

MN Senate Housing and Homelessness Prevention Committee / SF 1750
Verbal and Written Testimony / March 13th, 2025
Cindy Haase / Homeowner and Current Board Member
148 Units / Vermilion Carriage Homes (VCH), Eagan

Homeowner in VCH HOA since 1997 / Board Member over 10 years
Collections Assistant / Mortgage and Personal Collateral
District Loss Prevention / Kohls Department Stores
Training Development, Risk Management, Claims, and Insurance Placement / Best Buy
Mortgage Underwriting / Wells Fargo
Fraud and Money Laundering / Wells Fargo and US Bank
HOA Property Management
Previously licensed as a MN Real Estate Agent and Mortgage Originator
Previously Series 6 and 63 licensed

I want to affirm the testimony of Atty Phaedra Howard at the prior bill introduction hearing. I attended, watched, and rewatched working committee testimony across the last few months. The working committee was extremely slanted with anti-HOA appointed members, most having no knowledge of how an HOA functions, and/or no experience on an HOA Board. If there were a few members that claimed prior experience on an HOA Board, they came with a stronger commitment to their employment housing organization and clearly a misperception about how an HOA functions. In addition, when the CAI representation and attorneys with property management experience attempted to correct mis-statements, their testimony was quickly redirected with a word soup about who we were here to protect. Thank you for welcoming the end users, AKA Board Members, during these hearings.

THE \$56 STORY IS UNVERIFIED:

I listened to the Fraud Prevention and State Agency Oversight Policy Hearings on Monday, 3/10/2025. A Rep made a passionate plea to stop using the Fraud amount of \$610M+ noted on the Fraud/Waste/Abuse spreadsheet. He expressed that the numbers hadn't been proven and that they were only being used to further a political agenda. I recall the mention by the presenter that the numbers were conservative and often shy of the expected end game. I recall the Attorney General being cited as a source.

The reason I find this relevant is because in these HOA/CIC hearings the amount of \$56 is tossed around as the amount that "initiated" a foreclosure. I am going to make the same passionate plea that Pinto did and ask that everyone, including the authors of the bill stop using this amount and this story. The \$56 story has been EXTREMELY misrepresented. Ms. G of Otsego states it was during COVID time, she went out of the country and didn't return until December 30th. She mentions that she paid \$2547.

No attorney or property management company was called to verify these details during the working committee, nor were the documents Ms. G offered reviewed at the time of the audio taping.

See taped audio of the Maple Grove listening session, at approx. 53:00 minutes.

(<https://www.lcc.mn.gov/cichoa/meetings.html> / Thursday, December 5, 2024, 5:30PM)

It seems most reasonable that the \$2547 was the initial amount due to stop the foreclosure process, that HOA/Management Co/Attorney had been unable to reach the homeowner for an extended period, the homeowner may have short paid, and to avoid discrimination the standard of payment in full to stop the process was applied. Before this story is repeatedly used as a basis for such "burdensome" legislation it should be verified.

NO SUPPORTING STATISTICS TO WARRANT LEGISLATION:

I want to note that there are no statistics to support the need for these legislative changes. The authors have repeated a statistic of 14% which comes from a survey that seemingly cited that 86% of HOA residences are happy, and they suggest their mission is to serve the 14%. How much of the 14% includes no reply or neutral? What was the main purpose of the survey? What are the concerns of the 14%? Is this survey relevant to this proposed legislation?

It seems a more valid statistic would be the information provided in the working committee.

What I extracted from the working committee testimony so far, is the following:

Member Cole states AG office received 30,000 complaints in last 2 yrs. (Assuming 2022/2023?)

Of 30,000 complaints, how many are *same* complaint? How many are same HOA?

How many are same property management company/vendor/construction company?

CAI presentation states there are 1,556,000 homeowners that reside in HOA's.

30,000/1,556,000 is less than 2% ... 15,000 per year / 1,556,000 is less than 1%

If less than 1%, are these recommendations necessary, or only additional burden?

This lack of supporting statistics continues to demonstrate the need for the ombudsperson research *PRIOR TO* additional cumbersome legislation.

Not Recommended and Why (6):

1. "Meet and Confer"

a. UNINTENDED CONSEQUENCES –

- i. Significantly longer board meetings, agendas are already overpacked
- ii. Less homeowners interested in serving as a Board Member
- iii. More exhausted Property Managers resulting in turnover and less expertise
- iv. More Attorney expenses paid by the complying homeowners
Due to volume attorneys will be overwhelmed and resolution will be delayed
- v. Results in Board Members taking on a collections agent role, is this legal?
- vi. HOA is not a lender, nor should they be expected to act or operate as one. Essentially compliant homeowners will carry the debt of non-compliant. There should be laws that prohibit this.
- vii. Danger to Board Members, during meetings about legal action, foreclosures, or enforcement actions. This is the reason for a 3rd party professional involvement.
- viii. More disruptive behavior which Board has no escape from in new legislation
- ix. "Consider financial situation" simply put introduces more opportunity for discrimination which the committee claims intent is to reduce. If Board must "consider" then does one person's story qualify better than another, who decides which is a better story? Who decides whose payment plan is better? In this scenario feelings, opinions, biases, are all going to be inserted. Seems the less discriminatory foreclosure practice is to follow policy in place that is driven only by number of days delinquent and continued failure to pay. Seems Fair, Consistent, Transparent, Well Defined and Not Discriminatory.
- x. More opportunities for discrimination claims, whose version will a judge believe?
You want the Board to hear everyone's story and consider their personal financial situation.
Who will track decisions, stories, resolutions to ensure no discrimination? Who will track when there is Board or Property Manager turnover to ensure no historical discrimination over time?

2. Restricting Foreclosure

a. UNINTENDED CONSEQUENCES –

- i. Question – will delaying ability to file a lien put association behind a pile of other lien holders and reduce the recoverable amount to the HOA?
- ii. Impact to eligibility for HIA loans, delinquency amount and trend is risk consideration for lender during underwriting process
- iii. Impact to eligibility for Fannie/Freddie loans, delinquency is risk consideration, can get "delisted" when reserves are underfunded, which they will be with less available funds
- iv. Impact to FHA condo cert (HUD) for association, delinquency is risk consideration
HUD noted "evidence that no more than 15 percent of the total Units are Units in Arrears (does not include late fees or other administrative expenses);"
In Arrears is defined as "(more than 60 days past due)".

(<https://www.hud.gov/sites/dfiles/OCHCO/documents/40001-hsgh-update16.pdf>)

Section 3.f. Units in Arrears	
Refer to Handbook 4000.1, section II.C., for the Units in Arrears requirements (more than 60 Days past due).	
3.f.1.	• Enter the number of Units in Arrears.
3.f.2.	• Enter the percent of Units in Arrears (Units in Arrears/total Units).
3.f.3	• Check "Yes" or "No" to confirm if the percentage of Units in Arrears complies with the FHA requirement.

(<https://www.hud.gov/sites/dfiles/OCHCO/documents/9992Instructions.pdf>)

- v. Compliant homeowners will carry the debt of non-compliant
- vi. Will increase homeowner dues, based on non-compliant homeowner activity.
- b. An attorney in a prior meeting suggested more action to delay foreclosure to protect the homeowner, what about the "other" homeowners that are *paycheck to paycheck* and must cover the costs until the funds are recovered. "The Other 99%" should not be expected to carry another's debt. Where are the rights of the Compliant Homeowners?
- c. STATISTICS: "The Older the Debt, the Less Likely You'll Collect ... The sooner you send past-due accounts to collections, the higher your return. Alternatively, the longer you wait, the less likely the debt will be collected. In fact, some studies indicate that your chance of collecting within the first 60 days is 90%. Wait till over 90 days, and your chance drops to 50%. Over 180 days, and you have a 20% chance of collecting." (CBSI, Credit Bureau Services of Iowa, Inc., 2020 Article, Why Age of Accounts Matters) Lengthening the allowed delinquency timeline is proven to result in less success of recovery, because the debt compounds and **as the debt grows the options lessen**, such as 2nd mtg, line of credit, borrowing from 401K, credit card advances, familial or community support. Once dues are delinquent about 3 months total, and any portion hits the 90-day mark, it should immediately be sent for a demand letter by an attorney. At this point, the homeowner has already received 3 statements of balance/delinquency from the property management company and most often has not reached out to property management company or the Board. In addition, once the attorney is involved it can be another 6 months before a sheriff's sale. The homeowner has over 6 months, usually closer to 9 months, to remedy and most would be surprised how neither the Board, Property Manager, nor the Attorney receives any communication, not an email and not a phone call.
- d. If a number is put to this ... for example \$5000 minimum to refer to attorney for demand letter ... in the case of our dues at \$335, this homeowner is nearly 15 months past due and will have another 6 months minimum in the foreclosure process ... **SO the other homeowners have carried debt for 21 months!**
- e. Neither the property management company nor the Board is a licensed collection agent, and should not be held captive in this process by legislation that does not serve the homeowner or the association's best interest. There is a reason attorneys have a "collections disclosure" at the bottom of every email. Board Members will be exposed to the homeowner's version of the conversation, they could ask illegal questions that the homeowner does not have to disclose, they could make implied agreements not sanctioned by the whole board or by an attorney. All putting the association at risk.
- f. AND if the Board accepts a payment plan or explanation, have they now *set a precedent* that they have to accept the same payment plan and explanation from every homeowner going forward? How does a Board consistently do this with Board turnover ... or what each homeowner "believes" to be the same/similar offer?
Once waffling is inserted, there will be attorney fees and the discrimination you claim to be preventing.
- g. Association does not get benefit of interest income when HOA dues are unpaid, which results in less funding for reserves. Resulting in need for more reserve contribution for the future.
- h. This narrative that Boards are horrible for proceeding with foreclosure needs to stop. Boards are trying to protect "The other 99%" by acting timely, consistently, fairly and in the whole associations best interest.

3. Restricting Fees / Fines

- a. UNINTENDED CONSEQUENCES –
 - i. Cap on attorney fees assessed back to homeowners, will result in compliant homeowners responsible for portion of the expense created by non-compliant
 - ii. Regarding not being allowed to fine for nuisance behavior at Board Meetings, how then does the Board conduct business and also serve the other 99%?
 - iii. Homeowners may choose to pay personal debt, such as credit cards and auto loans, with higher late fee and interest instead of housing related debt
 - iv. Will increase homeowner dues, related to non-compliant homeowner activity
 - v. Could allow upfront payment of fees as just a “cost of doing business”
- b. How then do associations encourage the obligation to pay this housing responsibility? This is the same as a mortgage, or 2nd mortgage. Dues have to be collected to pay insurance premiums required by lenders, lawncare and trash pickup required by cities, and utilities required by counties/coops.
- c. If fees/fines are restricted, does this directly affect what the attorney can charge? Because if not, then who covers the remaining attorney fees after the cap is reached? The compliant homeowners? Homeowners being expected to function as lenders, carrying other’s debt. Is this legal?
- d. Our association used to have a late fee of \$10 and the Board was repeatedly told by homeowners that their credit card late fee and interest was more than \$10, so they chose to pay the credit card, not their housing obligation. Not paying the credit card does not as directly affect the right to keep your home. The compliant homeowner now must carry the burden of unpaid dues. Personally, I noted 4 credit card disclosures with late fees of \$41, and also interest.

4. Mandate Requiring Homeowners (and potentially tenants) to Participate in Meetings of the Board –

- a. UNINTENDED CONSEQUENCES –
 - i. Disgruntled homeowners will use this as an open opportunity to continue and also escalate unruly behavior throughout unrelated meeting topics
 - ii. Why then do homeowners ELECT a board? For efficiency, for experience, and because they really are not interested in serving.
 - iii. Less homeowners interested in serving as a Board Member
- b. Owners are already entitled to sit in on meetings of the Board. Why is the initial homeowner open forum not sufficient?

5. Oppose proxy limits and not being allowed to designate a Board Member

- a. UNINTENDED CONSEQUENCES –
 - i. Mailing costs of additional meetings after quorum was not reached (\$500 ave.)
 - ii. Emergency needs not met if resolution delayed
 - iii. Will increase compliant homeowner dues
- b. Simply put the nature of this is insulting to all Board Members. Most Board Members are elected and re-elected because they are trusted members of the community and are often best known based on being active in the community. This very restriction undermines the relationship of Board Members and the community they volunteer to serve. SHAME ON YOU FOR THIS SUGGESTION!!
- c. What about associations with a significant population of snowbirds?
- d. Homeowners have minimal interest and don’t want to attend ... isn’t that the very basis for the proxy option to be placed in original HOA legislation??

6. Work Vehicles on HOA property ...

- a. **Why not restricted to SFR type HOA’s only?**
- b. **Why is width not restricted, same as length is noted in the bill?**
- c. **Can verbiage to not allow work related ancillary equipment be stored on property? Whether or not it fits in the driveway. Ex may include plows, extension ladders, lumber piles, trailers, spare/seasonal tires**

(CONT.)

d. UNINTENDED CONSEQUENCES –

- i. Use of HOA paid water to maintain/wash work related vehicles
 - ii. Use of HOA paid water to fill tanks of work-related vehicles
 1. Pesticide tanks, power wash tanks, etc ...
 - iii. Use of HOA paid trash for hazardous waste disposal resulting in penalties
 1. Paint, construction materials, oil, trash, chemicals, aged tires, etc ...
 - iv. Increased damage to fences, roads, grass; All homeowners bare the cost if unable to identify specific offender
 - v. Use of garage space as prep area for work day or week, storage of work related supplies. Heavier use damage to buildings and noise complaints
 - vi. Crimes of opportunity ex. Stolen tools, laptops, Now does neighbor vehicle get hit also?
 - vii. Potential of increased risk assessment and insurance premiums per agents
 - viii. Potentially limited eligibility by insurance carriers, lack of competition increases premiums
 - ix. Interferes with handicap accessibility of some neighbors, in TH property types
 - x. Will increase homeowner dues due to new and unplanned costs
 - xi. More contentious situations. Work trucks in driveways will create more disputes and complaints between neighbors, already an issue currently with larger personal trucks.
- e. **SFR only??** - Would this be more reasonable to apply to “SFR” type associations first to measure the consequences? This option was discussed at the working committee meetings. Choosing to park a work truck at a single-family residence (SFR) is different than an HOA. Incidents at a SFR type could affect 1 owner, when in a townhome or condo affects the whole population. Some associations just aren’t built for business operations.
- f. **Risk** - Need to consider additional risk, such as inattentive guests can’t see around large vehicles, visibility of others while backing up, exposure to more slip fall incidents, personal injury, theft of work equipment, damage to buildings/roads.
This is risk and cost imposed on “The Other 99%” for the benefit of 1%.
- g. **Complaints** - Property managers are on site less and less, so who deals with the added parking complaints, the grounds damages, littering, exhaust and noise complaints? These vehicles are often noisy and allowed to idol longer than necessary.
- h. **Increased costs** - Homeowners could be exposed to increasing maintenance/repair costs. Work vehicles may be too wide or too long for many of the driveways, may extend into the street and/or cause damage to siding, fences, gutters, and roofs. When the association charges these businesses back for damages, they’ll be accused of targeting them.
- i. **More open claims at renewal** - Association will be named in more insurance claims. Because all possible parties are named, initially! May cause more open claims at time of renewal when loss runs are reviewed for risk assessment.
 - i. Will work trucks/vehicles be emptied of all tools every night to avoid theft and diminish risk to neighbors of theft by opportunity?
- j. **Claim denial costs** - Master insurance companies will most definitely fight any claim, attempting to refuse the claim, and possibly leaving the homeowners’ association with the costs of settlement, attorneys fees, and damages. Cost of fighting claims may be cost to “The 100%”.
- k. **Less carrier options, higher premiums** - Allowing work trucks and essentially businesses on the property could increase premiums and potentially even dictate eligibility by some carriers. When carrier options are restricted and competition declines, there is more likelihood of higher annual premiums. Also noted is more shifting of risk to HO6 policies and therefore increased HO6 policy premiums.
- l. **Restriction of movement** - Work vehicles may restrict the freedom of movement for All throughout the property, including vendors such as trash removal trucks, lawncare teams, plows, postal carrier, UPS, FedEx, Amazon.

CLOSING:

The most serious UNINTENDED CONSEQUENCES seem to be:

*Board members not stepping up, disinterested

*Due to lack of Board Member interest and inability of an HOA to function,

HOA's could go into Conservatorship, with atty fees ranging from \$350-\$450/hour for the simplest tasks

*You are not just taking away the power of the Board, ...

You Are Taking Away the Rights of the Majority Homeowners!

REQUESTS FOR EDITS:

1. Change work truck allowance to SFR type of HOA only
2. Add "width" of truck to work truck verbiage, due to mirror, dual tires, etc ... same as length
3. Add verbiage to work truck not allowing ancillary related equipment, see above 6c
4. Add verbiage that Homeowners are not allowed to retaliate either against the Board / This is more common than HOA retaliation; examples, by being disruptive in meetings, by requesting excess documents for no purpose related to their complaint, by persisting in attempting to contact board members outside of official meetings ex. knocking and calling, by simply being resistant to compliance
5. Research whether delaying lien process puts HOA further behind other lien holders?