other remedies available under Colorado law;
j. The method by which payments may be applied on the delinquent account of a unit owner;
k. The legal remedies available to the entity to collect on a unit owner's delinquent account pursuant to the governing documents of the entity and Colorado law.

We would be happy to review your current assessment collection policy for a fee of $75.00 and provide a recommendation as to whether your association requires an amended policy and if so the proposed cost for the policy amendment.

4. HB13-1277 – Regulation of HOA Managers.

Signed by the Governor on May 28, 2013, HB13-1277 institutes a regulatory scheme applicable to HOA managers who receive compensation, whereby beginning July 1, 2014 any such individual will be required to meet minimum qualifications and obtain license as a "community association manager" from the director of the division of real estate in the department of regulatory agencies. This does not apply to persons who perform "clerical, ministerial, accounting, or maintenance functions not requiring substantially specialized knowledge, judgment, or managerial skill, under the direct supervision and control of a licensed community association manager or of a contractor employed by a licensed community association manager or by the common interest community's executive board."

5. SB13-126 – Electric Vehicle Charging Stations.

Signed by the Governor on May 3, 2013, SB13-126 prohibits a common interest community association from restricting the right of a tenant or owner to install an electric vehicle charging system for his or her own use, at his or her expense, and subject to reasonable safety and insurance requirements. With the exception of timeshare units as defined in C.R.S. §38-33-110(7), C.R.S. §38-33.3-106.8 (4) states, "[A]n association shall consent to a unit owner's placement of an electric vehicle charging system on a limited common element parking space, carport, or garage owned by the unit owner or otherwise assigned to the owner in the declaration or other recorded document" if certain design and insurance requirements are met.

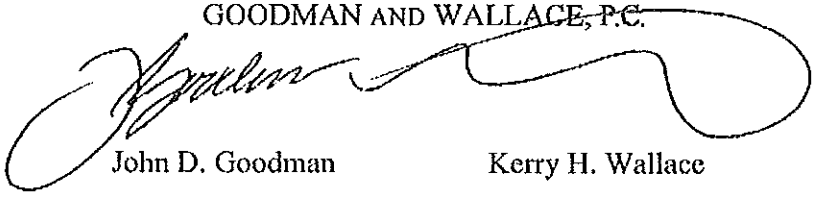
6. SB13-183 – Water Conservation.

Signed by the Governor on May 10, 2013, SB13-183 amends current law to specify that restrictive covenants or declarations, bylaws, and rules and regulations of common interest communities that prohibit or limit xeriscape or drought-tolerant vegetation or require ground covering vegetation to consist of any amount of turf grass are contrary to public policy and unenforceable. The bill also adds a definition of "xeriscape" to the "Colorado Common Interest Ownership Act" and says that a unit owners' association (association) may not prohibit the use of xeriscape or other drought-tolerant vegetative landscapes to provide ground covering and may not levy fines against unit owners for violations of declarations, bylaws, or rules and regulations of the association for failure to adequately water when water restrictions are in place and the unit owner waters in compliance with those restrictions.

In light of the dynamic nature of legislation regarding Common Interest Communities in Colorado, we strongly recommend that you consider an annual compliance review of your association governing documents and policies to ensure compliance with Colorado law. Goodman and Wallace, P.C. has over 40 years of combined experience between its partners in the representation of Common Interest Communities in the State of Colorado and we would welcome the opportunity to discuss with you and your Board any of the above legislation, or any other concern you may have regarding your Common Interest Community.

Very truly yours,

GOODMAN AND WALLACE, P.C.



John D. Goodman Kerry H. Wallace