

18th DISTRICT COURT OF ARAPAHOE COUNTY COLORADO
“JUSTICE DENIED”©

By James W. Burneson
www.court-house.com

CHAPTER 9. STATE LEGISLATURE PASS SENATE BILL 06-89. STATE SENATE AND STATE HOUSE OF REPRESENTATIVES WITHOUT READING THE BILL.

Persons involved Morgan Carroll Representative, Senator Robert Hagedorn, Committee members of the Senate Judicial Committee Sen. Bob Bacon, Sen. Brandon Shaffer, Sen. Dan Grossman Chairman, Sen. Jim Dyer, Sen. Ken Gordon, Sen. Kiki Traylor, and Sen. Shawn Mitchell
And

The House Government Committee Mary Hodge D, Chairman, Gary Lindstorm D, Vice Chairman, Bill Berens R, Mike Cerbo D, Kathleen Curry D, Richard Decker R, Tom Massey R, Mike May.

These two bills SB 100 and SB 06-89 were sponsored and passed in 2005 and 2006 by the same Democratic Representative Morgan Carroll and Senator Robert Hagedorn. The first SB 100 gave protections to the homeowners in HOA covenanted properties. This bill was adamantly apposed by the Community Association Institute (CAI). The next year the same Democratic legislators Carroll and Hagedorn without any public announcement or notice to past supporters of SB 100 sponsored a new bill written by members of the **CAI club** which removed 90 percent of the protection provided homeowners in SB 100 under the name of SB 06-89 as a “Cleanup Bill.” This should mean a bill that makes a few grammatical corrections and offers an explanation of certain paragraphs within SB 100.

Once the past supporters of SB 100 began reading this new bill alarms went up and the changes in this new bill were not a cleanup but neutered SB 100 to a point it has nothing to offer anyone as protection for homeowners from abuses by Property managers and attorneys who are members of the corrupt Community Association Institute. This organization used to be a quiet Non-Profit Corporation that sold books and pamphlets on how to run an HOA.

Then the unlicensed property managers and lawyers moved in and took this Association over from California to Florida and in-between. They have used this Association known as **CAI** to promote laws to an ignorant and uninformed legislature that removes protection of the public and grants the unlicensed property managers and lawyer’s legal rights to deliberately take advantage of defenseless members of HOAs.

Both Committees of the Senate and House of Representatives were provided copies of detailed paragraph by sections of what was wrong with SB 06-89. This document on the internet was ignored by both Committees whose responsibility is to provide their legislative body’s in-depth analyses of

legislation presented for passage. The following committee members failed to read in any depth this bill because they voted to approve this bill and advised the Senate to pass it without reading the bill and it passed unanimously. **Chairman Sen. Dan Grossman, Sen. Bob Bacon, Sen. Brandon Shaffer, Sen. Jim Dyer, Sen. Ken Gordon, Sen. Kiki Traylor, and Sen. Shawn Mitchell.**

The proof none of these committee members read the bill much less understood it will be proven by a complete break down of the changes Carroll and Hagedorn knew were in the bill and never told their respective committees. These committees blindly relied on these two members of our State Legislature recommendations and the committees never **READ THE BILL**. Both Democrats and Republicans united in total ignorance and voted unanimous to pass a bill in the Senate which was never read by any of them. By not reading this bill it also means the objections by the past supporters of SB 100 were ignored also. The bill moved to the House of Representatives where the Committee of Local Government was supposed to perform an in-depth review of the bill and then give a report to the House on how to vote on this bill.

This committee is composed of the following members:

Chairman Mary Hodge (D), Representative Gary Lindstrom (Vice-Chairman) (D)
Representative Bill Berens (R), Representative Mike Cerbo (D) Representative Kathleen Curry (D), Representative Richard Decker (R),
Representative Tom Massey (R), Representative Mike May (R) Representative Michael Merrifield (D), Representative John Soper (D) Representative
Debbie Strafford (R)

The Chairman Mary Hodge should have abstained from voting since she is involved in rental properties which could be affected by either SB 100 or SB 06-89. During this hearing Morgan Carroll was granted nearly an hour of paid lawyers and land specialists who spoke in favor of Carroll's bill while Mr. Burneson was granted 4 minutes to speak against the bill.

There were out of eleven members of the board only three voted against the bill but on the floor all members voted for the bill and no one read it except one Representative who voted against this bill.

Now for the good part, the staff (John Karakoulakis) of the Governor gave our group a half hour to express our viewpoint of why this bill was bad for the public. They sat immobile and at exactly one half hour someone came in the room and stated time up. So several weeks later Governor Owens proved neither his staff nor he had read this bill and he in total ignorance signed the bill at his staff's recommendations. The entire legislature is batting 99 Percent with only one Representative voting against SB 06-89 because he read the bill.

Now for the proof of how we know this bill was enacted into law without anyone reading what it means and how it will affect the members of HOAs across Colorado.

SB 100 had some very important changes that protected the treatment of homeowners in HOAs. Then as each of these rules was implemented in SB 100 they each became neutralized by the CAI bill passed by Morgan Carroll and Robert Hagedorn and yes our Governor Owens. Now if anyone would have read these bills and understood what the results would be if SB 06-89 were passed it would have died in both committees Senate and Representatives but no one knew what the results would be except the CAI and the two Democrats sponsoring the bill.

1. SB 100 authorized the members of an HOA to have the rights to review the books of their Association. SB 06-89 removed a right to review the books to a multiple number of hoops a member has to jump through and then the request to see the book could be turned down at the **discretion of the board**. This means no one will ever see their books so long as a board can deny a request at their own discretions. The rules in SB 100 that a

member has the rights to review all the books (everything) after 5 day notice were removed. In SB 06-89 Morgan/Hagedorn denied open books to protect the commercial us of the membership names and address. That's not what a member wants to see they have that information in the membership roster. Now a member has to name the files and why are they wanted. If the board doesn't like the reason given to review that file the board can deny the request. Here is a request to see the last 12 years of minutes of board meetings and ACC meetings. Member wants to verify the board approved the legal fees of the CAI Association attorney. Board doesn't like that request so it is denied.

2. SB 100 required the books to be audited once a year with exceptions for very small HOAs. SB 06-89 removed this requirement unless 30 percent of the members vote to require an audit. In the world of HOAs nothing will ever be voted by 30 percent of the members. CAI knows this, property managers know this Association Attorneys know this but this legislature doesn't know this, yet you voted to ignore the public and help the CAI to squeeze more money from the public. Under SB 06-89 "the board can provide any financial statement so long as it is the most recent. Provide "its most recent available financial audit or review (dropped by Morgan Carroll from SB 100 is "for the fiscal year immediately preceding the current annual disclosure." So a CAI property manager or lawyer can provide any audit 2, 3, 4 years old and no one is the wiser. WHO DOES THIS CHANGE HELP THE MEMBERSHIP OF AN HOA OR CAI LAWYERS AND PROPERTY MANAGERS?

3. The CAI lawyers are telling the HOAs their Bylaws must be updated because you the legislature of Colorado made it a new law. These lawyers write their own updates of Bylaws by adopting, policies, procedures and rules and relations of a board concerning investments of reserve funds and procedures for the adoption and amendment of polices procedures and rules and Procedures for addressing disputes arising between the association and unit owners. Average cost for a review and update \$8,000 for something that really isn't needed.

4. The unethical, dishonest lawyers from CAI are telling the HOAs you as legislatures demand these changes which are not listed but are at the discretion of the Association attorney. One of the first rules of change is to order all legal fees charged for collection of assessments must be paid first and all other costs paid before any member's assessment fees are credited. This means a homeowner who got behind in his assessments may never get out of delinquent charges by a CAI attorney. This function becomes a pension plan for the attorney hired by the board.

5. Carroll and Hagedorn deleted from the CCIOA and SB 100 all of the following rules without a stated reasons and thus is not a clean up bill. .
~~in cases of amendments that may be executed by a declarant under section 38-33-3-205 (4) and (5), 38-33-3-208 (3), 38-33-3-209 (6), 38-33-3-210, or 38-33-3-222, by an association under section 38-33-3-107, 38-33-3-206 (4), 38-33-3-208 (2), 38-33-3-212, 38-33-3-213, or 38-33-3-218 (11) and (12), or by the district court for any county that includes all or any portion of a common interest community under subsection (7) of this section, and except as limited by subsection (4) of this section.~~

How could any legislature allow the deleting of SB 100 rules only one year old for SB 06-89 that no one ever read in the state legislature? I'll tell you how it was paid for and the Democrats past it while the Republicans were whining about their loss of control of the legislature.

A friend of mine sent me a copy of the CAI review of the changes made in SB 100 by the CLEAN UP BILL THIS LEGISLATURE PASSED WITHOUT READING. SB 06-89. It goes as follows: Everything listed after the third section "Applicability Primary Source Sponsors "removes protections for the membership in HOAs in SB 100.

CAI-CLA C-Colorado Legislative Action Committee

2006 LEGISLATIVE ITEMS STATUS-FINAL

As of 5/11/06

<p>SB 06-89 STATUTORY REFERENCES and SOURCES OF THE LEGISLATION</p>	<p>SB 89 Re-revised copy Adopted by both Colorado House & Senate (The bill is pending action by the Governor.)</p>
<p>38-33.3-103 Definitions Primary Source: Real Estate Section of the Colorado Bar</p>	<p>-Defines a 'phased community' as one where the declarant retains development rights</p>
<p>38-33.3-106.5 Prohibitions contrary to state public policy Primary Source: CLAC/Sponsors</p>	<p>-Clarifies time limits & size of political signs. -Clarifies display of the US flag and service flags. -Allows an association to regulate the size of political signs if a county or city regulation is less restrictive than SB 100. (Maximum size 36" x 48") -Allows for a unit occupant to park emergency vehicle and defines 'emergency vehicles as Fire, Police, Emergency medical (first responders). -Restricts emergency vehicle interference with guest parking.</p>
<p>38-33.3-117 Applicability Primary Source: Sponsors</p>	<p>-Clarifies applicability of CCIOA & SB 100.</p>
<p>38-33.3-123 Enforcement Primary Source: Real Estate Section of Colorado Bar</p>	<p>-Clarifies attorney's fees language in enforcement lawsuits</p>
<p>38-33.3-124 Alternative Dispute Resolution Encouraged Primary Source: Sen. Williams</p>	<p>-Requires HOA's to adopt a policy addressing disputes between the Association and unit owners by 1/1 /07 and to make that policy available to owners.</p>
<p>38-33.3-209.4 Public Disclosures Required Primary Source: CLAC/Sponsors/ Homebuilders/Law Firm</p>	<p>-Requires disclosures under a part of SB 05-100 on assumption of control from the Declarant. -Clarifies disclosures to be made. -Eases disclosure of the most recently available audit or review.</p>
<p>38-33.3-209.5 Responsible Governance Policies Primary Source: CLAC/Sponsors/Colorado Society of CPA's</p>	<p>-Requires accounting records to be accurate and complete. -Requires a policy addressing disputes between the Association and unit owners as a new or eighth required policy (in addition to the 7 required under SB 100).</p>
<p>38-33.3-217 Amendment of the Declaration Primary Source: CLAC/Sponsors/Real Estate and Titles Section of the Colorado Bar</p>	<p>-Clarifies Declaration amendment process & procedures. -Allows for amendment of those declarations that would otherwise renew (i.e., those with a term of years and renewal clauses) except for certain 'phased' communities. -Allows higher % then 67% in communities where one owner owns more then 67%.</p>

<p align="center">SB 06-89 STATUTORY REFERENCES and SOURCES OF THE LEGISLATION</p>	<p align="center">SB 89 Re-revised copy Adopted by both Colorado House & Senate (The bill is pending action by the Governor. The Governor’s approval is expected.)</p>
	reserved right of the declarant, etc).
38-33.3-303 Executive Board Primary Source: CLAC/Sponsors/Colorado Society of CPA’s	-Applies the ‘Business Judgment rule’ to reserve fund investment decisions of the board.
38-33.3-303 Executive Board Primary Source: CLAC/Colorado Soc. CPA’s	-Sets forth GAAP, tax or cash basis for audits or reviews. -Eliminates SB 100 requirement for a “review” of the financials at least once every two years. -Allows for audits or reviews, in the discretion of the board. -Requires a ‘review” if requested by 1/3 of the properties in the Association. -Sets qualifications for persons performing financial ‘reviews.’
38-33.3-308 Meetings Primary Source: CLAC/Sponsors/Legal firm	-Clarifies meeting notice requirements. -Clarifies requirements that allow owners to address issues at board meetings.
38-33.3-310 Voting and Proxies Primary Source: CLAC/Rep. Carroll	-Makes secret ballots for uncontested Board elections discretionary. -Clarifies procedures. -Exempts delegate elected executive Boards from secret ballot requirement. -Clarifies the teller’s or counting committee for tabulating ballots.
38-33.3-310.5 Executive Board and conflicts of interest Primary Source: CLAC	-Makes Board member conflict of interest provision the same as non-profit corporation act.
38-33.3-317 (2) Association Records Primary Source: Sponsors	-Sets restrictions on use of HOA membership lists (may only be used for ‘unit owner’s purposes’ and may not be used for commercial uses). -Allows cost for copies to be collected in advance. -Allows for record availability in 5 business days or at the next meeting.
38-33.3-223 Sale of Unit – disclosure to buyer Primary Source: Title Co. interests, the Real Estate and Titles Section of the Colorado Bar and Colorado Association of Realtors	-38-33.3-223 is repealed (SB 100’s requirement that a seller disclose certain documents to a buyer).
38-35.7-102 Disclosure - common interest community – requirement for architectural approval Primary Source: Colorado Senate, the Real Estate and Titles Section of the Colorado Bar and Colorado Association of Realtors	-Requires disclosures in Real Estate contracts about CIC’s/HOA’s similar to the disclosure required by state statutes on special districts -Provides for document disclosure upon payment of usual HOA fee -Provides for HOA document disclosure based on the most recent RE Commission approved sales contract.
10-4-110.8 Homeowner Insurance Primary Source: CLAC/Rep Carroll	-Clarifies owner insurance claim requirements including notification & response period for HOA.
Safety clause: Primary Source: Sponsors/CLAC	-Makes bill effective on Governor’s signature.
OTHER AREAS OF CLAC INTEREST &	<p align="center">-----</p>

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PROPONENTS	
HB 1387 Foreclosure procedures County Clerks/Rep. Garcia	-Allows the owner an extended period of up to 125 days in which to 'cure' when in default, allowing the foreclosing party to continue the foreclosure sale for up to nine months, cutting off the owner's right to redeem after foreclosure sale, & clarifying other provisions of law. -House concurred in Senate changes, adopted 5/5/06
Super Lien Some lenders	No legislation ever introduced
SB 185 Sen. Lamborn Efforts to exempt some HOA's from Legislative Requirements OPPOSED BY CAI	Bill was killed (PI'ed) 4/11/06 and provisions similar to SB 185 that were added to SB 89 at the House Committee level were eliminated on the House floor.
Property Manager credentialing CAI NOT YET LEGISLATIVE ISSUE	Manager Credentialing Committee of the RMC is reviewing. The recommendations of that committee are to be reviewed by the CLAC.
Additional education for HOA Board members	CLAC subcommittee formed to explore

** For summary use only, for precise provisions, see the legislation.

IS THIS A CLEAN UP BILL? absolutely not, AND THIS IS PROOF THE CAI ALONG WITH REP. MORGAN CARROLL AND SENATOR HAGENDORN REALLY DID MISLEAD THE ENTIRE STATE LEGISLATURE AND YOU IN TURN MISREPRESENTED ALL YOUR CONSTITUENTS OF YOUR DISTRICTS as well.

THE STATE LEGISLATURE IS RESPONSIBLE TO THE PUBLIC, NOT LAWYERS, PROPERTY MANAGERS AND LOBBYISTS LIKE the law firm APONTE & HOGAN WHO WORK THE STATE LEGISLATURE WITH MONEY AND INFLUENCE.

Included with this chapter is a website on www.court-house.com that listed all the evidence of wrong changes paragraph by paragraph written in red print for all of the legislature's review of SB 06-89. This is the same review you could have read before SB 06-89 was out of committee in both houses. It is the same review the staff of Governor Owens office and the Governor himself. If you want to feel real cheap and someone who has been had by your fellow legislators Carroll and Hagendorn read what was available to all of you before you voted unanimous a bill none of you ever read. Too busy going to CAI lunches and great evening meetings paid for by Aponte & Hogan.

The Democrats are going to get painted with this shame forever as the party who is so brilliant they don't need to review any pending laws if a lobbyist or legislative aide says it OK Carroll/Hagedorn has given their blessing you will pass it. As for the Republicans it is understandable why you no longer control the legislature after 40 years.

So now what will the great legislature do to correct this clean up bill? Pass another clean up bill to clean this one up? No this legislature is going to sponsor a vote to repeal the entire SB 06-89 which should pass unanimous once again. Rep. Carroll and Senator Hagedorn will be shunned by their own party and will not be allowed to sponsor any future bill for their term in office. The Lobbyist who were so successful in preventing the legislature from reading SB 06-89 will not be listen to or allow their advise be followed on any future legislature with their name attached to any bills presented in the future. Other lobbyists will understand immediately the best way to remove their presents from this legislature is to promote such an egregious legislature called "clean up bill" as Morgan/Hagedorn did for the CAI."

Morgan Carroll is running unopposed because she has a war chest 5 times any candidate and that means she doesn't represent any constituents in her district and already working to pass more laws for the likes of CAI working with next year working with the law firm lobbyists Aponte & Hogan.

I guarantee this message will be national for all HOA members and CAI members to know the roll played by this States legislature.

The CAI has a notional policy which can be followed on the Internet at www.ahrc.com/ . Everything we get new in government comes two years later from California. What CAI is doing in California, Florida, and New York and now Colorado must be stopped before all HOAs lose their values by buyers refusing to buy into this mess.

The State legislature of 2006 was sound asleep when the local CAI revised our State laws and Morgan Carroll and Robert Hagedorn sponsored SB 06-89. **Its time to WAKE UP AND UNDERSTAND WHAT YOU DID WHEN YOU PASSED THIS BILL.**

Following this message is attached a complete review of SB 06-89 bill with all the comments of what's wrong typed in read print. Now that the legislature is not in session the members of our State legislature can perform their duties to the public and read the truth about SB 06-89. Jim Burneson has not been paid by anyone to reverse this bill. But the public will learn more about a crooked bill and who allowed it to become law. That's you our State legislators and Governor of Colorado who we are supposed to trust.