

Prepared for Representative Naquetta Ricks

Poudre Overlook Homeowners Association – Governance, Compliance, Financial, and Procedural Assessment

EXECUTIVE SUMMARY

The Poudre Overlook Homeowners Association (POHOA) faces significant structural, procedural, legal, and administrative challenges that have placed the Association at substantial risk of non-compliance with Colorado law—particularly **CCIOA**, **HB24-1108**, **HB24-1337**, and most importantly the new **HB25-1043 Strict Compliance Mandate**, which eliminates “substantial compliance” and requires **precise, technical adherence** to statutes and governing documents.

This report reconstructs, analyzes, and expands upon the Association’s recent history, including the Board’s decisions regarding insurance, budgeting, reserves, rulemaking, policy enforcement, trash service, architectural review, notice practices, recordkeeping, elections, and directed proxy procedures. Interviews, meeting transcripts, uploaded governing documents, owner communications, and statutory authorities were used to accurately identify risks and compliance failures.

The central findings are as follows:

1. The Board has repeatedly taken actions without clear statutory or governing document authority.

This includes:

- Selection of trash providers without a membership vote where governing documents appear ambiguous.
- Adoption or modification of rules without following statutory notice requirements.
- Refusal to answer questions regarding insurance coverage changes before calling for a vote.
- Restricting owner speech in meetings contrary to HB24-1108.
- Proceeding with elections where procedural irregularities occurred involving directed proxies.

These actions risk **voiding decisions under HB25-1043**.

2. Insurance changes from American Family to Auto-Owners were conducted without transparency, with unresolved questions about director and officer coverage.

During the 2024–2025 policy transition:

- Owners repeatedly asked whether D&O limits and exclusions matched prior coverage.
- The Treasurer and President declined to answer questions before votes.
- The Board did not provide an adequate “Right to Disclosure” response under CCIOA §38-33.3-209.4.
- Meeting transcripts indicate the Board deflected inquiries by declaring it “too late to ask questions.”

This creates **personal liability risk for any director serving or elected during this period**, especially if the policy lacks adequate protection or fails to cover actions taken without authority.

3. Budgeting and reserve practices show potential violations of CCIOA and HB24-1337.

Key issues include:

- The 2020 Reserve Study (used by the Board) conflicts dramatically with the 2025 updated Reserve Study.
- Failure to disclose reserve methodology to owners.
- Use of “cost-recovery fees” potentially inconsistent with CCIOA and Colorado consumer protection law.
- Adoption of budgets with **insufficient transparency** and without proper disclosure under the new statutes.

These issues could lead to **statutory penalties**, mandatory budget redo, or director liability.

4. Meeting notices, agendas, and record disclosures do not appear to comply with statutory requirements now subject to strict compliance.

Under HB25-1043, non-compliance is no longer a small issue—it invalidates Board actions. Identified deficiencies include:

- Missing or incomplete notices for rule changes.
- Insufficient meeting agendas.

- Lack of owner access to certain financials and contracts.
- Opaque handling of architectural variance requests.

Each represents a **voidable action** that could unravel multiple decisions made in 2024–2025.

5. Elections and Directed Proxies (Section 14) contain significant procedural defects.

(Full detailed Section 14 will appear later in the full report.)

Preliminary issues include:

- Unclear chain of custody for proxies.
- Uncertainty regarding total number of ballots counted.
- Potential overreach by the presiding officer in restricting questions.
- Failure to comply with open-meeting requirements during vote tabulation.
- Ambiguity in verifying eligibility of directed proxies under POHOA bylaws.

These problems threaten to **invalidate the election results** under strict compliance rules.

6. Trash collection authority is ambiguous and improperly interpreted.

The Board claims sole authority to choose providers; however:

- Governing documents do not clearly grant this authority.
- State law trends toward **member voting** for substantial service contracts.
- The Board failed to produce contract details when requested.

This is an area ripe for legislative clarification, which Rep. Ricks has recently signaled interest in.

7. Yard Sale treated as “Commercial Business” or “Home Occupation”

A related governance issue involved POHOA’s attempt to regulate home occupations and yard sales through two versions of a Home Occupation Policy that conflicted with Colorado’s SB24-134 and exceeded the authority granted by the Declaration. These policies were not adopted in compliance with CCIOA and illustrate a continued pattern of Board overreach.

8. Owner rights under CCIOA and Colorado statutes have been repeatedly diminished or disregarded.

Examples include:

- Blocking or suppressing questions during meetings.
- Failing to disclose critical documents.
- Implementing rules without proper authority.
- Ambiguities in enforcement procedures.
- Unclear fee authority.

Colorado’s legislative intent since 2023 clearly favors **owner empowerment, transparency, fair elections, and limits on HOA overreach**—areas in which POHOA is falling behind.

9. Strict Compliance (HB25-1043) means POHOA can no longer “fix it later.”

POHOA now operates under a legal environment where:

- **Every step must match statute and bylaws exactly.**
- **Unanswered owner questions invalidate meeting outcomes.**
- **Insufficient documentation nullifies rule changes.**
- **Election irregularities can void the vote.**
- **Directors may face personal liability if insurance is inadequate.**

This report outlines not only the compliance gaps but also a roadmap for correction before legal exposure mounts further.

10. Recommendations for legislative reform are included.

Given Rep. Ricks’s continued leadership on HOA issues, this report will provide:

- Draft language suggestions for clarifying ambiguous HOA powers.
- A proposal for mandatory insurance transparency standards.
- Election integrity safeguards.
- Requirement for accessible, non-retaliatory member inquiry rights.
- Uniform trash service provisions requiring owner consent.

These recommendations arise directly from POHOA’s failures and the broader patterns seen across Colorado’s HOA landscape.

Key Findings Table

This table summarizes the high-level compliance issues identified in the Association’s governance, finances, elections, and procedural practices.

Category	Issue Identified	Relevant Law / Document	Risk Level	Potential Consequences
Insurance	Non-disclosure of coverage changes; refusal to answer member questions; uncertain D&O protection	CCIOA §209.4; Owner Right to Disclosure; HB25-1043	High	Invalidated budget/decisions; exposure of directors to personal liability
Budgets & Reserves	Conflicting reserve studies; unclear methodologies; “cost recovery fees” without statutory authority	CCIOA §314, HB24-1337, POHOA Bylaws	High	Budget rejection; refund obligations; AG/DORA inquiries
Rulemaking	Rules adopted without required notices or owner input	CCIOA §§302(1)(k), 209.5	Medium–High	Rules void under strict compliance; invalid fines
Trash Service	Board asserts unilateral authority despite ambiguous governing documents	POHOA CCRs; CCIOA; HB24-1108 (owner rights)	Medium	Potential contract invalidation; owner challenge
Meetings & Notice Requirements	Insufficient agendas; ineffective disclosures; improper question suppression	CCIOA §209.5; HB24-1108; HB25-1043	High	Meeting actions void; election invalidation
Election Integrity	Inaccurate ballot counts; chain-of-custody issues; suppression of discussion; directed proxy inconsistencies	CCIOA §310; POHOA Bylaws; HB25-1043	Severe	Election may be void or challengeable
Architectural Review Process	Lack of written decisions; inconsistent application of standards	CCIOA §302; POHOA Design Guidelines	Medium	Legal disputes; owner appeals; DORA complaints
Owner Rights	Failure to provide records; refusal to answer reasonable questions; potential retaliation	CCIOA §209.4; HB24-1108	High	Civil penalties; AG referral; formal complaints

Statutory Crosswalk: How POHOA's Actions Diverge from Current Colorado Law

This section maps POHOA's practices against statutory requirements, now governed by **strict compliance**.

HB25-1043 — Strict Compliance (2025)

Purpose: Eliminates flexibility; HOAs must follow statutes and governing documents *to the letter*.

POHOA Gaps:

- Insufficient meeting notices
- Rule changes lacking statutory hearing procedures
- Elections with inconsistent proxy handling
- Contract decisions (e.g., trash) without clear authority
- Inadequate insurance transparency

Effect:

Any deviation risks **automatic invalidation** of Board actions.

HB24-1108 — Owner Rights Expansion (2024)

Expands rights to:

- Speak at meetings
- Obtain financials
- Review insurance policies
- Challenge Board decisions without retaliation

POHOA Gaps:

- Owners prevented from asking insurance questions
- Records withheld or delayed
- Procedural objections ignored
- Questions declared “untimely,” contradicting statutory rights

SB24-134 — Home-Based Business & Property Rights Protections

Statute Purpose:

SB24-134 protects homeowners' rights to engage in **low-impact home occupations**, remote work, micro-enterprise, and occasional home commerce. It limits HOA authority to regulate economic activity occurring primarily **inside the home** or activity that does not cause a demonstrated nuisance.

Key Requirements Under SB24-134:

HOAs may *not*:

1. Require homeowners to seek approval for most home-based economic activities.
2. Restrict interior uses not visible to the community.
3. Prohibit remote work, online commerce, or micro-enterprise conducted without customer traffic.
4. Ban ordinary household commerce such as tutoring, crafting, baking, or consulting.
5. Treat occasional sales — such as yard sales or seasonal clean-outs — as “commercial activity.”
6. Adopt blanket bans on all home occupations.
7. Impose restrictions not tied to specific, documented health/safety or nuisance concerns.

HOAs *may* regulate only when:

- Activities produce excessive noise, odor, traffic, parking congestion, or hazards **verifiable with evidence**.

How POHOA Diverged From SB24-134:

- Adopted a **pre-SB24-134** Home Occupation Policy that broadly prohibited benign home activities and redefined “commercial use” far beyond statutory limits.
- Adopted a **revised policy post-SB24-134** that still misstates the law, imposes unauthorized restrictions, and remains unenforceable.
- Attempted to regulate or discourage **yard sales**, which SB24-134 classifies as ordinary household activity, not a business.
- Created approval requirements for activities SB24-134 explicitly protects.
- Used discretionary and subjective criteria rather than measurable nuisance standards.
- Failed to adopt the policies through proper CCIOA rulemaking procedures, violating both SB24-134 and HB25-1043 strict compliance.

Crosswalk Summary:

SB24-134 makes POHOA's Home Occupation Policies — both the original version and the revised version — legally invalid, unenforceable, and contrary to the property rights protections established under Colorado law.

HB24-1337 — Budget Transparency Requirements

Requires:

- Clear reserve disclosures
- Statements of long-term funding methodology
- Comparable year-over-year budget clarity

POHOA Gaps:

- Inconsistent reserve study usage (2020 vs 2025)
- Failure to disclose methodology changes
- No owner explanation for mismatched estimates

CCIOA Core Provisions Implicated

CCIOA Section	Requirement	POHOA Issue
§38-33.3-209.4	Owner access to records	Insurance details not disclosed; budgets inconsistent
§38-33.3-209.5	Meeting notices, agendas, transparency	Incomplete agendas; refusal to answer questions
§38-33.3-310	Election procedures; proxies; open meeting voting	Directed proxy irregularities; unclear vote tally
§38-33.3-302	Board powers, limits	Board asserting powers not clearly granted (trash, rulemaking)
§38-33.3-314	Reserve funding disclosures	Reserve study inconsistencies; lack of methodology explanation

CCIOA §302 — Limits on Board Authority (as applied through SB24-134)

SB24-134 operates through CCIOA §302's requirement that HOAs may only exercise powers expressly granted in the Declaration.

Therefore:

- An HOA cannot regulate home occupations unless the Declaration provides explicit authority.

- An HOA cannot create restrictions that conflict with state law, including SB24-134’s protections for low-impact home businesses, remote work, and occasional household commerce.
- Attempts to regulate internal home activities, benign micro-enterprise, or yard sales exceed Board authority under CCIOA §302 when not supported by governing documents.

How POHOA diverged:

- Adopted Home Occupation Policies without foundational authority in the Declaration.
 - Attempted to redefine “commercial activity” far beyond permitted CCIOA interpretation.
 - Applied restrictions inconsistent with SB24-134’s standards.
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CCIOA §209.4 — Record Availability (as applied to Home Occupation enforcement)

SB24-134 requires that any HOA restrictions must be tied to evidence of nuisance or safety hazards.

Under CCIOA §209.4, the HOA must maintain and disclose:

- Complaints
- Violation notices
- Evidence supporting restrictions
- Enforcement history

POHOA diverged:

- Adopted restrictions without evidence-based justification.
 - Retained no supporting documentation of “nuisance” or “hazard” claims related to home business activity.
 - Applied enforcement broadly without maintaining CCIOA-required records.
-

CCIOA §209.5 — Owner Participation Rights

SB24-134’s protections cannot be meaningfully exercised if owners are not permitted to:

- Question restrictions
- Challenge misinterpretations
- Discuss policy drafts

POHOA diverged:

- Restricted discussion at meetings regarding home occupations and yard sales.

- Did not allow owner feedback before adopting policies.
 - Violated procedural transparency required by §209.5.
-

CCIOA §217 — Rules and Regulations Must Be Reasonable

CCIOA requires rules to be:

- Reasonable
- Non-arbitrary
- Related to association governance or common areas

SB24-134 adds that HOA restrictions on home-based work must not unreasonably interfere with lawful micro-enterprise.

POHOA diverged:

- Adopted rules beyond the scope of governance (interior home use).
 - Enforced subjective or overly broad definitions of “commercial activity.”
 - Violated the “reasonableness” standard by restricting activities protected under state law.
-

CCIOA §103 — Public Policy Favoring Free Use of Property

Colorado law requires narrow construction of restrictions.

SB24-134 reinforces this public policy by expanding homeowner rights in the home-business context.

POHOA diverged:

- Interpreted restrictions broadly, contrary to Colorado statutory interpretation standards.
- Imposed limitations where governing documents were silent.
- Created rules inconsistent with state public policy.

Risk Exposure Map (Board, Members, and Association)

1. Director & Officer Liability Risk

Due to unclear D&O coverage and non-compliant practices, directors currently face substantial exposure:

- Personal liability for improperly adopted budgets
- Liability for invalid rulemaking
- Liability for suppressing owner rights under HB24-1108
- Litigation risk from improper elections
- Potential coverage gaps from the insurance provider switch

This creates a chilling effect on member willingness to serve.

2. Association-Level Risk

If decisions are invalidated, POHOA could face:

- Mandatory redo of elections
 - Budget revisions and refunds
 - Contract cancellations
 - State oversight
 - Civil penalties under HB25-1043
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3. Member-Level Risk

Owners may experience:

- Financial uncertainty due to reserve volatility
 - Increased assessments due to insurance issues
 - Loss of trust in governance
 - Reduced property values due to perceived instability
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Owner Impact Assessment

Financial Impact

- Fees and assessments may have been improperly calculated.
- Reserve instability raises long-term costs.
- Insurance gaps could leave owners uninsured in certain claims.

Governance Impact

- Procedural irregularities reduce transparency and predictability.
- Elections lacking integrity damage legitimacy of decisions.
- Restrictions on member questions create a hostile environment.

Legislative Impact

POHOA represents a textbook example of why Rep. Ricks and the General Assembly have increasingly pushed for:

- More transparency
- Mandatory disclosure
- Limits on Board discretion
- Stronger owner protections
- Stricter enforcement

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SECTION 1 — INTRODUCTION

1.1 Purpose of This Report

This report provides a comprehensive assessment of the governance, financial management, insurance practices, election integrity, transparency obligations, and statutory compliance of the **Poudre Overlook Homeowners Association (POHOA)**.

Requested for submission to **Representative Naquetta Ricks**, this report documents:

- Patterns of non-compliance or questionable practices by the POHOA Board.
- The legal implications under **Colorado Common Interest Ownership Act (CCIOA)** and recent HOA-reform legislation (HB24-1108, HB24-1337, HB25-1043).
- Observed failures in elections, proxy handling, record disclosure, meeting procedures, reserve and budget management, and rulemaking.
- The consequences of the Association’s lack of transparency—especially concerning insurance changes, the reserve study, and financial practices.
- Owner impacts, governance risks, and potential statutory or regulatory violations.
- Recommendations for legislative and administrative reforms to strengthen HOA accountability statewide.

This document is intentionally long-form, detailed, and heavily structured so that it may serve not only as a report for Rep. Ricks, but also as a **reference packet** containing appendices, governing document interpretations, statutory crosswalks, cited case law, and meeting transcript summaries.

1.2 Scope of Review

This report analyzes the following areas of POHOA governance:

1. **Legal authority of the Board** under governing documents and Colorado law
2. **Financial management:** budgets, reserves, cost-recovery fees
3. **Insurance practices:** coverage levels, disclosure obligations, procedural transparency
4. **Rulemaking and enforcement**
5. **Meeting conduct,** notice requirements, agenda sufficiency, owner rights
6. **Architectural review processes**
7. **Trash service authority and contract decision-making**
8. **Election procedures,** directed proxy handling, and vote integrity
9. **Owner rights, access to records, and suppression of member input**
10. **Risk exposure** for the Association, directors, and homeowners

The scope covers events, decisions, and procedures primarily from **2023 through late 2025**, including interview summaries, uploaded governing documents, meeting transcripts, Board communications, and statutory compliance reviews.

1.3 Methodology

The following sources were reviewed:

Documentary Sources

- **POHOA Declaration, Bylaws, and Policies** (as uploaded)
- 2020 and 2025 **Reserve Studies**
- 2023–2025 budgets and financial statements
- Insurance documentation and recorded owner requests for disclosure
- Board communications and meeting notices
- Architectural request records
- Trash service discussions and contract references
- Property Improvement District (PID-30) materials
- Owner letters, emails, and statements submitted to the Board
- Transcripts of audio from the Annual Meeting and other member sessions
- Records related to elections and directed proxy handling

Legal & Statutory Sources

- **Colorado Revised Statutes Title 38, Article 33.3 (CCIOA)**
- **HB24-1108 (Owner Rights Expansion)**
- **HB24-1337 (Budget Transparency)**
- **HB25-1043 (Strict Compliance)**
- Selected case law involving HOA procedural invalidation and board authority limits

Analytical Techniques

- Cross-referencing Board actions against governing document requirements
- Mapping statutory obligations to documented Board practices
- Identifying areas of strict compliance deviation under the new mandate
- Evaluating chain-of-custody, transparency, and electoral integrity
- Assessing operational and financial decisions for legal sufficiency
- Reviewing interviews for consistency, reliability, and corroboration of events

The methodology is designed to meet the rigor required for legislative review, regulatory referrals, or future administrative challenges.

1.4 Background of the Association

1.4.1 Community Overview

Poudre Overlook, or POHOA, is a small Colorado common-interest community governed by a volunteer Board of Directors. Its governing documents—written before newer HOA reform laws—leave many powers ambiguous or undefined, creating tension between:

- The Board’s interpretation of its authority, and
- The statutory protections mandated for homeowners.

1.4.2 Governance Climate (2023–2025)

In the past several years, the following themes have emerged:

- Increasing legal obligations under updated CCIOA provisions
- Legislative scrutiny of HOA overreach statewide
- Rising owner concerns about transparency, insurance, and elections
- Unresolved questions about Board authority and procedural correctness
- Growing skepticism regarding the accuracy and openness of financial decisions

The broader climate in Colorado reflects a substantial push toward **HOA accountability**, which heightens the importance of compliance for POHOA.

1.4.3 Emergence of Governance Tension

Owner statements, meeting recordings, and correspondence reflect:

- Tension surrounding insurance changes
- Confusion over budgets and reserve plans
- Owner questions being dismissed or suppressed
- Directed proxy handling lacking verifiable integrity
- Unclear legal authority for trash service decisions
- The Board declining to answer material questions at crucial moments

These tensions culminated in the 2025 Annual Meeting, where member inquiries regarding insurance and governance were cut off, leading to procedural irregularities that now require careful documentation.

1.5 The Significance of Strict Compliance (HB25-1043)

The shift to strict compliance is the single most transformative legal change affecting POHOA. As of 2025:

- Boards no longer enjoy a “good faith” or “substantial compliance” buffer.
- Every procedural step must match statute and the governing documents *exactly*.
- Any deviation risks rendering actions **void**, not merely voidable.
- Directors can incur **personal liability** when insurance is insufficient or non-compliant actions result in disputes.

This Report evaluates POHOA through this new legal lens. Many actions taken between 2023–2025 would not withstand strict compliance scrutiny if challenged today.

1.6 Organization of the Report

The report proceeds in the order requested under Option B (your uploaded version’s ordering), reconstructed into a polished, legislative-ready structure:

1. **Introduction**
2. **Statutory and Governing Document Framework**
3. **Board Powers and Limitations**
4. **Financial Practices: Budgets, Reserves, and Cost Recovery Fees**
5. **Insurance Practices and Transparency Failures**
6. **Operational Transparency and Owner Rights**
7. **Meeting Notices, Agendas, and Procedural Compliance**
8. **Rulemaking and Enforcement Issues**
9. **Architectural Review Process**
10. **Trash Service Authority Question**
11. **Safety, Infrastructure, and PID-30**
12. **Member Rights, Access to Records, and Suppression Issues**
13. **Summary Findings Before Elections Section**
14. **ELECTIONS & DIRECTED PROXIES (Reconstructed Section 14)**
15. **Conclusion**
16. **Appendices (Statutes, Documents, Citations, Case Law)**

Each section is written to be independently citable within your submission packet.

1.7 Summary of Issues Leading to This Report

This investigation was prompted by:

- A breakdown in transparent communication between the Board and homeowners
- Unanswered questions about crucial insurance changes
- Financial opacity and conflicting reserve studies
- Procedural inconsistencies in elections

- A legally suspect interpretation of Board authority over trash services
- Repeated suppression of owner inquiries
- Structural governance flaws made newly critical under **strict compliance**

This report documents these issues in detail so policymakers may evaluate broader needs for statewide reform.

SECTION 2 — STATUTORY AND GOVERNING DOCUMENT FRAMEWORK

2.1 Overview of Colorado’s HOA Legal Landscape

Colorado’s General Assembly has enacted progressively stronger homeowner-protection statutes since 2020, culminating in **HB25-1043**, which replaces the former *substantial compliance* standard with **strict compliance**.

Under this new regime:

- The Board **MUST** follow statutes and governing documents **precisely**.
- Procedural defects invalidate actions *automatically*.
- Directors can face **personal liability** when operating outside their authority.
- HOAs must prove that decisions, notices, elections, budgets, and rulemaking conform to the **letter** of the law.

This shift is central to evaluating POHOA’s conduct between 2023–2025.

2.2 Core Statutes Governing POHOA

POHOA is bound by multiple layers of Colorado law:

1. **Colorado Common Interest Ownership Act (CCIOA)** — Title 38, Article 33.3
2. **Colorado Nonprofit Corporation Act** — For corporate governance defaults
3. **House Bill 24-1108** — Expanded owner rights
4. **House Bill 24-1337** — Transparency in budgets and reserves
5. **House Bill 25-1043** — Strict compliance requirements
6. Additional case law interpreting CCIOA duties, board powers, elections, and owner rights

The following subsections evaluate POHOA’s obligations under each.

2.3 CCIOA: Foundational Requirements

2.3.1 CCIOA §38-33.3-209.4 — Owner Access to Records

The Association must provide owners access to:

- Financial statements
- Budgets
- Contracts, including insurance
- Minutes and meeting records
- Reserve study information
- Election materials and proxies
- All documents required for transparency and informed participation

POHOA Compliance Concerns Documented:

- Failure to respond meaningfully to requests for complete insurance information
- Lack of clarity regarding reserve assumptions
- Delayed or incomplete answers to owner questions
- Failure to disclose certain contracts (trash service, insurance broker details)

Under **HB25-1043**, incomplete disclosure is now grounds for **invalidating decisions** made while information was withheld.

2.3.2 CCIOA §209.5 — Meetings, Notices, and Owner Participation

This section mandates:

- **Advance notice** of meetings
- **Clear agendas** including action items
- Opportunity for owners to **speak before decisions**
- Transparency in deliberations
- No suppression of reasonable owner questions

POHOA Deviations Identified:

- The Board refused to answer insurance questions before calling a vote
- Questions were labeled “too late,” contrary to CCIOA
- Agendas did not list all anticipated actions
- Owners could not obtain materials needed to understand decisions
- Election discussions were prematurely closed

These are **strict compliance violations** under the 2025 rules.

2.3.3 CCIOA §302 — Powers and Duties of the Association

This sets limits on Board authority:

- Only powers expressly granted in governing documents are permitted
- Any doubt is interpreted **against the HOA** (case law trend)
- HOAs may not impose fees or restrictions without statutory or contractual authorization
- Certain powers require owner vote

POHOA Issues:

- Claiming unilateral authority to choose trash providers despite unclear CCR language
- Imposing or attempting to impose “cost-recovery fees” without documented authority
- Enforcing rules not adopted through a proper statutory process
- Potentially entering contracts without disclosure or owner input

When Board interpretation overreaches, the statute defaults to **owner protection**.

2.3.4 CCIOA §310 — Elections and Directed Proxies

This statute governs:

- Open meeting voting
- Eligibility to vote
- Ballot integrity
- Proxy validity
- Transparent tabulation
- Chain-of-custody requirements
- Prohibition on secret ballots except for Board member elections

POHOA Election Irregularities Include:

- Uncertainty over the number of ballots counted (27–6 or 29–6)
- Directed proxies submitted without documented validation
- No clear chain-of-custody records
- Owner questions suppressed during election process
- No transparent review of proxy eligibility

These issues will be analyzed in-depth in **Section 14 (Elections & Directed Proxies)**.

2.3.5 CCIOA §314 — Reserve Studies and Disclosures

Requires:

- Clear explanation of methodology
- Consistency between reserve studies
- Honest disclosure of projected funding gaps
- Transparency regarding replacement timelines

POHOA Deviations:

- 2020 and 2025 reserve studies present **inconsistent valuations**
- No explanation for methodology change
- Owners not provided with analysis or comparative data
- Potential noncompliance with HB24-1337 disclosure mandates

This directly affects budgets and assessments.

2.4 HB24-1108 — Expansion of Owner Rights (2024)

This law strengthened owner protections, requiring:

- Greater transparency
- Respect for owner questions at meetings
- Non-retaliatory environments for owner participation
- Stronger enforcement of record access
- Protection of owner speech rights during HOA deliberations

POHOA's Documented Non-Compliance:

- Suppressing insurance-related questions
- Declaring legitimate questions “irrelevant” or “late”
- Reduction of owner forum opportunities
- Withholding information required for informed voting

These actions violate the spirit and letter of HB24-1108.

2.5 HB24-1337 — Budget Transparency and Reserve Reporting

This statute requires associations to:

- Present budgets in a transparent, comprehensible format
- Provide year-over-year comparisons
- Disclose reserve assumptions
- Include explanations for significant changes
- Ensure owners understand the financial posture of the association

POHOA Issues Identified:

- Reserve assumptions not disclosed
- Owners unaware of change in reserve methodology
- Conflicting studies not explained
- Lack of clarity around “cost-recovery fee” structure

This undermines meaningful owner consent to budgets.

2.6 HB25-1043 — Strict Compliance (2025)

This is the **most consequential statute** for evaluating POHOA.

What Strict Compliance Changes:

- Every requirement in *statutes, bylaws, CCRs, and policies* must be met **exactly**.
- Minor deviations invalidate actions.
- Procedural shortcuts are no longer tolerated.
- Directors cannot rely on “good faith mistakes.”
- Ambiguity is interpreted against the HOA.
- Insurance gaps can expose directors personally if improper actions lead to claims.

How POHOA’s Practices Are Affected:

Actions now at risk of invalidation include:

- Budgets passed after improper notice
- rule changes without hearings
- elections with proxy irregularities
- refusal to answer owner questions before votes
- contracts entered without documented authority
- suppression of member participation

POHOA’s pattern of procedural shortcuts is now **legally indefensible**.

2.7 Governing Documents: POHOA's Foundational Rules

POHOA's authority is also constrained by:

- **Declaration (CCRs)**
- **Bylaws**
- **Policies & Procedures**
- **Design Guidelines**
- **Adopted Rules**

2.7.1 Declaration (CCRs) — Hierarchical Superior

The Declaration controls when:

- Board authority is ambiguous
- Powers are not explicitly granted
- Restrictions attempt to exceed statutory boundaries

Key ambiguities affecting POHOA include:

- Authority over trash service
- Authority to impose special fees
- Scope of ARCHITECTURAL CONTROL COMMITTEE enforcement
- Limits on rulemaking power

These ambiguities require the Board to default to **owner protections**, not stretch for broader authority.

2.7.2 Bylaws — Operational Governance

The Bylaws regulate:

- Elections
- Directed proxies
- Quorum requirements
- Board terms and powers
- Meeting procedures

POHOA's election irregularities stem from misapplication of these provisions, discussed in detail in Section 14.

2.7.3 Policies and Procedures

Policies must be:

- Adopted via proper notice
- Consistent with CCIOA and Declaration
- Transparent and accessible

There is evidence that POHOA has:

- Enforced policies never properly adopted
 - Modified procedures without required owner engagement
 - Failed to publish or distribute certain policies
-

2.7.4 Design Guidelines (ARCHITECTURAL CONTROL COMMITTEE Authority)

ARCHITECTURAL CONTROL COMMITTEE authority is limited to:

- Declared architectural standards
- Procedures adopted with notice
- Restrictions consistent with CCIOA

POHOA's ACC actions appear inconsistent and undocumented.

2.8 Case Law Interpreting HOA Governance in Colorado

Colorado courts increasingly interpret CCIOA as:

- Owner-protective
- Strictly limiting HOA powers
- Holding HOAs accountable for deviations from required procedures

Key principles:

- **Ambiguity is resolved against the association.**
- **Proper procedure is legally indispensable.**
- **HOAs may not invent powers not found in statutes or governing documents.**
- **Due-process failures void enforcement actions.**

These principles are directly relevant to POHOA's record.

2.9 Summary: The Legal Framework Places POHOA at High Compliance Risk

Given:

- Ambiguous governing documents
- Repeated procedural shortcuts
- Improper handling of elections
- Insurance disclosure failures
- Budget and reserve inconsistencies
- Owner-rights violations

POHOA is operating far outside the margins permitted under Colorado's updated HOA legal landscape.

The remainder of this report evaluates each area of concern in detail.

SECTION 3 — BOARD POWERS AND LIMITATIONS

3.1 Overview: HOAs Have Only the Powers Explicitly Granted to Them

Under CCIOA and Colorado case law, an HOA Board:

- **Only has the powers expressly granted** in the Declaration, Bylaws, and statutes.
- Cannot assume implicit authority.
- Cannot expand its powers through practice or interpretation.
- Must resolve ambiguity **against the Association**, not in its favor.

This principle is foundational to the analysis of POHOA's governance actions.

3.2 Statutory Limits on Board Powers

3.2.1 CCIOA §302 — Enumerated Powers Must Be Construed Narrowly

CCIOA grants HOAs certain powers **only if the governing documents do not prohibit or restrict them.**

However:

- A power must be **affirmatively granted**, not implied.
- Contract decisions (e.g., trash service) must be grounded in specific authority.
- Financial fees and cost-recovery charges must be authorized by statute or Declaration.
- Board conduct must respect owner rights under §§209.4 and 209.5.

POHOA has repeatedly invoked §302 as a **blanket justification** for actions that exceed or contradict their Declaration.

3.2.2 CCIOA §209.5 — Board Powers Limited by Procedural Obligations

Even where a Board has substantive authority, it must exercise it **only after**:

- Proper notice
- Clear agenda descriptions
- Open deliberation
- Allowing owner questions
- Providing access to records relevant to the decision

Failing any step is a **strict compliance violation** under HB25-1043.

POHOA has taken actions—including contract renewals, insurance decisions, and election procedures—without satisfying these prerequisites.

3.2.3 CCIOA §310 — Elections Must Follow Bylaws Exactly

The Board has no discretionary power to alter or reinterpret:

- Directed proxy procedures
- Ballot handling
- Eligibility verification
- Vote tabulation rules
- Quorum requirements

Any election performed without full adherence to §310 and the Bylaws is **invalid**.

In 2025, the Board departed from these standards in several ways documented in Section 14.

3.3 Governing Documents: What Powers the Board *Actually* Has

3.3.1 Declaration (CCRs) — The Primary Source

For POHOA, the Declaration **does not** explicitly grant the Board broad unilateral powers in these domains:

- **Trash service selection**
- **Cost-recovery fees**
- **Discretionary assessment categories beyond those enumerated**
- **Open-ended enforcement authority**
- **Rulemaking without owner participation**
- **Financial commitments outside the operating or reserve budget structure**

Where the CCRs are ambiguous, Colorado courts require Boards to default to **homeowner rights**, not self-expansion of power.

3.3.2 Bylaws — Corporate Operational Rules

The Bylaws regulate:

- How the Board is elected
- How vacancies occur
- Required procedures for meetings
- Voting and proxies
- Officer roles and responsibilities

POHOA's Board has not complied with several Bylaw mandates, including:

- Allowing proper owner comment before elections
- Handling proxies transparently
- Recording accurate vote totals
- Maintaining required openness during tabulation

These will be analyzed extensively in Section 14.

3.3.3 Policies and Resolutions

Policies may refine Board procedures but **cannot override**:

- Declaration
- Bylaws
- CCIOA
- Owner rights statutes
- Insurance disclosure obligations

POHOA has adopted or enforced policies that appear:

- Unpublished
- Unnoticed
- Not properly adopted
- Inconsistent with statutory mandates

These policies therefore lack legal force.

3.4 Areas Where POHOA Has Overstepped Its Authority

3.4.1 Trash Service Contracting

The Board asserts it has **exclusive authority** to select the trash provider. However:

- The CCRs do **not** explicitly grant this authority.
- The cost is an ongoing mandatory service with material budget impact.
- Case law in Colorado increasingly favors **member approval** for service contracts affecting assessments.
- Owners have requested information the Board has not provided.

Under strict compliance, the Board must show **clear authority**—which does not appear to exist.

3.4.2 Cost-Recovery Fees and Financial Penalties

Several communications and owner reports indicate the Board has considered or implemented “cost-recovery fees.”

Problems:

- CCIOA requires fee authority to be expressly provided.
- CCRs do not appear to authorize such fees.
- Fees not mentioned in budgets or notices are invalid.
- The Board cannot create new categories of charges by interpretation.

This places POHOA at legal risk for improper assessments.

3.4.3 Insurance Decisions Without Transparency

The Board switched from American Family to Auto-Owners Insurance without:

- Presenting the policies to owners
- Disclosing coverage differences
- Answering questions at meetings
- Providing requested documents under §209.4
- Ensuring D&O coverage equal to or greater than prior policies

Failing to disclose material insurance changes violates CCIOA and HB24-1108.
Doing so while suppressing questions violates CCIOA §209.5.

If D&O coverage is insufficient, directors face **personal liability** for actions taken during this period — including elections and budgets.

3.4.4 Election Administration (Overreach + Procedural Violations)

The Board does not have inherent authority to:

- Deviate from Bylaw proxy rules
- Tabulate ballots privately
- Close discussion prematurely
- Obstruct owner questions
- Run elections without transparency

Yet owners report:

- Inconsistent vote totals
- Possible mismanagement of directed proxies
- Suppressed questions about ballots
- No clear record of vote tabulation procedures

Under strict compliance, these violations **invalidate the election**.

3.4.5 Rulemaking and Notification

Board authority to adopt rules is strictly limited:

- Rules must be authorized by the declaration
- Proper notice must be given
- Owners must be allowed to comment
- Rules must be reasonable and uniformly enforced

POHOA appears to have:

- Enforced rules not properly adopted
- Failed to send required notices
- Restricted owner involvement in rulemaking

These rules are **void** under §209.5 and HB25-1043.

3.5 Areas Where the Board Has Failed to Use Powers It *Does* Have

In several cases, the Board has **authority** but has failed to use it properly:

3.5.1 Maintenance and PID-30 Coordination

The Board has authority to oversee property maintenance and coordinate with the PID. However:

- Communication appears inconsistent
- Documentation is incomplete
- Owners lack clarity on what responsibilities lie with the PID vs the HOA

This failure reduces owner confidence and exposes the Board to avoidable disputes.

3.5.2 Transparency and Records Management

The Board has clear power—and obligation—to disclose:

- Meeting minutes
- Insurance documents
- Financial records
- Contracts
- ACC decisions

Yet the Board has not provided these consistently or promptly.

This is not a lack of power — it is a failure to exercise it responsibly.

3.6 Colorado Legal Principle: Ambiguity Resolves Against HOA Power

Colorado courts repeatedly affirm that:

HOAs are creatures of contract, and any ambiguity regarding authority must be resolved against the association and in favor of the homeowner.

Implications for POHOA:

- Trash contract authority must be interpreted in favor of requiring owner approval.
- Election procedures must strictly follow Bylaws and statutory protections.
- Fee authority must be interpreted narrowly.
- ACC standards must be disclosed and enforced consistently.
- Insurance transparency is not optional.
- Rulemaking requires formal notice and owner involvement.

Any Board action outside these bounds is **ultra vires** (beyond its power) and therefore void.

3.7 Summary: POHOA’s Board Has Regularly Operated Beyond Its Legal Authority

Across multiple domains — financial, electoral, contractual, and procedural — POHOA’s Board has taken actions:

- Not grounded in governing documents
- Inconsistent with CCIOA
- Contrary to HB24-1108 owner rights
- Lacking required transparency
- Violating HB25-1043 strict compliance

These findings inform the analysis that follows in Sections 4–14.

SECTION 4 — FINANCIAL PRACTICES: BUDGETS, RESERVES, AND COST- RECOVERY FEES

4.1 Overview

Financial governance is one of the most legally regulated areas under CCIOA. POHOA's budgeting process, reserve planning, and treatment of assessments show **significant deviations** from statutory and governing-document requirements, including:

- Conflicting reserve studies
- Lack of transparency about methodology
- Inadequate disclosure of assumptions
- Ambiguous authority for fee categories
- Opaque spending communication
- No clear process for member review
- Budgets passed amid unanswered questions
- Uncertainty surrounding long-term funding obligations

Given HB24-1337's requirements and HB25-1043's new **strict compliance** mandate, these deficiencies pose severe legal and financial risks.

4.2 Statutory Financial Requirements Under CCIOA and Recent Legislation

4.2.1 CCIOA §315 — Association Budgets Must Be Transparent and Submitted to Owners

Under CCIOA:

- The Board must adopt a proposed budget.
- Owners must be given a **summary** and a chance to **veto** the budget.
- The summary must be understandable and sufficiently detailed.

POHOA Issues Identified:

- The budget information provided to owners lacked clarity and detail.
- Underlying financial assumptions (e.g., reserves) were not disclosed.

- Significant assessment changes occurred without adequate explanation.
- Meeting notices did not include sufficient detail for informed owner participation.

Under **strict compliance**, insufficient disclosure invalidates the budget adoption process.

4.2.2 HB24-1337 — Increased Transparency Requirements

The 2024 statute requires:

- Explanation of year-over-year changes
- Description of reserve funding methodology
- Disclosure of long-term repair and replacement schedules
- Clear breakdown of operating vs. reserve expenditures

POHOA Non-Compliance Indicators:

- Owners did not receive a comparison of the 2020 vs. 2025 reserve studies.
- No explanation was provided for dramatic differences in estimated component life or replacement costs.
- Reserve funding methodology (cash flow vs. component method) was not disclosed.
- Long-term capital projections were not shared.
- The Board did not answer owner questions during meetings where budgets were voted upon.

This is a **direct statutory violation** under HB24-1337.

4.3 Reserve Studies: Conflict Between 2020 and 2025 Reports

4.3.1 Nature of the Conflicts

The 2020 Reserve Study is substantially inconsistent with the 2025 Reserve Study. Key differences include:

- Projected lifespan of several major components
- Estimated replacement costs
- Required annual contributions
- Percentage funded status
- Assumptions about inflation and construction cost growth

Without explanation, large jumps in funding needs can cause:

- Owner distrust
 - Legal challenges
 - Budget rejection
 - Regulatory scrutiny
-

4.3.2 Consequences for POHOA

Failing to explain these discrepancies violates:

- CCIOA §314
- HB24-1337
- Owner disclosure rights under §209.4
- HB25-1043 strict compliance standards

Invalid reserve methodology further undermines the legality of the adopted budget.

4.4 Budget Adoption Under Conditions of Non-Disclosure

4.4.1 Owner Questions Must Be Answered Before Budget Adoption

This is not optional:

- CCIOA §209.5 requires open deliberation.
- HB24-1108 prohibits suppressing owner questions.
- Budgets cannot be adopted when owners are denied required information.

POHOA Violation:

During the Annual Meeting, when owners raised questions about:

- Insurance changes
- D&O coverage
- Reserve assumptions
- Contract decisions
- Expense increases

...the Board **refused to answer**, declaring questions “too late.”

This is a per se violation under strict compliance.

4.4.2 Consequences for the 2025 Budget

Under HB25-1043:

- The budget adoption may be **invalid**.
- Any assessments based on the budget may be challengeable.
- Owners may be entitled to refunds of improperly assessed charges.
- Directors may be personally liable if insufficient disclosures caused financial harm.

This is not theoretical — the legal risk is immediate.

4.5 Authority to Impose “Cost-Recovery Fees”

4.5.1 What Colorado Law Requires

To impose a fee or charge, an HOA must demonstrate:

1. **Express authorization** in the Declaration or CCIOA
2. Proper budget inclusion
3. Notice to members
4. Transparent justification

Cost-recovery fees are not mentioned in CCIOA unless:

- They appear in the Declaration, or
 - They are part of the enforcement penalty schedule (fines, not fees)
-

4.5.2 POHOA Lacks Authority to Create New Fee Categories

Owner statements indicate that POHOA has considered or implemented:

- “Cost-recovery fees”
- Charges outside routine assessments
- Fees not authorized in governing documents

This violates:

- CCIOA §302 (limits on association powers)
- CCIOA §209.4 (disclosure requirements)
- HB25-1043 (strict compliance)

HOAs cannot **invent** new fees by interpretation.

4.5.3 Legal Consequences

If POHOA imposed or threatened unauthorized fees, owners may:

- Challenge the fees as **void ab initio** (invalid from the start)
 - Seek reimbursement
 - File complaints under HB25-1043
 - Request AG/DORA intervention
-

4.6 Transparency Failures in Financial Governance

4.6.1 Missing or Incomplete Document Disclosures

POHOA has not consistently provided:

- Contracts (insurance, trash, maintenance)
- Financial statements
- Reserve study comparisons
- Methodological explanations
- Detailed budget schedules

Under strict compliance, failure to disclose records **invalidates actions** dependent on those disclosures.

4.6.2 Failure to Record Clear Meeting Minutes

Owners report that key discussions — including the refusal to answer insurance questions — are not reflected in meeting minutes.

This violates:

- CCIOA §209.5
- Basic nonprofit corporate governance standards
- Owner rights under §209.4 to obtain an accurate record

Minutes must accurately reflect:

- Questions asked
- Decisions made
- Rationales
- Voting outcomes
- Procedural objections

POHOA's minutes do not.

4.7 Risks Arising from Current Financial Practices

4.7.1 Risk to Homeowners

- Assessments may be improperly calculated.
 - Owners may be paying for items not properly approved.
 - Reserve deficits may create unpredictable future expenses.
 - Lack of transparency undermines trust and increases conflict.
-

4.7.2 Risk to the Association

- Budgets may be legally void.
 - Insurance may not cover financial decisions made without proper procedure.
 - Failure to follow HB24-1337 may lead to regulatory intervention.
 - Election challenges could invalidate director positions who voted on budgets.
-

4.7.3 Personal Liability Risk to Directors

If:

- Budgets were adopted without required transparency
- Reserve decisions misled owners
- Insurance disclosures were withheld
- Unauthorized fees were imposed

...then directors may face **personal liability**, especially if D&O coverage is incomplete.

Given the uncertainty surrounding POHOA's insurance (Section 5 will detail this), the risk is heightened.

4.8 Summary of Financial Findings

POHOA's financial governance shows systemic issues:

- Non-transparent budget adoption
- Major reserve study inconsistencies
- Failure to comply with HB24-1337
- Failure to answer owner questions before votes
- Possible imposition of unauthorized fees
- Omission of essential disclosures
- Potentially invalid budget procedures
- High personal liability risk for directors

These failures require immediate remediation and raise serious concerns for legislative review.

SECTION 5 — INSURANCE PRACTICES AND TRANSPARENCY FAILURES

5.1 Overview: Why Insurance Transparency Is Legally Required

Colorado law requires HOAs to maintain and **disclose** certain insurance information to homeowners.

This is not discretionary.

It is required under:

- **CCIOA §209.4** (Owner Right to Disclosure)
- **HB24-1108** (Expanded Owner Rights)
- **HB25-1043** (Strict Compliance Mandate)
- POHOA’s own governing documents, which require that owners be able to review the Association’s insurance policies upon request

Insurance transparency is fundamental because:

- Owners need to understand their financial exposure
- Directors rely on insurance for protection from lawsuits
- Lenders rely on verified master policy coverage
- Buyers rely on compliance for resale certification

POHOA’s failure to disclose critical insurance information constitutes a major governance deficit, and may have already placed both the Association and individual directors at substantial legal risk.

5.2 The Insurance Transition: American Family → Auto-Owners

5.2.1 Timeline of Concerns

The transition between insurance carriers appears to have occurred during 2024–2025, with these characteristics:

- Owners were not provided policy documentation before the Annual Meeting
- Material questions about coverage were not answered
- Board members refused to address concerns raised during the meeting
- Questions were dismissed on procedural grounds (“too late to ask”)
- No disclosure was made regarding coverage changes affecting directors

This alone is a strict compliance violation.

5.2.2 Owner Requests for Information Were Not Fulfilled

Owners requested:

- Full copies of the new and prior policies
- Details of D&O coverage

- Deductible structures
- Exclusions and endorsements
- Premium changes
- Basis for the insurer selection

But the Board:

- Did not provide the documents
- Refused to answer questions at the meeting
- Provided no written explanation afterward
- Failed to comply with statutory records requirements

This is a violation of **CCIOA §209.4**, which mandates prompt, meaningful disclosure of insurance documents.

5.3 What Insurance Information Must Be Disclosed Under Colorado Law?

5.3.1 CCIOA Requirements

The Association must disclose:

- **Master policy details**
- Property and liability coverage
- Deductibles
- Exclusions
- D&O (Directors and Officers) liability coverage
- Any changes in provider, coverage limits, or relevant policy terms

The Board must also provide:

- Certificates of insurance
- Reasonable access to the full policy

5.3.2 HB24-1108 Enhancements

HB24-1108 reinforced that:

- Owners have a right to ask questions
- HOAs must provide information necessary for informed participation
- Owners cannot be prevented from raising questions on material issues
- The Board must answer questions raised before votes

5.3.3 HB25-1043 Strict Compliance Impact

Under strict compliance:

- Failure to disclose insurance changes invalidates votes and budget adoption
- The Association may face penalties for non-disclosure
- Directors may have acted outside the protection of D&O coverage

This is not hypothetical — these failures **now carry statutory consequences**.

5.4 Potential Problems in the Auto-Owners Policy (Based on Statements and Non-Disclosure)

Because the Board refused to disclose the policy, the following questions remain unresolved:

5.4.1 Does Auto-Owners provide the same level of D&O coverage as American Family?

Owners were prevented from determining:

- The D&O limit
- Whether defense is inside or outside limits
- Whether the policy has new exclusions
- Whether claims arising from procedural violations are covered
- Whether intentional acts exclusion applies broadly

If D&O protection is insufficient, directors could be **personally liable** for decisions made since the policy change.

5.4.2 Does Auto-Owners exclude claims related to mismanagement, procedural violations, or improper elections?

Many modern HOA policies include exclusions such as:

- Improper adoption of rules
- Improper enforcement of rules
- Improper architectural decisions
- Election challenges

- Contract disputes
- Failure to maintain records

If these exclusions exist and directors acted improperly—as documented in Sections 3 and 4—they could be entirely unprotected.

5.4.3 Lack of Evidence That the Board Compared Policy Terms

No documentation was provided showing that the Board:

- Compared the policies
- Assessed differences in exclusions
- Obtained quotes from multiple carriers
- Informed owners of major changes
- Considered D&O adequacy in light of new statutory liabilities

In other words, there is no evidence of a **prudent person test** under nonprofit fiduciary standards.

5.5 Suppression of Insurance Questions at the Annual Meeting

5.5.1 Legality of Cutting Off Questions

Meeting transcripts and owner statements show the Board:

- Refused to answer insurance questions
- Declared questions “out of order” or “too late”
- Moved immediately to a vote
- Denied owners the opportunity to review documents

This is impermissible under:

- CCIOA
- HB24-1108
- HB25-1043
- POHOA Bylaws, which require openness

5.5.2 Consequences for the Legitimacy of the Meeting

If a Board refuses to answer material questions **before** a vote:

- The vote is not valid under CCIOA
- The vote is not valid under HB25-1043
- The Board's action may be void
- Adoption of budgets related to the insurance decision may be void
- Directors may have breached fiduciary duty

Election irregularities noted in Section 14 further compound the issue.

5.6 Fiduciary Duty Considerations

Board members owe duties of:

- **Care** — making informed decisions
- **Loyalty** — avoiding self-benefit
- **Good faith** — acting in the best interest of the Association

POHOA Breaches of the Duty of Care:

- Failing to review full insurance documents publicly
- Not answering owner questions
- Possibly not reviewing D&O coverage adequately
- Not retaining records of insurance comparisons

Potential Breach of the Duty of Good Faith:

- Suppressing information knowingly
- Preventing owner scrutiny during a vote
- Making decisions without transparency

If these allegations are correct, directors could be exposed to:

- Civil liability
- Removal from office
- Loss of insurer-provided defense

These concerns escalate given the uncertainty around D&O coverage.

5.7 Transparency Failures Beyond the Annual Meeting

Owners report that:

- Records requests for insurance documents were delayed or ignored
- Explanations of premium changes were never provided
- The rationale behind selecting Auto-Owners was not shared
- Certificates of insurance were not distributed
- The Board could not articulate policy terms during Q&A

Each of these constitutes a discrete violation of §209.4.

5.8 Potential Consequences for POHOA Due to Insurance Failures

5.8.1 Association-Level Consequences

- Budget adoption may be invalid
 - Elections may be invalid
 - Policy renewals may be voidable
 - The Association may face civil penalties
 - Owners could successfully file complaints with the HOA Information Office or DORA
-

5.8.2 Director-Level Consequences

Directors may be personally liable for:

- Contracts entered without authority
- Violations of owner-rights statutes
- Election irregularities
- Procedural failures under strict compliance laws
- Financial mismanagement

If the D&O coverage is insufficient — information the Board refused to disclose — liability may attach **directly** to Board members.

5.8.3 Homeowner-Level Consequences

Homeowners may be exposed to:

- Inadequate master policy coverage
- Special assessments if uninsured losses occur
- Financial uncertainty due to invalid budgets
- Reduced property values due to perceived instability

These risks justify legislative attention.

5.9 Summary of Insurance Findings

POHOA's handling of insurance is characterized by:

- Refusal to answer owner questions during votes
- Failure to disclose essential documents
- Suppression of inquiries at meetings
- Uncertainty regarding D&O protection
- Potentially incomplete or inadequate coverage
- Noncompliance with CCIOA, HB24-1108, and HB25-1043
- Major fiduciary red flags
- Heightened liability for directors and the Association

Given that **insurance is one of the few areas where HOAs consistently expose themselves to multi-million dollar risks**, POHOA's lack of transparency is one of the most serious governance failures documented in this report.

SECTION 6 — OPERATIONAL TRANSPARENCY AND OWNER RIGHTS

6.1 Overview: Transparency Is No Longer Optional

Colorado's legislative direction in HOA governance is unambiguous:

- **Transparency is mandatory.**

- **Owner participation is protected.**
- **HOAs must disclose governance information proactively.**
- **Strict compliance requires correctness, not merely good faith.**

POHOA's governance pattern shows persistent problems:

- Withholding essential information
- Refusing to answer questions during meetings
- Incomplete or vague notices
- Missing documentation
- Unpublished rules or policies
- An atmosphere where owners are discouraged or cut off

Section 6 documents these problems and shows how they undermine every other area of association governance.

6.2 Statutory Transparency Requirements

6.2.1 CCIOA §209.4 — Owner Right to Access Records

Owners must be provided prompt access to:

- Financial statements
- Budgets
- Reserve studies
- Insurance policies
- Meeting minutes
- Contracts (trash, insurance, maintenance)
- Architectural decisions and records
- All governance policies

POHOA's Violations Include:

- Delaying or ignoring insurance document requests
- Failure to disclose key financial records
- Failure to provide timely access to reserve data
- Incomplete or missing meeting minutes
- Refusal to provide contract information upon request

These are not technical oversights.
They constitute statutory violations.

6.2.2 CCIOA §209.5 — Meetings Must Allow Owner Participation

The association must:

- Allow owners to speak on matters under discussion
- Provide meaningful opportunity to ask questions
- Respond to questions related to agenda items
- Conduct deliberations openly
- Avoid suppressing owner inquiry

POHOA Deviations Documented:

- Owners prevented from asking insurance questions
- Questions dismissed as “out of order”
- Meeting chair prematurely closed discussion
- No opportunity to ask follow-up questions
- Refusals to explain reserve inconsistencies
- Erratic or incomplete Q&A practices

These failures invalidate decisions made during such meetings under **HB25-1043**.

6.2.3 HB24-1108 — Owner Participation and Rights Expansion

HB24-1108 significantly expanded owner rights:

- Owners may ask questions on any matter under consideration
- HOAs must answer prior to voting
- HOAs may not retaliate or suppress owner participation
- Policies must be provided upon request
- HOAs must justify decisions affecting owners

The law explicitly prohibits:

- Cutting off owner questions
- Refusing to answer questions before a vote
- Withholding information materially relevant to decisions
- Intimidating or silencing homeowners during deliberations

POHOA’s conduct violates each of these protections.

6.2.4 HB25-1043 — The Strict Compliance Requirement

Strict compliance means:

- Any meeting held without full transparency is invalid
- Any vote taken without sufficient disclosure is void
- Any rule enforced without proper notice cannot legally stand
- Any election conducted without open procedures is challengeable
- Any suppression of owner questions violates statutory procedure

POHOA's meeting practices fall squarely within the scope of strict compliance concerns.

6.3 Meeting Notices and Agenda Insufficiency

6.3.1 Inadequate Notice Content

Owners report that meeting notices:

- Failed to list actionable items
- Did not disclose material decisions (e.g., insurance changes)
- Did not include budget summary information as required by HB24-1337
- Were unclear, vague, or incomplete

Under CCIOA §209.5:

- Owners must know **what will be discussed**
- Owners must have documents **in advance**

POHOA's notices did not provide this.

6.3.2 Late Delivery of Information

Owners frequently received:

- Budgets late
- Reserve data late
- Insurance information never
- Meeting agenda items added at the last minute

Failure to provide information ahead of meetings is a statutory violation.

6.3.3 Agenda Manipulation

The Board appears to have:

- Added action items mid-meeting
- Redirected or shut down owner questions
- Moved forward to votes without resolving concerns
- Failed to list certain controversial items (trash service, insurance)

Under strict compliance, **decisions made on unannounced items are void.**

6.4 Meeting Conduct and Suppression of Owner Rights

6.4.1 Evidence of Suppression

From transcripts and owner accounts:

- The Board refused to answer insurance questions
- Owners were told discussion was closed
- Questions about reserve studies were blocked
- A Board member insisted questions were “not timely”
- Owners were cut off despite statutory rights to speak
- Directed proxy issues were not addressed even after concerns were raised

This creates a non-transparent, adversarial environment incompatible with CCIOA and HB24-1108.

6.4.2 Legality of Suppressing Questions During Election or Budget Votes

Under Colorado law:

- Owners must be allowed to ask clarifying questions **before** any vote

- Refusal to answer creates a due process violation
- Any vote taken under these conditions is subject to overturning
- Suppression of questions is considered a governance failure

POHOA did exactly what the law prohibits:

It hastened votes while refusing to provide information.

6.5 Records Management Failures

6.5.1 Missing or Inadequate Meeting Minutes

Minutes are required to reflect:

- Motions
- Votes
- Questions asked
- Summaries of deliberations
- Procedural objections
- Reasoning behind decisions

Owners report that POHOA's minutes:

- Exclude major questions asked
- Do not document objections
- Do not record reasons for decisions
- Omit important election details
- Fail to mention insurance discussion
- Lack transparency in vote totals or ballot handling

Incomplete minutes violate CCIOA §209.4.

6.5.2 Failure to Maintain or Produce Policies

Owners have reported difficulty obtaining:

- Trash service policies
- Enforcement procedures
- Architectural Control Committee (ACC) policies
- Financial policies
- Election procedures

HOAs must retain and produce these documents.
POHOA has not.

6.5.3 Absence of Proper Document Retention Protocols

The Board appears not to maintain:

- Chain-of-custody logs for proxies
- Documented rationale for decisions
- Comparative insurance analyses
- Reserve study methodology justifications

This undermines governance legitimacy.

6.6 The Chilling Effect on Owner Participation

6.6.1 Owners Feel Intimidated or Silenced

Owners report:

- Feeling discouraged from asking questions
- Believing the Board is hostile to inquiry
- Being treated dismissively when raising concerns
- Peer-to-peer social pressure not to challenge authority
- Losing confidence in Board integrity

This contradicts the policy goals behind HB24-1108 and CCIOA.

6.6.2 Decline in Community Engagement

Where transparency fails:

- Owner participation decreases
- Fewer owners attend meetings
- Volunteerism diminishes
- Fewer candidates run for the Board

- Elections become less competitive and more prone to irregularity

This pattern is visible in POHOA's recent election history.

6.7 Systemic Pattern of Non-Transparency

The evidence collected shows a consistent governance pattern:

1. Meaningful information is not provided ahead of votes.
2. Owners who ask questions at meetings are ignored or shut down.
3. Meeting minutes omit or sanitize controversial exchanges.
4. Records requests are slow or unfulfilled.
5. Policies are missing, unpublished, or inaccessible.
6. Elections are conducted without sufficient openness.
7. Budgets and reserves are adopted without owner clarity.
8. Insurance information is withheld.

These failures undermine the legitimacy of Board actions and expose POHOA to significant legal risk.

6.8 Consequences of Transparency Failures Under Strict Compliance

Under **HB25-1043**, transparency failures carry concrete consequences:

- Actions taken without proper notice are **invalid**
- Budgets passed without adequate disclosure are **voidable**
- Elections conducted without openness are **challengeable**
- Records withholding can result in **statutory penalties**
- Directors who act without transparency risk **personal liability**

POHOA is now operating in a legal environment in which these failures cannot be overlooked or cured informally.

6.9 Summary of Findings in Section 6

POHOA's operational transparency does not meet statutory or best-practice standards. Key issues include:

- Failure to disclose essential records
- Suppressing owner questions at meetings
- Inadequate notices and agendas
- Missing or incomplete minutes
- Withholding policies and contract details
- Procedural shortcuts during votes
- Erosion of owner trust
- Incompatibility with strict compliance standards

These transparency failures undermine every subsequent section of this report — particularly Sections 7, 10, 12, 13, and 14.

SECTION 7 — MEETING NOTICES, AGENDAS, AND PROCEDURAL COMPLIANCE

7.1 Overview: Procedure Determines Validity

Under Colorado law — especially after **HB25-1043** — **procedural correctness is not optional. It determines whether Board actions are legally valid.**

This section documents procedural errors during POHOA meetings, including:

- Insufficient or defective notices
- Incomplete or vague agendas
- Failure to disclose documents before meetings
- Adding or modifying action items at meetings without notice
- Suppressing deliberation
- Procedural irregularities during elections and budget votes
- Failure to maintain proper minutes

Each failure independently threatens the validity of Board decisions. Collectively, they show a systemic governance problem.

7.2 Statutory Requirements for Notices and Agendas

7.2.1 CCIOA §209.5(1)(b) — “Reasonable Notice” of Meetings

This statute requires:

- Timely notice
- Notice delivered in accordance with governing documents
- Clear statement of the **time, place, and purpose of the meeting**
- Disclosure of materials necessary for owner participation

POHOA Deviations Identified

Based on owner statements, uploaded documents, and meeting transcripts:

- Meeting notices did not list material agenda items (insurance changes, trash authority, elections).
- Notices lacked attachments or reference to documents to be discussed.
- Materials such as budgets, reserve studies, and policy changes were not provided in advance.
- Notices were sometimes issued with insufficient detail or lead time.

These failures violate the statutory obligation of reasonable notice.

7.2.2 CCIOA §209.5(4) — Agenda Requirements

Colorado law requires that agendas:

- Identify **action items**
- Disclose when votes will occur
- Allow owners reasonable opportunity to prepare

POHOA Violations

Evidence suggests that:

- Key issues were **not listed** (insurance changes, directed proxies, contract matters).
- Some agenda items were listed vaguely (e.g., “New Business” without explanation).
- Votes were held on items not referenced in the notice or agenda.

- The Board relied on ambiguous or incomplete agenda language to rush deliberation.

Actions taken on items not listed on an agenda are **void** under strict compliance.

7.3 Procedural Failures During Meetings

7.3.1 Refusal to Answer Questions Before Votes

CCIOA and HB24-1108 require:

- Owners must be allowed to ask questions
- HOAs must answer questions **before** votes
- HOAs must allow discussion relevant to agenda items

Documented POHOA Violations

During the Annual Meeting:

- Owners raised questions about insurance changes.
- The presiding officer dismissed them as “too late” despite CCIOA’s explicit protections.
- Questions about reserve study discrepancies were ignored.
- Questions about voting procedures were not addressed.
- The Board rushed to a vote while owners were still seeking essential information.

This violates both the **process** and **substance** of CCIOA and HB24-1108.

7.3.2 Premature Closure of Discussion

The Board prematurely closed discussion on multiple topics, including:

- Insurance coverage changes
- Budget adoption
- Procedural questions regarding proxies and ballots
- Clarification of agenda items

Under Colorado law:

- Owners retain the right to speak on matters **before decisions are made**
- Boards may not unilaterally terminate discussion to move a vote forward
- Suppression of discussion is considered a due-process violation

Actions taken after shutting down required deliberation are **challengeable** under HB25-1043.

7.3.3 Addition of Unnoticed Action Items

Owners reported that:

- The Board introduced action items during the meeting that were not listed in the notice or agenda.
- Elections and contractual matters proceeded without being properly noticed.
- Owners were denied the ability to review documents that supported the added items.

Strict compliance prohibits this entirely.

7.4 Defects in Meeting Minutes

7.4.1 Incomplete Recording of Deliberations

Minutes must include:

- Motions
- Discussion summaries
- Votes
- Objections
- Owner questions
- Procedural statements
- Rationales for decisions

POHOA Practices

Owners report that meeting minutes:

- Omit key questions
- Exclude insurance inquiries
- Fail to document objections raised
- Contain no record of suppressed questions
- Do not document vote counts accurately
- Lack transparency around motion-making

These omissions violate §209.4 and create permanent ambiguity in governance.

7.4.2 Missing Records of Election Procedures

Minutes must reflect:

- Vote totals
- Number of proxies used
- Chain-of-custody for ballots
- Ballot validation procedures

POHOA's minutes do not include:

- A record of how many proxies were submitted
- Who counted the ballots
- How many votes were cast
- Whether directed proxies were followed correctly

This omission directly supports challenges to Section 14's election findings.

7.5 Document Distribution Failures

7.5.1 Budgets and Financials Were Not Sent in Advance

Budgets must be provided before meetings; owners must have time to review them.

Evidence indicates:

- Owners received the budget late or not at all
- Supporting documents (reserve data, insurance costs) were missing
- Questions raised during the meeting were unanswered

These are statutory violations.

7.5.2 Policy Changes Were Not Distributed

Owners did not receive:

- Updated trash service policy
- Enforcement procedures
- ACC guidelines

- Financial policy updates

HOAs cannot enforce policies that were not properly distributed.

7.5.3 Lack of Transparency Around Contracts

Owners requested:

- Trash contract details
- Insurance contract terms
- Contractor information

...but received either:

- No response
- Incomplete information
- Deflection at meetings

This violates CCIOA §209.4 and HB24-1108.

7.6 Procedural Irregularities That Threaten Decision Validity

7.6.1 Lack of Quorum Verification

No documented procedure confirms:

- How quorum was verified
- Whether proxy counts were included
- Whether the proxy-handling process was compliant

These are essential steps under CCIOA.

7.6.2 Improper Handling of Motions

Owners report confusion or omission regarding:

- Who made motions
- Who seconded motions
- Whether motions were properly introduced
- Whether the motions related to noticed items

Motion integrity matters under strict compliance.

7.6.3 Failure to Permit Debate Prior to Motion

Debate cannot begin **after** a vote is called.
POHOA repeatedly:

- Suppressed debate
- Called for votes without discussion
- Ignored owner requests to speak

This violates long-standing procedural standards and is incompatible with HB25-1043.

7.7 Cumulative Effect of Procedural Failures

When considered individually, any of these issues can invalidate a decision.
When combined — as they occurred at POHOA — they create a legally indefensible governance structure.

Failures include:

- Inadequate notices
- Vague agendas
- Undisclosed documents
- Suppressed questions
- Rushed votes
- Incomplete minutes
- Unannounced agenda items
- Irregular handling of elections

Under strict compliance:

These failures may invalidate nearly every major action taken by the POHOA Board in 2023–2025.

7.8 Summary of Section 7 Findings

POHOA is not meeting Colorado's requirements for:

- Meeting notice
- Agenda transparency
- Owner participation
- Procedural integrity
- Recordkeeping
- Document disclosure
- Open deliberation

These procedural failures taint decisions related to:

- Insurance
- Budget adoption
- Reserves
- Trash service
- Enforcement
- Architectural review
- Elections (Section 14)

Procedural compliance is the backbone of HOA legitimacy.
POHOA's pattern shows **systemic breakdown**, not isolated error.

SECTION 8 — RULEMAKING AND ENFORCEMENT ISSUES

8.1 Overview

HOAs may adopt rules **only** if they follow:

1. The authority granted in their **Declaration (CCRs)**
2. Procedures stated in the **Bylaws and Policies**
3. Statutory requirements under **CCIOA**
4. Owner-right provisions under **HB24-1108**
5. The strict compliance mandates of **HB25-1043**

POHOA's pattern of rulemaking shows:

- Rules adopted without proper notice

- Rules enforced that were never formally adopted
- Inconsistent or selective enforcement
- Lack of published policies
- Enforcement actions taken without procedural due process
- Fines and fees considered or imposed without explicit authority
- Rules contradicting the CCRs or exceeding Board authority

Under strict compliance, **any rule not adopted exactly in accordance with statutory and governing-document procedures is void.**

8.2 Legal Requirements for Rulemaking in Colorado

8.2.1 CCIOA §302 — Board Powers Limited to Express Authority

HOAs:

- Cannot create rules that conflict with CCRs
- Cannot expand powers by interpretation
- Must adopt rules with owner engagement
- Must enforce rules uniformly and reasonably

If the Declaration is silent, ambiguous, or restrictive, the Board **must default to owner rights**, not its own preference.

8.2.2 CCIOA §209.5(1)(b) — Rule Adoption Must Be Noticed

Before adopting rules, the Board must:

- Provide notice of the meeting
- Provide the proposed rule language
- Allow owner comments
- Document deliberation in minutes
- Adopt the rule in a properly noticed vote

POHOA has failed to meet these criteria consistently.

8.2.3 HB24-1108 — Owner Rights and Due Process

HOAs must:

- Allow homeowners to speak
- Answer questions prior to adopting rules
- Avoid retaliatory enforcement
- Provide transparent policies on enforcement

POHOA has regularly suppressed questions and has not published required enforcement policies.

8.2.4 HB25-1043 — Strict Compliance

Under strict compliance, any defect in:

- Notice
- Hearing
- Publication
- Adoption process
- Integration into existing policy manuals

...automatically invalidates a rule.

Most of POHOA's rules appear to fail these requirements.

8.3 POHOA's Rulemaking Failures

8.3.1 Rules Adopted Without Proper Notice or Disclosure

Owners have reported:

- Rule changes announced only verbally
- Rules adopted in meetings not listed on agendas
- No draft rules distributed in advance
- No opportunity for owners to review or comment

Without notice and owner participation, no rule adoption is valid.

8.3.2 Rules Never Published to Owners

Many owners report they:

- Cannot find enforcement policies
- Cannot find ACC standards
- Cannot find trash policies
- Cannot locate a consolidated rulebook
- Only learn of rules through sporadic emails or neighbor hearsay

If rules are not published, they cannot be enforced.

8.3.3 Enforcing Rules That Were Never Formally Adopted

Evidence suggests POHOA has enforced:

- ACC-related restrictions
- Property maintenance rules
- Garbage storage rules
- Neighbor-to-neighbor complaint procedures

...that were never formally adopted under CCIOA or properly published.

These rules are **unenforceable**, and owners fined or threatened under such rules may have legal claims.

8.3.4 Rules That Conflict With the Declaration

The Declaration is superior to Board-created rules.

If a rule conflicts with it in any way:

- The rule is void
- Enforcement actions based on the rule are invalid
- Owners may be entitled to refunds or dismissal of enforcement actions

POHOA appears to have enforced rules:

- Without express CCR backing
- That exceed ACC authority

- That contradict contract provisions
- That regulate matters not addressed in the CCRs at all

HOAs cannot regulate beyond the scope of the Declaration.

8.3.5 Selective Enforcement

Owners describe inconsistent rule enforcement, including:

- Allowing violations for some owners
- Enforcing rules aggressively against others
- Inconsistent handling of trash storage
- Inconsistencies in ACC approvals

Selective enforcement violates:

- CCIOA
- HB24-1108
- Colorado nonprofit fiduciary duty standards
- The implied covenant of good faith and fair dealing

Inconsistent enforcement is one of the most common bases for legal challenges against HOAs.

8.4 ACC (Architectural Control Committee) Enforcement Issues

8.4.1 Lack of Documented Standards

ACC enforcement requires:

- Published design guidelines
- Clear written standards
- A transparent process for application and review

Owners report that ACC decisions are:

- Unpublished
- Unpredictable
- Inconsistently applied

- Not grounded in written standards

Any ACC action taken without published guidelines may be void.

8.4.2 Failure to Provide Written Decisions

ACC decisions must be:

- Written
- Timely
- Specific
- Based on published criteria

Without written decisions, owners cannot:

- Appeal
- Understand standards
- Ensure non-discriminatory enforcement

POHOA has repeatedly failed to issue written decisions, violating CCIOA and common-law due process.

8.4.3 ACC Rules May Lack Proper Adoption

Unless the Board:

1. Formally adopted ACC standards
2. Noticed the adoption
3. Allowed owner comments
4. Distributed the final rules

...ACC rules are unenforceable.

Evidence suggests these steps were not taken.

8.5 Enforcement Practices Not Grounded in Published Policy

8.5.1 No Clear Enforcement Policy Provided to Owners

HOAs must:

- Publish enforcement procedures
- Clarify steps before fines
- Explain due process rights
- Outline escalation processes

Owners report:

- No access to enforcement policy
- No clear fine schedule
- No documented appeal process

Without an enforcement policy, enforcement actions cannot stand.

8.5.2 Attempting to Issue “Cost-Recovery Fees” Without Authority

As noted in Section 4:

- No authority exists to create new fee categories
- CCIOA does not authorize “cost-recovery” charges
- CCRs do not establish such fees

If the Board attempted to enforce such fees, they are invalid.

8.5.3 Failure to Provide Required Due Process

Homeowners must be provided with:

- Written notice of alleged violations
- Opportunity to be heard
- Documentation of the decision

POHOA appears not to follow these steps consistently.

Under strict compliance, **any enforcement action lacking due process is void.**

8.6 Legal Risks Resulting From Improper Rulemaking and Enforcement

8.6.1 Risk to the Association

- Enforcement actions may be overturned
- Owners may pursue civil remedies
- Costs incurred enforcing invalid rules may trigger claims
- The HOA Information Office (DORA) may intervene

8.6.2 Risk to Individual Directors

Directors may face personal liability for:

- Enforcement without authority
- Selective enforcement
- Retaliatory behavior
- Procedural violations under strict compliance

This risk is heightened given uncertainties in POHOA's D&O coverage (Section 5).

8.6.3 Risk to Homeowners

- Exposure to improperly issued fines or threats
- Uncertainty about permissible property use
- Chilling effect on participation
- Reduced trust in Board integrity

8.7 Summary of Findings in Section 8

POHOA's rulemaking and enforcement system suffers from systemic failures:

- Rules adopted without procedure
- Rules not distributed to owners

- Enforcement of rules that were never valid
- Selective or inconsistent enforcement
- ACC processes lacking transparency and documentation
- Due-process failures
- Unauthorized fee structures
- Violations of CCIOA, HB24-1108, and HB25-1043
- Heightened director liability due to unclear D&O coverage

In short:

POHOA's rules and enforcement actions cannot withstand statutory scrutiny under strict compliance.

SECTION 9 — ARCHITECTURAL REVIEW PROCESS

9.1 Overview

The Architectural Control Committee (ACC) — or Board acting as ACC — is responsible for:

- Reviewing homeowner modification requests
- Applying design standards
- Maintaining community aesthetics
- Enforcing CCR provisions regarding improvements

Colorado law requires the ACC to operate:

- Transparently
- Consistently
- With published standards
- With documented procedures
- Under the authority of the Declaration
- In a manner that respects homeowner due process rights

POHOA's ACC practices exhibit significant deficiencies in **authority, process, consistency, publication, and due process.**

9.2 Legal Framework for ACC Authority

9.2.1 Declaration (CCRs) — Source of ACC Authority

The Declaration must:

- Establish ACC authority
- Define the scope of review
- Describe what requires approval
- Identify standards
- Provide procedural requirements

If the Declaration is silent or ambiguous, the Board cannot:

- Invent new ACC powers
- Expand subjective criteria
- Enforce rules that exceed CCR language

POHOA Observation:

The Declaration contains **limited and ambiguous ACC provisions**, which POHOA has treated as a broad mandate, contrary to Colorado case law.

9.2.2 CCIOA §302 — Board Powers Do Not Automatically Include ACC Rulemaking

ACC rulemaking must be:

- Expressly authorized
- Properly noticed
- Formally adopted
- Published
- Consistent with the Declaration

If these prerequisites are not met, ACC rules are **invalid**.

POHOA Deviations:

- ACC guidelines do not appear to have been properly adopted.
 - ACC standards are not published or distributed.
 - ACC enforces unwritten expectations (illegal).
-

9.2.3 Due Process Requirements Under CCIOA and HB24-1108

Homeowners have rights to:

- A transparent application process
- Written decisions
- An opportunity to cure or appeal
- Clear, published standards

POHOA's ACC structure lacks these safeguards.

9.2.4 HB25-1043 Strict Compliance

Under strict compliance:

- ACC decisions are invalid if procedures are not followed precisely.
- ACC rules lacking formal adoption cannot be enforced.
- ACC enforcement lacking due process is void.
- ACC authority cannot be assumed where CCRs are ambiguous.

This renders many POHOA ACC actions unenforceable.

9.3 ACC Standards: Problems with Publication and Accessibility

9.3.1 Lack of Published ACC Standards

Owners report they cannot locate:

- ACC guidelines
- Approved materials lists
- Color palettes
- Landscaping design standards
- Fence, deck, or outbuilding specifications
- Lighting restrictions
- Application forms
- Timeframe expectations

Without published standards, ACC enforcement is legally impossible.

9.3.2 Standards That Exist Only Informally

At POHOA, several ACC “rules” appear to be:

- Verbal
- Based on past decisions
- Known only to Board members
- Applied inconsistently

This violates:

- CCIOA
 - Colorado nonprofit governance requirements
 - Basic principles of administrative fairness
-

9.3.3 Failure to Document ACC Decisions

ACC decisions must be:

- Made in writing
- Delivered promptly
- Include reasons
- Cite specific standards
- Specify the right to appeal

POHOA commonly provides **no written decision**, making enforcement impossible under strict compliance.

9.4 ACC Application and Review Process Defects

9.4.1 Inconsistent Review Practices

Owners report:

- Some applications reviewed quickly
- Others ignored for long periods
- No clear timeline
- No receipts or confirmations
- No published process for resubmission

This inconsistency creates liability for selective enforcement (see Section 8).

9.4.2 Lack of Written Procedures

ACC procedures must include:

- Submission requirements
- Review timeline
- Decision standards
- Appeal process
- Conditions of approval

POHOA has not published such procedures.

9.4.3 Failure to Follow the 30-Day Rule (Common in CCRs)

Most CCRs — including POHOA's — state that:

If the ACC does not respond within a specified period (usually 30 days), the request is **automatically approved**.

If POHOA failed to respond on time, improvements may be **legally approved**, even if later challenged.

Owners may not be aware of this protection because the Board failed to educate them.

9.5 Substantive Problems with ACC Enforcement

9.5.1 Selective Enforcement

Examples reported include:

- Approving certain fence heights but rejecting others
- Allowing some owners to install visible equipment
- Approving non-conforming features for friends of Board members
- Rejecting identical requests from other owners
- Inconsistent landscaping decisions

Selective enforcement violates:

- Due process
- CCIOA equal enforcement requirements
- HB24-1108
- Colorado case law

It also exposes directors to personal liability.

9.5.2 Vague or Arbitrary Standards

“Rules” expressed as:

- “Neighborhood harmony”
- “Aesthetic preference”
- “Board discretion”
- “Community consistency”

...are unconstitutionally vague under Colorado HOA jurisprudence *unless supplemented by published criteria*.

POHOA appears to rely on vague, subjective criteria.

9.5.3 Enforcement Without Adopted Rules

As documented in Section 8, POHOA enforces rules:

- That do not exist in published form
- That were never formally adopted
- That conflict with the Declaration
- That exceed the Board’s authority

These enforcement actions are void.

9.6 Failure to Provide Due Process in ACC Enforcement

9.6.1 Written Notice of Alleged Violation

Required: a written notice describing:

- The issue
- The specific rule or standard violated
- Evidence supporting the claim
- The right to be heard
- The timeline for cure

POHOA often provides verbal warnings or informal emails instead.

9.6.2 Right to Be Heard

Homeowners are entitled to:

- A hearing
- Before an impartial decision-maker

POHOA does not appear to maintain:

- A formal hearing panel
- A documented appeals process
- Written evidence considerations

This contradicts CCIOA and nonprofits fiduciary-duty principles.

9.6.3 Written Final Decision

ACC decisions must be documented.

POHOA commonly:

- Offers no written decision
- Provides no reasoning

- Fails to reference specific CCRs or standards
- Does not communicate appeal rights

This alone invalidates enforcement actions.

9.7 Risks Arising from ACC Failures

9.7.1 Risk to the Association

Invalid ACC practices can lead to:

- Litigation
 - Enforcement actions being overturned
 - Owners claiming automatic approval
 - Reimbursement of improperly imposed costs
 - DORA complaints
 - State investigation under HB25-1043
-

9.7.2 Risk to Individual Directors

Directors may be personally liable for:

- Selective enforcement
- Denial of due process
- Retaliatory behavior
- Overreach beyond ACC authority
- Illegal enforcement actions

Given uncertainty about D&O coverage (Section 5), directors may not be protected.

9.7.3 Risk to Homeowners

ACC mismanagement harms owners through:

- Unpredictable approvals
- Threats of improper enforcement
- Delays affecting property value or resale
- Inconsistent neighbor standards

- Diminished trust in community governance
-

9.8 Summary of Section 9 Findings

POHOA's ACC suffers from pervasive systemic failures:

- No properly adopted ACC standards
- No published guidelines
- No due process procedures
- No written decisions
- Selective and inconsistent enforcement
- Use of unwritten rules
- Violations of CCIOA and newly strengthened owner protections
- Exposure to legal claims
- Heightened personal liability for directors

Under strict compliance:

Most ACC enforcement actions taken by POHOA between 2023–2025 are likely void and unenforceable.

SECTION 9.9 – Yard Sale As Home Occupation/Commercial Business

Home Occupations, Yard Sales, and Economic Rights: POHOA's Improper Restrictions and Conflict with SB24-134**

A key area of POHOA governance failure — and one that affects both economic liberty and homeowner rights — is the Association's attempt to regulate **home occupations, yard sales**, and other small-scale, temporary homeowner activities without proper authority, without proper rulemaking, and in direct conflict with **Colorado law**, including Senate Bill **SB24-134**.

This issue does not stem from enforcement actions in 2023–2025, but from the **policies drafted and adopted during this period**, combined with the Board's prior history of overreach in similar matters.

9.9.1 Lack of Authority in the Declaration

Nothing in the POHOA Declaration:

- Prohibits yard sales
- Limits one-day household sales
- Defines these activities as “commercial use”
- Grants the Board authority to regulate home-based income activities
- Permits the Board to restrict micro-enterprise or incidental commerce
- Establishes any framework for regulating short-term personal property sales

Under Colorado law, particularly **CCIOA**, restrictions on use must be:

- Explicit
- Unambiguous
- Narrowly construed

Because the Declaration contains **no such restrictions**, the Board has **no inherent authority** to regulate them.

Any such regulation therefore required full CCIOA-compliant rulemaking. POHOA did not follow this process.

9.9.2 The Original Home Occupation Policy (Pre-SB24-134)

The initial Home Occupation Policy drafted during the earlier phase of this Board’s tenure:

- Invented new definitions of “commercial activity”
- Restricted benign home-based work (e.g., remote employment, online businesses)
- Improperly categorized yard sales and infrequent personal transactions as “business use”
- Required Board approval for activities not mentioned in the CCRs
- Prohibited micro-enterprise inconsistent with the actual Declaration
- Sought to regulate interior, non-structural uses of homes
- Was adopted without clear owner notice or comment opportunity

This policy exceeded the Board’s authority and created restrictions without legal basis.

9.9.3 Conflict with SB24-134 (Colorado’s Home Business Protection Act)

SB24-134 explicitly protects:

- Remote work
- Online businesses with no customer traffic
- Low-impact home enterprises
- Small-scale economic activity occurring inside the home

- Ordinary household commerce (e.g., tutoring, baking, art, crafts)
- Temporary low-impact events
- Short-term personal sales (including yard or garage sales)

It prohibits HOAs from:

- Restricting home occupations without documented health/safety justification
- Regulating interior uses not visible externally
- Forcing homeowners to obtain approval for most home-based economic activities
- Creating blanket bans
- Imposing restrictions inconsistent with state law

The **original POHOA Home Occupation Policy directly conflicted with SB24-134** and became unenforceable the moment the statute passed.

9.9.4 The “Revised” Post-SB24-134 Home Occupation Policy Still Violates the Law

Following the passage of SB24-134, POHOA produced a “revised” Home Occupation Policy.

However, the revision:

- Continued to require Board approval for activities the Board cannot regulate
- Misstated the limits of SB24-134
- Imposed visibility and traffic restrictions beyond what the statute allows
- Retained unenforceable definitions of “commercial activity”
- Failed to identify actual nuisances (noise, traffic, hazards) as the statutory standard
- Did not provide objective criteria
- Continued to classify harmless activities — including yard sales — as regulated “business activity”

Thus, even the revised version **remains inconsistent with Colorado law and cannot be enforced** under CCIOA or HB25-1043 strict compliance.

9.9.5 Yard Sales Wrongly Treated as “Commercial Activity”

POHOA leadership has, at times, stated or implied that **yard sales are not permitted**.

This conclusion is legally incorrect.

A yard sale:

- Is not a “business” under Colorado law
- Is not prohibited by the Declaration
- Does not violate SB24-134
- Does not constitute ongoing commercial activity
- Has been traditionally permitted throughout Colorado HOAs
- Does not trigger zoning or nuisance implications unless extreme

Therefore:

Yard sales are lawful, permissible uses of property and cannot be banned by POHOA without a properly adopted rule grounded in health, safety, or nuisance justification.

POHOA never adopted such a rule.

9.9.6 Improper Rulemaking and Lack of Notice

Both the original and revised Home Occupation Policies, as well as any yard-sale-related restrictions, suffer from:

- **Lack of proper notice**
- **Lack of owner comment opportunity**
- **Lack of publication of the adopted version**
- **Lack of ACC involvement in external-modification questions**
- **Use of definitions not found in the CCRs**
- **Failure to cite statutory authority**

Under **HB25-1043 strict compliance**, rules adopted without the required procedure are:

Void. Not voidable — void.

9.9.7 Pattern Established: POHOA Continues to Create Authority It Does Not Possess

The Home Occupation and Yard Sale issue illustrates a familiar pattern:

- **Inventing authority** rather than relying on the Declaration
- **Overregulation** of ordinary homeowner behavior
- **Confusing or misrepresenting state law**
- **Restricting owner rights without legal basis**
- **Failing to properly adopt rules**
- **Interpreting “commercial activity” far more broadly than allowed**

This pattern mirrors the Association's problems with:

- Trash service authority claims
- Insurance transparency
- ACC enforcement procedures
- Election irregularities
- Budget approval processes
- Records-access denials

It is part of a long-established governance culture of **overreach, misunderstanding, and non-compliance**.

SECTION 10 — TRASH SERVICE AUTHORITY QUESTION

10.1 Overview

Trash service disputes in POHOA have generated:

- Owner frustration
- Disagreements about Board authority
- Transparency concerns
- Questions about contract oversight
- Potential overreach in assessments
- Procedural violations in decision-making

The central legal question:

Does the Board have unilateral authority to select the community's trash provider and impose related costs, or is owner approval required?

After extensive review of statutes, case law, and POHOA governing documents, the answer is:

POHOA's Board does *not* have clear authority to unilaterally select trash providers or impose mandatory trash-related assessments without owner vote.

Ambiguity must be interpreted **against** the HOA under Colorado law.

10.2 Statutory Context: What Colorado Law Requires

10.2.1 CCIOA §302 — Limits on HOA Power

The Board's authority must be:

- Expressly granted
- Consistent with the Declaration
- Narrowly interpreted
- Applied under published policies and fair procedures

If the Declaration does not expressly give the Board exclusive authority over trash services, the Board cannot invent it.

10.2.2 CCIOA §209.4 — Transparency in Contracts

Owners have the right to:

- Review contracts
- Understand service agreements
- Receive information before assessments or fee changes
- Ask questions at meetings

POHOA violated this by:

- Failing to disclose trash contracts
 - Refusing to answer questions about services or vendor selection
 - Not publishing pricing or contractual terms
 - Withholding operational details
-

10.2.3 CCIOA §315 — Budget Transparency Requirements

Trash service costs must be:

1. Disclosed clearly
2. Included in the operating budget
3. Explained in year-over-year comparisons
4. Justified with documentation

The Board has not met these requirements.

10.2.4 HB24-1108 — Mandatory Owner Participation

Owners have the right to:

- Ask questions about service contracts
- Understand financial implications
- Speak before decisions are made

POHOA repeatedly suppressed these inquiries.

10.2.5 HB25-1043 — Strict Compliance

Under strict compliance:

- Contracts adopted without proper notice are **invalid**
- Votes taken without disclosure are **void**
- Failure to answer owner questions nullifies decisions
- Boards may face penalties for procedural failures

This places POHOA's trash decisions at high legal risk.

10.3 Governing Document Analysis: What POHOA's Declaration Actually Says

10.3.1 No Explicit Grant of Authority

The Declaration does **not** contain:

- A clause explicitly giving the Board exclusive authority to select trash service providers
- A provision designating trash service as a common expense controlled by the Board
- Language authorizing the Board to bundle or negotiate mandatory trash contracts
- A section allowing the Board to impose trash-related assessments without owner approval

Without explicit language:

The Board has no unilateral authority.

10.3.2 Ambiguity Must Be Resolved Against the HOA

Colorado courts consistently hold:

- Ambiguous covenants must be interpreted to favor free use of property
- Ambiguity in Board power must be resolved in favor of homeowners
- Restrictions must be strictly construed

Thus:

Because the CCRs do not clearly grant the Board trash authority, the Board cannot claim it.

10.3.3 Trash Service as an “Extraordinary Expense”

If the Board treats trash service as:

- A special assessment
- A mandatory utility contract
- A negotiated service requiring increased costs

Then owner **approval** is usually required under:

- Bylaws
- Budget approval statutes
- Common-interest jurisprudence

The Board has not obtained such approval.

10.4 Procedural Failures in Trash Decision-Making

10.4.1 Lack of Contract Transparency

Owners report the Board did not:

- Provide copies of trash service contracts
- Explain selection criteria
- Show comparative vendor bids
- Provide cost analyses
- Disclose contract length or termination provisions

Failure to provide contract information violates CCIOA.

10.4.2 No Owner Vote Despite Contractual Impact

When a contract materially affects:

- Assessments
- Operations
- Long-term expenses

...owners are entitled to review and vote.

POHOA bypassed this requirement.

10.4.3 Trash Service Not Included in Advance Meeting Notices

Meeting agendas:

- Did not describe trash authority decisions
- Did not list proposed changes
- Did not include review of vendor contracts

Any decision made on an unannounced topic is **void under strict compliance**.

10.4.4 Owner Questions Were Suppressed

Owners asked:

- Which vendor was being used
- Why vendor selection changed
- Whether competitive bids were obtained
- What cost differences existed
- Whether the Board compared service levels

The Board declined to answer.

This violates HB24-1108.

10.5 Financial Implications of Improper Trash Authority

10.5.1 Improper Assessment Practices

If the Board imposed trash-related charges without authority:

- The assessments are **illegal**
 - Owners may request refunds
 - The budget may be invalid
 - Directors could face liability
-

10.5.2 Risk of Future Special Assessments

If the Board improperly binds POHOA to a contract:

- Early termination fees may arise
 - Increased costs may be passed to owners
 - Liability for improper contracting may attach
-

10.6 Case Law and Statewide Trends

Across Colorado:

- Courts have invalidated HOA decisions that exceed governing-document authority
- Legislators have targeted “service contract overreach” as a reform priority
- Courts scrutinize contracting for transparency
- Boards cannot bind owners to contracts without express authorization

POHOA is repeating statewide patterns that have already led to legal consequences for other associations.

10.7 Legislative Context: Why This Matters for Rep. Ricks

The Board’s overreach is not unique — it reflects a **broader statewide problem**:

- HOAs claiming powers not granted
- Service contracts negotiated without owner input
- Assessments imposed without clear authority
- Owners unable to challenge opaque decisions

Rep. Ricks has emphasized strengthening:

- Owner voting rights
- Transparency requirements
- Limitations on unilateral Board authority

POHOA serves as a **case study** in support of legislative reform.

10.8 Member Impact

10.8.1 Financial Impact

Owners face:

- Potentially inflated trash costs
 - Unnecessary expenses due to lack of competitive bidding
 - Hidden increases in assessments
-

10.8.2 Governance Impact

The trash authority dispute exemplifies:

- Board opacity
 - Procedural shortcuts
 - Suppression of owner participation
 - Lack of rule-of-law compliance
-

10.8.3 Community Trust Impact

Owners report:

- Frustration
- Distrust
- Alienation
- Reduced engagement

These are predictable outcomes when Boards exceed authority.

10.9 Summary of Findings in Section 10

POHOA's trash service decisions suffer from:

- No express authority in the CCRs
- Improper reliance on assumed or implied powers
- Contracting without transparency
- Failure to provide notice or documentation
- Suppression of owner questions
- Failure to comply with CCIOA and HB24-1108
- Direct contradiction with HB25-1043 strict compliance
- Potentially invalid contracts and assessments
- Heightened director liability

In short:

POHOA lacks the authority to unilaterally select trash service providers or impose related costs on homeowners.

Any such actions taken between 2023–2025 are likely void or voidable.

SECTION 11 — SAFETY, INFRASTRUCTURE, AND PID-30

11.1 Overview

Safety and infrastructure management are fiduciary responsibilities of every HOA. POHOA is responsible for ensuring:

- Proper maintenance of HOA-controlled property
- Compliance with CCR duties
- Communication with PID-30 regarding shared responsibilities
- Transparency and documentation of safety-related concerns
- Disclosure of hazards affecting owners and property

However, the pattern at POHOA shows:

- Unclear responsibility boundaries

- Inadequate communication with PID-30
- Failure to maintain essential infrastructure (culverts, swales, drainage paths)
- Lack of hazard disclosure
- Insufficient notification to owners
- Repeated attempts to shift responsibility without evidence

These failures expose both the HOA and its directors to liability — especially in light of strict compliance statutes.

11.2 Legal Framework for HOA Safety and Maintenance Obligations

11.2.1 Declaration (CCRs) Requirements

The CCRs typically impose duties on the HOA to:

- Maintain common areas
- Ensure drainage systems remain functional
- Address safety hazards
- Coordinate with municipal or special districts where applicable

If the CCRs assign responsibility to the Association, POHOA **cannot delegate or disclaim it** without owner approval.

11.2.2 CCIOA §307 — Upkeep of Common Areas

The Association must:

- Maintain the physical integrity of common elements
- Conduct periodic inspections
- Address foreseeable hazards
- Ensure that infrastructure is safe and functional

Failure to do so may constitute:

- Negligence
 - Breach of fiduciary duty
 - Violation of statutory requirements
-

11.2.3 CCIOA §209.4 — Transparency in Maintenance Records

Owners have the right to view:

- Maintenance reports
- Contracts for repair work
- PID correspondence
- Hazard assessments
- Engineering evaluations

POHOA has not consistently provided this information.

11.2.4 HB25-1043 Strict Compliance and Safety

Strict compliance elevates the risk for HOAs:

- Failure to maintain infrastructure can result in liability **without deference to Board discretion**
- Failure to disclose safety issues violates record-access laws
- Inadequate maintenance may invalidate related budget decisions
- Directors may face personal liability if uninsured risks occur

Safety duties can no longer be considered low-risk administrative tasks.

11.3 The Role of PID-30 and the HOA: Clarifying Responsibilities

11.3.1 What PID-30 Is Responsible For

Public Improvement District 30 is generally responsible for:

- Certain roadways
 - Some drainage infrastructure
 - Retention/detention areas
 - Specific capital improvements as designated in district records
-

11.3.2 What PID-30 Is *Not* Responsible For

PID-30 does **not** automatically assume responsibility for:

- HOA common areas
 - HOA-maintained drainage channels
 - Internal culverts or swales
 - Lot-level safety hazards
 - HOA infrastructure not explicitly listed in PID documents
-

11.3.3 POHOA's Pattern of Deferring to PID-30 Without Verification

Owners report that POHOA often:

- Claims PID-30 is responsible
- Refuses to address issues
- Does not verify with PID staff
- Does not document follow-up or correspondence
- Does not escalate unresolved concerns

This creates:

- Delays
 - Misalignment of expectations
 - Safety risks
 - Liability exposure
-

11.4 Safety and Infrastructure Concerns Identified in POHOA

11.4.1 Drainage Failures and Culvert Maintenance Issues

Owners have raised concerns regarding:

- Blocked culverts
- Erosion around drainage structures
- Improper runoff routing
- Sediment accumulation
- Potential flooding hazards

POHOA has not documented:

- Maintenance schedules
- Engineering assessments

- Communications with PID-30
- Any long-term drainage plan

This is a core maintenance obligation under §307.

11.4.2 Trip Hazards, Erosion, and Landscape Neglect

Owners have reported:

- Exposed edges on pathways
- Uneven common-area surfaces
- Overgrown vegetation affecting visibility
- Neglected retaining structures

Maintenance failures pose:

- Personal injury risk
- Insurance liability
- ADA-related concerns (if applicable)

These hazards must be documented, addressed, and disclosed.

11.4.3 Snow Removal and Ice Accumulation

Snow and ice accumulation on HOA-maintained surfaces can create liability, particularly if:

- No removal schedule exists
- Residents have complained
- The Board has knowledge of slippery conditions
- No contractor is retained

If the HOA knows about hazards but fails to act, liability increases.

11.4.4 Stormwater System Responsibilities

Stormwater systems often require:

- Annual inspections
- Periodic dredging or clearing
- Vegetation management
- Infrastructure repairs

POHOA has not published any maintenance log or plan for:

- Storm drains
- Swales
- Riparian buffers
- Overflow pathways

This absence is a red flag.

11.5 Communication Failures Between POHOA and PID-30

11.5.1 Lack of Written Communication

Owners indicate:

- Requests to contact PID-30 go unanswered
- No written record of HOA-PID coordination exists
- Issues are deflected rather than resolved
- Homeowners are left in limbo

Without documentation, POHOA cannot prove diligence.

11.5.2 No Escalation or Advocacy for Owners

Even when PID-30 may bear responsibility, the HOA must:

- Advocate for homeowners
- Escalate issues when necessary
- Document outreach efforts
- Coordinate shared responsibilities

POHOA has shown no evidence of fulfilling these duties.

11.5.3 Misinformation to Homeowners About PID-30 Duties

Owners report that POHOA often:

- Attributes responsibilities to PID-30 without verification

- Dismisses concerns as “not our problem”
- Provides inconsistent explanations

This misrepresentation creates:

- False expectations
 - Delays in maintenance
 - Erosion of trust
-

11.6 Safety Reporting and Hazard Response Failures

11.6.1 No Formal Safety Reporting Mechanism

HOAs should provide:

- A system to report hazards
- A log for safety complaints
- A response timeline
- A transparent workflow

POHOA has none of these.

11.6.2 Suppression of Safety Questions

Owners report:

- Questions about drainage
- Concerns about culvert capacity
- Inquiries about erosion
- Safety issues affecting mobility

...were dismissed or minimized.

This violates HB24-1108.

11.6.3 Failure to Document or Address Complaints

If owners complain repeatedly about:

- Flooding

- Erosion
- Drainage issues
- Structural hazards

...and the HOA fails to record or act, the Board may be negligent.

11.7 Insurance Implications (Cross-reference Section 5)

Safety failures significantly interact with insurance concerns.

Because POHOA:

- Has unclear D&O coverage
- Withheld insurance information
- Changed insurers without full disclosure
- May have lower liability coverage with Auto-Owners

...any injury, property loss, or infrastructure failure may:

- Fall outside coverage
- Trigger disputes between HOA and insurer
- Expose directors personally
- Create uninsured liabilities for the community

This risk is severe given the known transparency failures.

11.8 Owner Impact

11.8.1 Physical Safety Risks

Owners face:

- Flooding
 - Trip hazards
 - Ice accumulation
 - Erosion damage
 - Infrastructure failures affecting property values
-

11.8.2 Emotional and Community Impact

Owners may experience:

- Anxiety about safety
 - Lack of confidence in leadership
 - Frustration with unanswered questions
-

11.8.3 Financial Consequences

Potential outcomes:

- Special assessments for deferred maintenance
 - Out-of-pocket costs for property damage
 - Reduced marketability of homes
-

11.9 Legal and Fiduciary Risk Assessment

11.9.1 Risk to the HOA

- Liability for injuries or property damage
 - Insurance coverage disputes
 - Enforcement actions by state agencies
 - Legal claims for negligence
-

11.9.2 Risk to Directors

Directors may be personally liable for:

- Negligence
- Breach of fiduciary duty
- Failure to act in the best interest of the Association
- Misrepresenting PID-30 responsibilities

Given POHOA's uncertain D&O coverage, personal exposure is high.

11.9.3 Risk to Homeowners

- Damage to personal property
 - Higher premiums or assessments
 - Lower resale values
 - Exposure to hazards
-

11.10 Summary of Findings in Section 11

POHOA's failures in infrastructure, safety, and PID coordination include:

- Lack of formal maintenance plans
- Failure to document and respond to safety concerns
- Misrepresentation or misunderstanding of PID-30 responsibilities
- Gaps in communication and recordkeeping
- No safety reporting mechanism
- No disclosure of hazard information
- Potential liability exposures
- Underinsurance or unclear insurance coverage
- Violations of CCIOA and strict compliance standards

In short: **POHOA has not met its legal or fiduciary obligations regarding safety and infrastructure, placing the community and Board at elevated risk.**

SECTION 12 — MEMBER RIGHTS, ACCESS TO RECORDS, AND SUPPRESSION ISSUES

12.1 Overview

Colorado law is explicit:

Homeowners have non-negotiable rights to transparency, participation, records access, and equal treatment.

POHOA's governance pattern demonstrates:

- Routine suppression of owner questions

- Non-compliance with statutory disclosure requirements
- Opaque and incomplete meeting minutes
- Reluctance or refusal to provide records upon request
- Erratic treatment of owners seeking information
- Failure to follow due process in enforcement or ACC matters
- Inadequate communication regarding financial and safety issues

This section details those failures and frames their legal implications.

12.2 Member Rights Under Colorado Law

12.2.1 CCIOA §209.4 — Right to Access Records

Owners have the right to access:

- Financial statements
- Budgets (with explanations)
- Reserve studies and methodologies
- Insurance policies
- Contracts (trash, maintenance, insurance brokers)
- Meeting minutes and vote tallies
- Lists of Board members and offices
- Enforcement policies
- ACC standards and decisions
- All other “association records”

HOAs may not withhold or delay access without lawful justification.

12.2.2 CCIOA §209.5 — Right to Participate in Meetings

Owners have rights to:

- Speak before decisions
- Ask questions
- Receive answers
- Be present for deliberations
- Observe election processes
- Request clarification of actions

Boards cannot:

- Shut down owner questions

- Move immediately to votes
 - Prevent discussion
 - Hide behind procedural claims to avoid answering questions
-

12.2.3 HB24-1108 — Strengthened Owner Rights

This law significantly expands:

- Owner speech rights
- Access to information
- Ability to challenge Board actions
- Protection from retaliation
- Requirements for transparency in governance

POHOA violates HB24-1108 when it:

- Cuts off questions
 - Refuses to answer before votes
 - Ignores requests for documents
 - Prevents owners from engaging in debates
 - Retaliates or discourages participation
-

12.2.4 HB25-1043 — Strict Compliance Requirements

Under this statute:

- Procedural errors invalidate decisions
- Records failures may trigger penalties
- Suppressed owner participation invalidates votes
- Transparency lapses create legal challenges
- Directors may face personal liability for non-compliance

POHOA's governance practices fall far short of these requirements.

12.3 Documented Failures in Records Access

12.3.1 Delayed or Ignored Records Requests

Owners report:

- No response to document requests
- Partial or incomplete disclosures
- Repeated deferrals without justification
- Disappearance of certain documents or refusal to produce them

This violates CCIOA §209.4.

12.3.2 Failure to Provide Essential Documents

Owners were not given access to:

- Insurance policies
- Reserve study comparisons
- Trash contracts
- Draft budgets
- ACC guidelines
- Enforcement policy
- Election-related documents (proxies, tally sheets)
- Meeting minutes reflecting actual discussions

These documents are mandatory disclosures, not discretionary.

12.3.3 Opaque Budget and Reserve Disclosures

As documented in Section 4:

- Reserve assumptions were hidden
- Budget line items lacked explanations
- Supporting documents were not distributed
- Year-over-year comparisons were missing

This violates HB24-1337 and HB25-1043.

12.3.4 Lack of Transparency in Voting Materials

Owners could not review:

- Directed proxies
- Ballot handling procedures
- Tally methods
- Chain-of-custody records

- Eligibility verification

CCIOA §310 requires transparency in elections.
POHOA failed to provide it.

12.4 Pattern of Suppression During Meetings

12.4.1 Cutting Off Owner Questions

Owners were prevented from asking questions regarding:

- Insurance changes
- Reserve discrepancies
- Trash authority
- ACC enforcement
- Budget justifications
- Election procedures

This violates:

- CCIOA §209.5
 - HB24-1108
 - HB25-1043 strict compliance
-

12.4.2 Declaring Questions “Out of Order”

Boards cannot:

- Declare materially relevant questions “too late”
- Avoid answering questions before a vote
- Close deliberation prematurely

This behavior is a direct statutory violation.

12.4.3 Rushed Votes Without Deliberation

Votes were taken:

- Without discussion
- Without answering questions

- Without proper disclosure
- Without providing essential documents

Such votes are not valid under strict compliance.

12.4.4 Use of Social Pressure to Discourage Participation

Owners report:

- Feeling intimidated
- Seeing others dismissed when raising concerns
- A culture of protecting the Board from scrutiny
- Fear of retaliation or social fallout within the community

Retaliatory environments violate the intent of HB24-1108.

12.5 Meeting Minutes That Fail to Reflect Actual Events

12.5.1 Incomplete or Sanitized Minutes

Minutes are required to document:

- Questions
- Motions
- Objections
- Explanations
- Member concerns
- Vote outcomes
- Procedural irregularities

POHOA's minutes routinely omit:

- Insurance questions
- ACC enforcement discussions
- Disputes over trash authority
- Budget or reserve objections
- Election concerns
- Reasons for Board decisions

This undermines transparency and violates §209.4.

12.5.2 No Documentation of Objections or Member Votes

When owners object, minutes must reflect it.
POHOA's do not.

This omission:

- Obscures accountability
- Creates an inaccurate legal record
- Prevents owners from challenging improper decisions

12.5.3 No Audit Trail for Corrections

Owners report:

- Attempts to correct minutes were ignored
- No formal amendment process
- No transparency in minute approval

This is a governance failure.

12.6 Suppression in Written Communications

12.6.1 Selective Response to Emails

POHOA often:

- Ignores questions
- Answers only selectively
- Provides non-responsive replies
- Pretends not to understand requests
- Offers contradictory information between owners

This violates the spirit of CCIOA's transparency provisions.

12.6.2 Lack of Written Explanations for Decisions

Boards must:

- Explain decisions in writing when requested
- Provide rationales for controversial actions
- Maintain defensible records

POHOA does not do so.

12.6.3 Discouraging Proper Record Requests

Owners describe:

- Being told they are “asking too many questions”
- Being discouraged from formally requesting documents
- Being told to “trust the Board”

This is legally improper.

12.7 Due Process Failures in Enforcement and ACC Proceedings

12.7.1 No Formal Hearing Process

POHOA fails to provide:

- Written notice of alleged violations
- Opportunities to be heard before impartial decision-makers
- A clear appeals process

These failures violate CCIOA and Colorado nonprofit law.

12.7.2 No Written Decisions

In enforcement and ACC matters, decisions must be written.
POHOA commonly issues none.

12.7.3 Selective Enforcement

Owners describe inconsistent enforcement, an actionable legal violation.

12.8 Impact on Community Trust and Governance

12.8.1 Loss of Trust

Owners experience:

- Frustration
- Uncertainty
- Fear of retaliation
- A sense of disenfranchisement

12.8.2 Decline in Participation

Fewer owners:

- Attend meetings
- Submit ACC applications
- Run for the Board
- Ask questions

This erodes community cohesion.

12.9 Legal Risk Assessment

12.9.1 Risk to the Board

Personal liability may attach for:

- Withholding records
- Procedural violations
- Improper suppression
- Enforcement without due process
- Election irregularities

Given POHOA's unclear D&O coverage (Section 5), these risks are amplified.

12.9.2 Risk to the Association

- Decisions may be void or voidable
 - Potential civil penalties
 - Damages for procedural violations
 - DORA intervention under statutory authority
 - Budget invalidation
-

12.9.3 Risk to Individual Homeowners

- Improper fines or charges
 - Restricted access to information
 - Financial loss from mismanaged decisions
 - Reduced property values
 - Lack of procedural protections in disputes
-

12.10 Summary of Findings in Section 12

POHOA's treatment of member rights suffers from systemic issues:

- Withholding or delaying records
- Suppressing questions
- Incomplete and inaccurate minutes
- Lack of due process
- Inconsistent or selective communication
- Procedural violations under CCIOA
- Violations of HB24-1108
- Violations of HB25-1043 strict compliance mandates

In short:

POHOA has created a governance structure that systematically suppresses owner rights and obstructs transparency.

Nearly every major Board action from 2023–2025 is vulnerable to legal challenge.

SECTION 13 — SUMMARY FINDINGS PRIOR TO THE ELECTIONS ANALYSIS

13.1 Purpose of This Section

Before entering the detailed analysis of **Section 14 (Elections & Directed Proxies)**, it is essential to:

- Consolidate the findings from Sections 1–12
- Connect failures across multiple domains
- Demonstrate the cumulative legal effect
- Establish that POHOA’s elections occurred within a fundamentally non-compliant governance environment
- Show that election irregularities are *not* anomalies but predictable outcomes

This section creates the factual and legal groundwork necessary to evaluate POHOA’s election procedures under **CCIOA §310, HB24-1108, and HB25-1043 strict compliance**.

13.2 Overarching Finding: A Systemic Governance Failure

POHOA’s governance issues are **not isolated mistakes**.

They arise from a sustained pattern of:

- Procedural shortcuts
- Withholding information
- Expanding Board authority beyond the Declaration
- Suppressing owner participation
- Failing to adopt or publish rules
- Inconsistent enforcement
- Lack of transparency in contracts, insurance, and finances
- Improper handling of elections

The cumulative effect is a governance system that **cannot satisfy Colorado’s strict compliance requirements** and does not meet the basic standards of nonprofit fiduciary governance.

13.3 Integration of Findings From Previous Sections

13.3.1 Board Authority Failures (Sections 3, 10)

The Board routinely asserted powers **not granted** in the Declaration or statutes, including:

- Trash service authority
- Certain fee categories
- Expanded ACC power
- Election procedures inconsistent with Bylaws

Colorado law interprets ambiguity **against the HOA**.
POHOA violated this principle repeatedly.

13.3.2 Financial and Reserve Mismanagement (Section 4)

Findings include:

- Conflicting reserve studies with no explanation
- No disclosure of methodology
- Budgets lacking transparency
- Improper or insufficient notice
- Failure to answer owner questions before votes

Under HB24-1337 and HB25-1043, these failures render budgets **legally suspect** and potentially void.

13.3.3 Insurance Transparency Failures (Section 5)

The Board:

- Changed insurers without disclosure
- Refused to answer questions
- Withheld copies of policies
- Provided no explanation for differences in coverage

This creates:

- Governance illegitimacy
- Personal liability risk
- Material suppression of owner rights
- A tainted context for elections

13.3.4 Transparency and Procedural Violations (Sections 6 & 7)

POHOA violated:

- CCIOA §209.4 record-access requirements
- CCIOA §209.5 owner-participation requirements
- HB24-1108 conversation rights
- HB25-1043 strict compliance obligations

Owners were:

- Prevented from asking questions
- Denied answers before votes
- Uninformed about key decisions
- Excluded from deliberation

This invalidates many decisions made at those meetings.

13.3.5 Rulemaking and ACC Enforcement Failures (Sections 8 & 9)

POHOA:

- Enforced rules never adopted
- Applied standards inconsistently
- Denied due process
- Issued decisions without documentation
- Published no ACC guidelines
- Created unauthorized fee concepts (“cost recovery fees”)

These actions are legally unenforceable under strict compliance.

13.3.6 Safety and PID Coordination Failures (Section 11)

Safety obligations were neglected:

- Drainage issues
- Culvert maintenance
- Hazard disclosures
- PID miscommunication

These failures undermine homeowner trust and reveal broader administrative disorganization.

13.3.7 Suppression of Member Rights (Section 12)

Across meetings and correspondence, the Board displayed a persistent pattern of:

- Cutting off questions
- Declining to answer inquiries
- Withholding records
- Minimizing concerns
- Sanitizing minutes
- Discouraging participation
- Providing inconsistent or evasive information

This pattern is central to understanding the election failures in Section 14.

13.4 Cumulative Legal Impact Under Strict Compliance

HB25-1043 changes everything.

Many of POHOA's failures — once considered “technical” — are now **legally decisive**.

13.4.1 Decisions Made With Insufficient Notice Are Void

Examples:

- Insurance changes
 - Budget approvals
 - Contract decisions
 - Procedural rule changes
-

13.4.2 Votes Taken Without Answering Owner Questions Are Void

This applies directly to:

- Insurance votes
- Budget votes
- Election confirmations
- Adoption of financial procedures
- Enforcement votes

13.4.3 Rules Not Adopted Through Proper Procedure Are Void

This includes:

- ACC rules
- Trash policies
- Enforcement procedures
- Any unpublished or informal rules

13.4.4 Elections Held Without Procedural Integrity Are Voidable

As documented in Section 14, election failures include:

- Improper handling of directed proxies
- Uncertain ballot totals
- Suppression of questions
- Lack of transparency in tabulation
- Failure to follow Bylaws and CCIOA
- Incomplete or misleading minutes

13.4.5 Director Liability Exposure Is Increased

Due to:

- Unclear D&O coverage
- Procedural non-compliance
- Failure to disclose essential information
- Improper enforcement
- Conflict with owner-right statutes

Directors may be personally liable for actions now deemed unlawful.

13.5 Community-Level Impacts of Systemic Failures

13.5.1 Loss of Member Trust

Owners experience:

- Confusion
 - Frustration
 - Suspicion
 - Reduced engagement
 - Reluctance to volunteer or run for the Board
-

13.5.2 Increased Conflict

Governance opacity leads to:

- Disputes over enforcement
 - Election challenges
 - Budget objections
 - ACC appeals
 - Misinformation about duties and responsibilities
 - Social division
-

13.5.3 Potential Financial Instability

Because:

- Budgets may be invalid
 - Assessments may be challengeable
 - Reserves may be underfunded or misrepresented
 - Insurance may be inadequate
-

13.5.4 Reduced Property Values

Governance instability is a known factor in:

- Loan underwriting
- Buyer confidence
- Marketability of units

POHOA's issues could directly impact valuations.

13.6 Why Elections Could Not Possibly Be Conducted Properly in This Environment

Section 14 will provide detailed analysis of the procedural defects in POHOA's elections. However, Section 13 establishes the essential context:

- When meetings suppress questions, elections cannot be fair.
- When the Board withholds essential documents, elections cannot be informed.
- When minutes are incomplete, elections lack a valid record.
- When proxies are handled without transparency, results cannot be trusted.
- When governance culture punishes inquiry, elections cannot be competitive.
- When Board authority is expanded illegally, elections become tools for entrenchment.

Thus:

Election irregularities are not an exception at POHOA — they are the predictable outcome of systemic governance failure.

13.7 Key Summary Points Leading Into Section 14

Before analyzing elections and directed proxies, it is essential to note the following:

1. **Owner rights were routinely violated**, undermining election legitimacy.
2. **Meeting procedures did not comply with CCIOA**, invalidating many decisions.
3. **Minutes were incomplete or misleading**, destroying election transparency.
4. **Records related to elections were withheld**, violating §209.4.
5. **Directed proxies were handled inconsistently** and without chain-of-custody.
6. **Vote totals were uncertain (27–6 or 29–6)**, indicating procedural failure.
7. **The presiding officer suppressed relevant questions**, violating HB24-1108.
8. **Strict compliance now mandates a formal challenge process**, and POHOA's elections likely cannot withstand it.
9. **The election environment was tainted by earlier governance failures**, rising to the level of structural governance dysfunction.

All of this directly supports the findings of Section 14.

13.8 Conclusion of Section 13

POHOA's governance pattern from 2023–2025 demonstrates consistent violations of:

- CCIOA
- HB24-1108
- HB24-1337
- HB25-1043
- Declaration
- Bylaws
- Basic nonprofit fiduciary duties

As a result:

The structural environment in which the elections occurred was fundamentally non-compliant.

Therefore, Section 14 will show that the elections themselves were invalid or voidable under Colorado law.

SECTION 14 — ELECTIONS & DIRECTED PROXIES: PROCEDURAL IRREGULARITIES AND LEGAL ANALYSIS

14.1 Overview

Board elections are legally required to be:

- Transparent
- Procedurally compliant
- Documented
- Open to homeowner oversight
- Conducted in accordance with CCIOA and the governing documents

At POHOA, the 2024/2025 elections — including the unopposed candidacy of Walker Flannery — occurred amid:

- Uncertain vote totals
- Improper handling of directed proxies
- Suppression of owner questions
- Absence of election procedures
- Incomplete minutes
- Violations of due process
- Lack of chain-of-custody for ballots

- Confusion over proxy validity and voting rules

Under **HB25-1043 strict compliance**, these failures are not merely procedural imperfections — they invalidate the election.

14.2 Legal Requirements for HOA Elections in Colorado

14.2.1 CCIOA §310 — Election Standards

CCIOA requires:

1. **Open and fair elections**
2. **Reasonable opportunity for nomination**
3. **Secret ballots (if required by governing documents)**
4. **Transparent tabulation**
5. **Documented vote totals**
6. **Rights of owners to observe**
7. **Compliance with governing documents**
8. **Complete records of ballots, proxies, and eligibility**

Failure in *any* of these areas jeopardizes the legitimacy of the election.

14.2.2 CCIOA §209.5 — Owner Right to Participate

Owners must be allowed to:

- Ask questions
- Receive answers
- Raise election concerns
- Observe tabulation
- Clarify proxy and ballot rules

POHOA violated these rights by suppressing questions during the election portion of the annual meeting.

14.2.3 HB24-1108 — Protected Owner Speech

This law prohibits:

- Cutting off questions
- Declaring relevant questions “out of order”
- Blocking owner comments **before** votes
- Retaliatory practices against owner participation

These rights were violated at POHOA’s election meeting.

14.2.4 HB25-1043 — Strict Compliance

This statute changes the entire analysis:

- Every election procedure must be strictly followed
- Deviations void the outcome
- Outcomes cannot be upheld if notice, procedure, or transparency was lacking
- Elections held without full compliance are *automatically challengeable*

POHOA’s elections clearly do not meet strict compliance.

14.3 Summary of Election Issues Reported at POHOA

Based on owner recollection, meeting transcript summaries, and statements by those involved (including John), the following issues were identified:

- **Vote totals were uncertain:** reported as 27–6 or 29–6
- **No clear record of eligible voters**
- **Directed proxies were mishandled**
- **No chain-of-custody for ballots**
- **No neutral tabulator**
- **Candidates participated in the administration of the election**
- **Owner questions were refused**
- **Minutes did not reflect actual discussions or objections**
- **No election procedure policy was provided**
- **Floor nominations were solicited improperly**
- **Insurance-related questions relevant to candidacy were suppressed**
- **The presiding officer refused to answer transparency questions before the vote**

This is not a valid election under Colorado law.

14.4 Directed Proxies: Misuse and Mishandling

Directed proxies are the most sensitive voting instruments in HOA law. Colorado requires:

- **Designated proxy holders must follow the stated direction**
- Proxy categories must be clear
- Chain-of-custody must be recorded
- Proxies must be retained as Association records
- Owners must be allowed to inspect proxies under §209.4
- Proxies cannot be altered or reinterpreted
- Proxies must be counted accurately

At POHOA:

14.4.1 Uncertain Number of Directed Proxies

There is no documented number of:

- Directed proxies submitted
- General proxies submitted
- Valid vs. invalid proxies
- Proxy assignments or chain-of-custody

This alone violates CCIOA and strict compliance.

14.4.2 No Documentation of Proxy Instructions

Directed proxies specify *exactly* how a vote must be cast.

Yet POHOA has:

- No documented list of proxy instructions
- No tabulation record
- No proof that directions were followed
- No record of who held each proxy
- No sign-in sheet matching proxies to lot numbers

This directly undermines election integrity.

14.4.3 Failure to Retain Directed Proxies

Under §209.4, proxies must be kept as:

Association records subject to owner inspection.

Owners report that:

- Proxies were not made available
- No copies were distributed
- No retention policy exists
- No one knows where they are

This is a statutory violation.

14.4.4 Proxy Holder Conflicts of Interest

If any Board member or officer:

- Collected proxies
- Held proxies
- Counted ballots
- Facilitated tabulation
- Administered the election

...while also serving as a candidate or political actor, this constitutes an **election interference risk** under best practices and potential breach of fiduciary duty.

POHOA did not firewall candidates from election functions.

14.5 Tabulation Failures and Vote Uncertainty

14.5.1 Different Owners Report Different Vote Totals

The election result was reported as:

- 27–6 (initially)
- 29–6 (upon candidate's later recollection)

This discrepancy indicates:

- No official tally sheet
- No recorded results
- No verification process
- No clear chain-of-custody
- Poor or absent documentation

Under strict compliance, **uncertain vote totals invalidate the election.**

14.5.2 No Secure Ballot Handling

Owners report:

- No ballot box
- No sealed container
- No verification of who deposited ballots
- No accounting for spoiled ballots
- No reconciliation of ballots issued vs. ballots returned

This fails basic nonprofit voting standards.

14.5.3 No Neutral Election Official

Colorado HOAs often retain:

- A property manager
- A third-party tabulator
- A non-candidate volunteer

POHOA used none of these best practices.

Candidates and officers appear to have managed aspects of the election.

14.6 Procedural Suppression During the Election

14.6.1 Insurance Questions Were Blocked

When owners attempted to raise insurance questions — which materially affect:

- Candidate liability
- Board fiduciary duty

- Risk exposure

...the presiding officer refused to answer, citing “time to vote.”

Under HB24-1108 and CCIOA §209.5, this is **illegal**.

14.6.2 Floor Nominations Conducted Improperly

While floor nominations are permitted under many Bylaws, the process was flawed:

- Owners were not told whether directed proxies would apply to floor nominees
- No clear timeline or procedural explanation
- No opportunity to ask questions about candidates

This violates CCIOA’s requirement for transparent and meaningful nomination procedures.

14.6.3 Owners Prevented From Asking Clarifying Questions

Colorado law requires that homeowners must be allowed to:

- Ask questions before elections
- Clarify the process
- Understand voting rules
- Confirm proxy interpretations

POHOA obstructed these rights.

14.6.4 President/Chair Closed Discussion Prematurely

The presiding officer:

- Shut down discussion
- Avoided relevant questions
- Pressured owners to proceed with voting

Such suppression directly undermines election validity.

14.7 Minutes Failure: The Official Record of the Election Is Incomplete or False

Minutes did *not* reflect:

- Questions raised by owners
- Objections to the process
- Proxy-related concerns
- Vote totals
- Ballot tabulation practices
- Insurance inquiries
- Any dissenting views

Accurate minutes are required by CCIOA.

Improper minutes create legal vulnerability and eliminate the ability to reconstruct a valid election record.

14.8 Legal Consequences Under Strict Compliance

Under **HB25-1043**, POHOA's election cannot be presumed valid.

14.8.1 Procedural Failures That Void the Election

The following failures individually could invalidate an election:

- Uncertain vote totals
- Mishandled directed proxies
- Lack of notice or documentation
- Suppression of owner questions
- Missing or false minutes
- No chain-of-custody records
- Conflict of interest in tabulation
- Failure to comply with Bylaw requirements

POHOA exhibited *all* of these defects.

14.8.2 Structural Governance Problems Render Election Invalid

Elections occurring in a context of:

- Non-transparency
- Improper authority expansion
- Unpublished rules
- Financial opacity
- Insurance suppression
- Selective enforcement
- Retaliatory atmosphere

...cannot satisfy statutory requirements for fairness.

14.8.3 Directed Proxy Mishandling is Grounds for Invalidation

Courts view directed proxies as **sacrosanct** voting instruments. Mishandling or loss of directed proxies is considered:

- A structural defect
- A due-process violation
- A breach of fiduciary duty

Strict compliance leaves no room for error.

14.8.4 Potential Director Liability

Directors involved in:

- Mishandling proxies
- Administering the election as candidates
- Suppressing questions
- Producing incomplete minutes

...may be personally liable, especially given the uncertain Auto-Owners D&O coverage.

14.9 Summary of Section 14 Findings

POHOA's election suffers from:

- Uncertain vote totals
- No proper documentation
- Mishandled directed proxies
- Lack of transparency in tabulation

- Suppression of relevant questions
- Incomplete minutes
- Conflicts of interest
- Violations of CCIOA §310
- Violations of CCIOA §209.5
- Violations of HB24-1108
- Violations of HB25-1043 strict compliance
- Violations of POHOA Bylaws
- Widespread governance dysfunction

Therefore:

The election results (27–6 or 29–6) cannot be considered legally valid or reliable.

The process failed strict compliance.

The Board’s authority may be voidable.

This conclusion aligns with statewide legislative trends and reinforces the need for systemic reform.

FULL EXECUTIVE SUMMARY

Introduction

This report evaluates governance practices at the **Poudre Overlook Homeowners Association (POHOA)** between 2023 and 2025.

It is based on:

- Owner testimony and meeting recollections
- Uploaded governing documents
- Known statutory requirements
- Audio transcripts and written summaries
- Patterns of Board behavior documented across multiple years
- Colorado HOA law, including new reforms enacted in 2024–2025

The key finding is stark:

POHOA has not been operating in compliance with Colorado law or its own governing documents.

Decisions made by the Board — including elections, budgets, enforcement actions, and insurance changes — are legally vulnerable, procedurally defective, and in many cases void or voidable under Colorado’s 2024–2025 strict compliance reforms.

This Executive Summary distills the evidence and conclusions from Sections 1–14 and provides a high-level roadmap for state-level analysis and potential legislative engagement.

1. Overarching Finding: A Systemic Governance Failure

Across meetings, budgets, elections, rulemaking, financial disclosures, insurance transitions, and member interactions, POHOA displays:

- **Chronic transparency failures**
- **Suppression of owner questions**
- **Expansion of Board power beyond the Declaration**
- **Improper rulemaking and enforcement**
- **Inconsistent treatment of homeowners**
- **Failure to retain or disclose required records**
- **Faulty election administration**
- **Inadequate financial and reserve documentation**
- **Inaccurate or incomplete minutes**
- **Misunderstanding or misrepresentation of PID-30 responsibilities**
- **Improper handling of directed proxies**
- **No compliance with strict legal requirements introduced by HB25-1043**

Taken together, these failures demonstrate a structural, not incidental, pattern of governance breakdown.

2. Transparency and Member Rights Failures

Colorado law requires HOAs to operate transparently. POHOA did not.

2.1 Suppression of Owner Questions

Across multiple meetings, including the annual meeting where elections were held:

- Owners were prevented from asking key questions about insurance, reserves, budgets, and procedures.
- The presiding officer declared legitimate questions “out of order.”
- Votes proceeded without answering owner inquiries, violating CCIOA §209.5 and HB24-1108.

Colorado law now requires **owner questions to be answered prior to votes**. POHOA violated this repeatedly.

2.2 Records Withheld or Not Produced

Under CCIOA §209.4, owners have the right to inspect essential documents. POHOA either did not produce or delayed producing:

- Insurance policies
- Reserve studies
- Budget detail
- Trash services contracts
- ACC procedures
- Enforcement policies
- Election records (including proxies)

Owners cannot participate meaningfully in governance without access to records.

2.3 Incomplete, Sanitized, or Inaccurate Minutes

Minutes routinely omitted:

- Owner objections
- Questions raised
- Procedural irregularities
- Vote tallies
- Proxy discussions
- Safety concerns raised by owners

This violates both CCIOA and the Bylaws and undermines transparency.

3. Financial and Reserve Transparency Failures

3.1 Conflicting Reserve Studies

Owners report:

- Two dramatically different reserve study assumptions
- No explanation of methodology
- No discussion of year-over-year deviations

- No transparency in long-term planning

Budget decisions made without disclosure or explanation are invalid under HB24-1337 and HB25-1043.

3.2 Budget Adoption Without Proper Notice or Deliberation

Budgets were adopted:

- Without answering owner questions
- Without providing supporting documentation
- Under rushed conditions
- Without clear comparative financials or reserve schedules

Under strict compliance standards, these budgets are vulnerable to challenge.

4. Insurance Change Without Disclosure

One of the most serious issues:

POHOA changed from **American Family Insurance** to **Auto-Owners Insurance** without providing:

- Copies of the policies
- Explanations of the differences
- Clarification of D&O liability coverage
- Justifications for the change
- Documentation of Board deliberation

At the annual meeting, when owners attempted to ask about D&O coverage — which affects both Board and homeowner liability — the Board refused to answer.

This is a **catastrophic transparency failure** and significantly increases liability exposure for directors, especially if the Auto-Owners policy contains exclusions for procedural violations or governance errors.

5. Rulemaking and Enforcement Problems

POHOA enforced rules that:

- Were never adopted with proper notice
- Were never distributed to owners
- Do not appear in any published policy manual
- Are applied selectively or inconsistently
- Conflict with the Declaration

ACC decisions were issued:

- Without written standards
- Without written approvals or denials
- Without timelines or due process

Under HB25-1043, **any rule not adopted with strict procedural compliance is void.**
Many POHOA rules fail this test.

6. Safety, Infrastructure, and PID Coordination Failures

POHOA has not:

- Documented drainage, culvert, or erosion management
- Maintained stormwater features
- Established hazard reporting procedures
- Disclosed infrastructure risks
- Coordinated responsibly with PID-30

The Board frequently told homeowners that “PID-30 handles it,” even when the HOA clearly bears responsibility.

This misrepresentation creates:

- Legal risk
- Loss of community trust
- Deferred-maintenance liabilities
- Safety hazards

Insurance ambiguity only magnifies the risks.

7. Election Failures: Directed Proxies, Vote Totals, and Suppression

The elections — particularly the 2024/2025 election in which Walker Flannery ran unopposed — were conducted amid:

- Uncertain vote totals (reported as 27–6 or 29–6)
- Improperly handled directed proxies
- No chain-of-custody for ballots
- No disclosure of proxy counts
- No retention or inspection access
- Suppression of owner questions before voting
- Incomplete or misleading minutes
- Lack of independent tabulators
- Possible conflicts of interest by candidates
- No published election procedures

Under CCIOA §310 and HB25-1043:

An election with uncertain vote totals and mishandled directed proxies is presumptively invalid.

Strict compliance leaves no room for procedural ambiguity.

8. Directed Proxy Mishandling as a Standalone Invalidator

Colorado treats directed proxies as **sacred voting instruments**.

POHOA:

- Did not document directed proxy instructions
- Did not confirm proxy validity or eligibility
- Did not provide access to proxies afterward
- Did not record chain-of-custody
- Did not report the number of proxies cast
- Did not explain how floor nominations interacted with directed proxies
- Did not include proxy information in minutes

This alone is sufficient to void the election.

9. Legal Risk Under HB25-1043 Strict Compliance

HB25-1043 significantly increased the consequences of HOA procedural errors.

Under strict compliance:

- Meeting notice defects **void** decisions
- Failure to answer questions **voids** votes
- Failure to disclose documents **voids** deliberation
- Inconsistent enforcement **voids** rule application
- ACC decisions without standards are **void**
- Elections with procedural defects are **voidable** or **invalid**

Because POHOA repeatedly failed in these areas:

Nearly every major decision made by the Board from 2023–2025 is now legally vulnerable.

10. The Board's Liability Exposure

Based on:

- Unclear D&O coverage
- Undocumented insurer transition
- Procedural irregularities
- Missing records
- Improper enforcement
- Election defects

Directors may face:

- Personal liability
- Negligence claims
- Breach of fiduciary duty claims
- Claims of ultra vires (acting outside authority)
- Complaints to DORA and legislative bodies

Colorado courts hold directors to a **duty of care** and **duty of loyalty** — both appear compromised here.

11. Homeowner Impact

Homeowners experience:

- Loss of trust
- Lack of transparency
- Unstable governance
- Financial uncertainty
- Potential invalid assessments
- Reduced clarity around property rights
- Fear of selective or retaliatory enforcement
- Incomplete or inaccurate community records

These conditions suppress participation and degrade the health of the association.

12. Governance Culture Problems

Beyond procedural defects, POHOA's behavior reflects:

- A culture of avoiding scrutiny
- Reliance on social pressure to discourage questions
- Non-professional administration of elections
- Disinterest in statutory compliance
- Minimal communication with owners
- Defensive posture toward inquiries
- Incomplete or misleading documentation

This culture ensures that defects persist unless corrected externally.

13. Legislative and Policy Implications

POHOA exemplifies issues seen statewide:

- Boards exceeding authority
- Opaque contracting practices
- Mishandled directed proxies
- Inadequate election supervision
- Suppression of member rights
- Improper rulemaking

- Lack of accountability

For Rep. Naquetta Ricks, POHOA is a **case study** demonstrating:

- Why strict compliance was necessary
- Why stronger enforcement mechanisms are needed
- Why homeowners deserve state-level protections against non-transparent governance

This report provides a clear roadmap for potential future legislative refinement.

14. Final Summary Judgment

Based on the integrated analysis of Sections 1–14:

POHOA’s governance between 2023 and 2025 was legally deficient, procedurally non-compliant, and structurally unsound.

The Board’s actions — including elections, budgets, enforcement, and contracting — lack the transparency, documentation, and statutory observance required under Colorado law.

Specifically:

- The 2024/2025 election **does not meet the legal threshold for validity**.
- Directed proxies were **mishandled**, voiding the election under strict compliance.
- Budgets were adopted **without proper disclosure**.
- Insurance decisions were made **without transparency**, increasing liability.
- Owner rights were repeatedly suppressed in violation of HB24-1108.
- The Board acted outside the Declaration on trash authority and ACC issues.
- Safety and infrastructure oversight was inadequate and undocumented.
- Records access failures violated CCIOA §209.4.

Therefore:

External review, corrective measures, and legislative attention are warranted.

CONCLUSION

The findings in this report establish that POHOA’s governance during the 2023–2025 period failed to comply with the fundamental legal requirements imposed by Colorado statutes, the Association’s governing documents, and established nonprofit fiduciary standards.

The documented failures were not isolated incidents, nor were they mere administrative imperfections. They formed a recurring, systemic pattern that undermined member rights, obstructed transparency, and compromised the legitimacy of nearly every major action taken by the Board.

1. Systemic Deviations From Colorado HOA Law

The Board repeatedly acted outside the clear boundaries of CCIOA, HB24-1108, and HB25-1043, including:

- Failing to answer owner questions before votes
- Withholding essential records (insurance, reserves, contracts, proxies)
- Conducting elections without proper procedures
- Mishandling directed proxies and ballot tabulation
- Adopting or enforcing rules without formal notice or publication
- Suppressing owner participation and sanitizing meeting minutes
- Expanding Board authority beyond that granted in the Declaration

These represent *statutory violations*, not mere disputes in interpretation.

2. Strict Compliance Invalidates Many Board Actions

With HB25-1043, Colorado has shifted from the traditional “substantial compliance” standard to a more exacting **strict compliance** requirement for HOA governance.

Under this standard:

- Budgets adopted without transparency
- Elections conducted with procedural defects
- Rules adopted without following statutory process
- Decisions made without proper notice

...are **presumptively void or voidable**.

POHOA’s internal practices are incompatible with strict compliance, leaving the Board’s actions legally vulnerable.

3. The Election Process Does Not Meet Legal Standards

The election examined in Section 14 — including the reported vote totals of “27–6” or “29–6,” the handling of directed proxies, the absence of a chain-of-custody for ballots, and the suppression of member questions — fails to satisfy CCIOA §310, HB24-1108, or HB25-1043.

Because:

- Vote totals were inconsistent
- Directed proxies were mishandled
- No election procedures were provided
- Candidates or officers administered parts of the election
- Minutes failed to reflect what occurred
- Owners were denied the right to ask questions

...the election cannot be considered valid under Colorado law.

The conclusion is clear:

The Board seated as a result of this election lacks reliable legal legitimacy.

4. Transparency and Documentation Failures Obstruct Oversight

The Board’s withholding of records, inadequate minutes, evasive communication practices, and refusal to provide essential governance documents (including insurance policies and contracts) undermines meaningful oversight by homeowners, regulators, and policymakers.

Such conditions create an environment where:

- Errors go uncorrected
- Owner rights cannot be exercised
- Mismanagement becomes difficult to detect
- Elections cannot be audited

These failures justify formal review and demonstrate the necessity of recent legislative reforms.

5. Governance Failures Create Significant Liability Exposure

The combination of:

- Unclear D&O coverage,
- Deficient insurance disclosures,

- Inadequate safety management,
- Improper rulemaking, and
- Unauthorized Board actions

...creates substantial risk for:

- The Association
- Individual directors
- Homeowners and future buyers

If an incident occurs — including infrastructure failure, enforcement dispute, or budget challenge — the lack of documented compliance may leave the Association uninsured and the directors personally exposed.

6. POHOA as a Case Study for Broader Legislative Need

The issues identified in this report are not unique to POHOA. They reflect patterns seen across Colorado:

- Boards acting outside their authority
- Poor election procedures
- Non-transparent contracting
- Informal rulemaking
- Retaliatory or suppressive meeting cultures
- Owners powerless against opaque governance

POHOA provides a clear, evidence-based example of why:

- HB24-1108 was necessary
- HB25-1043's strict compliance standard must be enforced
- Additional reforms may be needed to ensure accountability and prevent small HOAs from operating without meaningful oversight

For Rep. Ricks, POHOA represents a real-world demonstration that the law is working as intended — revealing boards that cannot meet basic procedural standards — and simultaneously a signal that enforcement mechanisms must continue evolving.

7. Path Forward

While the report is critical, it is not merely punitive. It identifies actionable paths to restore compliance, including:

- Independent election supervision
- Mandatory disclosure of insurance policies and reserve studies
- Adoption of proper rules and procedures
- Corrective training for directors
- Formal review of budgets and assessments
- Reconstruction of minutes and records
- Potential appointment of an outside mediator or administrator

POHOA can correct course — but only through complete transparency and strict adherence to statutory requirements.

Final Statement

The governance practices of POHOA during the 2023–2025 period did not comply with Colorado law, did not respect homeowner rights, and did not reflect proper fiduciary stewardship.

As a result, key Board actions — including elections, budgets, rulemaking, and contract decisions — are legally vulnerable under Colorado’s strict compliance standards.

This report is submitted to support legislative review, regulatory oversight, and community-level corrective action.

APPENDICES

APPENDIX A — Key Colorado Statutes Referenced in This Report

Below are the most relevant statutory provisions governing HOA conduct, elections, records, rulemaking, budgeting, and owner rights.

A.1 — CCIOA §209.4: Owner Access to Records

HOAs must provide prompt access to:

- All financial and operating records
- Contracts and vendor agreements
- Insurance policies
- Reserve studies
- Meeting minutes, including vote tallies
- Enforcement policies

- Architectural guidelines
- All documents relied upon in decision-making

Records cannot be withheld except under narrowly defined exemptions (e.g., attorney-client privileged materials).

Relevance to POHOA:

POHOA failed to provide insurance policies, contract details, reserve studies, and election-related documents such as proxies and tallies.

A.2 — CCIOA §209.5: Meetings of the Board and Unit Owners

Key requirements:

- Owners must have a meaningful opportunity to speak.
- Owners must be allowed to comment on matters under discussion.
- Owners cannot be excluded from deliberations except for executive sessions.
- Questions relevant to votes must be addressed.

Relevance:

POHOA repeatedly suppressed owner questions, cut off deliberation, and refused to answer inquiries before voting.

A.3 — CCIOA §310: Election Standards

Associations must conduct fair elections, including:

- Secret ballots (if required by governing documents)
- Transparent tabulation
- Proper handling and retention of proxies
- Owner right to observe
- Written counting procedures
- Candidate eligibility rules
- Proper nomination processes

Relevance:

POHOA failed to adhere to nearly all election standards, including improper handling of directed proxies and inconsistent vote totals.

A.4 — CCIOA §302: Board Powers Must Be Within the Declaration

HOAs cannot:

- Expand their own authority
- Invent powers not stated in the Declaration
- Enforce rules not properly adopted

Relevance:

POHOA claimed unilateral authority over trash services despite no such authority in the Declaration.

A.5 — HB24-1108: Owner Participation and Anti-Retaliation Protections

Key provisions:

- Owners have enhanced rights to speak at meetings.
- Boards must answer questions relevant to agenda items.
- Boards cannot retaliate or suppress participation.
- Owners must be given a chance to comment prior to votes.

Relevance:

POHOA violated HB24-1108 by refusing to answer owner questions before votes.

A.6 — HB24-1337: Budget Transparency Requirements

Budget presentations must include:

- Year-over-year comparisons
- Reserve contribution breakdowns
- Clear explanations of increases or decreases
- Disclosure of methodology

Relevance:

POHOA provided no meaningful explanation of reserve study shifts.

A.7 — HB25-1043: Strict Compliance

The most consequential statute.

Key provisions:

- All statutory and governing-document procedures must be followed exactly.
- Votes taken without proper notice or disclosure are void.
- Elections with procedural defects are invalid or voidable.
- Boards cannot rely on “substantial compliance” defenses.
- Records and rulemaking requirements must be honored fully.

Relevance:

Nearly every procedural defect documented in Sections 1–14 automatically triggers strict compliance consequences.

APPENDIX B — Key Definitions for HOA Governance

These definitions help clarify how Colorado interprets HOA powers and member rights.

B.1 — “Strict Compliance”

A statutory standard requiring that:

- Procedures are followed exactly
- No deviation is tolerated
- Owner rights cannot be abridged
- Decisions are invalid if procedures are improper

Under HB25-1043, this applies to elections, rulemaking, budgets, and document disclosure.

B.2 — “Directed Proxy”

A voting instrument where:

- The proxy giver specifies how the vote must be cast
- The proxy holder has no discretion
- Instructions must be followed exactly
- Proxies must be retained and available for inspection

Mishandling directed proxies is grounds for voiding an election.

B.3 — “Ultra Vires”

A legal term meaning **beyond the scope of authority**.

If a Board acts outside powers granted in the Declaration, the action is ultra vires and invalid.

B.4 — “Common Area” vs. “PID Responsibility”

Common Area = HOA-controlled land and infrastructure.

PID-30 = Public Improvement District responsible only for designated roads and drainage features.

Misidentifying PID responsibilities does not transfer HOA duties.

B.5 — “Due Process” in HOAs

Includes:

- Notice of alleged violation
- Opportunity to be heard
- Written decisions
- Clear standards
- Consistent enforcement

POHOA failed to provide due process in ACC and enforcement actions.

APPENDIX C — Summary of POHOA Governing Document Provisions

This appendix summarizes the most relevant sections of POHOA’s Declaration and Bylaws (as interpreted from uploaded excerpts and owner descriptions).

C.1 — Declaration

- No explicit authority over trash services if Association not directly contracting
 - Basic ACC authority with limited scope
 - Requirement to maintain common areas
 - Requirement to follow bylaws for elections
 - Owner voting rights established for assessments and amendments
-

C.2 — Bylaws

- Require proper notice of meetings
- Require accurate minutes
- Establish eligibility for Board service
- Require proper election administration
- Define quorum and proxy requirements
- Require transparency and member access to records

POHOA deviated from multiple Bylaw requirements.

APPENDIX D — Election Procedure Standards

Below is a consolidated list of election standards required under Colorado law and best practices.

D.1 — Before the Election

- Provide notice of positions open
- Provide nomination procedures
- Make proxy forms available
- Disclose any floor nomination rules
- Provide candidate information (if available)
- Publish election procedures

POHOA did not publish election procedures or clarify proxy usage.

D.2 — During the Election

- Owners must be allowed to ask questions

- Proper chain-of-custody for proxies
- Neutral election administrator
- Secure ballot container
- Verification of eligibility
- Transparent counting

POHOA did none of these.

D.3 — After the Election

- Record vote totals in minutes
- Retain ballots and proxies for inspection
- Document how votes were verified
- Provide results to owners

POHOA provided inconsistent vote totals and incomplete minutes.

APPENDIX E — Recommended Corrective Actions for POHOA

This section provides actionable recommendations, useful for lawmakers, owners, and regulators.

E.1 — Immediate Corrective Actions

1. **Conduct a new, independently supervised election**
 - Third-party administrator
 - Full proxy reconstruction
 - Transparent counting
2. **Release all withheld records**
 - Insurance policies
 - Contracts
 - Reserves
 - Election materials
 - Board deliberations (non-privileged)
3. **Publish proper rulemaking procedures**
 - ACC standards
 - Enforcement policies
 - Trash authority clarification

- Meeting procedures
 - 4. **Adopt compliance training for Board members**
 - CCIOA
 - Nonprofit fiduciary duties
 - HB24-1108
 - HB25-1043 strict compliance
-

E.2 — Medium-Term Corrective Actions

1. **Commission a new reserve study** with transparent assumptions
 2. **Conduct an insurance adequacy review**
 3. **Develop and publish a maintenance plan**
 4. **Create a formal safety/hazard reporting system**
 5. **Reconstruct missing or incomplete minutes**
-

E.3 — Long-Term Best Practices

1. **Adopt a transparent financial reporting structure**
 2. **Use professional election services annually**
 3. **Implement a public records portal**
 4. **Maintain a clear HOA–PID boundary map**
 5. **Develop a compliance calendar** for all statutory obligations
-

APPENDIX F — Policy and Legislative Recommendations

These recommendations may be incorporated into future amendments to CCIOA or related statutes.

F.1 — Strengthening Proxy Handling Requirements

- Require HOAs to track chain-of-custody for all proxies
 - Require retention of proxies for at least two years
 - Require proxy disclosure upon request
-

F.2 — Mandating Independent Election Supervision

- For communities >20 homes
 - For any election where directed proxies are used
 - For any election with a Board-created vacancy
-

F.3 — Mandatory Publication of Insurance Documents

Boards must publish:

- Full policy documents
 - D&O coverage limits
 - Annual insurance comparison summaries
 - Exclusion lists
-

F.4 — Standardized Meeting Minutes Requirements

Minutes must include:

- All owner questions
 - All objections
 - All clarifications requested
 - All vote totals
 - Names of vote counters
-

F.5 — Enforcement Transparency Requirements

Require HOAs to:

- Publish enforcement logs
 - Provide monthly ACC reports
 - Document fines and waivers
-

APPENDIX G — Evidence List (for Legislative or Legal Use)

Below is a categorized list of the types of evidence referenced in the report.
(This list does not include confidential or unpublished items; it is structured for attachment.)

G.1 — Documentation Provided by Homeowners

- Audio transcripts of meetings
 - Notes describing suppression of questions
 - Statements regarding conflicting vote totals
 - Statements regarding insurance-transition questions
 - Statements regarding drainage and safety concerns
-

G.2 — Documents POHOA Should Have Provided but Did Not

- Insurance policies
 - Trash contracts
 - Proxy logs
 - Ballot count sheets
 - ACC guidelines
 - Enforcement policy
 - Accurate meeting minutes
-

G.3 — Statutory Documents

- CCIOA statutes quoted above
 - HB24-1108
 - HB24-1337
 - HB25-1043
 - SB24-134
 - HB22-1139
 - HB22-1310
-

APPENDIX H — Glossary of Common HOA Governance Terms

A quick-reference glossary for lawmakers and homeowners reviewing this report.

H.1 — “Strict Compliance”

Exact adherence to statutory and governing-document requirements; deviations invalidate actions.

H.2 — “Directed Proxy”

A proxy specifying exact voting instructions that must be followed.

H.3 — “Quorum”

The minimum number of owners required to conduct business legally.

H.4 — “Ultra Vires”

Acts outside the legal authority of the Board.

H.5 — “ACC (Architectural Control Committee)”

Body that reviews property modifications and enforces design standards.

H.6 — “Executive Session”

Closed Board session permitted only for limited reasons (legal matters, contracts, personnel).

H.7 — “Common Area”

Property owned or maintained by the HOA.

H.8 — “Operating Budget”

Annual plan for HOA expenses, requiring notice and transparency.
