



Colorado Senate Bills 100/89 Impacts to the Cobblestone Condominiums Home Owners Association (CCHOA)

**Joe Casias
January 2007**

- 
-
- **While I'm not a real estate lawyer I did stay in a Holiday Inn Express last night!**

BACKGROUND

- **SB 100 has required associations to make certain changes to how they operate, including the adoption of 7 written policies and procedures by January 1, 2006**
 - Recommended changes are also identified
- **SB 89 has added one more policy and procedure concerning handling disputes between associations and owners to be adopted by January 1, 2007**

SB100 Overview (1-4)

■ Required Policies and Procedures

- Procedures HOA boards are to use to review, adopt, repeal and amend policies, procedures and rules
- Process used in collecting delinquent assessments, including time frames of notices, late fees and interest, indicates when an account gets turned over to legal counsel, and how payments are applied
- Process for assigning proxies, use of secret ballot, rules for owner participation at board meetings and process for providing notices of meetings
- Procedures to be used by owners when requesting to inspect/copy association records, process to respond to requests, costs of copies, which records need to be kept by the HOA and how long

SB100 Overview (5-7)

- **Required Policies and Procedures**

- Enforcement policy and procedures
 - Fine schedule , notice and hearing procedures, process for complaint submission and investigation
- Handling Board member conflicts of interest and procedures
- Reserve fund and investment policy

SB 89 Overview

- **Dispute resolution between association and owners**
 - Identifies types of alternative dispute resolution that are required, if any, the procedure for doing so, and how costs will be allocated (**Adopted by Jan 2007**)

SB100 Overview (Recommended)

- **Recommended Policies and Procedures**
 - Architectural review policy
 - Procedures for claims submission to associations insurance carrier
 - Procedures for regulating flags/flagpoles
 - Procedures for regulating political signs
 - Xeriscaping guidelines
 - Emergency Vehicle parking policy and procedures
 - Procedures for association/owner selling units

Status of CCHOA documentation

- **CCHOA by-laws**

- Last updated in 1994
- References “Cobblestone Enterprises, Ltd, the developer of Cobblestone Condominiums
 - Different voting privileges and authority
- Limits the size of vehicles allowed in CCHOA area
- Identifies procedures for late fees and conflict resolution process that is inconsistent with SB 100
- **Thorough review and revision of CCHOA by-laws due to SB 89/100 is probably in order**

SB 89/ 100 Impacts to CCHOA by-laws

- **By-laws will need to reflect changes**
 - Audit of CCHOA procedures
 - Vehicles allowed in parking lots
 - Reserve and funding policies
 - Owner/Seller documentation requirements
 - Late fees and cost schedules, conflict resolution against owners not meeting CCHOA directives
 - Voting and bi-annual meeting procedures

Options

- **Do nothing**
 - Cost of this option is nothing in the near term
 - Current owners, as part of the CCHOA, would be liable for any future litigation against CCHOA
 - Future owners/sellers can hold CCHOA responsible for cost of litigation fees
- **Revise CCHOA by-laws that are consistent with SB 89/100 direction**
 - Get cost estimates from appropriate firms
- **Agree on and establish procedures to address information dissemination from CCHOA to owners**
 - Web site, location for posting of meeting minutes

Recommendation

- **Revise CCHOA by-laws and procedures to minimize risk of future litigation**

Sources

- http://www.frascona.com/resource/jag_kjr106senatebill100.htm
- <http://www.hindmansanchez.com/>
- http://www.hindmansanchez.com/docs/faqs_for_sb_100_sb_89.pdf
- <http://www.cohoalaw.com/SB%20100%20and%2089%20comparison%20b.pdf>
- http://www.businessasap.com/hoa_services/sb_100_quick_ref.htm
- <http://www.hoacobblestone.com/>