

Becky A. Cole

I am a homeowner in support of HF3459

I believe the intent of this bill could be strengthened by addressing the role of state agencies in the issue. Most agencies already have some sort of regulatory authority in other types of housing, such as rental or manufactured housing, but either by choice or by the statute that provides the framework for their work, HOA/CICs are not included.

State Agencies and Their Role in Homeowner Associations

One of the myths surrounding the regulation of homeowner associations is that when something goes wrong, there will be a state agency to deal with it on your behalf. The reality is that while the number of homes involving a HOA is growing, they are growing outside of the the authority – and many times interest – of the state agencies.

The last legislative session created an ombudsman office for HOA/CICs. This office has no regulatory authority, but one of the functions is to make referrals to other agencies that do have the ability to get involved. With two very limited exceptions, there are no state agencies that can take any role in supporting homeowners.

Minnesota Housing Finance Agency

Minnesota Housing Finance Agency provides funding to developers for building housing and they also fund down payment assistance programs for first time home buyers. In addition, they also fund homeownership education classes.

Their website says, "When we make information and support available, homeownership can become a reality for more people." However, they refuse to help those who might have an interest in purchasing into a HOA to make a fully informed choice about the implications of what that means. First time home buyer classes can talk about budgeting, but they don't teach how to read the CCRs (covenants, conditions, and restrictions), or what bylaws mean, for example.

When I asked Commissioner Ho and Assistant Commissioner Robinson about this, the response was "they don't want to tell people where to live." The logic of this doesn't make sense. It's not about telling people where to live. It's about helping them to make a fully informed choice about it. When I asked them about the ethics of withholding information from someone to influence a sale, they both stopped talking to me.

Tal Anderson, Community Initiatives Manager, had a seat on the legislative work group that was convened in the fall of 2024 to discuss making things better for HOA homeowners. He heard the stories and the issues that were raised, but didn't step up with any suggestions or ideas for how the agency could contribute to addressing issues for homeowners.

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Secretary of State

They have no regulatory authority at all over business registrations. The function of their agency for this purpose is that of a library. They collect information, but they are not required to do anything with it. They have no reporting mandate when it comes to business registrations, either. However, the thing to note is that the information they collect does not include the name of the owner of the business. In some cases, the incorporator happens to be the owner, but that is not the case with businesses that are incorporated for the purpose of being a homeowners association. They also have no statutory requirement to verify or validate that the person filing out the application is actually authorized to represent the business.

When you see a listing that shows a business has been administratively terminated, that indicates an action from a different agency, such as a court or the attorney general.

Minnesota Department of Human Rights

“The Minnesota Human Rights Act prohibits discrimination in places like housing, the workplace, school, and more. You cannot be discriminated against because of your race, disability, sexual orientation, age, religion, sex, national origin, and more. The law also prohibits employers from asking job applicants about their current or past pay.”

The information on their website is a bit misleading because the statute that creates the framework for their agency says “rental” housing. They don’t have regulatory authority when it comes to abuses by boards and management companies.

However, Commissioner Lucero did get involved as an administrative function when it was discovered that homeowners of color in the Heritage Park Homeowners Association in Minneapolis were targeted for foreclosure, but it is not something she will do as a matter of course for the department.

I was told that I could advocate to the legislature for HOA homeowners to be included in the functions of their office, but when I asked why that isn’t something they would do instead, I got no answer.

Bureau of Criminal Apprehension

They do have regulatory authority over insurance fraud, regardless of who has the policy. Unlike the other agencies, it doesn’t matter to them if an HOA is involved. All that matters to them is the conduct of the insurance company. However, outside of this, they don’t get involved in anything related to HOA/CICs.

Department of Labor and Industry

They can get involved only when there is an employer/employee relationship. However, technically there isn’t one between management companies and boards, and because most boards are volunteers.

However, in many cases management companies are the ones who control the bank accounts, control the board meetings and make business decisions for the association, yet because they are paid as a contractor, DOLI has no authority over the nature of the work relationship.

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Attorney General

The office has stated they have no regulatory authority because a HOA is a “private contract.” What that means, contract between who, or why that matter is something they have refused to explain or even address with the legislature, and in the multiple times I have asked for an explanation, I have been ignored.

They have received thousands of complaints from HOA homeowners across the state and the data they have collected could be useful in informing the legislature on what holes can be filled in, but for some reason they won’t do that and they won’t offer an explanation for why not, either.

Their website tells potential HOA homeowners to “read the bylaws” before they buy, but they refuse to explain what bylaws are and put clarifying information with it that explain that bylaws do not meet the statutory definition of a contract. When I asked the office to put better information on their website, I got ignored and wasn’t provided an explanation for why that couldn’t happen.

They also had a seat on the legislative work group, but offered nothing to explain what they would need to be able to serve as a resource for homeowners.

Minnesota Department of Commerce

The last legislative session provided funding for the Department of Commerce to host an office of the ombudsman for HOAs/CICs under the umbrella of their consumer protection division. While this office itself doesn’t have any real regulatory authority, the huge benefit it offers is to be a central place to gather information that can be used to inform the legislature. They also can make referrals to other places where it is appropriate and resources are available.

They can get involved in insurance issues, but have no regulatory authority over anything else related to HOA/CICs. They have licensing authority over management companies for rental properties, but management companies for HOA/CICs are not required to be licensed. They have said they would support a licensing requirement for management companies who manage HOA/CICs.

Office of Lawyers Professional Responsibility

The competency of this office has been in question for several years. Not only has the staff asked for the removal of Susan Humiston, but the Minnesota Bar Association has questioned the efficacy of this office under her leadership.

Why this matters is because lawyers are often used by management companies and boards for intimidation and manipulation purposes. For example, I have a letter from an attorney telling me I am not allowed to talk to the board the management company appointed without permission from the management company. This came after a request I made to the board to consider changing the management company. I have also seen a letter from an attorney coaching a board on determining who is a good candidate for putting into foreclosure based on the equity they have in their home.

I have documentation where the decisions this office has made are just plain idiotic, but it is that kind of thing that sets a homeowner up for retaliation for filing a complaint with them in the first place.

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