

## **IF YOU WANT TO SEE THE LIBERTARIAN PARTY and REPUBLICAN PARTY VISION FOR AMERICA, LOOK AT H.O.A.s**

In Colorado, there are an estimated 12,000 – 15,000 H.O.A. corporations <sup>1</sup>, governing the homes of 1 million to 2 million Coloradans. Nationwide, there are 300,000 H.O.A. corporations, governing more than 60 million Americans who pay \$50 billion (with a “b”) in H.O.A. dues per year. It is an enormous industry. H.O.A. corporations are among the least regulated businesses in America. Consumer protections rules are non-existent or not enforced. <sup>2</sup> Embezzlement and other financial crimes are occurring in epidemic proportions. <sup>3</sup> And American home owners have been losing their 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> Amendment rights under the “repressive libertarianism” <sup>4</sup> guise of contract law, because H.O.A.s are private ~~governments~~ corporations not bound by the United States Constitution. <sup>5</sup>

For decades, municipalities have been requiring the creation of H.O.A. corporations as a condition of granting building permits to developers. The local governments get to collect taxes for goods and services – e.g., road maintenance, utilities, trash removal, open space, recreational facilities, etc. – that they no longer provide. As a result, homeowners in H.O.A.s end up being double-taxed; once by the government and again by their H.O.A. corporation. The growth of H.O.A.s has been supply-driven to benefit developers and governments, not demand-driven by consumers. <sup>6</sup>

Two-thirds of H.O.A. residents have a negative view of H.O.A.s, with 1/5 saying they “have been in what they call a ‘war’ with their H.O.A.” <sup>7</sup> These are tens of millions of Americans, a large constituency that has been ignored by our policy-makers and pundits. Yet “free-marketeers” have nothing but praise for H.O.A.s, lauding them as a desirable model of corporate governance by private contract. <sup>8</sup> Something is obviously wrong with their socio-economic theories.

For years, our legislators have been offering the illusion of reform, deferring to H.O.A. corporations instead of individual home owners, while doing nothing to remove the perverse incentives and moral hazards built into the collective ownership of your private property. H.O.A. boards engage in destructive litigation against their involuntary members for trivial amounts and reasons, hiding behind the corporate veil, collecting and spending other people’s money to use against them. Meanwhile, Community Associations Institute (C.A.I.) attorneys profit greatly by feeding off of American home owners. “It’s called capitalism. It’s the free market,” they say. <sup>9</sup>



*“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.*

**It has long been the official position of the Republican Party that contracts requiring membership in a labor union as a condition of employment should be outlawed, both at the state and federal levels. It is time to extend that same protection to American home owners, and prohibit mandatory membership in an H.O.A. corporation as a condition of home ownership. Making home owners pay dues to be "represented" by an organization they disagree with is hardly fair or just.** <sup>10</sup>

NOTES

- 01** *Denver Post*. "New HOA Laws Require Debt Collection Policy, Licensed Managers" July 4, 2013. About 8,000 H.O.A. corporations have registered with the state under a new law so far.
- 02** Bill Brauch, the **Director of the Consumer Protection Division of the Iowa Attorney General's Office (!)**, has said that "he would never join a homeowner's 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'." [ *Des Moines Register*. August 18, 2012 ]. Imagine how powerless the average home owner who is *not* a state's chief consumer protection lawyer is when dealing with their H.O.A. corporation.
- 03** Ward Lucas. *Neighbors At War*. 2013. pp. 279 – 284. neighborsatwar.com  
Robert Racansky. *Madison Hill H.O.A.* 2013. pp. 157 – 171. madisonhillhoa.com  
Community Associations Network. List of "Fraud and Embezzlement" stories.  
[http://communityassociations.net/xmlarticles/fraud\\_embezzlement.html](http://communityassociations.net/xmlarticles/fraud_embezzlement.html)  
*Denver Post*. "Horror Stories Prompt Industry Group..." February 13, 2012.  
In Colorado, the Denver D.A.'s Economic Crimes Division told me that they do not have jurisdiction over accounting crimes committed in an H.O.A. business office located at 1776 S. Jackson Street, Suite 530, Denver, Colorado, 80210 [ *Madison Hill H.O.A.*, pp. 166 – 169 ].  
In Nevada, state regulatory and law-enforcement officials ignored complaints by home owners for five years, until the F.B.I intervened in 2008. The ongoing federal investigation into Nevada's H.O.A. fraud has targeted judges, lawyers, law enforcement officers, H.O.A. officials, *etc.*, resulting in two-dozen convictions (so far), along with the mysterious deaths of four witnesses [ *Las-Vegas Review Journal*. "Federal HOA Investigation.." Jan. 20, 2014 ].
- 04** Evan McKenzie. "Gun Rights vs. Freedom" August 25, 2008. privatopia.blogspot.com
- 05** In 2012, the Illinois Supreme Court ruled that private H.O.A. security firms can detain home owners for violations of H.O.A. rules. *Kenneth Poris v Lake Holiday Property Owners Association*
- 06** Steven Siegel. "The Public Role in Establishing Private Residential Communities".  
*Urban Lawyer*. Fall, 2006. And "On The Commons", April 28 2007. onthecommons.net
- 07** Kathy Price-Robinson. "Two-Thirds 'Annoyed' With HOA, Survey Says".  
*Los Angeles Times* (blog). September 05, 2007.
- 08** *e.g.*, "Free-Market Alternatives To Zoning" The Independence Institute. Feb. 28, 2009.
- 09** Robert Tankel, Florida attorney # 341,551, and member of the Community Associations Institute, quoted in the *Tampa Bay Times* [ "Real Estate Investors Beat The Banks To Foreclosures". June 25, 2011 ]. Nothing says "capitalism" and "free markets" more than kicking people out of their homes so lawyers can make a profit from real estate "investments".  
Ask U.S. Army Major Michael Clauer, whose \$300,000 house in Texas was stolen by his H.O.A. corporation while he was commanding a combat unit in Iraq [ *Mother Jones*. "Solider In Iraq Loses Home Over \$800 Debt". May 28, 2010 ]. What *should* have been a headline story on Fox News over Memorial Day Weekend in 2010 was instead ignored by every "we support the troops" pundit [ *Madison Hill H.O.A.* 2013. pp. 99 – 101 ].  
Ask Val Ford and Ann Thomas of Englewood, Colorado, whose home was foreclosed upon and bank account garnished by their H.O.A. corporation to collect \$9,000 in fines and fees over a trash-can dispute. The couple had saved that money for Ms. Thomas's breast cancer surgery [ *Denver Post*. "Horror Stories..." February. 12, 2012 ].
- 10** Ron Paul wrote that "Making workers pay dues to be represented by an organization they disagree with is hardly fair or just" in *Liberty Defined*, 2012.