

Working Group on Common Interest Communities and Homeowners Associations

Housing Finance and Policy Committee - February 12th, 2025



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Minnesota Laws 2024, Chapter 127, Article 15, Section 48

Duties and purpose: The Working Group was created to study the prevalence and impact of common interest communities (CICs) and homeowners associations (HOAs) in Minnesota and how existing laws (Chapter 515B) regulating CICs and HOAs help homeowners and tenants access housing. The working group was tasked with studying:

- How many CICs and HOAs exist, how many people reside in them, and where they are located
- Governing documents commonly used by CICs and HOAs and whether the governing documents create barriers for participation by homeowners in the board of directors for CICs or HOAs
- Fees and costs commonly associated with CICs and HOAs and how those fees have increased, including the cost of outside management, accounting, and attorney fees that are assessed to owners and residents
- Whether there should be uniform, statutory standards regarding fees, fines, and costs assessed to residents

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Duties (continued):

- How the organization and management of CICs and HOAs, including boards and management companies, impact the affordability of CICs and HOAs
- The impact of CICs and HOAs on the housing market and housing costs
- The racial disparity in homeownership as it relates to CICs and HOAs
- The accessibility and affordability of CICs and HOAs for Minnesotans with disabilities
- How other states regulate CICs and HOAs and best practices related to board transparency, dispute resolution, and foreclosures
- How the current laws governing CICs and HOAs may be consolidated and reformed for clarity and to improve the experience of homeowners and residents in CICs and HOAs.
- The ultimate duty of the working group were to recommend legislative reforms or other methods to regulate CICs and HOAs, including the consolidation or recodification of existing chapters regulating CICs and HOAs.

Working Group Membership

- Chair: **Representative Bahner**
- Vice-Chair: **Senator Lucero**
- **Representative Mekeland**
- **Senator Pha**
- MN Homeownership Center: **Roxanne Kimball**
- Community Associations Institute: **Shaun Zavadsky**
- Commissioner of Commerce designee: **JoAnn Borden**
- Mid-Minnesota Legal Aid: **Colleen Daly**
- Minnesota Association of Realtors: **Emily Green**
- State Bar Association designee who regularly works advising HOA homeowners: **Matthew Anderson**
- State Bar Association designee who regularly works advising HOA boards: **Phaedra Howard**
- League of Minnesota Cities designee: **Kim Berggren**
- Commissioner of the Minnesota Housing Finance Agency designee: **Tal Anderson**
- Attorney general's office designee: **Carin Mrotz**
- North Country Cooperative Foundation designee: **Joel Hanson**
- Senior Housing Cooperative Council designee: **Joe Nemo**
- Housing Justice Center designees: **Denise Butler, Jonathan Murray, Becky Cole, Ivory Taylor**

Overview of Presentations and Key Information

The Working Group invited a broad group of stakeholders, attorneys for homeowners and CICs, property management companies subject matter experts, and homeowner advocates to present information on CICs in Minnesota.

- Around 1,556,000 Minnesotans, around 27%, live in a CIC (~7,950 in MN).
- 3,800 CICs in the Twin Cities metro.
- 82% of new homes sold in 2023 were part of a CIC

Key Issue Areas

- Governance – board elections, open meetings, access to documents (by-laws), dissolution, freedoms
- Financial interests – financial reporting, insurance and reserves
- Dispute resolution
- Registration and licensing, education and training
- Assessments (general and special, fines and fees)
- Foreclosures
- Municipalities
- Civil Rights/Disabilities

Public Testimony - Issues

- CIC conflicts of interest
- Board transparency/withholding information
- Rules and regulations
- Fines and fees
- Lack of oversight of insurance companies and property management companies
- CIC insurance
- Attorney fees
- Kickbacks from vendors to property management companies
- Open meetings and ability to speak at meetings
- Lack of board experience
- Inadequate notice for assessment/insurance increases

Recommendations - Governance

- Establish clear “reasonable and justifiable standards” (legal) for boards and property management decisions
- Automatically revoke unenforced covenants unless HOAs collectively renew them at annual meetings
- Set limitations on practices dictating single family homes
- Set limitations on practices dictating use of property that only the homeowner can access (e.g., balconies, private garden, not barring home businesses, not barring work vehicles parked in driveways), in accordance with local ordinance
- Require boards and property managers to provide an open forum in meetings for homeowner questions and right to see governing documents (without fines/fees) and notice is required re: HOA board meetings at a designated time and place
- Provide clear and reasonable guidelines for when a HOA cannot be created or an alternative structure to oversee common maintenance, or elements (elder community)
- Remove M.S. 515b governance over housing cooperatives, allowing for M.S. 308c governance

Recommendations – Financial Interests

- Allow Housing Improvement Area (HIA) loans to be administered by BOTH cities as well as the Minnesota Housing Finance Agency (MHFA), which has more infrastructure to manage these types of loans.
- Use HIA to make HOA repairs more affordable or extend the time frame for payment of costs
- Require associations to report annual financial accounting - balance, reserves, costs
- Recommend work group on the issue of HOA insurance
- Establish conflict of interest (COI) standards in statute, apply COI standards to boards, property management and vendors/contractors, all COI and relationships must be disclosed and communicated with full transparency around relationships
- Property managers cannot require an association to work with a specific vendor
- Require boards or property managers to seek multiple bids for vendors/contractors (seek competitive bids for issues that are not insurance-related), bids should be made available and must be retained for a minimum record retention period. Create a work group to discuss this, if needed. Update statute to require board to hire whoever they would like

Recommendations – Dispute Resolution

- Provide parameters for homeowners to reasonably ask questions without incurring fines and attorney's fees
- Appropriate money for a Housing Advocacy Center
- Create an Office of Ombudsman
 - Require Office to facilitate open templates for documents and recommended process to create an open learning community for MN CICs
 - Require participation by the Office in the mediation process
- Oversee and update a Wiki/educational materials and resources
- Recommend a way for homeowners to resolve disputes, apart than the courts without adding responsibilities for CIC boards

Recommendations – Registration, Licensing, Education

- CICs must provide information to anyone (including renters) without charge about their rights/responsibilities within the association, including who is on the board and HOA procedures and policies
- Require licensing of HOA association managers, (like real estate agents)
- Public database that includes all associations, property management companies, and board members listed with the Secretary of State. Registration with the Secretary of State should include this information.

Recommendations - Assessments

- Create a minimum amount (reasonable and justifiable) related to fees assessed/time delinquent, (minimum threshold \$ OR time delinquent) leading to foreclosure
- Create caps and standards (reasonable and justifiable) on fees and fines
- Set reasonableness standards of rules, including a 30-day notice around nonemergency fee increases
- Set reasonableness standards of rules, including 60-day notice for special assessments
- MHFA should explore the feasibility of expanding existing homeowner loan programs to include financing of common area expenses

Recommendations - Foreclosure

- Ensure new foreclosure laws passed apply to older townhomes (built before 1994), which currently are not part of 515B
- HOAs cannot foreclose a lien for fines under \$2500 total (not including attorney fees)
- Pre-foreclosure notices should provide more information (who, what, where, why, how much is being assessed, options for addressing the fine/fee, a right to be heard by the board to contest a fine or fee, repayment plan options, and counseling.) Notice should also include the right to postpone a sheriff's sale (related to the foreclosure action). If this information is not provided, the pre-foreclosure notice is void
- Prohibit aesthetic rules from being a foreclosable offense. Require an internal dispute resolution process for a violation of an aesthetic rule in an open meeting. Board should have a timeline for when to approve requests related to aesthetic mandates

Recommendations: Municipalities

- Make HIA-type loans available to all CICs. Require all cities or state entity to offer HIA loans as an option (recognizing that currently, some cities do not). Eliminate the "sunset" scheduled to terminate on 6/30/28 so this option continues to be available (428A.21)
- Ensure elimination of "double taxation" (taxes + HOA dues)
- HIA should allow for a payoff of the loan before the end of the term (at the time of the loan or over time), if the homeowner so desires, if it does not add cost to the municipality
- Prohibit municipalities from requiring common elements that would necessitate the creation of an HOA. Require cities to maintain public infrastructure as a responsibility of collecting property taxes

Recommendations - Civil Rights/Disabilities

- Study social return on investment (SROI) of HOAs to determine how beneficial they are and where the money goes
- Prohibit HOAs from imposing blanket rental screening restrictions
- Require HOAs to allow disabled owners to make modifications to their units and HOA common areas at the owner's' expense to accommodate the owner's disability
- Provide a standard, State of MN-created template form that can be used to request reasonable accommodations for disability

Questions?

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