

March 31, 2025

Minnesota Committee on Housing Finance and Policy
Minnesota State Capitol
75 Rev Dr Martin Luther King Jr Boulevard
Room G-3 Capitol
Saint Paul, MN 55155

RE: CAI Opposition-HF 1931: Authority Provided to the Attorney General to Enforce Laws Related to Common Interest Communities.

Dear Chairman, Igo and members of the Housing Finance and Policy Committee:

On behalf of Community Associations Institute¹ (CAI)'s Minnesota Legislative Action Committee and approximately [1,556,000 Minnesotans living in 620,100 homes in more than 7,950 community associations](#), thank you for the opportunity to provide comment on HF 1931: Authority Provided to the Attorney General to Enforce Laws Related to Common Interest Communities.

The Minnesota Chapter of the Community Associations Institute (CAI-MN) writes to oppose HF 1931 (Bahner), which would subject private contracts entered into by homeowner associations to oversight and enforcement by the Office of Attorney General.

Minnesota Statutes § 8.31 is a broad consumer protection statute that was never designed to intervene in private contract disputes that do not have a nexus to broader consumer fraud. Further, most Homeowner Associations are governed by Chapter 515B, the Minnesota Common Interest Ownership Act (MCIOA), which contains its own dispute resolution provisions, including the potential for attorney fees to be awarded to the prevailing party.

CAI-MN participated in the recent HOA Working Group and has devoted many hours to discussing disputes that arise between HOA residents, board members, and contractors who do business with them. CAI-MN understands that disputes can be difficult to resolve, which is why we support legislation creating an HOA Ombudsperson (HF 856, Moller). An ombudsperson would have the ability not only to educate HOA residents and board members, but to mediate disputes, and should be a priority for the legislature to pass this session. Creating a neutral mediator with expertise in HOA law is a far

superior approach than granting unrestricted and undirected power to the Attorney General.

Finally, Minn. Stat. 8.31, subd. 3a, the “private attorney general” statute, would allow individuals to bring actions against associations and any other entities providing services to an HOA, under the name of the state. This has the potential to lead to a significant increase in litigation and in insurance costs. The insurance market for HOAs is already in crisis, and increased litigation via Minn. Stat. 8.31 will do nothing to solve this problem.

CAI-MN respectfully requests that the Housing Committee table this bill and focus on other more appropriate means to assist HOAs and their members.

Please feel free to contact us to discuss these comments or any legislation impacting community associations and their residents in Minnesota.

Sincerely,

CAI Minnesota Legislative Action Committee

I am a homeowner in support of HF1931.

This bill will help clarify the role of the attorney general in issues regarding homeowners and HOAs/CICs, which will in turn offer a resource to homeowners that isn't currently available. Currently, the office is available to others, but not to HOA homeowners.

The Minnesota Attorney General's Office generally cannot intervene in disputes between homeowners and their Homeowners Associations (HOAs) because these are considered "private contracts" under the Minnesota Common Interest Ownership Act (MCIOA).

This is one area that needs clarification. The "private contract" is between the municipality and the builder. The purpose of the association is to enforce the CCRs, which makes it essentially function as an agent of the municipality, but this is a different relationship and not a direct contract with the homeowner.

Private Contract Nature:

HOA disputes are typically governed by the association's governing documents (like the declaration, bylaws, and articles of incorporation) and the MCIOA, which is a state law that governs common interest communities.

CCR's are a contract between the municipality and the developer.

Bylaws do not meet the statutory definition of what constitutes a contract.

The articles of incorporation is a contract between (typically) the developer and the state. It is not a contract between the HOA and the homeowner.

Limited Attorney General Authority:

The Attorney General's Office has a limited role in these disputes and generally cannot act as a mediator or enforce the terms of the HOA's governing documents.

The office CAN do mediation, but they don't. The reason for this is that the HOA can hire an attorney and then assess the homeowner for the cost of the attorney.

Focus on Consumer Protection:

The Attorney General's Office focuses on broader consumer protection issues and *may* intervene in cases of fraud, deceptive practices, or other illegal activities by HOAs, but not typically in disputes over fees, rules, or other contractual matters.

Currently, they don't intervene or investigate fraud or deceptive practices with HOAs or management companies.

The MCIOA establishes a claim for relief for those who are adversely affected when a declarant, association, or any other person violates the MCIOA or the association's governing documents (Minn. Stat. § 515B.4-116). This claim is in addition to ***any other rights, remedies, or claims owners may have under other statutes or common law***. The statute under which the association was formed or incorporated may provide additional relief.

When a homeowner files a complaint, this office could refer to another agency, but they currently don't.

Having this resource available to homeowners is an important and necessary part of moving things forward for HOA homeowners.

Becky A. Cole