

Proposed Bylaw Change Clarification

The following is an effort to clarify the proposed bylaw revision. While it may not address all of your questions, it is hoped it will answer most.

As most know, the Colorado Common Interest Community Act (CCIOA) was enacted in 1992. There are nine governing policies that an HOA must incorporate in its governing documents and follow. These policies were filtered into the "Act" one at a time. One of the nine policies is the "Policy for Enforcement" of a community's rules, regulations and other protected documents. In every case, the nine policies, the community's documents, CCIOA and the Colorado State Law must to be aligned to avoid conflicts.

One segment of procedures within our Enforcement Policy is the Discretionary Warning Letter. This letter is written by the board after the procedures have been followed as outlined in the policy. Colorado Law requires this letter be sent within 15-days from the Board receiving a complaint of an alleged infraction. In order for the Board to act, the Board must follow CCIOA protocol for conducting an open meeting.

In order to comply, the Board sought legal counsel for guidance. The first proposal from legal was to change the actual policy to allow the Board President to make the decision to send the letter. Owners expressed reluctance to extend authority to one person. The Board agreed and voted to not adopt the regulation change.

It is currently difficult to adhere to the 15 day stipulation once the Board receives the complaint. Most HOA's have their Board members readily available to address a complaint because most directors reside full time within their HOA. The Arrowhead Board, at times (especially during the winter months), are not available to gather for a meeting. If the Board misses the 15 day window of response, neither the complainant (an owner or an agent of the Board) or the alleged owner in violation, are receiving proper notification. Colorado Law speaks to this specific situation. This proposed change will align our bylaws to meet this guideline and will help the Board conduct business more efficiently and align with the statutes.

Our attorneys researched our questions and situation and found the best path would be to propose a bylaw change that works well with both Colorado Law, and CCIOA.

The proposed bylaw change will allow the Board to conduct a 'Special Meeting' via several venues. The bylaw change represents the best path to comply with the 15-day complaint requirement for issuing a Discretionary Warning Letter.

Below are some of the cardinal points of the proposed bylaw change:

- A "Special Meeting" may be held via several options such as E-mails, face time or tele-conference calls.
- A meeting must have a single purpose only.
- The purpose must be stated, and sent to all directors by the President of the Board.
- If even one director opposes the meeting, the meeting cannot be held.

- Any such meeting must be reported at the next regularly scheduled Board meeting and entered into the minutes.