



## CALL TO ACTION

### Community Association Parking Enforcement Threatened

Comments to Public Utilities Commission (“PUC”) Due by February 11, 2013

On January 25th, a Notice of Proposed Rulemaking that includes changes to rules governing the towing of vehicles from private property was published by the Colorado Department of Regulatory Agencies (“DORA”). These proposed rules present questions and concerns for community associations and could impact towing in your community. CAI’s Colorado Legislative Action Committee (“CLAC”) is currently preparing comments to the Administrative Law Judge on behalf of CAI. CLAC is also asking for your help as members of CAI.

**BACKGROUND.** Currently under Colorado law, HOAs are permitted to enter into a contract with a towing company to have the company act as an agent of the associations to determine whether vehicles should be towed. In other words, an association can hire a towing company to patrol periodically for parking violations and tow vehicles that are parked in violation of an association’s covenants, rules and regulations. While some associations contract directly with a towing company to patrol for parking violations and tow when appropriate, other associations utilize a practice where a member of the board or a managing agent contacts the towing company to request that a vehicle be towed.

**SUMMARY OF PROPOSED CHANGES.** The proposed rule changes would prohibit towing carriers from contracting with any property owner, including an association or its manager, to monitor and tow vehicles from association parking areas. The rules would introduce confusion about who may act on behalf of the “property owner” in a condominium project, in particular, and who must authorize a tow from any community association common area. Additionally, the rules would require associations to place signs at the entry to the property, and at eye level every 10 parking spaces, stating that unauthorized and illegally parked vehicles will be towed at the owner’s expense. CLAC believes that the proposed rules will ultimately deter towing from community associations, which will likely impact owners’ use of their property and may create unsafe conditions for owners and residents.

**HOW TO TAKE ACTION.** You can review the full language of the proposed rules regulating towing in Sections 6500 through 6514 of Attachment A to Docket No. 13R-0009TR, available at [https://www.dora.state.co.us/pls/efi/EFI.Show\\_Docket?p\\_session\\_id=&p\\_docket\\_id=13R-0009TR](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=13R-0009TR).

Written comment on the proposed rules may be submitted by no later than February 11, 2013, through the Commission’s Electronic Filing System at <http://www.dora.state.co.us/pls/efi/EFI.homepage>. When submitting a comment, you should reference docket number 13R-0009TR.

In addition, a hearing on the proposed rules will be held on March 11, 2013, at 9:00 am at the Commission Hearing Room located at 1560 Broadway, Suite 250 in Denver. Any associations, managers or managing companies wishing to testify on this issue are encouraged to attend and participate.

**PLEASE CONTACT THE PUC TODAY** to request the following changes to the proposed towing rules and offer your perspective on how the rules will impact your community:

**Clarify who qualifies as an “owner” of common area parking in a condominium project and who may serve as an owner’s agent for community associations in general.** Parking areas in condominiums typically consist of common elements owned by all unit owners as tenants in common. Can any unit owner authorize a tow from the common elements? What type of authorization from the property owner will the carrier require to undertake a tow from a condominium project? In townhome and single family

home communities, the association owns the common areas. Who qualifies as the authorized agent for the association, and how will towing companies verify such authority on a tow-by-tow basis? The regulations do not sufficiently address these concerns and should better account for the circumstances of private residential communities apart from the circumstances that apply to commercial public parking lots.

**Permit residential condominium, townhome, and homeowner associations to contract with towing carriers to minimize confusion around who serves as the authorized representative of the property owner.** Condominium associations, and all community associations, use towing carriers to promote the safety of residents and permit owners to use and enjoy their homes. Associations contract with towing carriers, in part, to establish an understanding of the rightful party authorized to tow vehicles from common elements. The proposed prohibition on contracting with towing carriers could result in disputes and confusion among owners, residents, guests, managers, and carriers due to multiple parties seeking to authorize tows. Associations are concerned that the anticipated confusion under the proposed regulations will effectively deter any owner-authorized tows from association common areas. As a consequence of these proposed rules, associations will likely need to resort to law enforcement tows, creating an undue burden on local law enforcement agencies. Association residents will experience a slower response time to tow situations, including tows for vehicles parked in emergency access lanes, because law enforcement will not place a high priority on private property tow violations.

**Permit residential condominium, townhome, and homeowner associations to authorize tows remotely.** Community association managers need the flexibility of authorizing tows remotely upon notification of vehicles parked in fire lanes, handicap spaces, reserved spaces, and other situations that violate association rules and/or pose safety concerns for residents. Community managers work with multiple properties and cannot monitor each association's parking in-person at all times. Without a mechanism to authorize tows remotely, owners in thousands of community associations throughout the state of Colorado stand to suffer. In addition, managers have expressed concern about their own safety, and the safety of any volunteer board members, if required to be present, in-person, to authorize tows. Prior changes to the PUC towing regulations helped address these personal safety concerns by allowing towing carriers to act as agents; the currently proposed changes to the rules would re-introduce the hazardous conditions for community managers and board members that former regulations promoted.

**Reduce the number of signs required in private residential condominium, townhome, and homeowner association parking lots.** The number of signs required under the proposed rules will unnecessarily litter parking areas, impacting the aesthetics of residential covenant-controlled communities and costing associations money for signage, installation and upkeep. Communities currently post signs at the entrance to their private property; this approach should remain valid for private residential properties in particular.

#### **COMMUNITY ASSOCIATIONS INSTITUTE**

Rocky Mountain Chapter

[www.caicolorado.org](http://www.caicolorado.org)

Southern Colorado Chapter

[www.caisoco.org](http://www.caisoco.org)

Community Associations Institute (CAI) is the primary organization dedicated to fostering vibrant, responsive, competent community associations. The Community Associations Institute is the primary organization in Colorado that advocates for legislative and regulatory policies that support responsible governance and effective management of community associations. Currently, membership between the Rocky Mountain and Southern Colorado chapters is over 1,000 and growing. Nationally, CAI is the voice for 54 million people who live in more than 274,000 community associations of all sizes and types across the United States. Members of CAI include homeowner and condominium associations, professional association managers and the business partners who serve them, including lending institutions, insurance companies, contractors, attorneys and accountants.