

## **UNDERSTANDING COLORADO “COMMON INTEREST COMMUNITIES”**

### **The Colorado Common Interest Ownership Act and Owner Associations That Collect Assessments**

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The Colorado Common Interest Ownership Act (“CCIOA”) applies to Colorado owner associations that govern and operate common interest communities (“CICs”). But, what is a CIC?

A CIC is a community with mandatory assessments. If a community has mandatory assessments, then CCIOA typically applies in one of two ways. One application is to CICs and their owner association, if the CIC existed prior to the date CCIOA came into effect, July 1, 1992, (“pre-CCIOA communities”) and the other is to CICs created after that date (“post-CCIOA communities.”)

CCIOA does not apply to the voluntary associations of owners in communities that do not fall within the definition of a CIC.

These distinctions make it important for associations and boards to understand whether or not their community is a “common interest community” under CCIOA or under Colorado case law.

CCIOA defines a CIC as including “[R]eal 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.” Unfortunately, this definition often leaves boards, owners and others confused, because the community does not need to have common elements.

A more user-friendly way to approach this definition is to think of mandatory versus voluntary assessments. A community is a common interest community if its declaration provides for the payment of mandatory assessments by virtue of owning property described in the declaration. If the declaration does not provide an assessment obligation, in some cases, an assessment obligation may be implied, as a matter of law. Implied assessment authority was recognized in Colorado in 2003 when the Colorado Supreme Court set forth factors that must be present for that implied authority to be found to exist. Those factors are set forth in the Colorado Supreme Court’s decision in the case of Evergreen Highlands v. West.

Whether or not an association has common areas, common elements or CC&Rs, if the payment of assessments is mandatory, CCIOA applies.

If owners voluntarily pay assessments, the community does not fall within the definition of a CIC and CCIOA does not apply.

Regardless of whether a community is bound by CCIOA's requirements, the community or the board of directors of a voluntary based association may wish to consider following many provisions of CCIOA.

All Colorado covenant controlled communities, regardless of whether or not the community is a CIC as defined by CCIOA and state law, can benefit from disclosing important association documents to owners and adopting policies and procedures that educate owners on how their association is governed, managed and operated.