



Report on Offices of Community Association Ombudsman

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Abstract

This report examines various state and international community association ombudsman programs in Colorado, Delaware, South Carolina, Florida, Illinois, Nevada, Virginia, Ontario (Canada), Queensland, New South Wales (Australia), and South Africa. It provides relevant data from the 2020-2021 reporting period to analyze and compare each program. A brief overview of the histories and funding of each program also is provided, along with data showing the overall impact these programs have on the community association industry. This report reveals the number of complaints received and acted upon is a small percentage of the total number of common interest communities in each state. Summaries of several pieces of failed legislation to form new programs are included. This report will offer greater insight into the process of common interest community dispute resolution programs both domestically and internationally.

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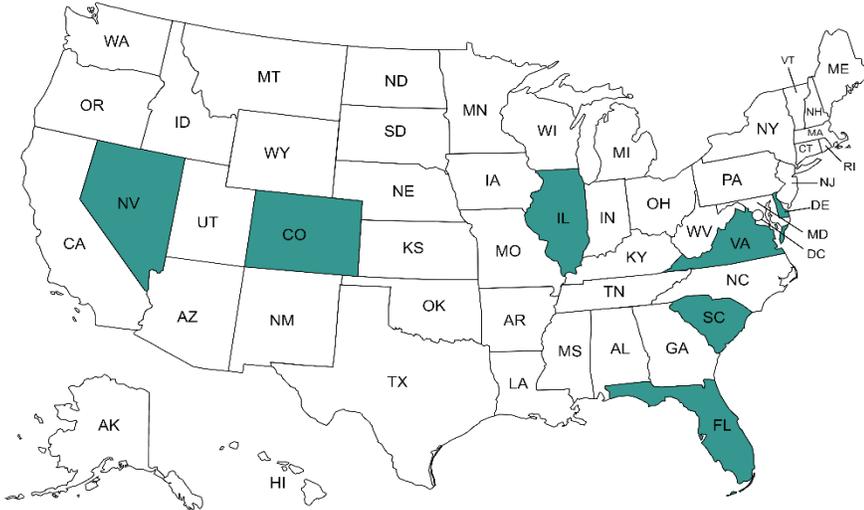
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Map and List of Ombudsman Programs

As of June 2022



States that have a government oversight ombudsman office, community association information centers, or complaint center:

The following seven states have either an office of community association ombudsman or an HOA information center (shaded blue): [Colorado](#), [Delaware](#), [South Carolina](#), [Florida](#), [Illinois](#), [Nevada](#), and [Virginia](#).

Colorado

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Ombudsman
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Suite 185-J
Ft. Lauderdale, FL 33309
954-202-3234
Ombudsman@dbpr.state.fl.us

Nevada

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South Carolina

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South Carolina Department of
Consumer Affairs
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Columbia, SC 29250-5757
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Virginia

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CAI's Position and Concerns

To date, existing ombudsman programs have a mixed record supporting homeowners living in community associations. Such offices face several obstacles in meeting its statutory objectives. Among these obstacles are structural issues, the lack of mutuality in the ombudsman process, added cost/complexity for homeowner dispute resolution, lack of education of boards and homeowners, the lack of need for such programs, and more effective alternatives to expanding state control over locally elected community association boards.

Disputes between a homeowner and an elected community association board are private. State agencies typically do not have authority to intervene in private disputes. Many ombudsman offices can offer little recourse to parties complaining about their community association and merely become the repository of complaints from disgruntled homeowners who disagree with their communities' established rules, procedures, neighbors, or boards.

Most often, ombudsman offices serve to create a process for homeowners to file complaints against the elected board but do not provide the board the ability to file a complaint against a homeowner. Often, many association complaints are brought by uncooperative homeowners who choose to ignore community rules and policies. Their actions have a negative impact on the community.

Elected boards should have the ability to use an ombudsman program to enforce community rules. Data gathered by such programs are unfairly biased against community associations as they are empowered to represent only one side in any dispute.

Establishing a state ombudsman office also adds complexity to community dispute resolution. Homeowners associations are democratically elected governing bodies. The adoption of a state ombudsman program limits local governing bodies and typically adds expense to the process. CAI believes the focus should be on empowering individuals to solve problems within communities. Mandating a state-commissioned office to investigate complaints restricts the administrative and democratic process of community associations over issues easily resolved through an association's governing documents. This type of outsourcing is not an efficient use of resources.

Homeownership in a community association requires an understanding of a homeowner's rights and responsibilities. Residents in many community associations enjoy a range of amenities, common areas, and rules that serve to protect and enhance the value of their property. However, these benefits come

with responsibilities such as payment of mandatory assessments, adherence to rules, and the ability of the association to enforce those rules. In most cases, disputes between homeowners and associations arise from a lack of understanding of these rules and responsibilities. Adopting a policy of mandatory disclosure prior to purchase helps ensure those buying into a community association understand the requirements and responsibilities of community association living prior to moving in.

Finally, the notion that association problems are widespread is not supported by national surveys. CAI conducted national surveys over the course of several years on homeowner satisfaction in community associations.¹ The findings have been remarkably consistent, with close to 9 in 10 residents expressing positive views of their association in 2005, 2007, 2009, 2012, and 2022. Residents are consistently satisfied with the actions of their elected boards, with 87 percent of residents surveyed reporting the board absolutely or “for the most part” serves the best interest of their community².

CAI does not dismiss the fact that homeowners in community associations could benefit from mechanisms to assist in dispute resolution. CAI believes there are more appropriate alternatives to empower residents and associations rather than expanding state government powers. CAI believes these mechanisms provide greater transparency and clear processes to assist with dispute resolution in community associations:

- CAI supports requirements for community association boards to adopt an internal dispute resolution process. Having a clear process helps manage the expectations of the board and residents in managing and working through problems³;
- CAI also supports the ability of the community association to adopt bylaws or amendments to governing documents to mandate alternative dispute resolution (ADR) prior to litigation. ADR allows for a neutral entity to assist the parties in finding a resolution outside of court and often at a lower cost. In fact, many jurisdictions offer affordable community resolution services⁴;
- CAI also supports mandated disclosures to purchasers in community association prior to closing. CAI believes all buyers in a community association should know and understand their rights and obligations prior to moving into a community association. Finally, in many states, the laws that govern community associations are outdated and do not adequately address the rights and responsibilities of homeowners, boards, developers, and other key parties in community associations⁵;

¹[Community Associations Remain Preferred Places to Call Home, 2022 Homeowner Satisfaction Survey.](#)

² Ibid

³ [Alternative Dispute Resolution \(caionline.org\)](#)

⁴ Ibid

⁵ [Disclosure Before Sales in Community Associations \(caionline.org\)](#)

- CAI supports the adoption of the Uniform Common Interest Ownership Act (UCIOA) for states currently operating under older legal frameworks for community associations⁶.

In light of our concerns and the availability of less intrusive remedies for dispute resolution in community associations, CAI is inclined not to support ombudsman offices at the state level.

Existing Programs

Currently, Colorado, Delaware, Florida, Illinois, Nevada, South Carolina, and Virginia have some version of an ombudsman program. The following section contains the duties of each state’s office.

Comparison of Function and Duties⁷

| <i>Function or Duty</i> | <i>Colorado</i> | <i>Delaware⁸</i> | <i>Florida</i> | <i>Illinois⁹</i> | <i>Nevada</i> | <i>South Carolina</i> | <i>Virginia</i> |
|---|-----------------|-----------------------------|----------------|-----------------------------|---------------|-----------------------|-----------------|
| <i>Accepts complaints</i> | Yes | Limited | Yes | Limited | Yes | Yes | Limited |
| <i>Investigates/verifies complaints</i> | No | Yes | Limited | No | Yes | Limited | Yes |
| <i>Resolves complaints</i> | No | Limited | Yes | Limited | Yes | No | Limited |
| <i>In-house mediation</i> | No | Yes | Yes | No | Yes | No | No |
| <i>Mandates mediation</i> | No | No | No | No | Limited | No | No |
| <i>ADR referrals</i> | Yes | Yes | Yes | No | Yes | No | Yes |
| <i>Administrative hearing</i> | No | No | Yes | No | Yes | No | Yes |
| <i>Monitor election procedures disputes</i> | No | Yes | Yes | No | Yes | No | Yes |
| <i>Reports alleged election misconduct</i> | Yes | Yes | Yes | No | Yes | Yes | No |
| <i>Appoints election monitors</i> | No | Yes | Yes | No | Yes | No | No |
| <i>Per unit fee</i> | No | No | Yes | No | Yes | No | No |

⁶ [Support for the Uniform Acts \(caionline.org\)](http://www.caionline.org)

⁷ [Colorado Division of Real Estate, 2013 Study of Comparable HOA Information and Resource Centers](#)

⁸ [Delaware Common Interest Community Ombudsman Act, January 2015](#)

⁹ [Illinois Condominium and Common Interest Community Ombudsperson Act, December 2014](#)

| | | | | | | | |
|---|----|----|-----|----|-----|----|-----|
| <i>Oversight over declarant boards</i> | No | No | Yes | No | Yes | No | Yes |
| <i>Protect ... from threats, defamation</i> | No | No | No | No | Yes | No | No |

Existing Program Data and Statistics

Annual Reporting Period Key Statistics

| | <i>Colorado (2021 reporting period)¹⁰</i> | <i>Delaware (2022 reporting period)</i> | <i>Florida (2021-2022 reporting period)¹¹</i> | <i>Illinois (2021-2022 Reporting period)¹²</i> | <i>Nevada (July-October 2022)¹³</i> | <i>South Carolina (2022 calendar year data)¹⁴</i> | <i>Virginia (2020-2021 reporting period)¹⁵</i> |
|--|--|---|--|---|--|--|---|
| <i>Complaints received</i> | 695 | 50 | 1,598 | 313 | 28 | 276 | 214 |
| <i>Largest category of complaints</i> | Communication with homeowners/board (137 complaints) | Records | Records | Governance issues (approx. 84 complaints) | X | Failure to adhere to/enforce covenant/bylaw | Failure to respond to resident complaint |
| <i>Complaints resolved with ombudsman intervention</i> | N/A | 33 | X | N/A | 18 | 194 | Not available |

¹⁰ [2021 Annual Report from the Colorado HOA Information and Resource Center](#)

¹¹ [Florida Department of Business and Professional Regulation | Division of Florida Condominiums, Timeshares, and Mobile Homes 2021-2022 Annual Report](#)

¹² [2022 Ombudsperson Report to the GA](#)

¹³ [Ombudsman-Report_October-2022.pdf \(nv.gov\)](#)

¹⁴ [Homeowners Association Complaint Reports | Consumer Affairs \(sc.gov\)](#) and [2023 HOA Complaint Report](#)

¹⁵ [Office of the Common Interest Community Ombudsman Annual Report 2020-2021](#)

| | | | | | | | |
|--|-----------|-------------|-----------|-----------|---------|-----------|-----------|
| <i>Number of associations (2020 estimate)</i> | 10,410 | 1,000-2,000 | 48,940 | 18,830 | 3,460 | 7,060 | 8,810 |
| <i>Number of association residents (2020 estimate)</i> | 2,345,000 | 101,000 | 9,653,000 | 3,799,000 | 518,000 | 1,361,000 | 1,999,000 |
| <i>Complaints as a percentage of association residents</i> | 0.03% | 0.05% | 0.0166% | 0.0082% | .0054% | 0.02% | 0.011% |

Office Comparisons

| | <i>Colorado</i> | <i>Delaware</i> | <i>Florida¹⁶</i> | <i>Illinois¹⁷</i> | <i>Nevada</i> | <i>South Carolina¹⁸</i> | <i>Virginia¹⁹</i> |
|------------------------|------------------|--|---|--|--|---|--|
| <i>Budget</i> | Initial-\$205,82 | Initial-\$89,300 Capacity-\$242,100 | \$7,830,522 reported for FY20-21 for the Division of Florida Condominiums, Timeshares, and Mobile Homes | \$6,627,500 for FY21 for Division of Real Estate | \$8,685,291 in 2008, \$5,466,100 in 2020 | \$3,764,539 for entire Department of Consumer Affairs | \$1,097,966 revenue, \$1,554,962 in expenditures 2020-2022 |
| <i>Dedicated staff</i> | 2 | 2 currently, legislative | 111 (Division-wide) | Not available | 22 staff, 7 commissioners | Not available | 7 staff, 12 board members |

¹⁶ [Exhibit D-3A: Expenditures by Issue and Appropriation Category](#)

¹⁷ [Enacted Appropriations by Line Item FY20 and FY21 \(xls\)](#)

¹⁸ [SC.GOV Spending Transparency - Annual Category Search Result](#)

¹⁹ [DPOR Biennial Report 20-22 \(virginiainteractive.org\)](#)

| | | | | | | | |
|--|--|-------------------|--|--|--|--|--|
| | | capacity for 5 | | | | | |
|--|--|-------------------|--|--|--|--|--|

Colorado

The HOA Information Office does not have regulatory or investigative power. The office tracks inquiries and complaints. The office also acts as a clearinghouse for information concerning the basic rights and duties of homeowners, declarants, and homeowners associations under the Colorado Common Interest Ownership Act (CCIOA). Complaints are logged and issues tracked and reported in an annual report. The office may contact complainants to discuss their rights and responsibilities, but it will not contact a homeowners associations or management company.²⁰ The operating expenses of the office are paid from the HOA Information and Resource Center Cash Fund. The HOA Information and Resource Center is statutorily directed to collect information by registrations and from inquiries and complaints filed by homeowners. The office provides assistance and information to homeowners, homeowners associations boards, declarants, and other interested parties concerning their rights and responsibilities pursuant to the CCIOA.

Delaware

The Delaware General Assembly created the Office of the Ombudsperson for the Common Interest Community in the Department of Justice in August 2014. The office assists residents of common interest communities to understand their rights and responsibilities and resolve disputes without using the judicial system. Currently, the office is funded and staffed primarily through the office of the attorney general. The office is housed within the Attorney General’s Fraud and Consumer Protection Division.

Florida

The Florida Office of Condominium Ombudsman’s mission is to improve the quality of life for Florida condominium owners through prompt, professional, and courteous service as a neutral, informative, and accessible resource.²¹ The office is limited to matters involving condominium associations. The office is granted more powers and duties than the information center in Colorado including issuing reports and recommendations for legislation and procedures; serving as a liaison between the state, associations, boards, and unit owners; helping parties understand their rights and responsibilities; coordinating reference material; and monitoring and reviewing disputes. The ombudsman is appointed by the governor and must be an attorney.

²⁰ [HOA Information Office and Resource Center](#)

²¹ [Florida Office of the Condominium Ombudsman](#)

Illinois

The mission of the CCIC Ombudsperson is to provide information to unit owners, condominium, and common interest community associations and their boards so all may better understand their rights and obligations under the Illinois Condominium Property Act and the Common Interest Community Association Act.

Nevada

The Nevada Office of the Ombudsman for Owners in Common-Interest Communities was created to assist homeowners and board members to better understand their rights and obligations under the law and their governing documents and compile an informational database about registered associations.

The Commission for Common-Interest Communities does not have jurisdiction to investigate the interpretation, application and/or enforcement of governing document disputes nor does the commission and its administrative law judges (ALJs) have jurisdiction to hear or decide governing document disputes.²² The ombudsman is appointed by the real estate division administrator and is statutorily required to be qualified by training and experience to perform the duties and functions of the office.²³

South Carolina

Homeowners associations complaints are handled through the South Carolina Department of Consumer Affairs. Residents may submit complaint forms either online or through the mail. These forms are standard across all areas covered by the department, however a questionnaire specific to homeowners associations complaints also must be filled out. Calls can additionally be placed to the department's main consumer services number. Additionally, the department is required to annually publish a report on homeowners associations complaints received, and the department is expressly forbidden from generating guidance or adjudicating disputes²⁴.

Virginia

The Virginia General Assembly established the Office of Common Interest Community Ombudsman within the Department of Professional and Occupational Regulation in 2008. Among other things, the ombudsman is responsible for helping common interest association members understand their rights and the processes available under the declaration and bylaws of the community association, maintain data on inquiries and complaints received, and provide an assessment of proposed and existing laws.

²² [Attorney General's Opinion Regarding the Commission's Jurisdiction Over Common-Interest Communities' & Condominium Hotels' Governing Documents, 2008.](#)

²³ [Nevada Revised Statutes Chapter 116](#)

²⁴ Ibid

The Common Interest Community Ombudsman Regulations—which required associations to create an internal complaint procedure and guide the work of the office—became effective July 1, 2012. As a result, the focus of the office transitioned from reviewing complaints to determining outcomes²⁵. The office is funded by the Common Interest Community Management Information Fund.

Unsuccessful Legislative Attempts

Several states have attempted to create a community association ombudsman office within the last few years.

California

Since 2005, at least three measures have been introduced to create an ombudsman office in California. An assembly bill was introduced in 2008 that sought to create a new common interest development bureau/ombudsman pilot program. The bill’s language was similar to the 2005-06 bills and allowed the state to levy an annual per-unit fee ranging from \$10 to \$20, for an estimated total of more than \$107 million over five years.²⁶

Connecticut

The Connecticut General Assembly has a history of considering an ombudsman’s office; a bill has been introduced every session between 2008-11.

Florida

While Florida does have a condominium ombudsman program, in 2022 SB 1296/HB 1033, Homeowners’ Association Ombudsman, was introduced in the state legislature²⁷. This bill would have created an additional, homeowners association-focused ombudsman program with little input from appropriate

²⁵ [Office of the Common Interest Community Ombudsman, Report to the House Committee on General Laws and Technology Housing Commission, Annual Report 2011-2012.](#)

²⁶ [CAI 2008 Legislative Yearbook.](#)

²⁷ [SB 1296 \(2022\) - Homeowners’ Association Ombudsman | Florida House of Representatives \(myfloridahouse.gov\)](#)

stakeholders. This bill would have added additional burdensome layers to homeowners association administration by mandating the creation of an appeals committee. At the same time, the bill would have stretched the already overextended condo arbitration program by adding homeowners associations into the mix. While the ombudsman's office would be separate, it would have utilized existing mechanisms to address disputes. The program would have been funded with general revenue money.

International Programs

South Africa

In South Africa, complaints are handled at a national level through the Community Schemes Ombud Service (CSOS), an agency under the Department of Human Settlements²⁸. Per its mission statement, the CSOS is responsible for providing services including an alternative dispute resolution, promoting community governance, and offering training, information and education.²⁹

Ontario

Condominium-related issues in Ontario, Canada, fall under the jurisdiction of Condominium Management Regulatory Authority of Ontario (CMRAO). The CMRAO was first established in 2015 and began operations in 2017³⁰. Responsibilities of the authority include manager licensure, investigating homeowner complaints, providing information to homeowners and boards, and resolving disputes³¹. The CMRAO has the authority to issue fines for violations, and resolve disputes between boards, managers, and homeowners³². According to its website, the CMRAO explicitly prefers aggrieved parties first attempt internal dispute resolution processes, and that complaints to the CMRAO be used only as a last resort³³.

Queensland

The Office of the Commissioner for Body Corporate and Community Management handles the functions of a common interest community ombudsman in Queensland, Australia. In addition to receiving

²⁸ [Community Schemes Ombud Service \(CSOS\) - Overview \(nationalgovernment.co.za\)](#) and [HOA disputes: avenues of resolution for the aggrieved resident - Abrahams & Gross Attorneys \(abgross.co.za\)](#)

²⁹ [Mandate – CSOS](#)

³⁰ [Condominium Management Services Act, 2015, S.O. 2015, c. 28, Sched. 2 \(ontario.ca\)](#) and [History – Home – CMRAO](#)

³¹ Ibid

³² [Condominium Management Services Act, 2015, S.O. 2015, c. 28, Sched. 2 \(ontario.ca\)](#)

³³ [Complaints Process – Home – CMRAO](#)

complaints from homeowners, the office also adjudicates disputes between unit owners and board members.

New South Wales

New South Wales maintains a Department of Customer Service, which contains an Office of Fair Trading, which is responsible for issues related to common interest community registration and governance. Annual registration requirements began in July 2022, with the goal of creating a central database of the roughly 84,000 common interest communities in New South Wales³⁴. The office maintains its own mediation service, which is only available once internal dispute resolution processes have been exhausted³⁵.

Conclusion

While certain domestic stakeholders may view the common interest community ombudsman favorably, the data demonstrates that overall, these programs have a negligible impact on a small fraction of communities across the country.

It is clear from the data that much of the complaints received by common interest community ombudsman offices revolve around routine procedures, suggesting that a focus on improving existing lines of communication between residents and boards may be a more effective alternative than formal administrative action by a state entity. Additionally, the lack of formal mechanisms for association boards to file complaints paints an unfair picture of the association as the cause of problems.

Finally, alternative dispute resolution mechanisms are often available, and CAI feels they should be utilized alongside a formal dispute resolution process outlined in an association's governing documents. While there are limited cases where state action is warranted, most complaints can be handled through alternative means.

³⁴ [Strata annual reporting | NSW Government](#)

³⁵ [Strata disputes | NSW Government](#)