



## Colorado Community Association Manager (CAM) Licensing Sunset Review

### Findings and Recommendations

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#### Introduction

This report is a product of the Community Association Institute's (CAI) Colorado Legislative Action Committee (CLAC) and is respectfully provided to the Department of Regulatory Agencies (DORA). CAI is an international trade association with more than 60 chapters representing over 33,000 members that provides education and resources and advocates for legislative and regulatory beneficence for its members. CLAC is a committee which is appointed by and serves at the pleasure of CAI's national office located in Falls Church, VA. CAI is comprised of three membership categories: Community Association Volunteer Leaders (HOA Board Members), Community Association Managers (as well as management companies) and Business Partners that do business with Associations.

Information included in the subsequent report was derived from three primary sources. These include conversations and meetings with licensed CAM's; feedback and discussion with attorneys who practice community association law; and results of a survey recently sent to more than 1,300 CAI members representing all membership categories across the State of Colorado. Many of the conclusions and recommendations contained in this report are based on the quantifiable data gained from the survey.

Below are some additional pieces of data resulting from the survey:

- More than 200 members responded to the survey, accounting for 15% of those to whom the survey was sent.
- Of the individuals who completed the survey, 95% were Colorado licensed CAM's and 53% have been managing more than 10 years.
- 72% of CAM's completing the survey used CAI's M-100 course to fulfill the 24 hours of classroom time required before submitting a CAM license application.

Throughout this report, reference may be made to "the Division". It should be noted that this is reference to the Colorado Division of Real Estate.

#### Impact on Industry

There were two questions asked regarding the general impact the program has made on the industry.

- 62% answered "yes" when asked if they believed the licensing of CAM's has positively impacted the industry.
- 66% answered "yes" when asked if they would support the continuation of the Colorado CAM licensing program.

While many felt that there had been a positive impact through increasing the quality of the manager workforce in general, the repercussions are a severe *shortage* of licensed managers in the State due to those who exited the industry and chose not to complete the licensing process. Nearly every management company we spoke with shared they are facing the same challenge: they are seeking to hire additional managers but found the supply of available managers fell sorely short of the demand. We realize that while this may be a harsh reality, there is likely little that can be done at the State level. We believe that this problem will correct itself if given some time.

## Interaction with DORA

Two questions were asked about contact licensees have had with DORA.

- 54% answered that they *had* interacted with DORA on a matter outside of a complaint-related issue.
- Of those 54%, 70% answered that their inquiry *was* responded to in a timely matter.

There were several categories in which most of these inquiries fall:

- Duties which require a license
- Opportunities for continuing education
- Requirements for continuing education
- Insurance policy requirements
- Changes to licensee information (name, employer, address, etc.)
- Navigating the DORA website

Based on our findings, the *timeliness* of inquiries does not appear to be a problem and DORA should be commended for their high marks in this area. Survey respondents consistently faced challenges navigating the DORA website. We recognize that a new website was implemented shortly after the initial licensing phase was completed and comments surrounding the need for an improved website may be stemming from use of the previous platform; however, some in our group have most recently experienced challenges in finding the link to complete the renewal process. Despite implementation of the newly designed site, we believe improvements to the website may still be warranted.

## The Complaint Process

It is understandable that the complaint process is always the most talked about topic when discussing CAM licensing. As the process from which disciplinary action is handed down, it is an experience in which no one wants any first-hand knowledge in navigating. Even on questions that were not intended to extract comments related to the complaint process, every open-ended question on the survey contained numerous comments that revealed positions on how the complaint process is working.

Of those surveyed, 34% (66 people) said they or someone within their company had a complaint filed against them. While the process itself is unavoidable under any type of licensing or certification program, we found two components of the process we feel warrant some reevaluation. These include

the process of vetting complaints and the amount of time required by licensees when defending complaints against them.

Frivolous, unfounded, unmerited and unjustified. These words were used quite frequently in the comments to the questions surrounding the complaint process. CLAC has met with the Division of Real Estate on multiple occasions and the topic of complaints has always dominated the discussions. Feedback from licensees solidified our continued concern that a more comprehensive process for vetting complaints is still greatly needed. Those who have experienced the process of defending a complaint against their license all agree that many of the complaints contain one or more of the following characteristics:

- Claims are made void of any evidence.
- Claims are made by someone who is upset about a customer service matter.
- Claims are made by someone who is upset about a decision the Board made with which they don't agree.
- Claims are made by someone who is upset because a letter they received about a governance or delinquency matter.

Those who have experienced the process of defending a claim against their license also agree that doing so required an incredible amount of time and, in some cases, significant legal fees. Most management companies in the state are small businesses. Responding to complaints is taxing on both their labor force and their balance sheet. We urge the Department to continue exploring ways to filter out claims that have no merit and, at the end of the day, will be dismissed. We recognize that reaching this conclusion is likely not possible without some involvement by the licensee; however, licensees feel that their initial response to the complaint requires preparation as if they were defending themselves in a court of law. Understandably so as this is their livelihood at stake. It's what they know and, for some, it's *all* they know. A better balance must be reached.

## Rules

The survey asked if respondents felt changes to the rules were necessary. 41% answered "yes". We found two primary topics in which suggested rules changes fell.

### Insurance

Rule D-10 addresses crime fidelity insurance requirements. Most CAM companies fulfill these requirements through the policies held by their clients that name the CAM as an additional insured. Managers have expressed concern over coverage requirements on a policy they don't have the authority to modify. The disconnect lies in the fact that the CAM must be covered, but the coverage comes from a policy to which only the Board is authorized to make changes. While the CAM can advise the Board of the coverage requirements, the Board, under the current rules, faces no consequences should they elect to bind coverage that does not meet these minimum requirements. It is understood that the CAM company is then forced to increase the CAM company policy limits to fulfill the gap in coverage, however the cost of this then becomes the burden of the CAM company. We recognize that CAM companies should ensure their contracts are inclusive of provisions that protect them in these cases;

however, consideration for holding Boards jointly accountable to these coverage requirements seems reasonable.

### License Renewal

Rule D-2 states that licenses must be renewed annually. We realize the reasoning for which this policy was established in the original rules during the commencement of the program; however, now that the Division has actual CAM licensee numbers and data available, we trust that consideration to an extended renewal period will be given. Extending this to a two-year renewal period to align with the Certified Manager of Community Associations (CMCA) designation awarded by the Community Association Manager International Certification Board (CAM-ICB) was suggested by many who completed the survey.

It was also suggested that consideration be given to some type of program which would prorate the initial CAM licensing fee if the prospective CAM submitted their application after January 1. Comments were received that suggest companies are directing their new applicants to wait until after June 30 each year to avoid having to pay an additional licensing fee in the same year. We realize that one of the primary reasons all licenses expired on June 30 each year is due to the start of the fiscal year, however having staggering renewal dates would certainly alleviate the need for any type of proration structure.

## **Statutes**

The survey asked if changes to the statute were necessary. 34% answered “yes”. We found there were two primary topics in which suggested rules changes fell.

### Apprentice License

The use of apprentice licenses seems to vary from company to company. We believe there is considerable misperception regarding its intent and applicability. Many companies simply forgo having managers-in-training apply for the apprentice license altogether and fast track these individuals through the classroom time and testing within a matter of days from their date of hire. Other companies simply elect to take the risk of getting caught with having an unlicensed individual perform duties requiring a license.

We recognize that a position paper was published by the Division during 2016 regarding the interpretation of the apprentice section of the Statute; however, we believe further clarification of the Apprentice License is necessary. One of the primary areas of confusion lies in the Division’s expectation regarding the requirement that all holders of an apprentice license may only perform duties requiring a license under the “direct supervision” of the Designated Manager. The second area we believe warrants review is the stipulation that the direct supervision may only be performed by the Designated Manager. In situations where there may be more than 3 or 4 managers on staff and the CEO of the company is the Designated Manager, the licensed CAM responsible for training and mentoring the apprentice may not always be the Designated Manager. We believe being supervised by a licensed CAM is reasonable and accomplishes the intent.

## Definition of Duties

While the definition of duties requiring a license came up repeatedly in the comments to our survey question about necessary changes to statute, a question specific to this subject was also included in the survey. When asked if a “clearer definition of management activities that require a license would be beneficial to you and/or your company”, an overwhelming 51% answered “yes”. We certainly haven’t forgotten about how challenging it was to craft the current statutory language concerning the definition of management duties, but feel there is an opportunity to bring further clarity to the list of defined duties.

## **Recommendations**

It is CAI’s recommendation that this CAM licensing program be continued, and consideration be given to the below recommendations made throughout this report.

1. Explore ways to improve the ease of navigation of the CAM licensing website.
2. Improve the process of vetting frivolous complaints against licensees.
3. Reevaluate ways to reduce the time spent by licensees responding to complaints against their license.
4. Consider rules change to holding Board’s jointly accountable for crime fidelity insurance requirements.
5. Modify renewal period to be completed every two years.
6. Implement prorated license fee for mid-year applicants. Implementing staggered renewal dates (from the day of application) would alleviate the need for any type of prorated fee structure.
7. Create further clarification and definition overall regarding the use of the apprentice license as well as the term “direct supervision”.
8. Consider updates to the duties which require a CAM license.

## **Conclusion**

On behalf of CAI’s Colorado Legislative Action Committee, we thank you for your consideration of the material contained herein. We value the partnership with the Division of Real Estate and DORA in being receptive to our concerns both now and throughout this initial term of the program and sharing our desire to ensure its continued success.

Respectfully Submitted,



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