
2021 ANNUAL REPORT

HOA Information & Resource Center

Colorado Division of Real Estate
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COLORADO

**Department of
Regulatory Agencies**

Division of Real Estate

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Executive Summary

The HOA Information and Resource Center (“HOA Center”) was created in 2010¹, and is housed within the Division of Real Estate (“Division”), a division of the Department of Regulatory Agencies (“DORA”). Pursuant to Colorado (“State”) law, the Center collects and compiles information from Common Interest Communities² (“CIC”) through registration and from inquiries and complaints received by members of CICs and other interested parties. The Center is also responsible for providing information and resources to unit owners (“homeowners”), CIC boards, declarants³, and other interested parties about the rights and responsibilities set forth in the Colorado Common Interest Ownership Act⁴ (“CCIOA”) and other applicable State law.

As mandated by Colo. Rev. Stat. § 12-10-801(3)(c), the HOA Information Officer (“HOA Officer”), who administers the Center, presents an annual report to the Director of the Division (“Director”) after analyzing the above-mentioned information.

This document, the 2021 Annual Report (“Report”), provides an overview of recent changes to HOA law, an examination of feedback from homeowners and others in matters involving CICs, and insights into the trends and statistics of the CIC industry within Colorado. A diverse set of statistics on complaints received and CIC registration figures are prominently covered. The Report also contains a summary of legislation considered and enacted in 2021 that pertains to CICs, select operational details of the Center, and notes on the future direction of the Center.

In summary, the Report is an integral part of the Center’s ongoing commitment to providing information, education, and resources to those affected by, involved with, or interested in CICs that are subject to the CCIOA.

¹ HB10-1278 as codified in Colo. Rev. Stat. § 12-10-801(1); effective January 1, 2011.

² From Colo. Rev. Stat. § 38-33.3-103(8):

“‘Common interest community’ means real estate described in a declaration with respect to which a person, by virtue of such person’s ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in a declaration. Ownership of a unit does not include holding a leasehold interest in a unit of less than forty years, including renewal options. The period of the leasehold interest, including renewal options, is measured from the date the initial term commences.”

³ From Colo. Rev. Stat. § 38-33.3-103(12):

“‘Declarant’ means any person or group of persons acting in concert who:

(a) As part of a common promotional plan, offers to dispose of to a purchaser such declarant’s interest in a unit not previously disposed of to a purchaser; or

(b) Reserves or succeeds to any special declarant right.”

The declarant is typically the developer of the community.

⁴ Colo. Rev. Stat. §§ 38-33.3-101 to 402 (2021).

Definitions

Units: A unit, as defined by the CCIOA, is a physical space set aside for separate ownership or occupancy.⁵

Common Interest Communities ("CIC"): is real estate described in a declaration with respect to which a person, by virtue of such person's ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in a declaration.⁶ CIC is the formal term for an HOA.

Condominiums: A condominium is a type of CIC in which real estate that is not designated for separate ownership by homeowners is owned in common by those homeowners.⁷

Cooperatives: A Cooperative is a type of CIC in which the HOA owns the real estate and homeowners are granted exclusive possession of a unit based on ownership in the HOA.⁸

Planned Communities: Planned Communities are a type of CIC that is neither a condominium nor a cooperative; however, a planned community may contain condominiums or cooperatives.⁹ Generally, CICs registered as planned communities encompass many single-family houses, each of which is equivalent to a single unit; the structure of the house and a small surrounding area are owned exclusively by the homeowner.

⁵ As defined in Colo. Rev. Stat. § 38-33.3-103(30).

⁶ As defined in Colo. Rev. Stat. § 38-33.3-103(8)

⁷ Colo. Rev. Stat. § 38-33.3-103(9)

⁸ Colo. Rev. Stat. § 38-33.3-103(10)

⁹ Colo. Rev. Stat. § 38-33.3-103(22)

Legislative Review

During the 2021 legislative session, the Colorado General Assembly considered two bills that directly relate to CICs. HB21-1229, concerning increased protections for unit owners in the governance of unit owners' associations under the "Colorado Common Interest Ownership Act", and HB21-1310, concerning additional protections for homeowners' freedom of expression in common interest communities under the "Colorado Common Interest Ownership Act".

3.1 HB21-1229 Home Owners' Associations Governance Funding Record Keeping¹⁰:

HB21-1229 was passed by the legislature and signed into law by the Governor on July 2, 2021. The final bill contains substantially fewer amendments to CCIOA, but still creates additional protections for homeowners in CICs.

Water Conservation & Renewable Energy Devices

HB21-1229 amends C.R.S. 37-60-126 to forbid a CIC from prohibiting a homeowner from installing nonvegetative turf grass in their backyard. This amendment also provides a CIC with authority to adopt and enforce design and aesthetic guidelines that apply to drought-tolerant vegetative or nonvegetative landscapes, including the regulation of the type, number, and placement, so long as there is no prohibition against nonvegetative turf grass in the backyard of a residential property.

HB21-1229 also amends C.R.S. 38-30-168 to forbid a CIC from adopting or enforcing a regulation that would effectively prohibit or substantially limit the benefit of a renewable energy generation device. This includes any restriction which increases the cost of the device by more than 10%; decreases the performance or efficiency of the device by more than 10%; or requires a period of review and approval that exceeds sixty days after the date of application.

Association Records

As passed, HB21-1229 amends C.R.S. 38-33.3-317 to specifically include a list of all fees, charges, assessments, and expenses that are chargeable by the association as records that homeowners are entitled to, as well as all documents included in the association's annual disclosure. HB21-1229's amendment of C.R.S. 38-33.3-317 also provides homeowners with a statutory cause of action against associations for failing to provide access to records that are properly requested by certified mail and are not provided within 30 calendar days beyond the request. This provision of HB21-1229 includes statutorily defined damages against the offending association in the amount of \$50 per day.

¹⁰ Homeowners' Associations Governance Funding Record Keeping, HB21-1229, 73rd GA, (2021).
https://leg.colorado.gov/sites/default/files/documents/2021A/bills/2021a_1229_01.pdf

3.2 HB21-1310 Homeowners' Association Regulation of Flags and Signs¹¹:

HB21-1310 concerns CIC regulation of flags and signs. Its stated purpose is to provide additional protections for homeowner's freedom of expression in a homeowner's association under CCIOA. Prior to HB21-1310's enactment, the law allowed CICs to ban flags and only limited the application of architectural and landscaping regulations of CICs to require that they allow displays of the American flag, service flags such as the "blue star" and "gold star" flags, and political signs, subject to specific statutory criteria, but they had been able to ban most other signs or flags.

HB21-1310 simplifies and broadens previous protections, requiring a CIC to permit the display of *any* flag or any sign at *any* time, subject only to reasonable, content-neutral limitations such as the number, size, or placement of the flags or signs, or prohibitions against commercial messages.

¹¹ HB21-1310 Homeowners' Association Regulation of Flags and Signs, HB21-1310, 73rd GA, (2021).
https://leg.colorado.gov/sites/default/files/2021a_1310_signed.pdf

Registration

In fulfilling part of its statutory mandate¹², the Center compiles a database of CICs that have registered with the Division. The Center also administers the registration program. While CCIOA requires CIC registration¹³, neither the Division nor the Center has any jurisdiction to enforce the registration requirement. However, CCIOA does provide a penalty for non-registration. In summary, it states that the right of a CIC that fails to register, or whose annual registration has expired, to impose or enforce a lien for assessments or pursue an action or employ an enforcement mechanism otherwise available to it is suspended until the CIC is validly registered¹⁴.

While there are a significant number of CICs failing to comply with the registration requirement, as shown in figure 4.1 for various reasons, the Center through its outreach and education efforts explains the benefits of registration and assists them through the registration process.

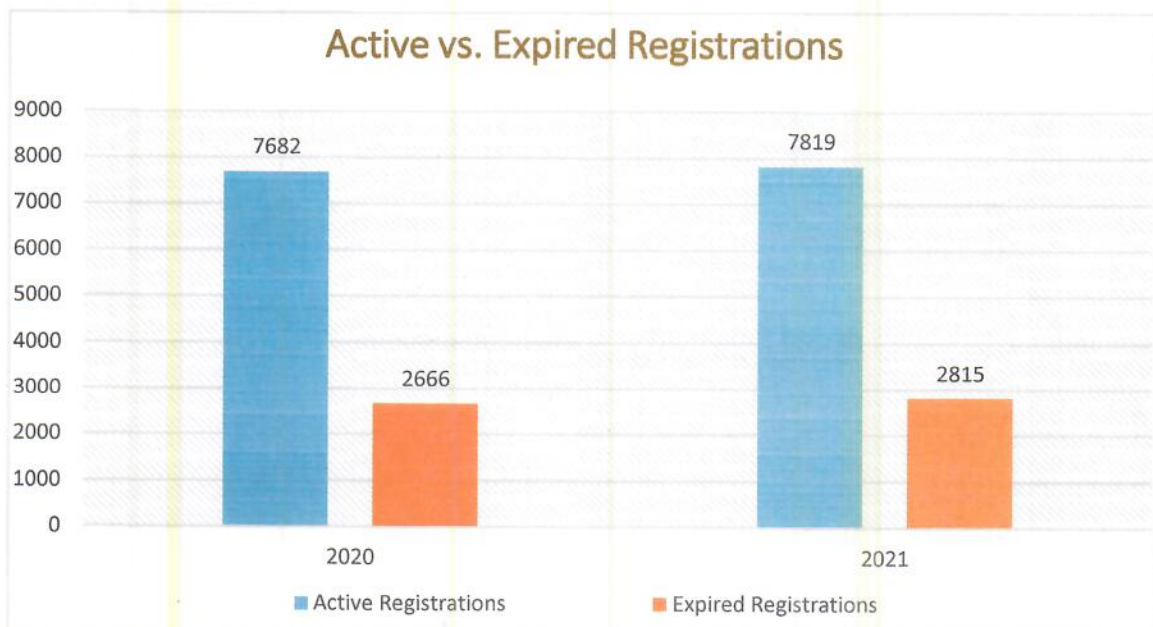


Figure 4.1 Registration Numbers for 2020 vs. 2021 (Average of Monthly Figures)

¹² Colo. Rev. Stat. § 12-10-801(3)(a)(I)

¹³ Colo. Rev. Stat. § 38-33.3-401

¹⁴ Colo. Rev. Stat. § 38-33.3-401(3)

4.1 Population

Statistics obtained from registered and expired CICs are used to determine how many of Colorado's population reside in CICs. This number is calculated using the U.S. Census Bureau figures for persons per household¹⁵, which is currently 2.62.

As of December 31, 2021, there were 8,012 registered and 2,728 expired CICs in Colorado. This totals to 10,740 known CICs in the state. Those CICs comprise a collective of 1,019,100 units. By multiplying this number by the number of persons per household, we arrive at a figure of 2,670,042. The total population of Colorado is currently estimated at 5,773,714¹⁶. Therefore, it can be presumed that roughly 46.24% of Coloradans live in some form of CIC.

However, that number is likely much higher. As was previously mentioned, there are a significant number of CICs failing to comply with the registration requirement.

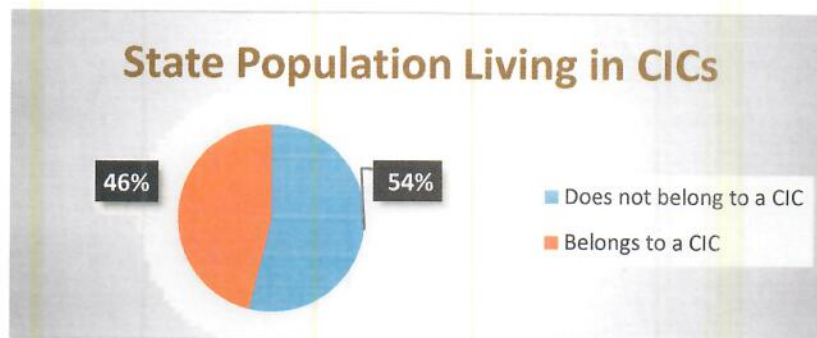


Figure 4.2 State Population Living in CICs

4.2 Management Type

One of the questions the Center asks CIC registrants during registration is how their community is managed. The options for registrants to select are either self-managed or professionally managed. While the Center only categorizes registrants into those two categories, "hybrid" management occasionally exists. This may occur when the Board delegates specific responsibilities to a professional manager, such as the collection of dues or the preparation of a budget, while the Board retains its remaining responsibilities such as covenant enforcement, daily operational duties, etc.

As of December 31, 2021, of the 6,390 actively registered CICs in Colorado who are professionally managed, just over 51% are condominium communities, roughly 48% are planned unit developments (generally, single family homes) and only about 1% were cooperatives. Of the 1,622 actively registered CICs in Colorado who are self-managed, a little more than 35% are condominium communities, roughly 61% are planned unit developments (generally, single family homes), and slightly more than 3% were cooperatives. Figures 4.3 and 4.4 illustrate these statistics.

¹⁵ Persons per household gathered from <https://www.census.gov/quickfacts/fact/table/US/PST045219>

¹⁶ Population and Housing gathered from <https://www.census.gov/library/stories/state-by-state/colorado-population-change-between-census-decade.html>

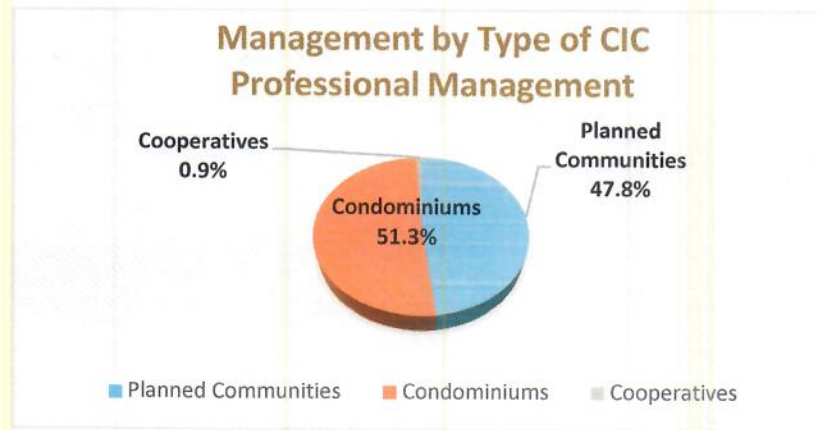


Figure 4.3 Management by Type of CIC - Professional Management

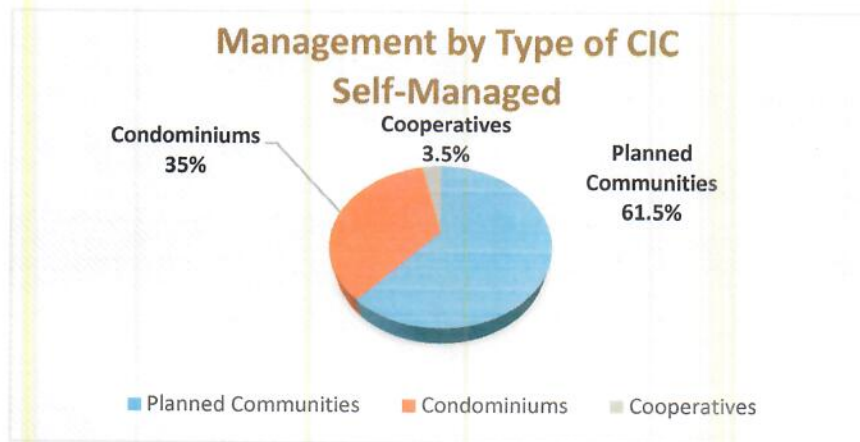


Figure 4.4 Management by Type of CIC – Self-Managed

The statistics associated with management type appear to show a strong preference by CICs for professional management. While Community Association Manager (“CAM”) licensing and regulation existed in the form of the Community Association Manager Program, housed in the Division of Real Estate from January 1, 2015, to July 1, 2019, the preference for professional management does not appear to have declined since the end of CAM regulation. This observation is based on only a 1.5% decrease in the percentage of professionally managed CICs since 2018¹⁷.

Regarding self-managed CICs, the vast majority of communities that decide to take on management responsibilities themselves are planned communities. This may be due to the fact that many CICs which are located in planned communities tend to provide limited services. For example, many planned community CICs are only responsible for trash and snow removal. This results in a CIC with limited operational duties, which tends to be more manageable for Board members lacking professional management experience.

¹⁷ 2018 Annual Report of the HOA Information and Resource Center

Inquiries

The HOA Center logged a total of 3,652 inquiries during 2021. This includes emails, phone calls, and written correspondence submitted via U.S. mail.

In responding to these inquiries, the HOA Center answered any applicable question and frequently accompanied answers with additional resources such as copies of the CCIOA and The Colorado Revised Non-Profit Act ("Nonprofit Act"). The HOA Center also made appropriate referrals to other government agencies and non-profit organizations. The parties that contacted the HOA Center included homeowners, board members, tenants, real estate brokers, title agencies, CAMs, attorneys, and other interested parties. Most of the inquiries received by the HOA Center related to the following issues and concerns:

Figure 5.1 Inquiry Table

The HOA Center
<ul style="list-style-type: none">- The role of the HOA Information and Resource Center (e.g., its statutory authorization and mandates).- The Colorado Common Interest Ownership Act and The Colorado Revised Non-Profit Corporation Act, the applicability of each and information about relevant provisions regarding various issues.- Other statutes that relate to CICs, and any pending bills that may impact CICs.
HOA Governing Documents
<ul style="list-style-type: none">- Guidance on obtaining CIC records, including the declaration, articles of incorporation, bylaws, and rules & regulations.- The rights of a CIC related to its ability to enforce its covenants, bylaws, and rules & regulations.- Issues related to Declarant control, disclosure of information and documentation and conflicts of interest.
Homeowner Rights & Responsibilities
<ul style="list-style-type: none">- Information about the financial concerns related to living in and operating a CIC, including assessments, accounting, budgeting, insurance, audits, and reserves.- Maintenance responsibility and neglected upkeep of the community, major community repairs, and community safety issues.- Responsible governance policies, rules and regulations, and community specific issues including but not limited to parking and architectural review determinations.
HOA Operations and Governance
<ul style="list-style-type: none">- Practical guidance on handling disputes, including the use of alternative dispute resolution.- Election and quorum issues, as well as the use of proxies, and election monitoring.- Meeting issues, including notices, minutes, owner's meetings, board meetings and executive sessions, as well as meeting procedures and best practices in running a meeting.- Communication issues including membership lists, newsletters, and community websites.- Management and operations of self-managed CICs.- Harassment, discrimination, intimidation, and retaliation concerns in the community.

Complaints

During the period between January 1, 2021, and December 31, 2021, the HOA Center received 695 complaints regarding issues and concerns related to the governance of, living in, or working with a CIC. These complaints were received by the HOA Center through a variety of means, including online submission via the HOA Center's website¹⁸, email, phone call, and written correspondence via U.S. mail.

As shown in figure 6.1, there has been a decrease from 960 complaints in 2020 to 695 complaints in 2021, a roughly 28% decrease. This decrease may be due to several factors, including ramifications of the pandemic, more detailed information being provided by the HOA Center in response to inquiries, as well as a more dynamic, redesigned HOA Center website with a greater amount of information and resources.

One area of complaint where the HOA Center saw a continued trend from 2020 is in communication with homeowners. This issue was by far the most complained about. As was the case in 2020, this may be, in part, due to the uncertainty of CICs regarding their ability to safely hold in-person meetings. Another continued trend from 2020 is regarding regulatory non-compliance. These are issues relating to requirements found in the CCIOA and Non-Profit Act, along with any other relevant local, state, or federal law, rule, or regulation. Regulatory non-compliance was the second most complained about issue after communication with homeowners.

As was also the case in 2020, many inquiries and complaints received from homeowners and board members expressed concern related to the holding of the required annual meeting. These concerns were directly related to the pandemic and the seemingly conflicting requirements that an annual meeting be held pursuant to CCIOA¹⁹. These issues were complicated even more so by the fact that many board members and active members in CICs expressed confusion with the requirements and general discomfort with the technology necessary to hold remote meetings. While both the HOA Center and statewide community association law firms developed helpful resources for board members and homeowners regarding the holding of remote meetings, these resources did not fully develop until later in 2020, leaving many CICs with the choice of holding an in-person meeting in violation of health orders, or post-postponing the annual meeting. Many CICs chose to postpone their annual meeting.

¹⁸ <https://dre.colorado.gov/hoa-center>

¹⁹ Colo. Rev. Stat. §§ 38-33.3-308(1) 2021

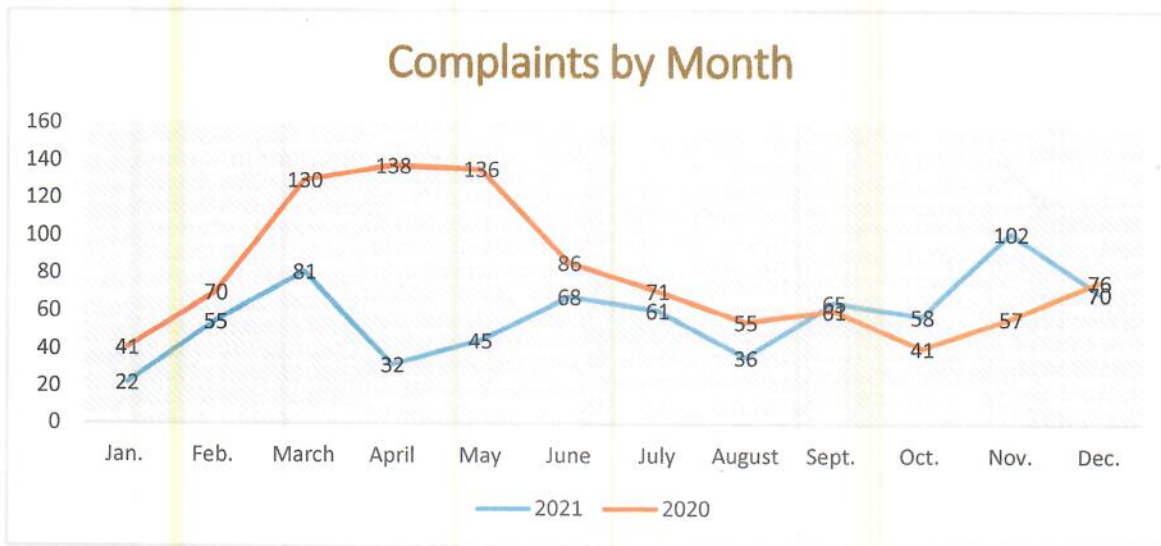


Figure 6.1 Complaints by Month

6.1 Complaint Origination

To better understand the data, the HOA Center categorizes complaints into several categories. As shown in figure 6.2, most complaints came from homeowners in planned communities. These are typically single-family home communities but may also be mixed-use communities including some commercial properties. Figure 6.3 demonstrates the number of complaints received from each region of the state. As with last year, Denver, the surrounding area, and the Front Range had the highest incidence of complaints. Unlike 2020, in 2021 the HOA Center saw a slight decrease in complaints from more rural areas such as Northwest Colorado and South-Central Colorado.

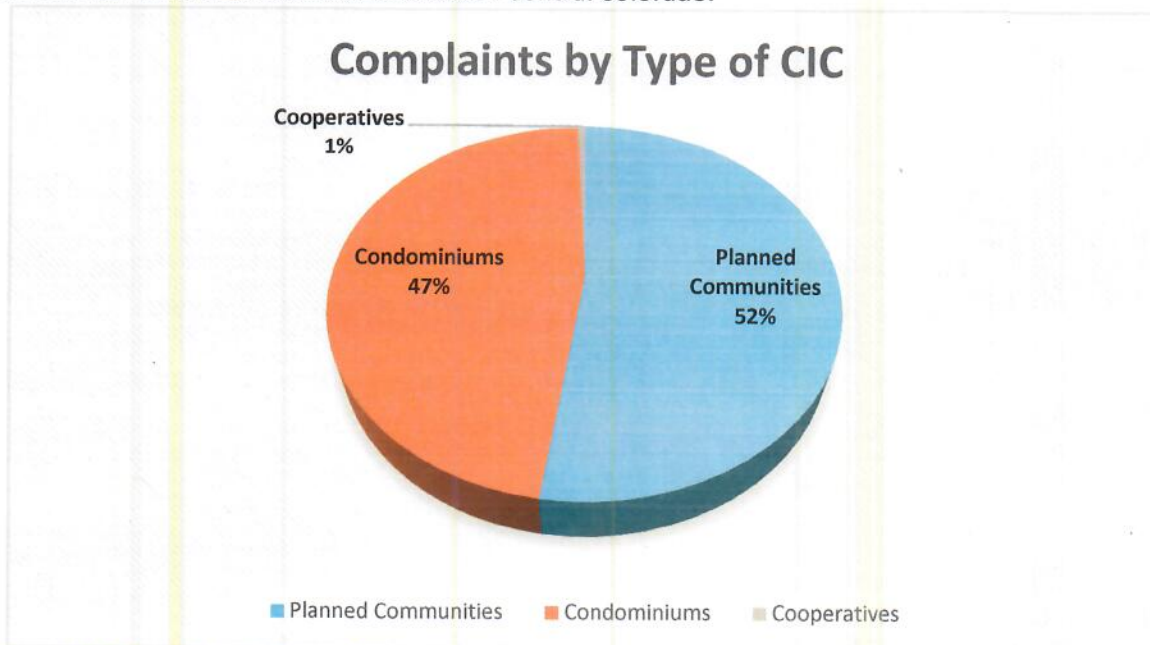


Figure 6.2 Complaints by Type of CIC

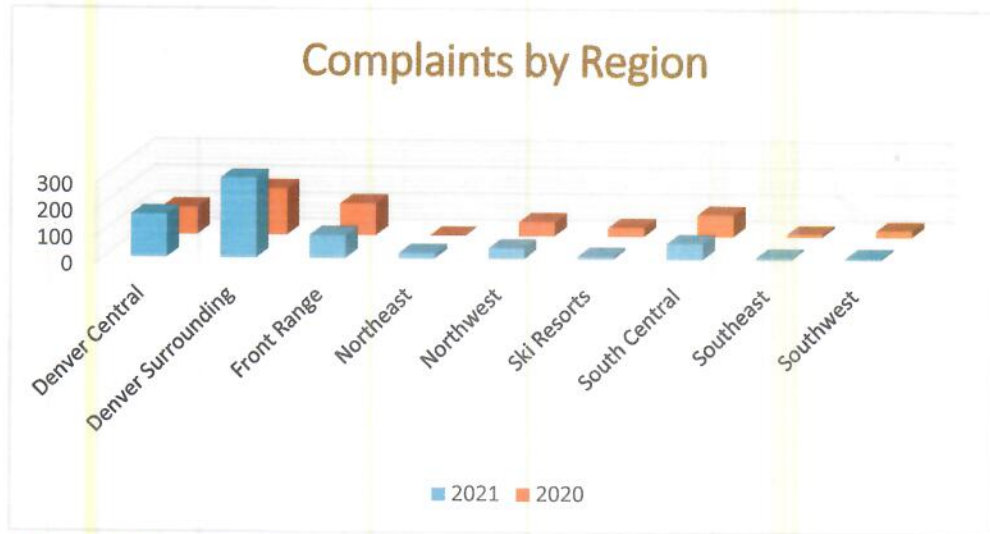


Figure 6.3 Complaints by Region

Complaints by CIC size, illustrated by figure 6.4, show that an overwhelming majority of complaints come from CICs with between 101-500 units. This is likely a result of most CICs in the state falling into that category of size, rather than a specific issue associated with CICs of that size.

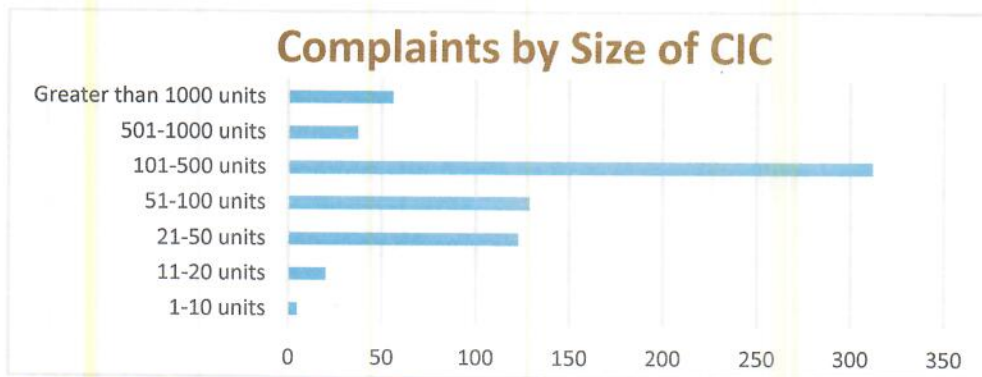


Figure 6.4 Complaints by Size of CIC

In figure 6.5, we see a breakdown of complaints by respondent. Most complaints included information regarding issues solely with the Board, or both the Board and the manager. Twenty-one percent of the complaints the HOA Center received included information regarding issues with solely the manager.



Figure 6.5 Complaints by Respondent

6.2 Complaints by issue

Each complaint received by the HOA Center is reviewed for the issues and concerns therein. Each issue or concern is then categorized into one of the 22 issues listed in figure 6.6. In 2021, the issue that was most frequently complained about to the HOA Center relates to communication between homeowners and the Board. This could be anything from a failure to properly notice a meeting; failure to provide notice of a violation; failure to respond to requests for information; and even failure on part of a homeowner to respond to requests from the Board. While most of the complaints received by the HOA Center, including those regarding communication, tend to be from homeowners, the HOA Center accepts complaints from all parties appurtenant to CICs.

In addition to homeowners and Board members, the HOA Center regularly received complaints from real estate brokers and other real estate professionals. One of the most frequently complained about issues from brokers regards the provision of governing documents during a real estate transaction. These complaints are included in the “Regulatory Compliance” category, as section 7 of the Colorado Real Estate Commission’s Contract to Buy and Sell Real Estate (Residential)²⁰ (“CBS”) specifically requires sellers to provide certain CIC documents. If the seller is not in possession of the most current set of documents listed in section 7 of the CBS, then they must request them from their CIC. In 2021, the HOA Center continued to frequently hear from brokers and title companies who are having trouble in obtaining these documents, even after sellers have allegedly properly requested them.

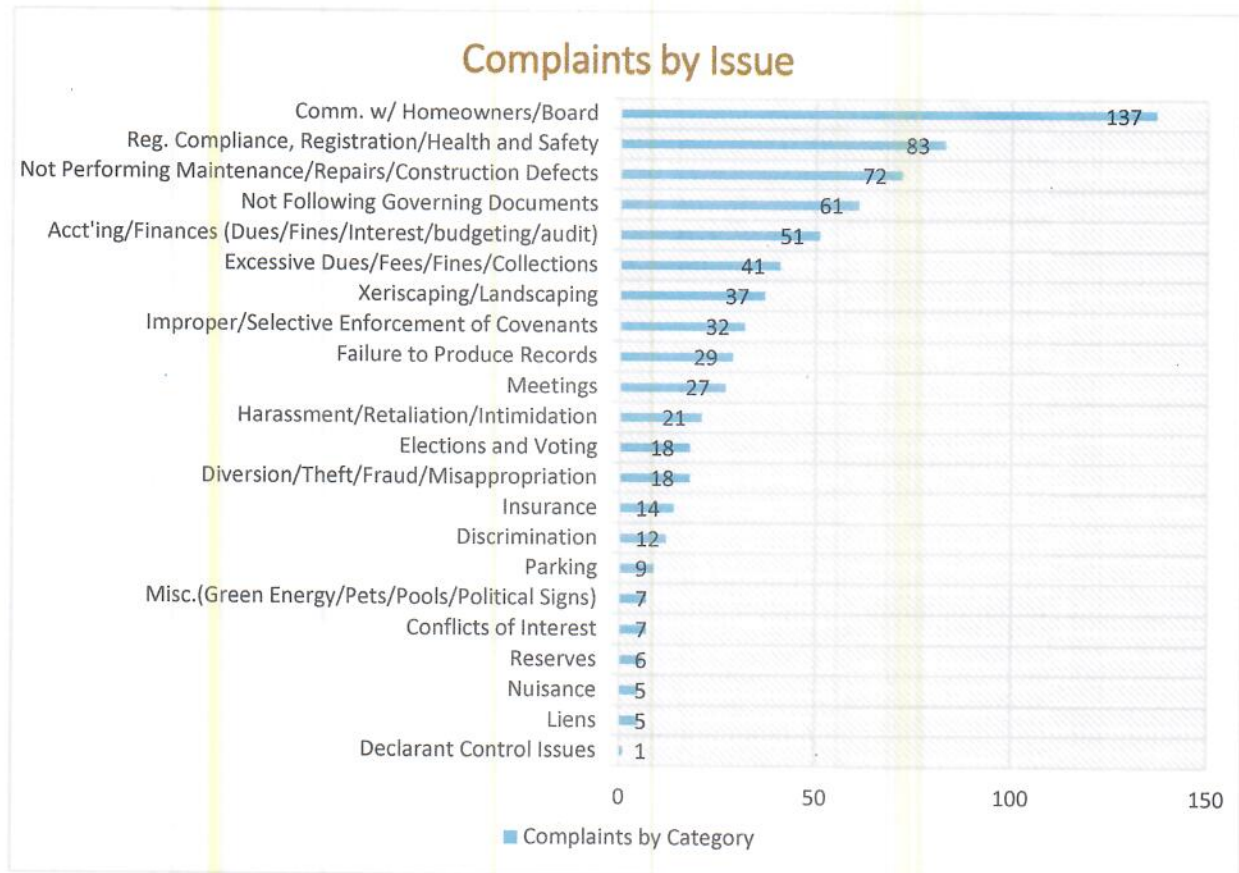
Other areas in which there have been a high number of complaints received by the HOA Center include issues related to not following governing documents and not performing maintenance. Many of the issues related to not following governing documents have to do with complaints concerning the alleged difficulty or inability to receive a hearing in front of the Board to appeal a violation notice. Regarding complaints concerning alleged failure to perform maintenance, in speaking with many of those individual complainants, several took issue with the perceived unsatisfactory nature of the maintenance or repair, rather than a total failure to complete the work.

Improper or selective enforcement of covenants is another issue in which the HOA Center has received a substantial number of complaints. In many of those complaints, the complainant includes information to indicate that the allegation is based on the observation of another member in the community (whom the complainant believes is engaging in similar conduct) which the complainant believes has not also received a violation notice.

Although the HOA Officer frequently engages in discussion with complainants regarding the circumstances surrounding their complaints, the complaints received are self-reported. As such, the HOA Center relies solely on the information provided in the complaints as well as any follow-up correspondence with the complainant to reasonably categorize and report on the issues and concerns contained in the complaints it has received.

²⁰ <https://drive.google.com/file/d/1gDxeo6wRK0Cd9Dgg1JNzllm9t-cBYU7K/view>

Figure 6.6 Complaints by Issue



Accomplishments & Objectives

7.1 Review of 2021

In 2021, the HOA Center focused on education and outreach through providing timely and relevant monthly advisories and quarterly training opportunities. In addition to presenting monthly HOA Forums, the HOA Center placed a priority on individualized assistance via phone calls and emails with homeowners, board members, and other interested parties. By providing timely responses to each inquiry and inviting consumers to reach out regularly, the HOA Center is confident that it has created greater accessibility to HOA information and education.

The Division also continued to improve its website in 2021, including the HOA Center's homepage and related pages²¹. In its effort to serve as a resource for consumers to understand their basic rights and duties, the HOA Center created pages on its [website](#) dedicated to understanding what it means to live in a CIC. These pages are intended to assist potential purchasers of property within a CIC, including the benefits and detriments of doing so.

While the pandemic has continued to limit the HOA Center in its ability to travel the state to present in-person forums, it has maintained excellent use of technology to present regular webinars on matters such as dispute resolution, budgeting, CIC records, insurance, and more. In addition to improving its website, the HOA Center has also maintained a catalog of educational videos on the [Division's YouTube channel](#) and offers more than 40 videos on a variety of CIC related topics.

7.2 Goals for the Office in 2022

As the HOA Center continues to strive to provide consumers with access to information and education related to CICs, it will endeavor to expand its current outreach initiatives. The HOA Officer plans to travel to different parts of the state to hold HOA forums and discuss important issues with consumers, as appropriate and in compliance with public health orders that may be in place. The HOA Center plans on expanding its educational materials concerning one's rights and responsibilities of buying into and living in an HOA. It also plans on expanding its training material content to better assist board members, CAMs, and other HOA volunteers in navigating the Division's online services, especially to register and renew their CIC with the Division. Finally, the HOA Center hopes to begin new initiatives in 2022 involving more Spanish language outreach, as well as reaching out to New Americans concerning their rights and responsibilities of living in an HOA. With nearly 12% of Colorado's population living in households in which Spanish is spoken²², the HOA Center hopes to greatly expand its library of resources to include Spanish language material.

²¹ <https://dre.colorado.gov/hoa-center>

²² <https://statisticalatlas.com/state/Colorado/Languages>