

The Independence Institute, which describes itself as “Colorado’s Free Market Think Tank,” has described H.O.A.s as “Free-Market Alternatives To Zoning” (Feb. 28, 2009).

“Since HOAs are very local and small, participants are often neighbors and hence have incentive to settle disagreements in a civil manner.”

Val Ford and Ann Thomas would probably disagree with that assessment.



Val Ford and his wife, Ann Thomas, have had escalating problems with their HOA. Now the organization has foreclosed on their home because of \$9,000 in unpaid fines and penalties. Joe Amon, *The Denver Post*

"The HOA, which charges dues of \$240 a year, has amassed \$9,000 in fines and late fees against the ailing couple in a nine-year battle that started with a misplaced trash can... In late 2010, before his wife's surgery for breast cancer, the HOA won a court order allowing it to garnish their bank fund. The HOA took all the money the couple had saved for the surgery, almost delaying it." - *Denver Post*. February 13, 2012.

According to HindmanSanchez P.C., a Colorado-based H.O.A. law firm,

“when an association decides to foreclose on its assessment lien the first mortgage holder is the only party with a superior lien. If the association is successful and obtains title to the property after the foreclosure process, the original note and deed of trust remain valid. However, as the association has not signed the promissory note, the personal obligation to pay the mortgage remains with the original homeowner.”

PRIVATE GOVERNMENTS

- There are approximately 300,000 homeowners association (H.O.A.) corporations in the United States. The industry calls them “community associations”
- 60 million Americans – 1/5 of the U.S population – are governed by some type of H.O.A. corporation.
- The growth of H.O.A.s has been supply-driven by government policies and developers, not demand-driven by consumers.
- H.O.A. corporations collect \$50 billion (with a “b”) from homeowners every year, with very little accountability or oversight. This creates a “perfect storm” for financial crimes, such as embezzlement.
- In addition to numerous stories about embezzlement, stories about the violation of **1st** (free speech), **2nd** (right to own guns), **4th** (secure in their homes from unreasonable searches), **5th** (taking of private property), **7th** (right to civil trial), and **8th** (excessive fines and cruel punishment) Amendment rights of individual Americans by H.O.A. corporations are routine.
- H.O.A.s have the power of small governments (*i.e.*, to fine and to tax), but are shielded as corporations. This has created a system of incredibly perverse incentives and moral hazards, where property management companies and specialized law firms profit immensely from strife and conflict within communities. The profit-motive ensures that these industry professionals will continue to create strife and conflict within communities, at the expense of individual Americans.
- It is no wonder that a 2007 survey of 3,000 homeowners in H.O.A.s found that

Two-thirds of people who live in the jurisdiction of a homeowners association are "annoyed" by them, or worse, and 19% have been in what they call a "war" with their HOA.

08% think they're great	
16% think they're OK	(24% positive)
21% think they're a minor annoyance	
48% think they're a major headache	(69% negative)
07% gave no opinion	
19% said they had been in what they call a "war" with their HOA	
54% said they "would rather live with a 'sloppy neighbor' than deal with an HOA."	
78% said they might consider NOT buying a home under the jurisdiction of an HOA	

- The problems with H.O.A.s are much more fundamental and far-reaching than the petty authoritarianism they are known for. Their failed business model and defective corporate structure of unlimited liability threatens to drag down millions of homeowners when H.O.A. corporations go bankrupt, as many are expected to do.

AS A CORPORATION, AN H.O.A. IS A DEFECTIVE PRODUCT

The purposes of a corporation is to protect an investor's personal assets from the debts and liabilities of the corporation.

For example, say you own 100 shares of stock in Company X. Company X incurs some type of debt (*e.g.*, bankruptcy, court judgment, government fine) and owes its creditors \$1,000,000.

Your obligation to the creditors of Company X is limited to your stock – no more. The creditors of Company X cannot go after your car, your house, your wages, your bank account, or any of your other assets; unless Company X is an H.O.A. corporation. As H.O.A. attorney Tyler Berding wrote (emphasis added)

*Most community associations are corporations—non profit mutual benefit corporations. But **there is a major difference between a community association and the typical business corporation.** With a typical corporation the investors' (shareholders') liability is limited to the amount of their individual investment. Community associations usually have something more—lien rights to an individual owner's separate interest, either a lot or a unit, and **the personal obligation of an individual owner for his or her share of assessments.** So if an association assesses the members and someone doesn't pay, **the association has the authority to place a lien upon the individual's property and enforce that lien for payment through the process of foreclosure and/or to sue the owner personally to collect the funds owed.** The corporate structure of the association protects an individual owner from being solely responsible for the association's total obligations, but not for his or her (or the lot or unit's) share. That authority, extended to the association by way of CC&Rs recorded against each individual's lot or unit has the effect of “passing through” the association's obligations to the owners.*

For example, suppose an H.O.A. corporation with 100 members owes \$1,000,000; either as a result of a lawsuit judgment, government fine, bankruptcy, or some type of unexpected maintenance expense. Each homeowner would be personally responsible for paying \$10,000 of that debt.

And if the homeowner can't pay the \$10,000 special assessment, the H.O.A. corporation or its creditors can – and will – foreclose and sell the home in order to collect.

Experts like Evan McKenzie and Tyler Berding expect a wave of H.O.A. corporations – especially condominium associations – to go bankrupt over the next several years. When that happens, there will be another wave of foreclosures that has the potential to dwarf the current mortgage foreclosure crisis, due to the unlimited liability (*not* “limited liability”) that H.O.A. corporations place upon homeowners.

If you own a home under the jurisdiction of an H.O.A. corporation, **your home and other personal assets are forever collateral to whatever debts and liabilities the H.O.A. corporation creates**, even if your mortgage is paid off.

U.S. ARMY CAPTAIN MICHAEL CLAUER

In Texas, over 10% of foreclosures are by H.O.A. corporations, not mortgage holders.

While U.S. Army Captain Michael Clauer was deployed to Iraq, commanding over 100 men in a combat zone, his H.O.A. foreclosed upon his house to collect \$800 in assessments (a.k.a. "H.O.A. dues") and additional fees. The house located in Frisco, Texas, was worth \$300,000, and paid for, free-and-clear of a mortgage. The Clauers lost all the equity in their home.

In 2008, the Heritage Lakes H.O.A. corporation sold the house to Mark DiSanti for \$3,500 to pay the H.O.A.'s attorney, Vinay B. Patel. DiSanti then sold the house to Jad Aboul-Jibin for \$135,000. In June 2009, Aboul-Jibin started demanding rent from the Clauers, which was the first time they were aware their house had been sold. In August 2009, Aboul-Jibin sent the Clauer family an eviction notice. Captain Clauer was still in Iraq at the time.

The first national media outlet to report this story was the left-wing *Mother Jones*, just before Memorial Day weekend on May 28, 2010. A few weeks later, the liberal N.P.R. reported the story on its program "All Things Considered" (June 29, 2010).

Six years before the Heritage Lakes H.O.A. corporation sold the Clauer's house - former H.O.A. lawyer Even McKenzie told the *San Francisco Chronicle* that it that **H.O.A. foreclosure is a "legal, a fully institutionalized practice: The bar even offers workshops on the process"** ("Myth of Privatopia" December 17, 2002). A few months before that, he also told A.B.C.'s *20/20* that "What's really driving this is the dynamics of these collection lawyers who are just out to generate fees and to sell these houses off as fast as they can" ("Do Homeowners Associations Go Too Far?" April 19, 2002).

Although the Clauer story had all of the elements that should have made it headline fodder for "Support The Troops" media outlets like Fox News and Rush Limbaugh,

- an American soldier deployed to a war zone
- Memorial Day weekend
- taking of private property
- greedy lawyers

not a single conservative or libertarian pundit informed their audiences about this. Not one. Like the modern day heirs of Walter Duranty, conservative and libertarian pundits kept their audiences completely ignorant about this unconscionable crime. Except that it wasn't technically a "crime," because what the H.O.A. corporation did was perfectly legal; just like the eminent-domain seizure of Susette Kelo's home was perfectly legal.

This wasn't a case of just one or two right-of-center media outlets dropping the ball. This was all of them ignoring a story that didn't fit some ideological narrative.

Shame on you Bill O'Reilly, Sean Hannity, Glenn Beck, Glenn Reynolds, Bill Whittle, Ann Coulter, Michelle Malkin, Rush Limbaugh, Mike Rosen, John Stossel, James Taranto, Jonah Golberg, Jon Caldara, Walter Olson, Ted Frank, Rupert Murdoch, *etc.*, for placing the profits of corporate lawyers and the Republican state senator from Dallas ahead of the interests of our military service members.

DEER PATH WOODS

On June 28, 2012, the Consumerist reported that "Condos Sold Without Owners' Permission For 1/3 Their Value" :

"Imagine that you've recently purchased a condo for \$100,000. The complex where it's located is about 90% rented, and 10% owner---occupied. The complex's owner struggles, and the whole neighborhood goes up for sale in a foreclosure auction. The new owners dissolve the condo association, since they own all of the rentals, or 90% of the homes in the complex. This gives the owners permission to sell the entire complex at once, including what used to be condos. Your proceeds from having your home sold out from under you: \$33,000. You still owe the rest of your mortgage, but have nowhere to live. Condo owners in Reading, Pennsylvania experienced this nightmare recently, and there is no legal way out for them."

Long story short:

- Water Polo I, LP purchases 90% of the units in Deer Path Woods condominium complex, giving the Water Polo corporation control of the condominium's H.O.A. corporation.
- Walter Polo I, LP votes to dissolve the condo association, which it can do since it controls 90% of the voting rights.
- Since the condo association was dissolved, Walter Polo I, LP has the rights to sell 100% of the units – even the ones it didn't buy and doesn't own.
- An appraiser hired by Water Polo I, LP, assesses the value of the condo units at 1/3 their previously assessed value.
- Walter Polo I, LP, sells all of the condo units to Hoya I, LP, which converted the condos into apartments.
- Both corporations -- Walter Polo and Hoya -- are controlled by real-estate developer Kevin Timochenko. Because the real seller and real buyer are the same person, Kevin Timochenko, the seller set a ridiculously low price.
- The notion that the buyer and seller are separate entities is a legal fiction.
- Since everything that the Water Polo and Hoya corporations did was perfectly legal, the owners who lost their homes have no legal recourse.
- The former condo owners still owe the balance of the mortgages, even though they have been divested of their property.

ROSANNA WILFONG

Rosanna Wilfong's battle with her H.O.A. corporation in Mint Hill, North Carolina, began a decade ago.

She spent \$6,500 to install a drain in her front yard to channel knee-deep rainwater away from the foundation of her home. Her H.O.A. forced her to spend another \$6,500 to remove the drain.

As a result of that dispute, her H.O.A. began fining her \$400 per day. The fines totaled \$589,000 – more than her house was worth.

Ms. Wilfong incurred \$50,000 in attorney fees asserting her rights.

It was the *third* attorney she hired who discovered that the H.O.A. corporation's architectural review committee had approved the drain.

Although a judge waived all of the fines and fees in 2012, Ms. Wilfong was not awarded attorney fees.

One of the H.O.A. corporate board members, Chris Zbodula, who challenged the board president for suing Ms. Wilfong, was kicked off of the board by the rest of the corporation's board members. Mr. Zbodula has said that

“This is a cash cow for the lawyers and management companies. They're making an absolute killing on this. The only choice a homeowner has is to dig deep into their pockets with tens or even hundreds of thousands of dollars for what could be bogus charges.”
(WCNC. July 27, 2012)

If Ms. Wilfong had not been able and willing to spend \$50,000 on not one, not two, but three lawyers, the H.O.A. corporation would have foreclosed on her house to collect \$589,000 in illegal fines. And since the amount of illegal fines was greater than the equity in the house, they could have continued to go after her other personal assets, such as her car, bank account, wages, etc.

Collecting assessments from delinquent owners is a little bit like mining for gold. First you have to find the gold.

With delinquent owners getting a judgment is usually the easy part. Next comes the hard part, finding the gold. We have to locate attachable assets to satisfy the judgment. Generally attachable assets come in the form of a bank account or an employer. But there can be other attachable and valuable assets. Some of these include vehicles, boats, recreational vehicles, planes and motorcycles (only if there is no loan against them), valuable collections such as rare comic books, businesses, other real property, significant jewelry. Finding all of these assets isn't as easy as it sounds. That's where managers and board members come in. Much like prospectors, you can help find the gold by conveying the following information to us:

- 1. Any phone numbers of record for owners (work, home or cell);*
- 2. Employment information;*
- 3. Copies of cancelled checks from last payment made by the owner;*
- 4. Description of all vehicles, boats, RVs, motorcycles, etc. seen at home (with license plate numbers if available);*
- 5. Any information you know about the owners such as they inherited a lot of money recently, they have another house in Aspen, or they have a computer consulting business on the side.*

All of this information can be used to find the gold and use it to satisfy the debt owed to your association.

JOE WOODARD



According to the “Libertarian Examiner” on September 09, 2008 :

A Florida man who lost his wife and son when a plane crashed into his house may have to tear down his rebuilt home over complaints from his homeowner's association.

Joe Woodard's wife and son were killed in the July 2007 crash, and he's been building a new home on the same lot for the past year.

"I felt I was helping the community move forward with their lives because every time you see an empty lot or a burned house, you continue to live through all the memories of what happened," Woodard said.

But the House of Management Enterprises, which represents the homeowners' association, said the home, which is a few weeks from being completed, does not fit their standards and are demanding that the house be torn down.

HOAs are private organizations formed voluntarily between homeowners and, as such, comprise varying degrees of building and maintenance codes....

However, one thing that shouldn't be debatable is some perceived right to flout the rules you willingly agreed to....

As heartless as it appears Mr. Woodward's HOA is being, I have to side with it over Woodward, ceteris paribus.

According to the original WKMG news story:

In a letter sent to Woodard from the attorney of the homeowners' association, three specific items were mentioned. The shingles on the home and the elevation are not consistent with the community, and the home extends a few feet longer in the back than association standards allow, the letter stated.

Mr. Woodward “eventually capitulated to the unsympathetic HOA” for his crime.

“HOA THREATENS TO BREAK INTO HOME”

WPLG. January 05, 2010.



A South Florida couple said their homeowners' association has threatened to break into their home to remove a sign posted in a window.

Bill Elliot and his girlfriend, Mary Ann Frye, bought a single-family home in Aruba at the Oasis in Homestead in 2007. The couple said the house is infested with Chinese drywall, and they want Lennar to buy them out so they can move on.

The couple has posted two signs on their property -- one on the front lawn, another in a window.

The signs read, "For Sale: Shoddy construction, Lennar toxic Chinese drywall."

"We have had appliances just stop working, computers, television sets. Even my electric toothbrush has stopped functioning. Both of us have had a lot of sore throats and a lot of headaches. That's pretty much a regular occurrence," said Elliot.

At first Elliot's neighborhood association sent a friendly reminder saying he could have no signs, displays, advertisements or lettering without approval. Then, he received a lawyer's letter warning if the signs don't come down, the association will come and remove them.

A letter from Association Law Group said, "Should no one be home at the time the Association comes, the services of a locksmith will be utilized and you will be responsible for the cost."

"How would you feel if someone said they were going to come with a locksmith and open your door?" said Elliot. "They're threatening to break into our home."

"We have a right to tell people how we feel. This is what America is all about," said Frye.

But Local 10 has discovered something Elliot and Frye didn't know. According to the by-laws that govern the neighborhood, which Elliot signed when he bought the house, the association does have the right to enter his property and remove any violations after a written notice.

WATER

Here are some stories from Evan McKenzie's "Privatopia Papers" blog illustrating the dangers to homeowners of allowing a private H.O.A. corporation to act an intermediary between residents and public utility companies. This led one of his readers to observe that

Even if all the residents are paying, there is no obligation for the HOA to apply their assessment monies to the water bill! All too often the residents put their money into this "common hat" only to have the hat taken by other parties whether those parties are board members or HOA management companies.

Tuesday, February 03, 2009

**Deerfield Beach May Shut Off Water At Condo That Owes \$90,000
South Florida Sun---Sentinel.com**

"Narrabe is one of 28 unit owners — out of 168 — in the Deerfield Palms condo association who still pay their monthly maintenance fees, which are used to pay the community's water bill.

Residents owe the city \$90,000. If they don't pay \$12,929 by the first week of March, the city is threatening to turn off the water. Because the community has master meters rather than individual unit gauges, the city can't separate owners who are current on their bills from delinquent customers."

Another condo association that can't do its job, and who gets the short end of the stick? Why, the owners, of course. Who else?

Thursday, February 05, 2009

**Hundreds Will Be Without Water Even Though Bills Are Paid
AZFAMILY.COM & KTVK 3TV**

PHOENIX – A meeting with the city turned into a shouting match on Wednesday.

Hundreds of people who live at a condo complex in west Phoenix will be without water on Monday even though they have paid their bills.

City officials said they have never seen a situation like this. This is what makes it so unique and so difficult.

The condos and townhouses are owned by individual people, however the meter that controls the water goes to multiple units, not just that one person's home.

Monday, September 21, 2009
No Water Leaves Condo Residents Boiling Mad
Central Florida News 13

"The Toho Water Authority is letting residents know it will shut off the water Monday because the management company hasn't been paying its bills."

Saturday, July 14, 2012
Tenants Face Losing Water If Owners Don't Pony Up For Bill
KATU.com --- Portland, Oregon

Many people rent the town homes and pay their share of the water to landlords. Ultimately the bill is supposed to be paid by the homeowners association.

The owner of Leanette's unit says she is paying her bills, but some other owners aren't.

HOA members will not disclose who the deadbeat landlords are.

"I feel very disappointed about the situation happening over here," said resident Jesus Amaro. "Some of us are paying our water bills and some are not."

Monday, January 02, 2012
\$56K Water Bill Could Force Condo Residents Out

COLLEGE PARK, Ga. —A longstanding dispute over a water bill in College Park could end up with the Yorktowne Condominiums shutdown and everyone evicted by Tuesday morning.

The city of College Park said it will shut off water service to the complex at 9 a.m. on Tuesday unless the homeowners association comes up with part of a \$336,000 dollar debt the complex has run up in recent years.

LEMONADE



above: "Lemonade Stand Curtailed" WPTVnews on March 27, 2011
Prosperity Harbor Homeowners Association. North Palm Beach, FL

In the summer of 2011 and 2012, libertarians celebrated "Lemonade Freedom Day", www.lemonadefreedom.com, to protest the shutting down of lemonade stands by police. But none of this justified outrage from libertarians was directed at H.O.A. corporations engaging in the same repressive behavior. While libertarians promoted civil disobedience against the Nanny State, none encouraged such disobedience against private corporations. It is as though creating billing opportunities for H.O.A. collections attorneys to collect fines and fees from individual homeowners trumps any alleged concern for the children involved.



Journalist Radely Balko wrote that the government's "War on Lemonade" is "creating new little libertarians". If so, what will be the end result of "repressive libertarianism,"

where certain people who call themselves libertarians invariably side with property owners who want to limit other people's liberties through the use of contract law. Property rights (usually held by somebody with a whole lot of economic clout) trump every other liberty. The libertarian defense of HOAs is the perfect example. The developer writes covenants and leaves. Everybody who lives there has to obey them forever, even if they lose due process of law and expressive liberties. As private corporations take over more functions of government, this position could lead to gradual elimination of constitutional liberties.

Evan McKenzie August 25, 2008

The Privatized Toll Road To Serfdom is no more desirable than the Road to Serfdom.

WHAT IS TO BE DONE?

Communism will never be truly defeated as long as H.O.A.s exist in America. Because that's what H.O.A.s are - Communism: the collective ownership of your private property.

What the Soviet Union couldn't do to us with its guns and tanks and missiles, we are doing to ourselves with defective corporations, privatized governments, fundamentally flawed business models, rapacious collections attorneys, and some-document-called-a-"contract" which is often nothing more than a legal fiction.

Unlike the 20th Century, when the apologists for Communism were on the Left, today's apologists for Communism come from the Right, preaching the Gospel of Ayn Rand and waving the Gadsden Flag, while praising Collectivism and justifying the actions of looters and parasites. It is as though an Irony Curtain has descended across America.

But telling people who are being abused that they consented to be abused will only work for so long, before they start looking for their rights elsewhere.

A list of policy recommendations to fix the problems with H.O.A. corporations could fill a book. And it has. In September 2008, Barbara Hogan posted "A Handbook For Texas Legislators Relating To Homeowners Association Issue" on the World Wide Web. Ms. Hogan's book is filled with 50 pages of really good ideas.

But I think that's part of the problem. There are so many things that need to be fixed that the reality of the legislative process ensures that they won't be. It's the classic dilemma of concentrated vs. diffuse interests. Proponents of H.O.A. reform have limited political capital to fight a \$50 billion industry across 50 states. And the H.O.A. industry is able lobby against the interests of individual American homeowners, by using money extorted from them under threat of foreclosure. And there is the risk of legislative and regulatory reforms being perverted by the H.O.A. lobby to make things worse.

Another problem with regulating H.O.A. corporations is that few of the existing regulations are rarely followed, because they are hardly ever enforced. As former H.O.A. lawyer Professor Evan McKenzie told Shu Bartholomew

It's like something you would see in Nazi Germany or Soviet Russia. People think these things don't go on. But we know they go on every day in condo and homeowners associations. These people who have no idea how to use power at all. They won't even accept limits on their power. They don't even know what the law requires of them, these directors. They go by what some lawyer tells them to do, which the lawyer tells them to do only because he or she knows they can get away with it. Because the only recourse you have is some civil suit. Here in Illinois, we don't have an Ombudsman. Most states don't. There's nowhere for owners to turn. If the lawyer tells them "Oh, just jack 'em around. Who cares what the rules are? Who cares what the law says?" it doesn't make any difference. The transaction costs of enforcing an owner's rights are so great that they are hardly ever able to do it.

OnTheCommons.net June 26, 2010

Think about that last sentence :

The transaction costs of enforcing an owner's rights are so great that they are hardly ever able to do it.

To make an H.O.A. corporation follow its own rules, a homeowner has to be willing, and to have the resources, to engage in a protracted legal battle against an entity who is also using the homeowner's own money against him; *i.e.*, the homeowner has to pay his own legal costs up-front while also paying the H.O.A. corporation's legal costs through his assessments (a.k.a. "H.O.A. dues").

And what happens if the homeowner obtains a judgment against the H.O.A. corporation? Assuming that the prevailing homeowner is awarded damages and legal costs – which does not always happen – the H.O.A. corporation will simply pass the costs onto the homeowners, including the prevailing plaintiff, in the form of additional assessments. As the saying goes, "Suing your H.O.A. is like suing yourself."

It is one of the most **perverse incentives and moral hazards built into the H.O.A. system** imaginable. As a result, the H.O.A. corporation's board-of-directors has no incentive to control legal costs, nor to even follow the law or governing documents of the association. H.O.A. management companies and law firms profit regardless of the outcome of any legal action, and therefore have every incentive to encourage litigation for the most trivial amounts and reason.

Bill Brauch, Director of the Consumer Protection Division at the Iowa Attorney General's Office told the *Des Moines Register* that he would he would never join a homeowners' association. **"You have so little control over the many negative things that can happen to you. And then you become trapped in a situation beyond your control that only continues to deteriorate"** (August 18, 2012).

Rather than a long laundry-list of legislative and regulatory reform, what is needed is a simple change that can be sold to the public and legislators (who have short attention spans), would be hard to pervert, provide incentives for the H.O.A. corporation to treat homeowners as customers rather than a product, and return power to the individual.

**Let homeowners opt-out of their homeowners association,
by prohibiting mandatory membership in an H.O.A.
as a condition of home ownership.**

This is not a totally new or unheard of idea. I blatantly stole it from the Republican Party's "Right To Work", which would

let workers opt-out of labor unions,
by prohibiting mandatory membership in a labor union
as a condition of employment.

23 states have enacted "Right To Work" legislation, the latest begin Indiana in 2012.

Conservative and libertarian pundits and politicians celebrate “Right To Work” laws as a cure for our economic ills. Republican politicians regularly propose “Right To Work” laws on the federal level. In *Liberty Defined*, Ron Paul wrote that “Making workers pay dues to be represented by an organization they disagree with is hardly fair or just.” So why do Republicans believe that making homeowners do so is acceptable?

Any proponent of “Right To Work” laws who opposes my “Right To Own Your Home” proposal is a blatant hypocrite. Any argument they can make about the corrupt nature of labor unions, including fraudulent elections and dues being used to lobby against the interests of their members, can be made about H.O.A. unions.

Given that the owner of the largest H.O.A. management company in the country is the Republican state senator representing Dallas, Texas, I expect – and have encountered – a lot of cognitive dissonance from conservatives and libertarians when discussing H.O.A.s with them.

Of course, anyone on the Left – liberals, Democrats, Greens, progressives, socialists, *etc.* – who supports my “Right To Own” proposal but opposes “Right To Work” laws is also in danger of being labeled a hypocrite. And to a degree, rightfully so.

But it is a matter of degree. And that degree matters.

There are less than 15 million Americans who are “forced” to join a labor union; about ½ in the private sector and ½ in the public sector. Labor unions collect about \$8 billion (with a “b”) in dues from their members per year.

The H.O.A. industry is 4 times as large as the labor union industry. There are about 60 million Americans who are governed by some type of H.O.A. corporation. H.O.A. corporations collect about \$50 billion (with a “b”) from their members per year, and do so by using the threat of foreclosure. They control trillions of dollars in home equity.

The explosive growth of H.O.A.s has been supply-driven by government policies and developers, not demand driven by consumers.

For decades, local governments have been requiring developers to create an H.O.A. corporation as a condition of receiving a building permit. This allows the local governments to collect taxes from the homeowners without having to provide services. In essence, **homeowners are double-taxed**; once by the local government, and again by the H.O.A. corporation that (maybe) provides the services that were traditionally provided by local governments. This has created a massive distortion of the housing market, leaving consumers with little choice but to accept H.O.A.-burdened homes in some markets.¹

¹ Steven Siegel. “The Public Role in Establishing Private Residential Communities: Towards a New Formulation of Local Government Land Use Policies that Eliminates the Legal Requirements to Privatize New Communities in the United States”. *Urban Lawyer*. Fall 2006. His article, along with an interview, is available at OnTheCommons.net April 28, 2007.

And unlike a labor union, the debts and liabilities of an H.O.A. corporation are secured with the personal assets of the individual homeowners, including their homes.

This limitless liability is a time-bomb waiting to go off, as H.O.A. corporations are at increasing risk of going bankrupt over the next several years. H.O.A. lawyer Tyler Berding has written that (emphasis added)

the real problem which is that community associations are created mostly for the benefit of municipalities and developers, with very little insistence by government on a financial model that can remotely meet the expectations of the eventual homeowners. Community associations are dying financially. Their business model is fundamentally flawed and many will eventually become obsolete and fail... Community associations are a financial disaster in normal times, (Jan. 02, 2012)

Let the homeowners “off of the ship before it sinks.” Otherwise, millions of Americans are going to be dragged down by their Community associations when they fail.



“If you saw Atlas, the giant who holds the world on his shoulders, if you saw the blood running down his chest, his knees buckling, his arms trembling but still trying to hold the world aloft with the last of his strength, and the greater the effort the heavier the world bore down upon his shoulders – what would you tell him to do?”

Ayn Rand *Atlas Shrugged* 1957

www.RightToOwn.org