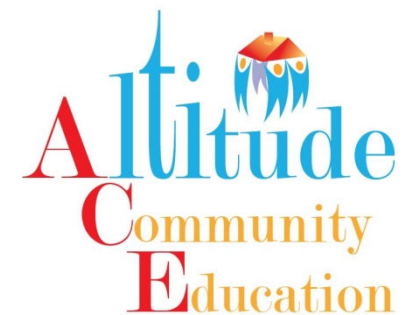


# CCIOA 101

## HOA CRASH COURSE - MONTROSE

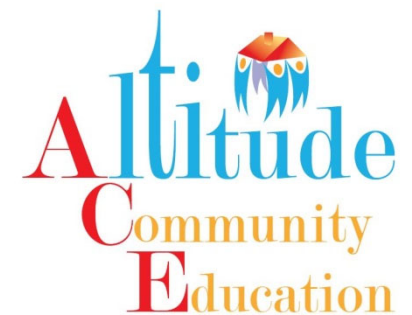
By: David A. Firmin, Esq.

February 4, 2023



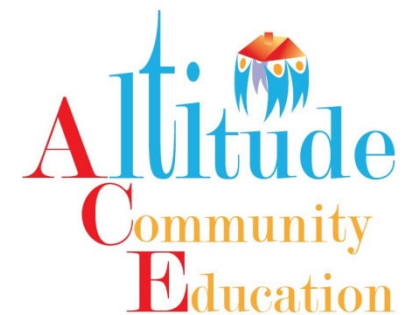
# CCIOA—What is it?

- Colorado Revised Statutes (C.R.S.)
- §38-33.3-101, et seq.
- 4 Parts
  - General Provisions
  - Creation, Alteration, and Termination of CICs
  - Management of the CIC
  - Registration



# Generally Speaking

- What is CCIOA
  - Colorado Common Interest Ownership Act
  - Applies to Owner associations that govern and operate a “Common Interest Community”
  - What is it: A statutory framework for effective and transparent management and operation of associations



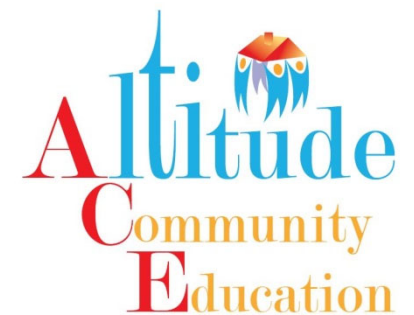
# CCIOA—Who does it apply to?

- CICs (Common Interest Communities)
  - Real estate described in a declaration
  - Mandatory assessments
  - Assessments used to pay for taxes, insurance, maintenance or improvement of real estate described in a declaration
  - Voluntary associations are not CICs

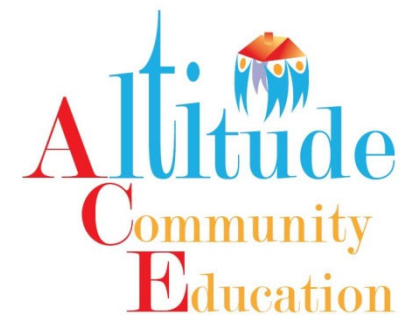


# GENERAL PROVISIONS

## PART 1



- Definitions (all CICs) 3-103
- Prohibitions Contrary to public policy (all CICs)
- 3-106.5 & 3-106.7
  - Signs
  - Emergency vehicles
  - Renewable energy/energy efficiency

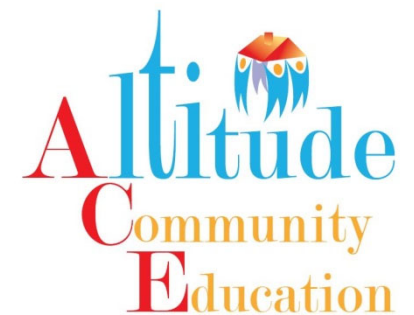


- Statute of limitations (all CICs) 3-123
  - One year
- Legal fees (all CICs) 3-123
  - Collection: may require reimbursement
  - Covenant enforcement: may seek reimbursement
  - Civil action to enforce terms of governing docs
- ADR (all CICs) 3-124



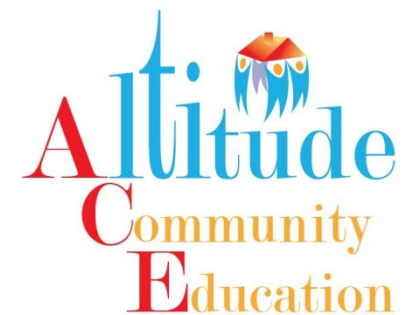
# CREATION, ALTERATION, & TERMINATION OF A CIC

## Part 2

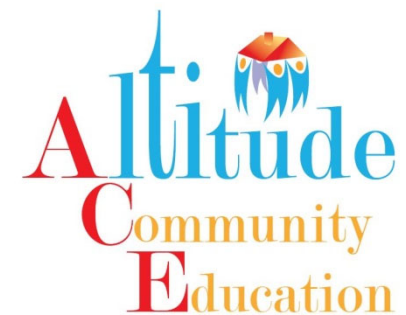




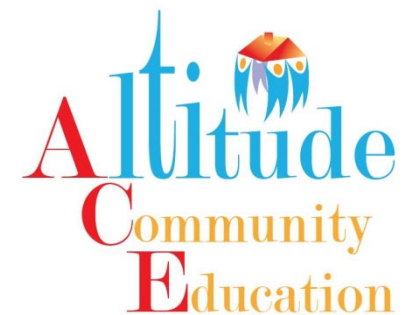
- Creation of CIC (post-CCIOA) 3-201
  - Must record declaration
  - Must record plat map
- Construction/validity of declaration and bylaws (all CICs) 3-203
  - Hierarchy: Declaration trumps bylaws



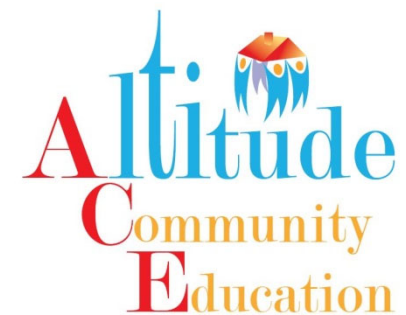
- Public disclosures (all CICs) 3-209.4 (1)
  - Within 90 days after assuming control from developer:
    - Name of association
    - Designated agent/management company
    - Physical address/phone number for association and management company
    - Name of CIC
    - Initial date of declaration recording
    - Reception number or book/page number of declaration



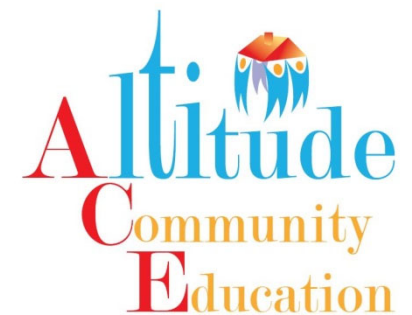
- Public disclosures (all CICs) 3-209.4 (2)
  - Within 90 days after assuming control from developer AND after the end of each fiscal year thereafter:
    - The date on which its fiscal year commences;
    - Its operating budget for the current fiscal year;
    - A list, by unit type, of assn's current assessments, including both regular & special assessments;
    - Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;



- Public disclosures (all CICs) 3-209.4 (2)
  - Within 90 days after assuming control from developer AND after end of each fiscal year thereafter (cont.):
    - Results of most recent available financial audit or review;
    - A list of all association insurance policies
    - The association’s bylaws, articles, rules and regulations;
    - Minutes of board & member meetings for fiscal year immediately preceding current annual disclosure; and
    - The association’s responsible governance policies

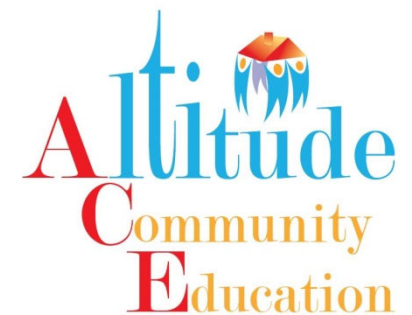


- Public disclosures (all CICs) 3-209.4 (2)
  - No cost to owners
  - Methods of disclosure:
    - Posting on website with accompanying notice of the website address via first-class mail or e-mail
    - Maintenance of a literature table or binder at the association's principal place of business; or
    - Mail or personal delivery



- SB 100/89 policies (all CICs) 3-209.5

1. Collection
2. Conflicts of interest
3. Conduct of meetings
4. Covenant enforcement
5. Inspection of records
6. Investment of reserve funds
7. Procedures for adoption and amendment of policies
8. ADR
9. Reserve Study



- Owner education (all CICs) 3-209.7
  - Educate owners on an annual basis
  - Board education is optional
- Declaration amendment
  - 50+% - 67% approval (all CICs)
  - Court petition process (all CICs)
    - 1/2 owner approval
    - No more than 1/3 of owners filing objections
    - 2 written notices; 1 membership meeting

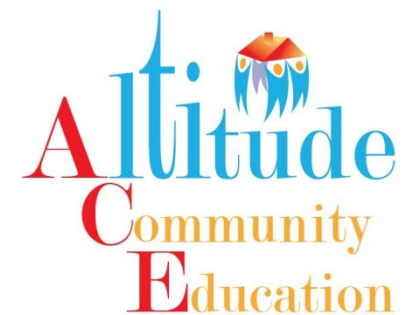


# MANAGEMENT OF CIC PART 3

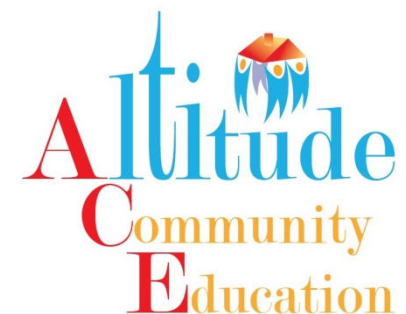




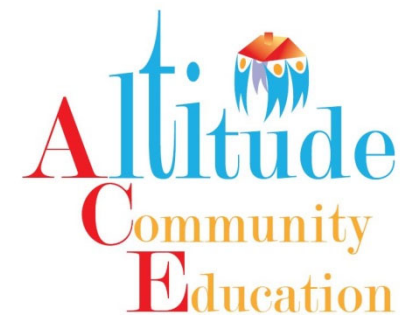
- Board Powers (unless prohibited in declaration)  
3-302
  - Adopt rules (all CICs)
  - Hire/terminate managers (all CICs)
  - Make contracts and incur liabilities (all CICs)
  - Regulate use of common areas (all CICs)
  - Improvements to common elements (post-CCIOA)



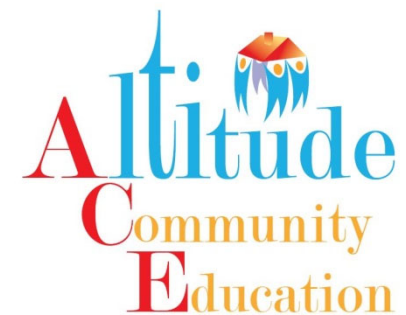
- Executive Board Members & Officers 3-303
  - Information available to directors (all CICs)
  - Committee appointments (all CICs)
  - Audit of association books and records (all CICs). Required only if governing documents require or BOTH of the following are met:
    - Assn has annual revenues or expenditures of at least \$250,000; AND
    - Audit requested by owners of at least 1/3 of units.



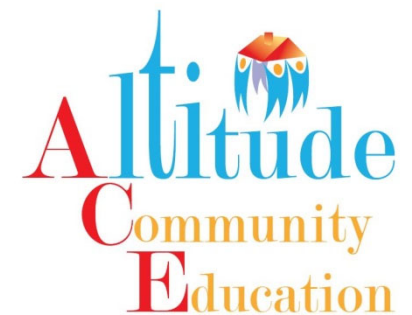
- CCIOA Budget Process (All CICs) 3-303(4)(a)
  - Board adopts budget
  - Budget ratification meeting held (no quorum necessary) to consider budget
  - Need majority of all owners (or higher requirement stated in Declaration) to veto the budget or automatically ratified
  - Exception: If Pre-CCIOA AND Declaration contains caps on assessments, still need to hold meeting to consider budget, but no veto required



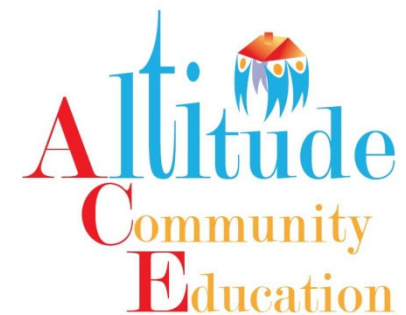
- Membership Meetings (all CICs) 3-308
  - At least once per year
  - 10 – 50 day notice
  - By mail or personal delivery
  - Physical posting in conspicuous place
- Special Meetings of Members (all CICs) 3-308
  - Called by Board President, or
  - Majority of Board, or
  - Owners having 20% of voting power (or lower % specified in bylaws)



- Board Meetings (all CICs) 3-308
  - Open meetings
  - Agendas to be made reasonably available for inspection
  - Executive session
    - Employees of association/management agreement
    - Consultation with legal counsel
    - Criminal misconduct (possible or actual)
    - Issues legally protected from public disclosure
    - Unwarranted invasion of privacy
    - Advice of legal counsel



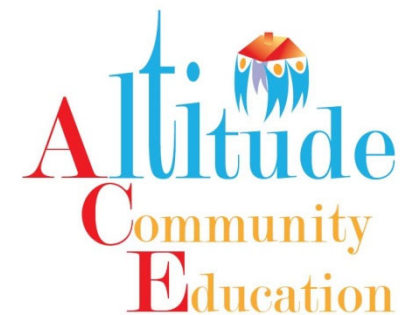
- Quorum (post CCIOA) 3-309
  - Default requirement
    - 20% if less than 2000 units
    - 10% if more than 2000 units
- Voting/proxies 3-310
  - Secret ballot for contested elections (all CICs)
  - Votes may be cast via proxy and may be made substantially as provided in C.R.S. §7-127 203 unless governing documents provide otherwise (all CICs)



- Conflicts of Interest (all CICs) 3-310.5
  - Nonprofit Act applies
  - Must involve monetary transaction
  - Not unlawful if:
    - Disclosed & majority of non-interested directors approve; or
    - Disclosed & majority of owners approve; or
    - Transaction is fair to association
- Conveyance of common elements (post-CCIOA) 3-312
  - 67% owner approval



- Insurance (post-CCIOA) 3-313
  - Associations must maintain property insurance on common elements
  - Must have commercial general liability policy on common elements
  - May adopt deductible policies
  - Must have fidelity coverage for 2 months of assessments + everything in reserves
  - Association insurance always primary
  - D&O not required, but highly recommended

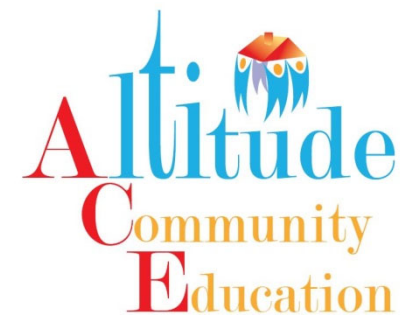




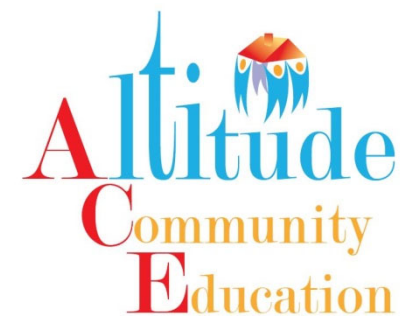
- Surplus funds (post-CCIOA) 3-314
  - Follow declaration provision
  - If silent, surplus funds get distributed to owners
  - “surplus funds” are those funds left over after payment of bills and transfer to reserves
- Assessments (post-CCIOA) 3-315
  - Interest cannot exceed 21%
  - No exemption from liability by not using common elements



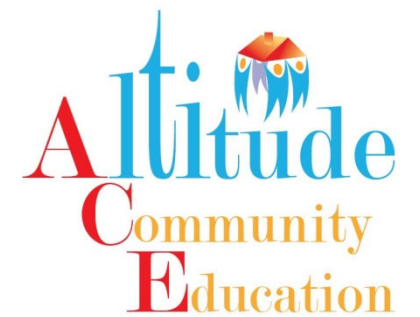
- **Assessment Lien (all CICs) 3-316**
  - Statutory lien that may be foreclosed
  - Includes:
    - Assessments;
    - Charges;
    - Late fees;
    - Attorney fees;
    - Fines; and
    - Interest



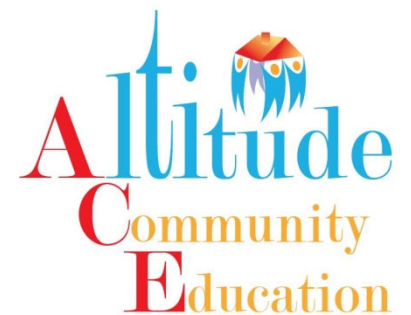
- Association records (all CICs)—cont. 3-317
  - At request of owner or owner’s authorized agent
  - Sole records of Assn (includes general disclosures)
  - Records that may and must be withheld
  - Available for examination and copying
  - No purpose needed
  - Timeframe for inspection/production
  - Cost of labor & material, for copies of assn records
  - No obligation to compile
  - Right to receive by email, at owner’s request



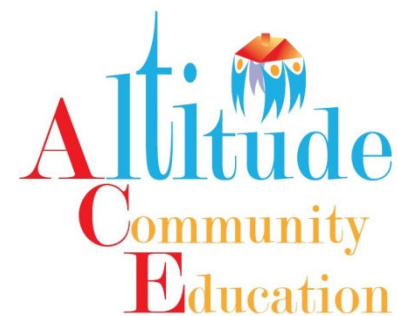
# REGISTRATION PART 4



- DORA
- Annual registration – 3-401
  - All organized associations
- Annual fees



- How do you comply with all of this?
  - Manager
    - Duties
    - What they can and cannot do
    - Comply with Corporate formalities



# QUESTIONS?

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