

# CAI-CLAC Presentation

Fall Conference November 9, 2018



## Agenda

- CLAC
- CAM Licensing History
- The CLAC Roadshow Results
- Legislation to Regulate is Coming

# CLAC

## CAI-CLAC

- **What does CAI-CLAC stand for?**
  - Community Associations Institute-Colorado Legislative Action Committee
- CLAC members are selected from CAI members across Colorado
- CLAC is made up of 20 members
- CLAC is charged with putting together the legislative priorities for CAI in Colorado and advocating those positions at the legislature and with other elected officials
- These priorities and positions are guided by CAI National's public policies and CLAC members agree to uphold these priorities and positions as part of their appointment

# **DORA**

**The Department of Regulatory Agencies**

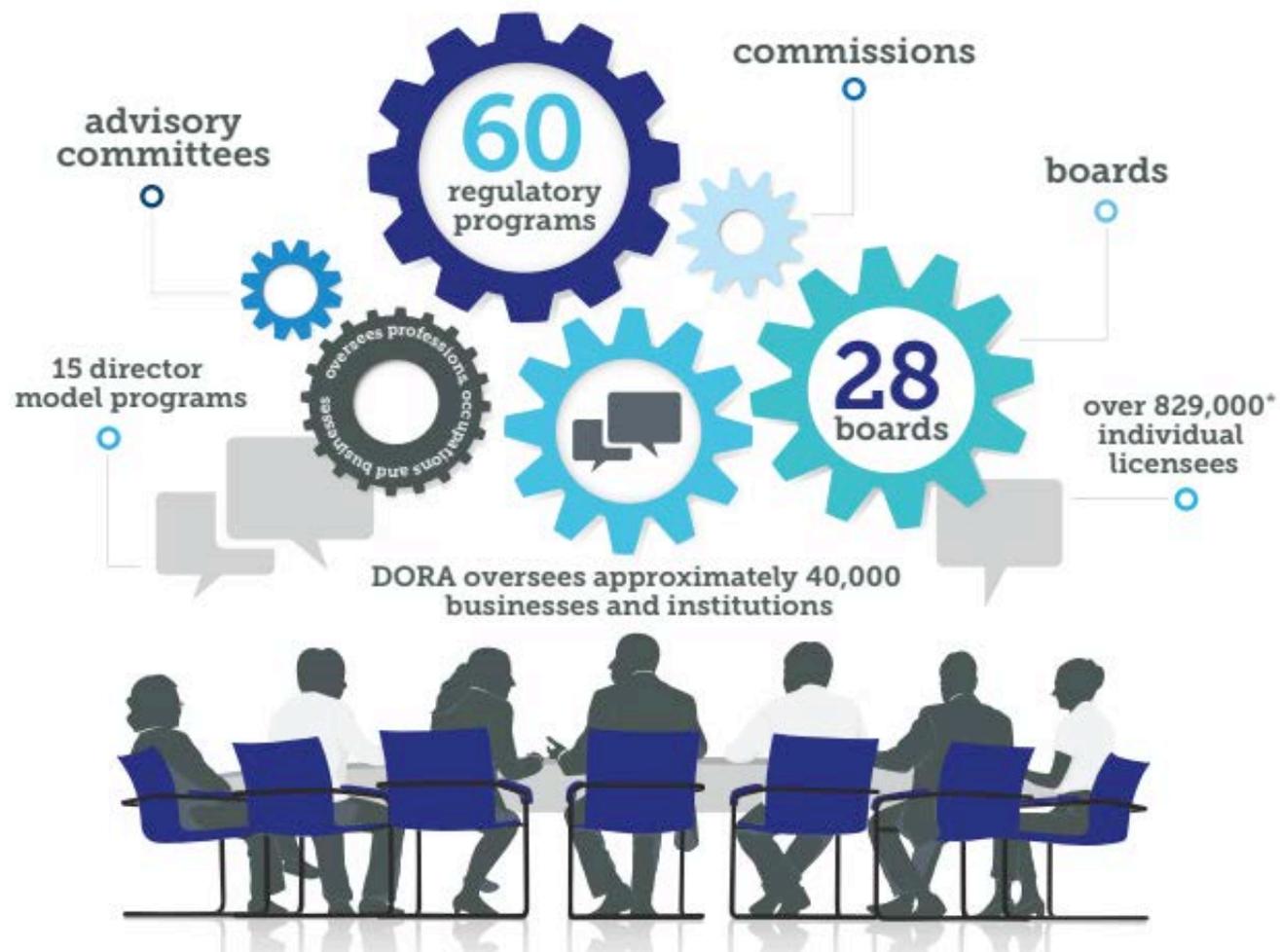
## Colorado's History of Regulating Industry

- Enacted in 1976, Colorado's Sunset law was the first of its kind in the United States.
- A Sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it.
- In 1985, the **Colorado General Assembly passed the Sunrise law** as a compliment to the Sunset law. This law requires that a review be conducted on all proposals to regulate previously unregulated occupations or professions.
- Regulatory programs involving businesses are typically in place to enhance public safety and help to ensure financial solvency and reliability of continued service for consumers.

## CO Department of Regulatory Agencies (DORA)

- The state's regulatory and consumer advocacy entities are housed under a single umbrella in one department.
- **Nine separate divisions plus industries are assigned to the Executive Director's Office**
  - 41 boards, commissions and advisory committees having more than 300 individual members
  - 60 regulatory programs comprising over 829,000 individual licensees and approximately 40,000 businesses and institutions.
- DORA is primarily cash funded by regulated entities through fees and assessments.
- **Mission: Everything we do at DORA centers back to protecting consumers while fostering a fair and balanced regulatory environment.**

# CO Department of Regulatory Agencies (DORA)



# **HISTORY OF COMMUNITY ASSOCIATION MANAGER LICENSING**

## Why did the CO Legislature decide to regulate CAMs?

- In 2012, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) identified clear evidence of harm that warranted regulation. The types of harm include:
  - Theft of funds
  - Mismanagement of funds
  - Undisclosed conflicts of interest
  - Inadequate accounting and record keeping practices
  - Lack of transparency in terms of board meetings and access to association records

# Why did the CO Legislature decide to regulate CAMs?

- In Colorado, approximately 1.9 million residents live in 9,500 communities governed by HOAs.
  - A Community Association Manager oversees the daily business of a common interest community, which includes collecting monthly fees, preparing financial statements and budgets, and negotiating with contractors.
- Community Association Manager is in a position of power that could easily be abused.
- There is no specific career track or degree required to become a Community Association Manager.
- It is often difficult to unravel whether the harm was caused by the individual manager, the management company or the HOA board of directors.

# Legislative History

## 2013

House Bill 13-1277 passed requiring all Community Association Managers, individuals, and entities to obtain a license from the Director of the Division of Real Estate as of July 1, 2015.

## 2014

House Bill 14-1254 passed requiring Community Association Managers to disclose all fees to the executive board that governs an association.

## 2015

House Bill 15-1343 passed to clarify terms and create a new apprenticeship license.

- Clarify the term “community association management”
- Create a new license type for an Apprentice working under the direct supervision of a licensed manager
- Exempt time shares

## July 1, 2015: Licensure requirements begin

## October 15, 2017

DORA completes Sunset review of the program and recommends extension of the program with modifications.

## CO CAM Licensing Facts

- **At the time of Sunset review, the CAM Licensing Program only had two years of data for the report.**
- Community Association Managers, both individuals and entities, are required to be licensed in Colorado, seven other states and D.C.
- Passage rate on the exam averages 61-66% depending on the General or CO portion.
- In 2016-2017, 1,413 Managers, 70 Apprentices and 471 Management Companies were licensed.

# Complaints and Disciplinary Action

- **Complaints filed against individuals:**
  - 2016: 146
  - 2017: 129
- **Top areas of complaint:**
  - Unlicensed activity
  - Incompetence
  - Mismanagement of funds
  - Document requests
- **Disciplinary activity**
  - 2016: 52 dismissals of complaints, 2 revocation of licenses for theft, and 4 cease and desist orders against unlicensed individuals
  - 2017: 52 dismissals of complaints, 29 disciplinary actions including 1 revocation of license, 11 cease and desist orders

## Complaints and Disciplinary Action

- **Complaints filed against companies:**
  - 2016: 142
  - 2017: 132
- **Only areas of complaint:**
  - unlicensed activity
  - incompetence
  - violations of CCIOA
  - document requests
- **Disciplinary activity:**
  - 2016: 63 dismissals of complaints, 1 revocation of licenses for theft
  - 2017: 84 dismissals of complaints, 2 disciplinary actions including 1 cease and desist order and 1 fine

## 2018 Legislative Session

- **HB 18-1175 is introduced with DORA's recommendations:**
  - Continue the Community Association Management Practice Act for five years, until 2023.
  - Authorize the Director to establish renewal fees for Management Companies.
  - Amend the supervision requirements for the Apprentice license type.
- The House passed the legislation to renew the program.
- The Senate Finance Committee voted 3-2 not to pass HB 18-1175.
  - Republicans also voted down other Sunset extensions in favor of less governmental intrusion on private business.

# CLAC Roadshow



COLORADO LEGISLATIVE  
ACTION COMMITTEE  
**community**  
ASSOCIATIONS INSTITUTE

# CLAC Roadshow

Let's Talk Manager Licensure

## The Roadshow

This summer, CLAC conducted a two-month outreach process with our members to better understand **their opinions on Community Association Manager licensing, their interactions with DORA, and what they would like to see the future of management licensing look like.**

## The Roadshow Details

- 5 stops across Colorado
  - South Denver
  - Westminster
  - Fort Collins
  - Vail
  - Colorado Springs
- Online survey to approx. 2,000

## Roadshow Numbers

- Approximately 60 people attended the five roadshow meetings
- 256 people responded to the online survey
- Nearly all the roadshow attendees responded to the online survey
- 83% of the online respondents did not attend any of the roadshow meetings and instead took advantage off the opportunity to participate through the survey
- A few facts about who responded to the survey
  - Most respondents were community association managers with fewer than 14% of the respondents being business partners or homeowners.
  - About 34% of the respondents had also either had a complaint filed against themselves (16%) or someone in their company (18%)

## Prevalent Theme Emerged

Throughout the five stops and in the online survey there became a prevalent theme:

**Most wanted continued regulation of managers and management companies but, for the structure to be changed, especially as it relates to DORA.**

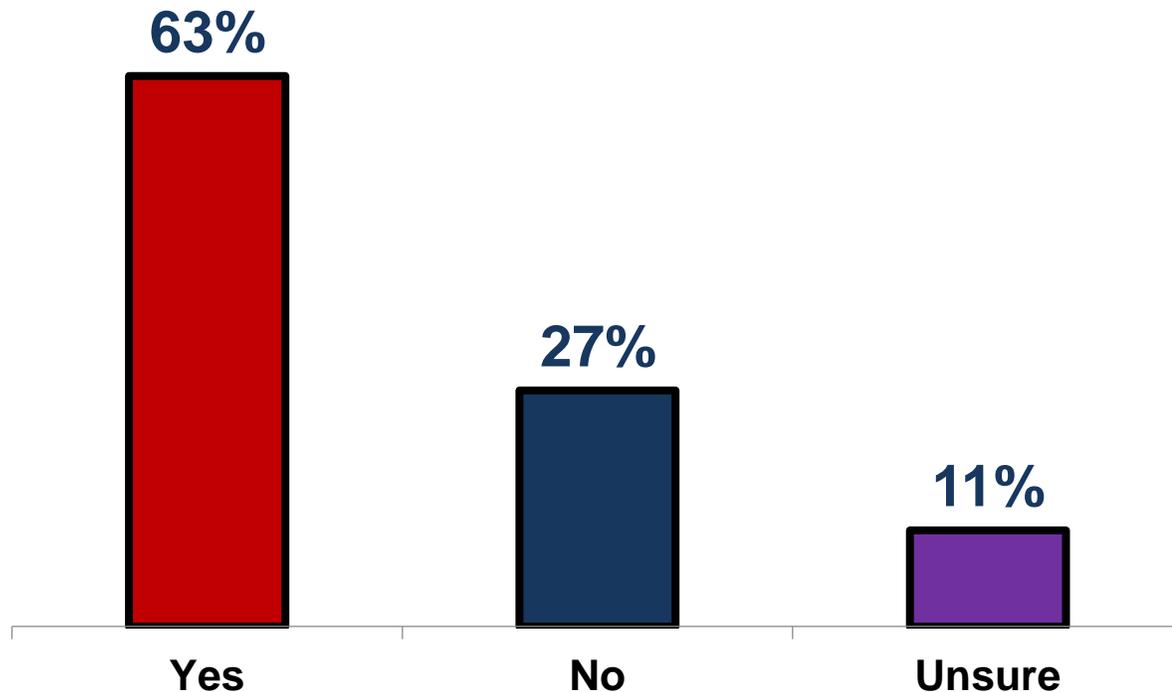
# A CLOSER LOOK INTO THE RESULTS

# Support for continuing licensing of community association managers and management companies

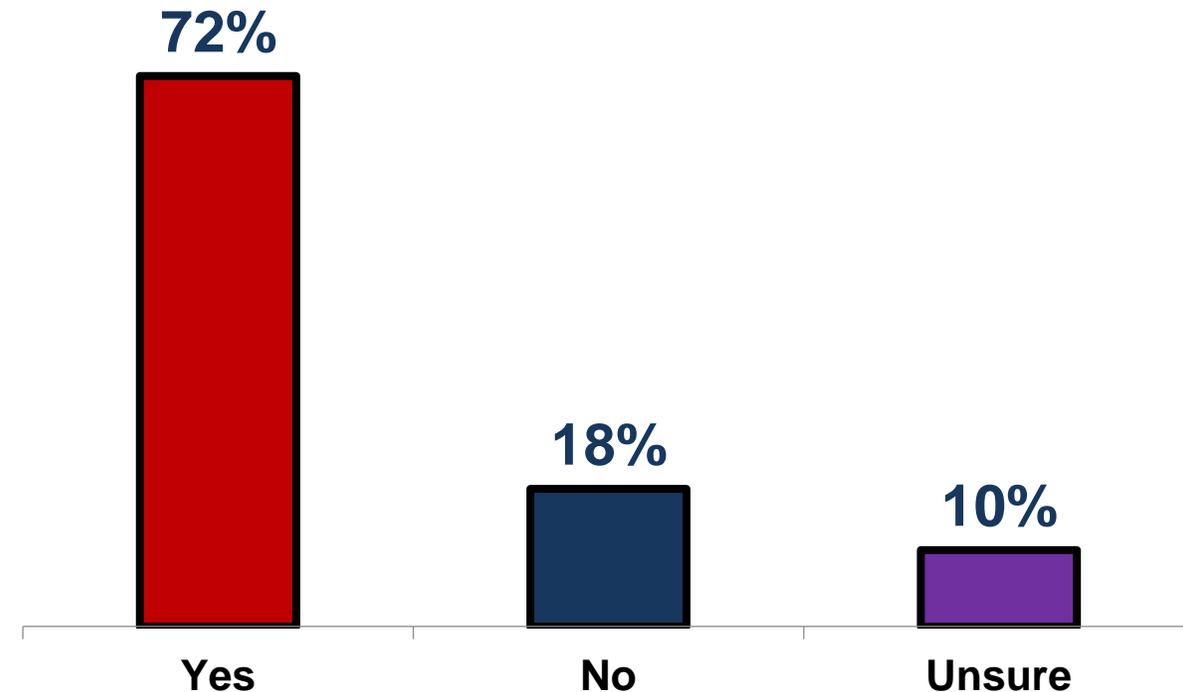
- Throughout the five roadshow meetings, a large majority of attendees supported licensing managers and management companies but there were two areas that caused additional discussion:
  - Front desk clerks and maintenance employees getting caught up in the regulations unnecessarily
    - Most attendees felt that additional clarification was necessary
  - And, whether managers of one property or self-managed HOAs needed to fall within the regulations
    - Most attendees felt that receiving compensation for their services remained the appropriate threshold rather than size of a community or manager's portfolio

## From the online poll we saw the same conclusion

Do you support any licensing structure for **managers**? Any licensing would have to be through DORA.



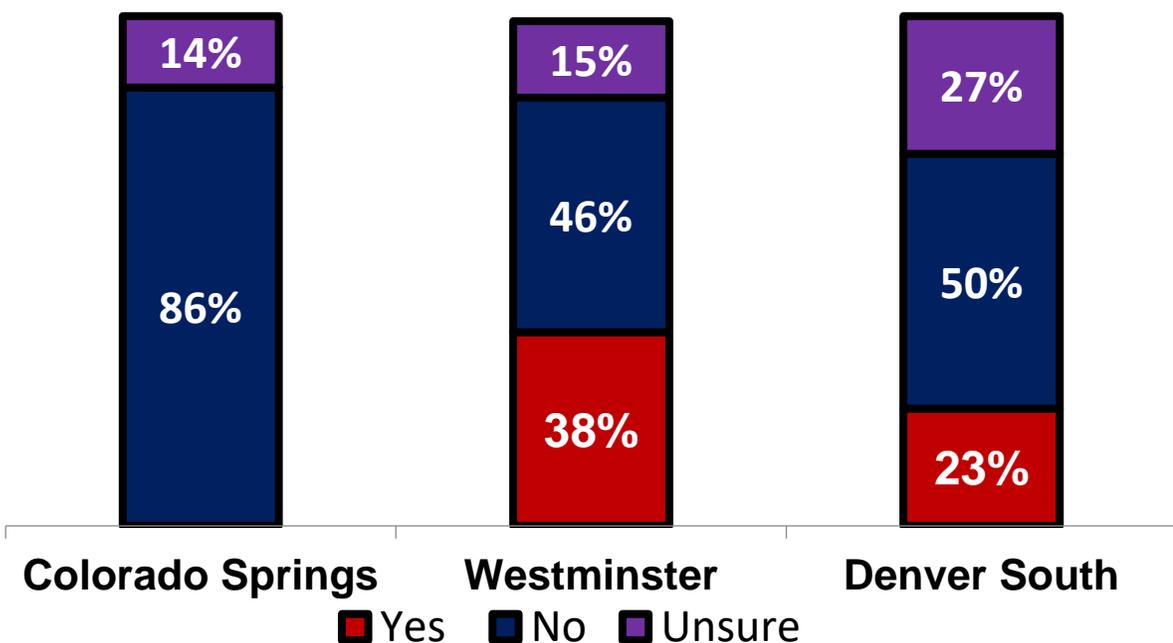
Do you support any licensing structure for **management companies**? Any licensing would have to be through DORA.



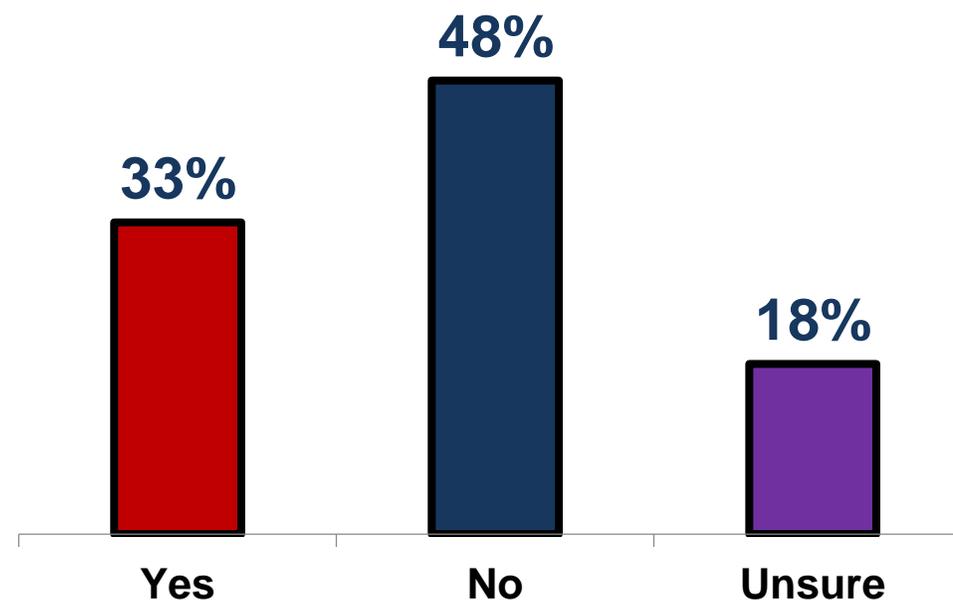
\*percentages may not add to 100 due to rounding

## But, folks were more split about the need to change from the current structure in the online poll than they were at the roadshow meetings

Roadshow - Do you support continuing the existing licensing structure, exactly as is?



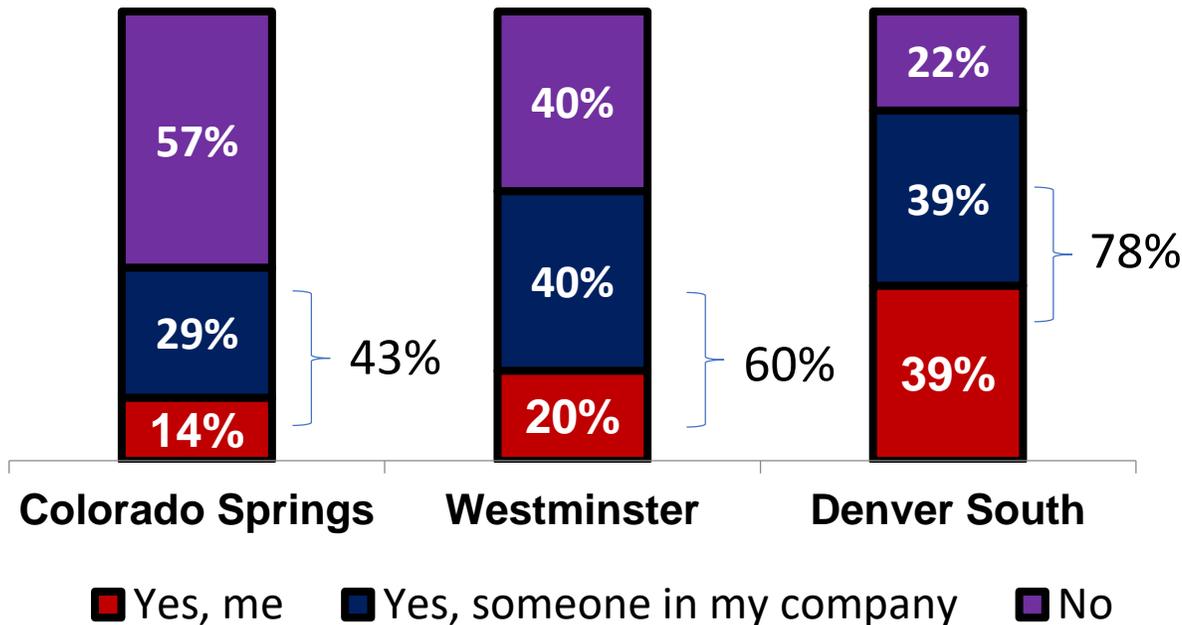
Online Poll - Do you support continuing the existing licensing structure, exactly as is?



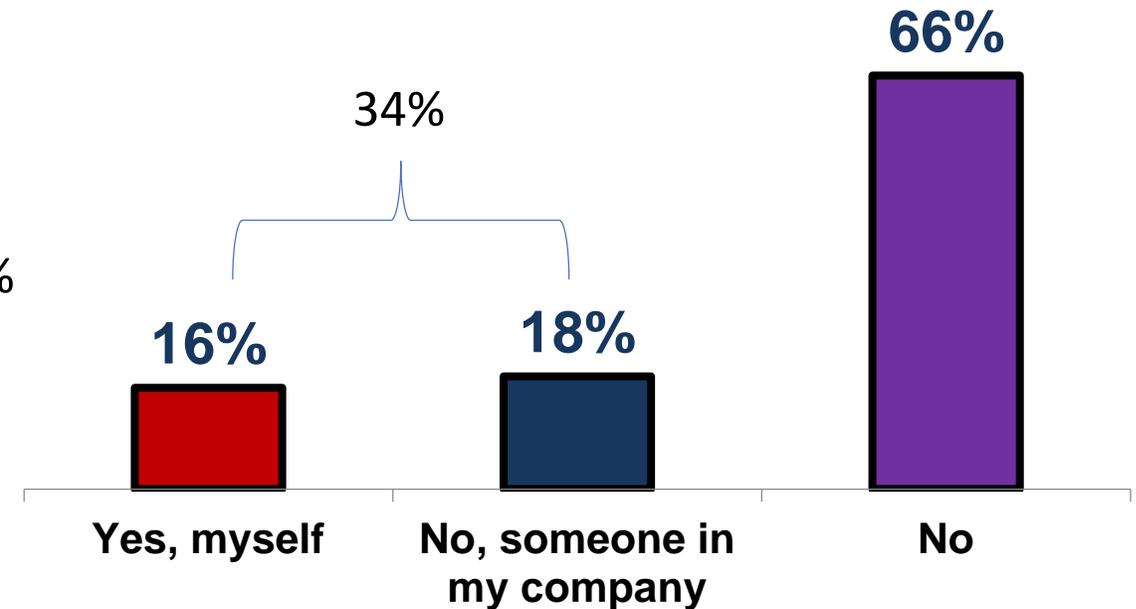
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# Complaint Filed

Roadshow- Have you had a complaint filed against you and/or someone in your company?



Online Poll - Have you had a complaint filed against you and/or someone in your company?

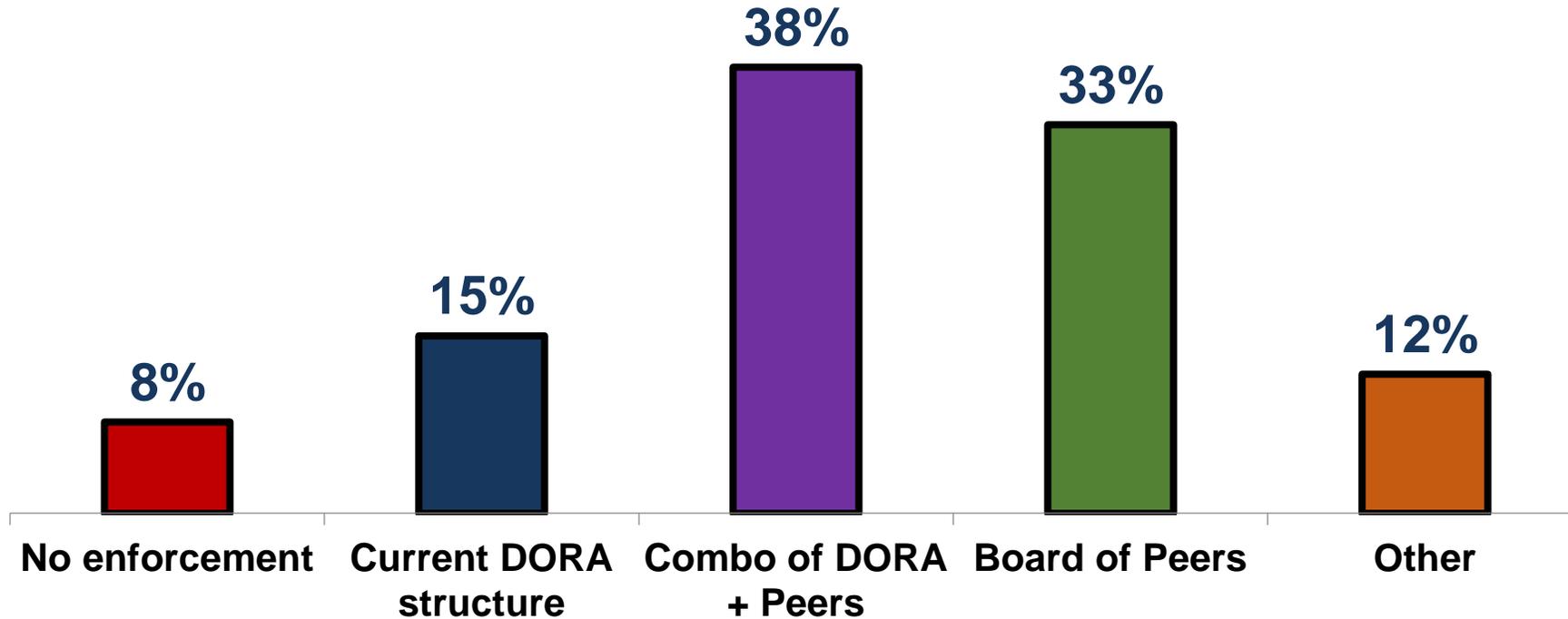


When you cross-tabulate the data on those who had complaints files against

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themselves or someone in their office, you do see a higher instance of those who do

## What type of enforcement mechanism would you support?



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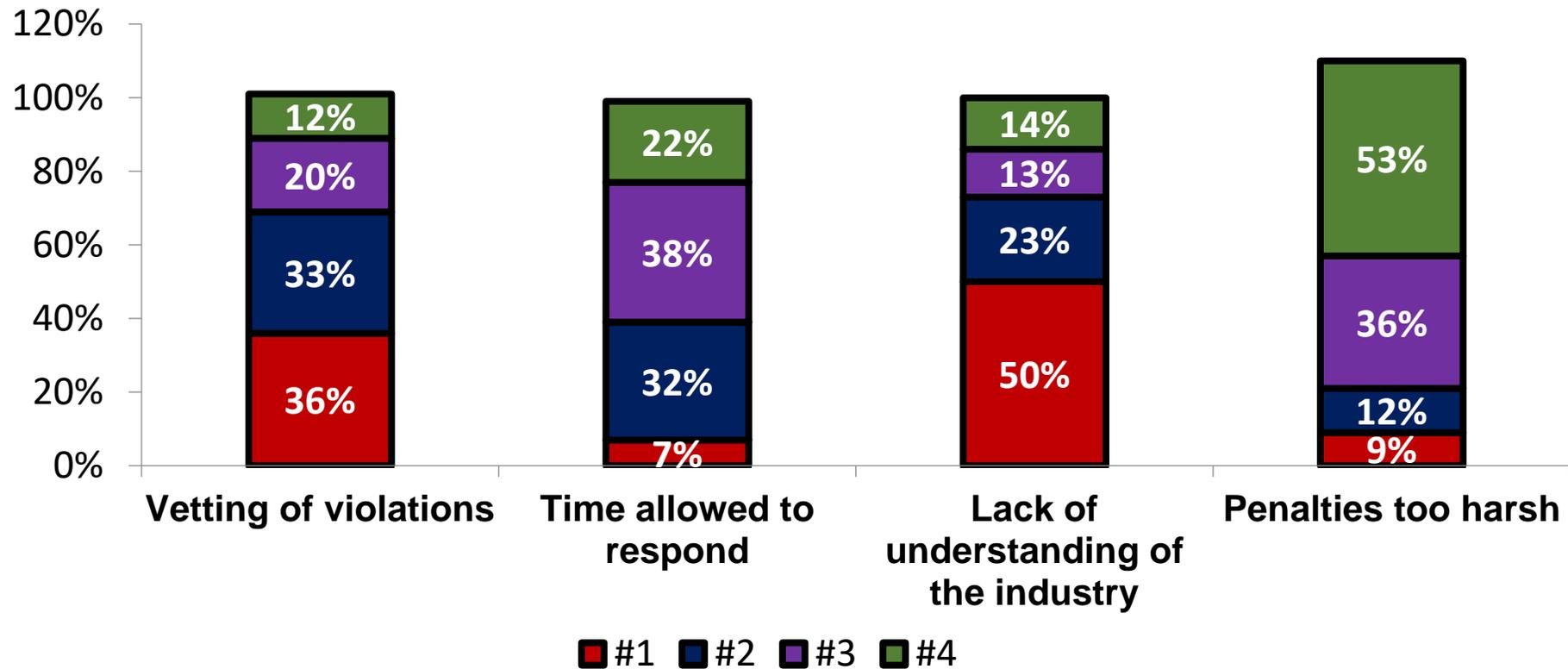
## Violation Process

- During the roadshow meetings, we heard the following concerns:
  - The process allowing general complaints that are treated like violations from the outset
  - Requests for the vetting of complaints before sending to licensees
- Suggestions for improvements included:
  - Require the person who files the complaint to cite what section of the law violated
  - Initiate contact with complainant to better discern licensee versus association/committee role in potential violation

## Violation Process

- While many of these ideas were discussed most were dismissed as impractical. The focus returned to how DORA or a board with DORA and industry peers was needed to vet these complaints before they went to the managers or companies and then deemed frivolous, not within the purview of the manager or let the complaint proceed.
- At several roadshow meetings it was pointed out that defending oneself against frivolous complaints are costing management companies dearly and there is no way to recoup those costs except through increased management company fees.

## DORA Concerns, Rank Answer



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## Lack of understanding of the industry

Nearly all the conversations throughout the roadshow came back to one common thread – **members do not feel that DORA and their staff are knowledgeable enough in the arena of community association management to be solely managing the licensing and violation processes.**

## What was noticeably absent from conversations during the roadshow meetings

- There was not as much conversation around the actual licensing process or education requirements.
- Discussion about the Apprentice Program or Designated Manager

# LEGISLATION TO REGULATE IS COMING

## Since The Roadshow

- CLAC has taken the concerns of its members and conducted research into solutions and spoken with DORA.
- DORA has a standard intake process for all complaints across its 60 regulatory programs.
- DORA admitted they need to increase their industry knowledge in regards to community associations.
- There has not been the political will to create a new board or commission within an industry in 16 years.

## CLAC Position

- 72% of CLAC's membership and a majority of road show participants SUPPORT CONTINUING LICENSING
- **CLAC will work to find solutions through multiple means to member concerns-- legislative, regulatory and through partnerships/education--including:**
  - Renewing the program for 5 years for adequate data to review
  - More clearly delineate who is required to be licensed based on job duties
  - Increase DORA knowledge of the industry
  - Work to improve the complaint process
  - Improve communication between DORA and the field in terms of complaints

# CONTACT INFO

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