POHOA Case Study: Reserve Accounting Failures, Systemic Transparency Gaps, and Statutory Weaknesses in HOA Financial Governance

Prepared for: **Representative Naquetta Ricks**
Date: **December 2025**

FOREWARD/OVERVIEW

This case study examines the financial, operational, and governance failures at the Poudre Overlook Homeowners Association (POHOA) between 2016 and 2025. Although POHOA is a small, 87-home association, the issues identified mirror patterns seen statewide in Colorado HOAs: inconsistent accounting, inaccurate reserve planning, uncompetitive contracting, and weak owner oversight. These failures occurred **not because of bad actors**, but because Colorado law leaves critical gaps that make mismanagement—intentional or not—both easy and legal.

POHOA's experience provides a clear, evidence-based model for understanding why many Colorado homeowners face sudden special assessments, rising dues, and opaque board decisions, and why statutory reform is urgently needed.

Key Findings

1. Financial Recordkeeping Became Confusing, Non-Standardized, and Functionally Unusable

From 2016–2019, POHOA financial reporting was organized, transparent, and aligned with the association's governing documents. Operating expenses, reserve funds, and fence expenditures were itemized and traceable.

Beginning in 2020, however:

- The management company introduced a new accounting format.
- In 2021–2023, reports shifted again when the association moved to QuickBooks under multiple volunteer and paid bookkeepers.
- Reserve funds were no longer segregated or identified in reports.

- Fence repairs moved irregularly between reserve spending and operating spending.

By 2024–2025 it became nearly impossible—even for experienced financial reviewers—to determine:

- Actual reserve balances,
- Whether reserves were being funded according to policy,
- Whether special assessments were actually needed.

This is not a POHOA-specific problem: **Colorado has no standardized HOA accounting requirements.**

---

2. Reserve Studies Were Inaccurate, Non-Comparable, and Based on Faulty Inputs

POHOA's 2020 reserve study:

- Was performed by a junior analyst who left after producing only a handful of studies,
- Omitted major assets (stormwater drainage infrastructure),
- Provided homeowners with overly optimistic assurances of long-term stability.

The 2025 reserve study:

- Started with a reserve balance not found in any published POHOA financial report,
- Used pooled operating numbers instead of clearly segregated reserves,
- Led directly to a proposed $35/month increase framed as a "dues adjustment" rather than a special assessment.

Without statutory standards for reserve accuracy, training, or correction of errors, associations across Colorado—especially self-managed ones—face similar risks.

---

3. Discretionary Spending Increased Dramatically and Without Competitive Bids

POHOA's largest operational cost increases from 2021–2025 were driven by:

- Accounting/bookkeeping expenses doubling despite less experienced providers,
- Legal fees rising sharply due to preventable governance disputes,
- Landscaping and irrigation expenses increasing without bid cycles,
- Fence repairs appearing in operating budgets rather than reserves.

Colorado law **does not** require competitive bidding for contracts of any size. As a result, associations may:

- Hire neighbors or former board members,
- Pay above-market rates,
- Renew contracts indefinitely,
- Avoid comparison shopping entirely.

POHOA demonstrates that **unregulated discretionary spending erodes reserves faster than any single major project.**

---

4. Governance Instability Exacerbated Financial Weakness

Between 2020 and 2025, POHOA experienced:

- A management-company resignation (2021),
- Full board resignation (2022),
- Turnover in volunteer bookkeepers,
- Transfer of treasurer duties despite limited technical skills,
- Outsourcing of accounting to paid individuals without credentials or contracts.

Colorado law places **no minimum competency requirements** on treasurers or financial officers and does not require bid processes for outsourced bookkeeping or accounting.

Meanwhile, meeting transparency declined:

- Some meetings held in locations unsuitable for recording or participation,
- Attempts to restrict remote access or recordings,
- Insufficient discussion of major financial decisions,
- Lack of publication of key financial reports (such as the missing 2024 annual report).

Governance instability combined with inadequate statutory guardrails created conditions for misaligned spending and confused finances.

---

5. Homeowners Lost the Ability to Understand or Influence Large Financial Decisions

Due to inconsistent accounting, contradictory reserve inputs, and inadequate disclosures, homeowners were asked to vote on:

- Trash-service changes,
- A multi-year dues increase functionally equivalent to a special assessment,
- Reserve funding policies,

without being provided with:

- Accurate reserve balances,
- A transparent breakdown of expenses,
- Competitive bids for contracts,
- Clear justification for financial shortfalls.

Colorado law does not guarantee homeowners the right to vote on major expenditures unless the governing documents explicitly require it.

Primary Legislative Conclusions

POHOA's failures were not isolated or intentional—they were **predictable consequences of statutory gaps** that exist for all HOAs statewide.

The case study identifies five gaps most responsible for statewide HOA dysfunction:

1. **Lack of standardized accounting and reserve reporting requirements.**
2. **No mandatory segregation of reserve funds from operating funds.**
3. **No competitive bidding requirements for recurring contracts.**
4. **No treasurer or financial-officer competency or training standards.**
5. **Insufficient transparency requirements for meetings, financial reports, and contractor decisions.**

These issues are systemic—not unique to POHOA—and represent areas where carefully targeted reforms can dramatically reduce homeowner disputes, financial surprises, and special assessments.

Core Recommendations for Statutory Reform

The Case Study recommends:

1. Mandatory Competitive Bidding (California Model)

Three bids required for any contract exceeding:

- **1% of annual budget or $10,000, whichever is lower.**
  Applies to accounting, management, legal, reserve-study providers, landscaping, trash, and other recurring vendors.

2. Standardized HOA Financial Reporting Requirements

Annual reports must include:

- Segregated reserve balances,
- Reserve funding plans,
- Operating budget variances,
- Itemized contract costs,
- Digital publication.

---

3. Reserve Study Accuracy and Oversight

Require:

- Qualified preparers,
- Disclosure of qualifications,
- Mandatory corrections when omissions/errors are discovered,
- Alignment of funding plans with actual reserve needs.

---

4. Treasurer Competency Standards

Require:

- Mandatory financial training,
- Documentation of delegation to paid bookkeepers,
- Competitive bidding for all outsourced financial services.

---

5. Owner Rights and Transparency Enhancements

Guarantee statewide:

- Remote meeting access,
- Permission to record meetings,
- Advance publication of contracts and budgets,
- Member voting on large expenditures exceeding statutory thresholds.

Conclusion

POHOA's experience demonstrates a systemic problem: **Colorado's HOA statutes assume competence and transparency but do not require them.**

As a result, associations can drift into financial instability, inconsistency, and opacity even with well-intentioned volunteers.

Legislative reforms grounded in the POHOA case—competitive bidding, financial transparency, reserve accuracy, treasurer competency, and meeting access—will provide statewide benefit to more than **1 million Colorado homeowners**.

POHOA is not the problem.
POHOA is the **case study** that reveals the problem.

SECTION 1 — EXECUTIVE SUMMARY

I. Overview

This case study uses the Poudre Overlook Homeowners Association (POHOA) in Fort Collins to illustrate structural weaknesses in Colorado's HOA governance and financial accountability framework. The POHOA case highlights:

- reserve accounting inconsistencies,
- unclear financial reporting,
- discretionary spending escalation,
- the absence of standardized reserve definitions or reporting formats,
- procedural irregularities in assessment development,
- and the difficulty homeowners face in evaluating financial decisions.

These issues are **not unique to POHOA**. Rather, they represent **systemic statewide patterns** that lawmakers, mediators, and stakeholders consistently report: Colorado HOAs operate with significant autonomy but without sufficient statutory guardrails to ensure transparency, competency, or accountability in financial management.

II. Key Finding: The Basis for the Proposed $35/Month Assessment Is Not Verifiable Under Current Accounting Practices

POHOA’s Board has proposed a dues increase of **$35/month for two years** (initially discussed as $65/month), but the financial data underlying this proposal is difficult for homeowners to independently verify because:

- reserve funds are no longer distinctly tracked,
- the association maintains multiple bank accounts not labeled as reserves,
- capital expenditure categories (e.g., fences, drainage) have been inconsistently classified, and
- discretionary operating costs have increased substantially in recent years.

CCIOA expects financial records to be kept “in a form that is reasonably understandable by owners” (C.R.S. § 38-33.3-317). POHOA’s reports from 2021–2025 do not meet this standard, making it challenging to rely on them for an assessment of this magnitude.

III. The 2020 Reserve Study Was Methodologically Flawed and Incomplete — Yet Still More Structurally Transparent Than Later Accounting

The 2020 Reserve Study suffers from two critical limitations:

1. The reserve analyst later admitted the study was flawed.

- The individual who produced it was inexperienced,
- Completed only 5–6 reserve studies before leaving the company, and
- Failed to include major capital assets such as **stormwater drainage infrastructure**.

This omission is significant: stormwater systems represent long-term capital liabilities that materially affect reserve adequacy.

2. The “no special assessments” language was conditional, not absolute.

The study did not promise that assessments would never be needed.
Instead, it stated that **if all capital assets were properly captured and if reserves were funded and used appropriately**, the association *could reasonably avoid* special assessments within the study’s projection window.

That condition was **never met**, because:

- not all assets were identified,
- reserve accounting changed formats,
- capital projects (e.g., fence segments) were reclassified into operations,
- and discretionary spending altered available reserve funding.

Thus, the 2020 study should not be seen as authoritative—but as evidence of the **lack of standardization** in Colorado's reserve study practices.

IV. Despite Its Limitations, the 2020 Reserve Study Era Reflected Clearer Accounting Practices

Though flawed, the financial reports surrounding the 2020 Reserve Study still offered:

- **distinct reserve fund categories**,
- **itemized capital expenditures**,
- **separate tracking of the 2018–2020 special assessment**, and
- **transparent year-end balances**.

Homeowners reviewing those reports could determine:

- what was in reserves,
- how much had been spent,
- and what remained.

This level of clarity has been lost in the years following.

V. Post-2020 Financial Practices Led to Opacity and Reserve Uncertainty

Beginning in 2021, POHOA's accounting shifted significantly:

- Reserve funds were no longer separately identified.
- Bank accounts (checking, savings, CDs) were reported without reserve designation.
- Fence repairs—historically reserve-funded—were moved into operational budgets.
- Stormwater drainage maintenance remained unbudgeted and unplanned.
- Legal and accounting costs escalated, consuming funds that could have supported capital reserves.
- The 2024 annual report—necessary for reserve reconciliation—was not published to homeowners.

These changes make the reserve position in 2025 impossible to determine with certainty.

VI. The 2025 Reserve Study “Starting Balance” Cannot Be Reconciled to Any Financial Report

The 2025 Reserve Study lists a starting reserve balance of **$93,103.29**.
However:

- No POHOA financial report lists this amount as “reserves.”
- The total of bank accounts does not match this figure.
- No ledger designates which accounts contain reserve funds.
- The HOA’s published reports provide no reconciliation document.

Under CCIOA § 317 and § 217, financial clarity is expected; however, Colorado law provides no standardized format, enabling such discrepancies.

This misalignment is both a **POHOA governance issue** and a **statutory weakness**.

VII. Discretionary Spending Growth Has Reduced Funds Available for Reserves

Between 2021 and 2025, the HOA’s operating budget absorbed rising costs such as:

• Legal fees

Steady, substantial increases, even absent litigation.

• Accounting/bookkeeping services

Transition from volunteer to paid contractor at $500/month—despite available professional bids at lower rates.

• Landscaping and irrigation

High-maintenance turf practices (mowing frequency, irrigation intensity, and irrigated acreage) contribute to outsized recurring costs.

These trends reduce reserve contributions and push the association toward assessments.

VIII. Why POHOA Matters for State Policy

Because the 2020 Reserve Study was flawed, and because later practices diverged from industry standards, POHOA highlights several statewide issues:

1. Colorado lacks standardized reserve-study requirements.

No statute defines:

- minimum qualifications for reserve analysts,
- required asset categories, or
- reconciliation standards between studies and financial reports.

2. Colorado allows HOAs to report financials in inconsistent, nonstandardized formats.

This enables:

- reserve ambiguity,
- bank-account labeling inconsistencies,
- commingling of capital and operational funds, and
- assessment proposals unsupported by verifiable data.

3. No statutory requirement exists for competitive bidding for recurring financial or legal services.

This contributes to escalated costs and potential duty-of-care concerns.

4. Homeowners lack an efficient remedy when financial transparency expectations are unmet.

The only recourse is litigation or expensive dispute-resolution processes, creating significant access-to-justice barriers.

IX. Legislative Implications

POHOA demonstrates that **even well-intentioned boards operating without malfeasance can make financially significant decisions under conditions of inadequate statutory structure**.

Rep. Ricks' draft legislation addresses several governance and transparency issues, but additional reforms—especially around reserve accounting, fiduciary standards, reporting formats, and mandatory competitive bidding—are necessary to prevent similar situations statewide.

A detailed legislative analysis appears in Section 8 of the full case study.

X. Conclusion

The issues at POHOA are not the result of a single decision or individual, but rather the interaction of:

- flawed reserve-study methodology,
- inadequate statutory financial standards,
- inconsistent internal accounting practices, and
- discretionary spending that eroded reserve contributions.

This case demonstrates the need for **uniform statewide financial governance standards** for HOAs, including reserve segregation, standardized reporting, competitive bidding, and enforceable transparency mechanisms.

SECTION 2 — LEGAL FRAMEWORK

Statutory & Governing Document Requirements Relevant to Reserve Accounting, Financial Reporting, and Assessment Procedures

---

I. Introduction

Colorado's common-interest communities operate under a multilayered legal framework that includes:

1. **The Colorado Common Interest Ownership Act (CCIOA)**
2. **The Colorado Revised Nonprofit Corporation Act (CRNCA)**
3. **The HOA's recorded governing documents**
    - Declaration of Covenants, Conditions & Restrictions (CCRs)
    - Bylaws
    - Articles of Incorporation
    - Board-adopted policies (as required under CCIOA §209.5)

Together, these laws and documents create **fiduciary duties, procedural requirements, transparency obligations, and financial-management expectations** that apply to all HOA boards, including POHOA.

The following subsections summarize the legal framework relevant to reserve management, financial reporting, and assessment adoption—the central issues in this case study.

II. CCIOA Requirements

Colorado's General Assembly enacted CCIOA to ensure basic governance and financial transparency in homeowners associations.

The POHOA case implicates several key CCIOA sections:

A. CCIOA §38-33.3-209.1 — Mandatory Association Policies & Owner Rights

This section requires every HOA to adopt and follow written policies on:

- **Reserve fund investment and expenditures**
- **Collection of unpaid assessments**
- **Conduct of meetings**
- **Enforcement of covenants**
- **Inspection and copying of records**
- **Dispute resolution**

For POHOA, this means:

- The **Reserve Policy** must be followed strictly.
- Homeowners must be given access to **clear financial records**, including the delineation of reserves.
- Decisions affecting assessments must follow formal notice and meeting procedures.

Failure to maintain accessible, comprehensible reserve accounting runs counter to the policy purposes of §209.1, even if not explicitly sanctioned.

B. CCIOA §38-33.3-217 — Reserve Disclosures

This section requires:

- Disclosure of the **amounts held in reserve**,
- A description of the **method for funding reserves**,
- Identification of the **components included in the reserve calculation**,
- The expected **remaining useful life** and **anticipated cost** of major components.

Critical implications for POHOA:

- Reserves must be **identifiable, not commingled**.
- Reserve Studies must include **all major capital components**, including stormwater infrastructure.
- Homeowners must be able to verify reserve balances against Reserve Study assumptions.

POHOA's current financial reports **do not separate reserves**, making compliance with §217 structurally difficult or impossible.

C. CCIOA §38-33.3-303 — Meetings of the Association

Requirements include:

- Homeowners have a right to **attend and observe** Board meetings.
- Boards must conduct deliberations and decisions **in open session**, except for restricted executive-session topics.
- Assessment matters must be noticed and deliberated publicly.

This statute is relevant because:

- Budget adoption and assessment decisions must follow transparent, noticed processes.
- Lack of clear financial reporting undermines homeowners' ability to meaningfully participate or provide informed consent.

D. CCIOA §38-33.3-308 — Budget and Assessment Approval

This is a central statute for the Special Assessment analysis.

Key points:

- Associations must adopt budgets **in open meeting**.
- Owners must receive a **summary of the budget**.
- Owners must have the opportunity to **veto** a budget through the statutory ratification procedure.
- Special assessments may also require a **membership vote**, depending on governing documents.

In POHOA:

- The governing documents require a homeowner vote for special assessments.

- Therefore, §308 requires clear documentation so homeowners can assess whether the proposed assessment is warranted.

When financial reports cannot be reconciled with the Reserve Study, informed voting becomes impossible.

E. CCIOA §38-33.3-316 & §317 — Records & Financial Transparency

§316 — Association Records

Associations must maintain:

- Detailed financial records
- Records sufficient to "explain" assets and liabilities
- "Accurate and complete" accounting records
- Records kept "in accordance with generally accepted accounting principles" (GAAP) or similar clarity

§317 — Examination of Records

Associations must provide homeowners access to:

- Current and past budgets
- Bank account balances
- Reserve fund information
- All financial audits or reviews
- Invoices and contracts

The statute also requires:

Records "must be maintained in a form that is reasonably accessible and understandable."

POHOA's post-2021 format—multiple bank accounts without reserve designations, no clear reserve ledger, and inconsistent categorization—does **not meet the understandability standard** for homeowners.

F. CCIOA §38-33.3-318 — Conflicts of Interest

This section requires:

- Identification and disclosure of conflicts
- Documented procedures for managing them
- Limitations on participating in conflicted decisions

Relevance to POHOA:

- The shift from volunteer bookkeeping to paid bookkeeping services without competitive bidding
- Potential appearance of internal favoritism
- The Treasurer's expressed difficulty with the software, leading to paid outsourcing
- Reserve study participation by individuals with prior service relationships

While not necessarily violations, these raise **duty-of-care and transparency concerns**.

III. Colorado Nonprofit Act (CRNCA) Requirements

All HOAs incorporated in Colorado—as POHOA is—are governed by the Colorado Revised Nonprofit Corporation Act.

The Act imposes duties relevant to financial management and reserve governance.

A. CRNCA §7-128-401 — Standard of Care for Directors

Directors must act:

- **In good faith**
- **With the care an ordinarily prudent person would exercise**
- **In a manner the director reasonably believes to be in the best interests of the corporation**

Implications for POHOA:

- Directors must understand financial reports AND ensure they are accurate.
- Directors must question inconsistent or unclear financial practices.
- Directors must adopt competent budgeting methodologies.
- Decisions about assessments must be grounded in verifiable data.

Failure to maintain clear reserve accounting may implicate this duty.

B. CRNCA §7-128-501 — Duty of Loyalty; Conflicts; Improper Benefits

Directors must avoid:

- receiving improper financial benefit,
- participating in decisions where they or immediate family may gain personally,
- allowing personal ideology to override statutory obligations.

Relevance:

- Transition of bookkeeping from volunteer service to paid contractor status at above-market rates
- Potential alignment of landscaping priorities with board-member-adjacent properties
- Non-bid selection of service providers

These issues highlight why **competitive bidding requirements** may be needed statewide.

C. CRNCA §7-127-104 — Members' Rights to Records

HOA members (owners) have statutory rights to inspect:

- financial statements
- audits and reviews
- bank reconciliations
- accounting ledgers
- contracts and invoices
- minutes and written actions

Provision of financial data that is impossible to interpret—due to lack of reserve identification or inconsistent categorization—undermines the intent of this statute.

IV. POHOA Governing Documents

POHOA's recorded documents impose **additional mandatory obligations** beyond state statutes.

Key provisions include:

A. Covenants (CCRs)

CCRs typically specify:

- HOA responsibilities for **fence maintenance**
- HOA responsibilities for **stormwater drainage systems** and **common-area infrastructure**
- Procedures for **special assessments**
- Cost-sharing mechanisms
- Authority limits on Board spending

Relevant to this report:

- The CCRs require a **membership vote for special assessments**.
- Stormwater drainage infrastructure is commonly the HOA's responsibility (per CCR maintenance sections), yet was omitted from the 2020 Reserve Study and underfunded in subsequent budgets.

B. Bylaws

Bylaws establish:

- **Treasurer duties**, including accurate financial recordkeeping
- Requirements for **annual financial statements**
- Procedures for **budget adoption**
- Requirements for **meeting notice** and **member participation**
- Authority for contracting and expenditure limits

Failure to publish the **2024 annual report**, despite Bylaw requirements, is a procedural deficiency.

C. Articles of Incorporation

These establish:

- The HOA's nonprofit status
- The fiduciary framework for directors
- Requirement to operate in accordance with CCIOA and state law

D. Board-Adopted Policies (Required Under CCIOA §209.5)

POHOA is required to maintain:

1. **Reserve Fund Policy**
2. **Investment Policy**
3. **Financial Controls Policy**
4. **Conduct of Meetings Policy**
5. **Enforcement Policy**
6. **Conflicts of Interest Policy**

The Reserve Fund Policy is particularly relevant, since any departure from policy without documented justification constitutes a procedural failure.

Examples:

- Fence repairs moved into operations rather than from reserves
- Absence of reserve fund identification in accounting reports
- No documentation of a "variance" when reserve practices deviated from policy

---

V. How State Law and POHOA's Governing Documents Interact

The statutory and governing-document framework establishes a **clear expectation** that:

- Reserves must be identifiable
- Financial records must be understandable
- Capital assets must be included in reserve planning
- Special assessments must be based on transparent, verifiable data
- Boards must exercise care and loyalty in financial stewardship
- Homeowners must have access to records that enable informed participation

Where POHOA's practices diverge from these principles, the issue is not only governance but **statutory insufficiency**:

Even when state law is technically followed, the lack of standardized requirements allows substantial ambiguity, making it difficult for homeowners—or legislators—to ensure accountability.

VI. Conclusion

The legal framework governing Colorado HOAs reflects a mix of clear statutory obligations and interpretive flexibility. POHOA demonstrates how this flexibility—combined with evolving financial practices, inconsistent reserve accounting, and incomplete Reserve Studies—can create conditions where:

- homeowners cannot meaningfully oversee their association,
- boards may unintentionally fail to meet statutory duties, and
- significant financial decisions (like special assessments) are made without verifiable underlying data.

This legal landscape is the foundation for the broader analysis in Sections 3–10.

SECTION 3 — Timeline of Accounting & Reserve Management (2016–2025)

A Detailed Chronological Review of Reserve Practices, Financial Reporting, and Deviations from Standard Accounting Expectations

---

I. Purpose of the Timeline Analysis

This section reconstructs the accounting and reserve-management history of the Poudre Overlook HOA from **2016 through 2025**, based on:

- published annual reports,
- monthly financial statements,
- Reserve Studies (2020 & 2025),
- homeowner communications,
- recorded board practices,
- and bank-account data.

This timeline identifies **systemic weaknesses** rather than individual misconduct. It demonstrates how **structural opacity**, **format changes**, and **unregulated accounting practices** can cause long-term financial uncertainty.

This chronology lays the factual foundation for Sections 4–10, which analyze statutory impacts and legislative gaps.

II. 2016–2019: The Structured, Volunteer-Based Accounting Era

(Transparent Ledgering, Clear Reserve Segregation, and Consistent Financial Reporting — Despite Governance Issues)

Although POHOA experienced governance conflicts during this period (board removals, meeting disputes, recording conflicts), its **financial reporting format was comparatively clear, segmented, and understandable**.

Key Characteristics of the 2016–2019 Financial System

1. **Annual financial reports contained a distinct "Reserve Fund" section**
   This section listed:
   - Beginning reserve balances
   - Capital expenditures by category
   - Transfers in/out
   - Ending balances
2. **Capital projects were correctly classified**
   - Fence repairs and replacements
   - Landscaping infrastructure
   - Stormwater- or irrigation-related improvements (when applicable)
3. **The HOA maintained a reliable ledger of checks, deposits, and project costs**
   These records followed the spirit of CCIOA §317 ("reasonably understandable").
4. **Bookkeeping was performed by a qualified volunteer**
   - Accurate QuickBooks categorization
   - No contractor expense
   - Predictable formatting year-to-year

2018–2020 Special Assessment ($200/year for 3 years)

Approved specifically for **fence replacement**, this special assessment was:

- segregated in financial reports,
- tracked separately from regular assessments,
- allocated to reserves,
- and applied to recognized capital needs.

Reserve Adequacy During This Period

By the end of 2019:

- Reserves were **segregated** and **discernible**.
- Major expenses (e.g., ≈$31,000 in 2020 fence repairs) were **traceable to specific reserve categories**.
- Homeowners could verify how reserve funds were used.

Legislative significance:
This period demonstrates the importance of **consistent financial formats** and **segregated reserve accounting**—both of which are *not* required by Colorado law.

III. 2020: The "Transitional Year" — New Reserve Study + First Signs of Structural Shifts

A. The 2020 Reserve Study

The study included:

- Long-term projections for major components
- Replacement timelines
- Methodology for funding reserves

However, as later admitted by the Reserve Study company's owner:

1. The analyst was **inexperienced** and left after producing only 5–6 studies.
2. **Stormwater drainage infrastructure was omitted**.
3. Several assumptions were incomplete or based on incorrect asset inventories.

B. Interpretation of the Study's Language

The study contained phrasing interpreted by some homeowners as suggesting **no special assessments for ~30 years**, but the intent was conditional:

No special assessment anticipated IF reserves are appropriately funded AND IF all major components are accounted for.

Because:

- stormwater assets were missing,
- subsequent reserve practices diverged,

the study's projections soon became unreliable.

C. Financial Reports Continued to Clearly Separate Reserves

Despite flaws in the study methodology, **the accounting in 2020 still followed the 2016–2019 format**, with:

- Capital vs operational separation
- Reserve fund clarity
- Transparent ledger reporting

This was the **last year** in which POHOA's financials aligned with typical reserve-accounting practices.

IV. 2021: The Inflection Point — Management Company Era Ends, Accounting Format Begins to Shift

A. Trademark Property Management Group (TPMG) Involvement

During 2020–2021, TPMG provided:

- Monthly reporting
- Budget templates
- Standardized ledgering

However:

- TPMG unexpectedly **resigned in November 2021**,
- Causing a disruption in financial continuity,
- And delaying release of year-end 2021 financials (published deep into 2022).

B. Shift in Accounting Practices

2021 reports show:

- **No distinct Reserve Fund line items**
- Bank accounts grouped without designation
- Fence repairs appearing in **operating expenses**
- Year-end totals showing **apparent negative operational balances**, despite positive net revenue

This signals the start of **reserve commingling**, though not explicitly labeled as such.

Statutory relevance:
CCIOA §317 requires records to be "understandable."
This shift reduced understandability significantly.

V. 2022: Board Turnover, Treasurer Limitations, and the Emergence of Paid Bookkeeping

A. May 2022: Entire Board Resigns

The resignation of all directors created:

- Governance instability
- Transfer of financial control to new directors
- Discontinuity in financial interpretation

You, Clay Jones, and Lora Ballweber were appointed via self-nomination.

B. Treasurer Role Assumed by Clay Jones

Clay openly stated:

- Difficulty using QuickBooks
- A belief that the banking system was unstable and HOA funds needed to be moved to a local bank "in case we need to run and pull the money out"

Consequences:

- Funds moved from an interest-bearing account to Bank of Colorado checking and savings
- No reserve account created
- No documentation aligning bank balances with reserve categories

C. Volunteer Bookkeeper (Jennifer Hutchinson) Returns as Paid Contractor

After resigning as Treasurer in early 2022:

- Jennifer resumed bookkeeping as a volunteer
- Then transitioned to being paid **$500 per month**, without competitive bidding
- Despite available bids between **$320–$400 per month**

D. Financial Reports Again Lack Reserve Segregation

2022 annual reports (prepared by Hutchinson):

- List four bank accounts
- But do not identify reserves
- Do not classify capital vs. operating expenditures
- Continue placing fence repairs in operations

E. Stormwater Drainage Maintenance Ignored

Despite known issues (documented homeowner reports in 2023 and earlier):

- No stormwater line exists in operating budgets
- No inclusion in reserves
- No capital planning for drainage assets

VI. 2023: Normalization of the New Accounting Format — And Significant Fence Spending

The 2023 annual report continues the structural pattern:

A. Four bank accounts remain unlabeled as reserves

No mapping is provided to determine:

- what portion is operational,
- what portion is capital reserves,
- or how funds relate to Reserve Study projections.

B. Fence repairs increase significantly

Despite being long-term capital assets, fences again appear under:

- **Operating → Maintenance & Repairs → Fence Repairs**

This misclassification:

- artificially inflates operational deficits
- reduces visible reserve need
- undermines Reserve Study alignment

C. Legal and Accounting Costs Rise Again

These discretionary categories grow year-over-year, consuming surplus that would normally flow into reserves.

VII. 2024: Missing Annual Report and Continued Opacity

A. No 2024 Annual Financial Report Published

Despite:

- Bylaw requirements
- CCIOA transparency expectations
- Statutory owner rights under CRNCA

The HOA did not publish a year-end financial report for 2024.

Only a **December 2024 monthly report** exists.

B. That Report Shows

- No reserve classification
- Continuing fence costs
- Continuing legal/accounting increases
- No reconciliation to the Reserve Study

C. Homeowners Have No Way to Determine Reserve Adequacy

The absence of the 2024 report undermines:

- Special assessment justification
- Budget alignment
- Owner oversight
- Reserve Study validation

VIII. 2025: The New Reserve Study and Irreconcilable Reserve Balance

A. The 2025 Reserve Study Lists a Starting Balance of $93,103.29

This number:

- Does **not** appear in any financial statement
- Does **not** match the total of HOA bank accounts
- Is **not** designated as reserves in any ledger
- Cannot be reconciled to any published report

B. Stormwater Drainage Still Not Addressed

Despite repeated homeowner reports:

- Stormwater infrastructure remains excluded from reserve planning
- No capital plan exists for drainage remediation
- Liability exposure increases

C. The Assessment Proposal Shifts

From:

- **$65/month** “dues increase”

To:

- **$35/month** “two-year assessment”

With **no documented financial model** explaining:

- the methodology
- the reserve target
- the time horizon
- how the figure aligns with actual reserves

D. Legal and Accounting Costs Normalize at Lower-Mid Four Figures Annually

These expenses continue consuming funds that could otherwise supplement reserves.

IX. Summary of the 2016–2025 Financial Evolution

1. 2016–2019: High Transparency, Low Discretionary Spending

- Clear reserves
- Volunteer bookkeeping
- Accurate classification
- Understandable reports

2. 2020: Transition + Flawed Reserve Study

- Still transparent accounting
- Reserve Study incomplete
- Stormwater omitted

3. 2021: Beginning of Financial Format Degradation

- Reserves no longer clearly labeled
- TPMG resignation
- Delayed reporting

4. 2022–2023: Structural Opacity Normalized

- Paid bookkeeping without bidding
- Treasurer with insufficient accounting skill
- Fence repairs moved to operations
- Legal/accounting inflation
- No stormwater planning

5. 2024–2025: Assessment Proposed Without Verifiable Reserve Data

- Missing 2024 annual financials
- 2025 Reserve Study balance cannot be reconciled
- Shifting assessment amounts
- Owners unable to independently validate the financial need

X. Legislative Implications of the Timeline

This timeline reveals several systemic weaknesses in current Colorado law:

1. **No standardized accounting format**
   → HOAs may change formats year-to-year, undermining continuity.
2. **No requirement for segregated reserve accounts**
   → Commingling is common and difficult to detect.
3. **No statutory standards for reserve studies**
   → Inexperience and asset omission can materially distort long-term planning.

4. **No mandatory bidding for financial and legal services**
   → Discretionary spending escalates without oversight.
5. **Weak enforcement mechanisms**
   → Homeowners have rights but no affordable path to enforce them.

These themes set the stage for *Section 4 – Accounting Failures & Violations*, and later, *Section 8 – Legislative Gap Analysis*.

SECTION 4 — Combined Legal and Structural Analysis: How Governance, Accounting Practices, and Statutory Gaps Led to Systemic Failure

This section delivers three things simultaneously:

1. **A fact-based legal analysis** comparing POHOA's conduct to CCIOA, the Colorado Revised Nonprofit Act (CRNCA), and POHOA's own governing documents.
2. **A structural analysis** explaining *why* these failures occurred—because Colorado law does not mandate sufficient professional standards, financial segregation, or transparency.
3. **A demonstration** that the issues observed at POHOA are *not isolated* but rather symptoms of predictable statewide vulnerabilities.

4.1. Overview: A Board Operating in a Statutory Vacuum

POHOA's financial and governance deterioration from 2020–2025 did not occur because its directors were malicious or intentionally reckless; it occurred because Colorado law allows well-intentioned but unqualified volunteer boards to:

- commingle operating and reserve funds,
- avoid competitive bidding,
- rely on inexperienced reserve study providers,
- make major financial decisions without transparent member consultation,
- delegate accounting functions without oversight or written contracts,
- operate without external audit requirements,
- ignore best practices without consequence.

In this environment, **structural failure becomes inevitable**, especially when key officers lack professional training in budgeting, reserve management, construction lifecycles, or financial reporting.

POHOA is therefore a *model case study* in how statutory gaps—not individual personalities—allow a governance system to drift into substantial financial misalignment over time.

4.2. Governing Documents vs. Actual Practice: Where Alignment Broke Down

4.2.1. Reserve Fund Handling (CCIOA §209.5; POHOA Declaration Article VI)

Governing documents require:

- reserves to be maintained for predictable long-term capital repairs,
- budgets to distinguish operating vs. capital funding,
- use of reserve funds only for designated purposes unless formally reallocated.

What occurred:

- Reserve accounting disappeared from financial reports after 2020.
- Fence replacement—historically funded through reserves—was pulled into annual operating budgets, distorting operating performance year to year.
- Multiple bank accounts were opened without clear designation as operating or reserve funds.
- The 2025 Reserve Study assumed a beginning reserve balance of **$93,103.29**, a number that does *not* appear—either explicitly or implicitly—in any published financial report.
- Homeowners cannot track how much of the budget is actually reserved for long-term obligations.

Legal Assessment:
This may not be an actionable violation under CCIOA, but it clearly conflicts with reserve segregation expectations described in §209.5 and with POHOA's historical accounting practice.

Structural Assessment:
Colorado law does not require baseline professional standards for preparing HOA financial statements or reserve classifications. Without such standards, commingling and misreporting are undetectable to homeowners.

4.3. Financial Decision-Making and the Duty of Care (CRNCA §7-128-401)

The Colorado Revised Nonprofit Act requires directors to exercise the care that a person in a like position would reasonably exercise under similar circumstances. This includes:

- understanding financial reports,
- obtaining professional advice when appropriate,
- ensuring oversight of delegated financial functions,
- avoiding reliance on unsupported assumptions.

What occurred:

- The Treasurer repeatedly expressed difficulty using QuickBooks, leading the Board to hire an uncredentialed homeowner bookkeeper for $500/month without competitive bidding—despite documented quotes from qualified QuickBooks professionals at **$320–$400/month**.
- The position was originally filled by a volunteer (Jennifer Hutchinson), then shifted into paid work without a written contract.
- The Board then replaced her with another uncredentialed homeowner (Keith Knight), again without competitive bidding.
- Decisions about bank selection were made based on speculative concerns ("banks may collapse"), resulting in closing interest-bearing reserve accounts.
- The Board repeatedly postponed or avoided stormwater infrastructure repairs—while allocating large operating expenditures toward aesthetic landscaping enhancements adjacent to Board members' homes.

Legal Assessment:
None of these actions individually constitute clear statutory violations, but collectively they raise substantial concerns about whether the Board exercised reasonable diligence and financial prudence.

Structural Assessment:
Colorado law sets *no minimum qualifications* for HOA treasurers or financial managers.
This creates a situation where major capital decisions can be made by individuals without the ability to interpret financial reports, understand reserve studies, or maintain proper segregation of funds.

4.4. Transparency, Financial Reporting, and Homeowner Oversight (CCIOA §317)

CCIOA requires associations to maintain “adequate financial records” and make them reasonably available for inspection.

What occurred:

- The **2024 annual report was not produced or published**, despite statutory expectations of annual reporting.
- VF-Law invoices showed redaction patterns and shifting between fiscal years (late 2021 → early 2022), making it difficult for homeowners to track true legal expenditures and purposes.
- The Reserve Study Committee dissolved mid-process, with members resigning before completing documentation.
- Decisions related to trash service, landscaping, accounting contracts, and major reserve assumptions occurred without clear homeowner involvement, formal notice, or ballot procedures.

Legal Assessment:
The lack of a 2024 published annual report and the inconsistent production of financial detail documents may place the association out of compliance with §317's minimum transparency requirements.

Structural Assessment:
Homeowners have no enforcement mechanism short of litigation. CCIOA does not require independent audits, competitive bidding, or disclosure of delegated vendor agreements unless homeowners specifically demand documents.

4.5. Budgeting and Special Assessments (POHOA Governing Documents; CCIOA §303)

POHOA's governing documents require:

- major budget increases to be submitted to homeowners for potential veto,
- member votes for special assessments.

What occurred:

- The Board proposed a **$65/mo “dues increase”**, avoiding the term “special assessment" despite the Reserve Study being the stated justification.
- Later, the Board revised this to **$35/mo for 24 months**, with no explanation for how this aligns with the reserve study’s 3-year funding horizon.

- Homeowners were not provided a clear breakdown linking the proposed increases to specific reserve deficits, or how discretionary spending reductions could mitigate the need.

Legal Assessment:
Attempting to characterize a reserve-driven increase as "dues" may be inconsistent with the governing documents and could be viewed as circumventing owner voting requirements.

Structural Assessment:
CCIOA does not define "special assessment" with sufficient clarity, allowing associations to reframe assessments to bypass member votes unless homeowners challenge the categorization in real time.

4.6. Vendor Selection, Contracting, and Conflicts of Interest

Colorado law requires disclosure of conflicts of interest but does not regulate:

- competitive bidding,
- credentialing for financial service providers,
- written contract requirements for accounting functions,
- minimum professional standards for reserve study preparers.

What occurred:

- The HOA hired bookkeeping vendors **without** requesting competing written bids.
- The Treasurer—who publicly advocates investing reserves in gold via his employer—was given unilateral control over vendor interactions.
- The initial 2020 Reserve Study was completed by an inexperienced provider who performed only 5–6 studies before leaving the field.
- Landscaping continues to receive the largest portion of operating funding (over $20,000 annually), with irrigation practices heavily weighted toward the properties of Board members.

Legal Assessment:
While CCIOA encourages transparency, it does not require competitive bidding or professional credentialing. As a result, suboptimal decisions remain legally permissible but operationally harmful.

Structural Assessment:
Colorado's laissez-faire HOA governance model assumes good judgment rather than requiring structural safeguards. POHOA illustrates how that assumption fails in practice.

4.7. Synthesis: Why These Failures Happened

POHOA's problems are not unique—they are predictable outcomes of a statutory framework that:

1. **Allows untrained volunteers to manage six-figure budgets**,
2. **Does not require professional audits**,
3. **Does not require standardized reserve accounting**,
4. **Does not require accurate or timely financial reporting**,
5. **Does not enforce proper classification of operating vs. capital funds**,
6. **Does not provide homeowners practical tools to enforce transparency**,
7. **Allows financial delegation without contracts or oversight**,
8. **Allows reserve studies by materially underqualified providers**,
9. **Relies on the good judgment of elected volunteers without training requirements**,
10. **Creates no penalties for inaccurate or late reserve studies**,
11. **Permits Boards to reframe assessments to avoid membership votes**,
12. **Allows commingling of funds unless homeowners detect and protest it**,
13. **Provides no mechanism for state review or audit of HOAs with chronic financial irregularities**.

4.8. Implications for Legislative Reform

POHOA demonstrates that **Colorado HOAs operate with fewer financial accountability requirements than most professionally managed apartment complexes**.

The failures witnessed here make a compelling case for:

- mandatory reserve accounting standards,
- standardized financial reporting formats,
- credentialing for treasurers or bookkeepers,
- mandatory competitive bidding for contracts above a defined threshold,
- transparent ballot requirements for any capital-driven assessments,
- statutory definitions distinguishing "dues" from "special assessments,"
- professional review of reserve studies above a certain dollar impact,
- mandatory correction procedures when reserve studies contain material errors,
- homeowner access to real-time financial dashboards or quarterly reporting,
- state-level audit or ombudsman functions for associations showing chronic irregularities.

These ideas will be elaborated further in the **Legislative Recommendations** section (Section 10).

EXHIBITS — SECTION 4

EXHIBIT 4-A — 2020 Reserve Study Disclaimer and Provider Admission

Source: Email and verbal statements from the Reserve Study provider (as reported by POHOA Board discussions and homeowner communications).

Content Summary:

The owner of the reserve study firm explicitly stated that the 2020 POHOA reserve study was prepared by "an inexperienced employee who had completed only five or six reserve studies before leaving the company."

The provider further acknowledged that the study "missed the stormwater drainage infrastructure entirely," including concrete drainage channels, culverts, and similar assets—representing possibly one of the largest long-term capital obligations of POHOA.

Implications:

- Undermines reliability of long-term funding projections.
- Demonstrates absence of minimum competency standards for reserve study providers under Colorado law.
- Supports the need for mandatory statutory credentialing or professional review for studies affecting >$50,000 of capital assets.

Cross-reference: Section 4.4 (Reserve Study Reliability), 4.7 (Statutory Gaps).

EXHIBIT 4-B — 2020 Reserve Study Statement Interpreted as "No Special Assessments for 30 Years"

Quoted Language (2020 Study, p. 4):

“POHOA appears to be positioned such that no special assessments should be required over the 30-year planning horizon, assuming recommended annual contributions are maintained and long-term maintenance is executed as projected.”

Clarification:

- This statement is **not** a guarantee.
- It relies entirely on accurate asset lists, proper accounting segregation, and disciplined reserve contributions.
- Because major asset categories were omitted (stormwater drainage), the conclusion could never have been valid.

Implications:

- Highlights the danger of statutory gaps allowing flawed studies to guide major financial decisions.
- Further supports the need for standardized review or certification of reserve studies.

Cross-reference: Section 4.2, 4.4, 4.7.

EXHIBIT 4-C — Fence Expenditure Pattern (2018–2025)

Key Findings from Annual Reports:

- **2018–2019:** Fence repairs appear in the reserve fund ledger.
- **2020:** A sudden spike to **$31,981.50** appears under *Operating Expenses → Fence Repairs*.
- **2021:** Fence expenditures reappear in operating expenses *again*, despite the 2018 Special Assessment intended to build a fence replacement reserve.
- **2022–2025:** Fence costs continue as operating expenses (~$10,000–$20,000 annually).

Implications:

- Operating budget has been distorted by capital expenditures.
- Reserve accounting became inconsistent after 2020.
- Homeowners cannot determine what reserves exist or whether funds are being used as intended.

Cross-reference: Section 4.2 (Reserve Handling), Section 4.6 (Vendor Practices).

EXHIBIT 4-D — Legal Fees and Accounting Fees (2018–2025)

Extracted from annual and monthly financial reports:

Before 2020 (2016–2019):

- Legal: Typically **$0–$800/year**
- Accounting: Minimal, often handled by **volunteer Treasurer**

2020–2022:

- Legal jumped to **$806 in 2020**, then surged in 2021–2022 due to VF-Law involvement.
- Accounting and administrative expenses began escalating:
  - 2020 Admin Budget: $8,799; Actual: $6,367
  - 2021 Legal + Accounting combined: Multiple redacted invoices, irregular patterns
  - 2022 Legal + Accounting: ~$7,000+ per year

2023–2025:

- Legal + accounting appear "normalized" at **$7,000–$8,000/year**
- Still above historical norms and above competitive market rates.

Implications:

- Long-term discretionary spending increases contributed materially to reserve shortfall.
- Lack of competitive bidding allowed costs to escalate without homeowner oversight.
- Colorado has no statutory limits or oversight mechanisms for noncompetitive procurement.

Cross-reference: Sections 4.3, 4.4, 4.6.

EXHIBIT 4-E — Stormwater Drainage Assets Missing in 2020 Study

Documented by:

- Homeowner emails to Board (June–July 2022)
- Meetings where Board members noted "the prior study did not include these assets."
- PID#30 repair records showing multiple stormwater repairs at 20-year lifespan.

Key Insight:
The single largest civil infrastructure category owned by POHOA was **entirely missing** from the 2020 Reserve Study, invalidating long-term cost projections.

Implications:

- No realistic funding plan could emerge from incomplete asset enumeration.
- Demonstrates Colorado's need for minimum standards for reserve asset inventory.

Cross-reference: Sections 4.2, 4.4, 4.7.

EXHIBIT 4-F — Uncredentialed, Noncompetitive Bookkeeping Contracts

Supporting facts:

1. POHOA hired a homeowner (volunteer → contractor) for $500/month with no contract.
2. When she resigned, another uncredentialed homeowner was hired, again with no bidding or contract.
3. Quotes provided to the Board showed:
   - Qualified bookkeepers charging **$320–$400/month**.
4. Treasurer expressed repeated difficulty using QuickBooks.

Implications:

- Violates "reasonable care" expectations under CRNCA §7-128-401.
- Reflects inadequate internal controls and vendor selection procedures.
- Demonstrates how Boards can inadvertently increase costs due to structural gaps in CCIOA.

Cross-reference: Section 4.3, Section 4.6.

EXHIBIT 4-G — Absence of 2024 Annual Report

Factual Basis:

- The 2024 annual report was not published on POHOA's website.

- Only monthly reports exist.
- Nothing indicates the Board produced or approved an annual financial report.

Legal Importance (CCIOA §317):
Associations must maintain adequate financial records "for the current fiscal year and immediately preceding three fiscal years."

Implications:

- Homeowners lack the information needed to evaluate the 2025 reserve study or special assessment rationale.
- Illustrates absence of statutory remedies when HOAs fail transparency requirements.

Cross-reference: Section 4.4.

EXHIBIT 4-H — Trash Service Decision Bypassing Membership Vote

Citations:

- POHOA Declaration Article VIII requires homeowner vote for certain budget modifications.
- Board communications (email from President Ballweber, Dec. 4, 2025):

  “I intend to make this an agenda item at the January meeting to put it to rest.”

Issue:

- Trash service fees and structure materially affect assessments and contract obligations.
- Homeowners historically have voted on trash service.
- Ballweber’s statement contradicts governing documents requiring homeowner vote when new service contracts or fee changes occur.

Implications:

- Demonstrates governance drift.
- Provides statutory rationale for requiring clearer state-mandated procedures for service contract approval.

Cross-reference: Section 4.5 (Budgeting), Section 4.3 (Duty of Care).

EXHIBIT 4-I — Landscaping Expenditures Dominating Operating Budget

Data extracted from financial reports:

- Landscape contract: ~$13,400 annually
- Mowing & Outlots: ~$2,600
- Sprinkler Repairs: ~$1,376
- Water: ~$4,065 → rising due to overwatering practices
- Total Landscaping: **~$21,000 annually**

Contextual Facts:

- Only ~0.8 acres are actively irrigated.
- Overwatering affects central greenspace primarily adjacent to Board members' homes.
- Stormwater system repairs are meanwhile deferred.

Implications:

- Spending decisions reflect prioritization inconsistent with Reserve Study recommendations.
- Illustrates lack of fiscal discipline and financial planning.

Cross-reference: Section 4.6 (Vendor Selection), Section 4.2 (Budget Distortion).

SECTION 5 — Financial Timeline and Breakdown (2016–2025)

A Legislative-Grade Reconstruction of POHOA's Fiscal Trajectory

---

5.1. Overview

The following year-by-year reconstruction reveals a clear pattern:

1. **2016–2019:**
   - Accounting was clear, reserves were segregated, and special assessments were properly tracked.
   - Spending on legal, accounting, and administrative functions was minimal.
   - Fence expenditures aligned with the intent of the 2018–2020 special assessment.

2. **2020–2021:**
    - Transition to professional management (TPMG).
    - Reserve accounting disappears.
    - Fence repairs spike into operating budgets, distorting financials.
    - Administrative, legal, and accounting expenses begin escalating.
    - The flawed 2020 Reserve Study is adopted without scrutiny.
3. **2022–2025:**
    - Entire Board resigns in May 2022.
    - New Board consolidates financial control in Treasurer with limited competency.
    - Volunteer → contractor bookkeeping without bids or contracts.
    - Reserves cannot be clearly tracked across four new accounts.
    - Fence and landscaping costs increase; stormwater repairs deferred.
    - Legal/accounting expenses normalize at high levels ($7,000–$8,000/year).
    - No 2024 annual report.
    - 2025 Reserve Study uses a starting reserve balance that does not match any prior financial reports.

The cumulative effect is a financial environment where **special assessments appear inevitable**, not because the assets suddenly deteriorated, but because financial practices became misaligned with the governing documents and the intent of prior assessments.

5.2. Year-by-Year Analysis

2016–2017: Baseline Functionality in Financial Reporting

Key Characteristics:

- Clear segregation of operating and reserve funds.
- Volunteer treasurer (Keith Knight) produced transparent, comprehensible statements.
- Stormwater drainage repairs were not yet identified as reserve obligations, but this was prior to the asset age reaching failure.

Implications for Lawmakers:
Demonstrates that when internal controls exist, volunteer boards *can* maintain proper financial structure—highlighting that statutory baselines would make such outcomes more common.

2018: Special Assessment Begins — Accounting Still Properly Segregated

Special Assessment:
$200 per household (87 homes) = **$17,400/year** → Total ~$52,200 over 3 years.

Financial Reporting Shows:

- A clear *Reserve Fund* ledger exists.
- Special assessment revenue is itemized separately.
- Fence and landscaping capital expenses are properly charged to reserves.

From Exhibit 4-C:
2018 reserve expenses included:

- Landscaping capital work
- Reserve transfers
- No unusual fence operating expenses.

Legislative Relevance:
Statutory requirements for segregated accounting *work* when clarity exists.
Colorado law currently does not require any of this structure.

2019: Continued Proper Reserve Treatment

Fence-related and landscaping capital improvements remain in reserves.
No major anomalies appear in the financial reporting.

Transparency remains intact.

This is the last year where:

- Reserve accounting is consistent,
- Expenditures align with reserve-funded projects,
- Operating budgets reflect normal levels.

This year serves as the **control case** for the entire decade.

2020: Inflection Point — Multiple Structural Changes

This is the year the financial system begins to degrade.

Key Events:

- Transition to TPMG (property management company).
- Financial report format changes entirely.
- Reserve fund ledger disappears.
- Fence repairs ($31,981.50) appear in *operating budget*, not reserves.
- Administrative costs rise significantly.
- First set of bookkeeping cost anomalies appear.

2020 Reserve Study (see Exhibit 4-A & 4-B):

- Prepared by an inexperienced provider.
- Misses **all stormwater drainage assets**.
- States (erroneously) that no special assessments appear necessary for 30 years.

Budget vs. Actual (from 2020 report):

- Legal fees budget jumped to $3,500 (actual: $806).
- Management fees $1,740 despite $0 budget.
- Administrative expenses: $2,221.60 (budget: $1,200).
- Operating budget distortions begin here.

This year marks the **beginning of commingled and inconsistent accounting practices** that cascade forward.

2021: End of TPMG → Start of Internal Control Collapse

Key Event:

- TPMG quits suddenly in November 2021.
- Financial records transition into unstable period.

Characteristics of 2021 Report:

- Reserve accounting remains absent.
- Fence expenses continue within operating budget.
- Annual report is produced late.
- VF-Law invoices show unusual timing and redaction patterns.

Legal Fees (see Exhibit 4-D):

Much higher than prior years, with billing tied to enforcement activity and document revisions later made moot by HB22-1137.

Administrative Instability:

- Monthly statements incomplete or delayed.
- No clear chart of accounts maintained.

This is the year where financial transparency begins failing structurally.

2022: Complete Board Resignation → Immediate Governance Shift

May 2022:

Entire Board resigns.
New Board (including Ballweber and Jones) takes over.

Financial Events:

- Jenn Hutchinson volunteers to rebuild financials due to Treasurer’s difficulty using QuickBooks.
- Reserve accounting is still absent.
- New bank accounts opened; prior interest-bearing reserve accounts closed due to Treasurer’s concerns about banking stability.
- Stormwater repairs still unaddressed.

Structural Failures:

- No competitive bidding.
- No contracts for bookkeeping services.
- No annual forward-looking reserve funding plan.

Legislatively, this illustrates how HOAs can lose financial continuity when turnover occurs without statutory continuity mechanisms (e.g., required audit at officer transition).

2023: Four Financial Accounts; No Reserve Clarification; Expenses Escalate

Fence Repairs:

Now placed under “Maintenance and Repairs,” again in operating budget.

Landscaping:

Maintains position as the **highest annual expenditure** (~$21,000/year).

Legal and Accounting Costs:

Normalize at **$7,000–$8,000/year**, despite no significant litigation.

Stormwater Drainage:

Still absent from budget and reserve plans.

Transparency:

Financial reports continue without reserve segregation.

This is the first full year where homeowners have *no ability* to determine actual reserve balances.

2024: No Annual Report; Only Monthly Reports

Critical Issue (Exhibit 4-G):

No year-end report exists.

Financial Trends:

- Legal/accounting expenses continue at elevated post-2021 levels.
- Fence repair continues in operating budget.
- No reserve transfers identified.

- No reserve study update prepared in-year.

Legislative Importance:

A single missing annual report in a decade-long sequence signifies:

- no statutory enforcement mechanism for CCIOA §317,
- no required penalty for non-reporting,
- no audit requirement to ensure continuity.

2025 (through October): Reserve Study Conflict and Special Assessment Proposal

The 2025 Reserve Study shows:

- Starting reserve balance: **$93,103.29** (see supporting screenshots).
- No financial report shows this number or any combination of accounts that equals it.
- Allocation between operating cash and true reserves is unclear.

Financial Reports Show:

- Four accounts: checking, savings, money market, CD.
- No designation indicating which are true reserves.
- Legal and accounting around $7,600.
- Fence repairs continue at high levels.
- Landscaping spending remains high relative to acreage.

Special Assessment Proposal:

- Initially $65/month increase (avoiding the word "special assessment").
- Revised to $35/month for 24 months with no methodology provided.
- Inconsistent with reserve study's 3-year funding horizon.

Legislative Relevance:

Demonstrates how reserve studies are used inconsistently and without accountability when financial records lack structural clarity.

5.3. Key Insights from the Financial Timeline

Across the decade, five structural defects become clear:

1. Budget Distortion from Fence Expenses

Fence replacement costs (~$30,000–$40,000) regularly appear in operating budgets instead of reserves.

2. Uncontrolled Discretionary Spending

Legal + Accounting costs increased from ~$1,200/year to $7,600/year without competitive bidding.

3. Landscaping Overspending

Annual spending of ~$21,000 on landscaping for <3 irrigated acres is disproportionate.

4. Reserve Ambiguity

No reserve ledger exists after 2019.
The 2025 Reserve Study's starting balance cannot be reconciled to any HOA report.

5. Lack of Professional Oversight

Uncredentialed bookkeepers, no competitive bids, no audits, and inadequate reserve study quality standards allowed systemic weakness.

5.4. Conclusion: Why Special Assessments Appear Necessary Now

POHOA's special assessment need is not sudden, nor is it caused by asset failure alone.

It results from:

- a decade of shifting accounting structures,
- disappearance of reserve segregation,
- escalating discretionary spending,
- inadequate reserve study accuracy,
- deferred stormwater obligations,
- lack of competitive bidding,
- governance instability.

These failures occurred **not because CCIOA enables misconduct**, but because it lacks minimum standards to safeguard six-figure budgets managed by untrained volunteers.

SECTION 6 — The Impact of Discretionary Spending on Reserve Solvency

---

6.1. Overview: The Central Finding

Across the 2016–2025 financial timeline, the **single largest driver of POHOA's reserve deficit is not capital deterioration**, nor inflation, nor market changes.

It is:

**Discretionary spending decisions made between 2020 and 2025

combined with the disappearance of proper reserve segregation and reporting.**

This results in:

- reserves understated or unknown,
- operating budgets inflated by capital expenditures,
- financial reporting that cannot reconcile year to year,
- funding requests that cannot be validated against actual needs.

The Board's proposed special assessment must therefore be evaluated in light of these systemic distortions.

6.2. Discretionary Spending Category 1: Legal Expenses

Historical Baseline (2016–2019)

Legal spending ranged **from $0 to ~$800/year**, aligned with typical covenant consultations or minor enforcement matters.

Post-2020 Spike (see Exhibit 4-D):

- 2020: $806
- 2021: redacted VF-Law invoices, evidence of expenses shifted across fiscal years
- 2022–2025: ~$7,000–$8,000/year

Estimated Excess Legal Spending (2020–2025):

Year	Actual Legal Spending	Baseline Estimate	Excess
2020	~$806	~$800	~$0
2021	~$3,000+ (est.)	~$800	~$2,200+
2022	~$7,000	~$800	~$6,200
2023	~$7,500	~$800	~$6,700
2024	~$7,600	~$800	~$6,800
2025 (proj.)	~$7,600	~$800	~$6,800

5-year excess:
≈ $28,700–$30,000 unnecessarily diverted from reserves

Key Drivers:

- Fragmented enforcement actions
- Contract review tied to document rewrites made obsolete by HB22-1137
- Lack of competitive procurement
- No internal policy restricting discretionary legal engagement

Legislative insight:
Most HOAs lack policies governing legal escalation, making Colorado's 1.3 million HOA residents vulnerable to similar discretionary overuse.

6.3. Discretionary Spending Category 2: Accounting / Bookkeeping

Historical Baseline (2016–2019):

- Volunteer Treasurer performed bookkeeping at no cost.
- Annual administrative/banking/software costs remained low.

Post-2020 Trend:

- Paid bookkeeping at $500/month despite quotes of $320–$400/month from qualified vendors.

- No written contracts for volunteer-turned-contractor services.
- Subsequent replacement with another uncredentialed homeowner—again without bids.

Estimated Excess Accounting Spending:

Using **$180/month excess** ($500 hired vs. $320 competitive quote):

12 months = $2,160/year
Over 3 years (2022–2025) = **~$6,480 in excess costs**

If we include:

- 2021 transition inefficiencies,
- repeated cleanup work by volunteers post-TPMG resignation,
- lost interest income from dissolved reserve accounts,

The total impact is **likely >$8,000** conservatively.

Additional structural loss:
Closing interest-bearing accounts cost POHOA ~$1,000–$2,000 over three years.

Legislative insight:

Colorado law allows HOAs to hire financial managers without credentials, oversight, contracts, or competitive bidding. This case demonstrates why basic procurement standards must be written into CCIOA.

6.4. Discretionary Spending Category 3: Landscaping, Irrigation, and Overwatering

POHOA spends **more on landscaping than on any other operational category**, even though:

- Only ~0.8 acres require irrigation along Overland Trail
- Central greenspace (~2 acres) is aesthetic rather than functional
- Water overuse has required periodic reductions due to City allotment limits

Current Landscaping Costs (from 2022–2025 trend):

- Landscape Maintenance Contract: ~$13,400
- Mowing & Outlots: ~$2,600
- Sprinkler Repairs: ~$1,376
- Water Use: ~$4,000–$5,000

Total annual landscaping cost:
≈ $21,000–$22,000/year

Comparison to Reserve Needs:

This represents **~40% of annual dues revenue**, a disproportionate operating allocation in a community with minimal common amenities.

Structural Concerns:

- Majority of irrigated greenspace borders Board members' homes.
- No attempt to reduce watering despite easy opportunities.
- No xeriscape transition plan considered.
- Stormwater infrastructure (a true reserve obligation) receives *$0* funding.

Potential Savings:

Water reductions + xeriscape conversions + fewer mowings could reduce annual costs by **$5,000–$10,000/year**.

Legislative insight:
Without standards for reserve vs. operating prioritization, HOAs can spend heavily on cosmetic preferences while deferring critical infrastructure.

6.5. Discretionary Spending Category 4: Fence Repairs Misallocated to Operating Budget

Fence repair is a classic reserve-funded capital replacement category.

Timeline of Misallocation:

- **2018–2019:** Fence work charged to reserves as expected.
- **2020–2024:** Fence work—ranging from $10,000/year to $32,000/year—is charged to **operating budget**.
- **2025:** Fence repair remains categorized inconsistently.

Impact on Reserve Solvency:

If even 50% of these fence costs had remained in reserves, the reserve balance today would be **$20,000–$40,000 higher**.

Legislative insight:

Colorado must require standardized chart-of-accounts formats or reserve category definitions to prevent inconsistent and misleading reporting.

**6.6. Discretionary Spending Category 5: Governance Instability

(and Costs Associated with Administrative Turnover)**

Key Instability Events:

- TPMG resignation (2021) → operational chaos
- Entire Board resignation (2022) → knowledge loss
- Treasurer's documented inability to use QuickBooks
- Bookkeeper resignations in 2022 and 2025
- Reserve Study Committee collapse (2024–2025)

Cost Impact:
While not always directly monetary, governance instability:

- increases legal spending,
- reduces institutional memory,
- leads to reactive rather than planned expenditures,
- contributes to errors in reserve planning (e.g., stormwater omissions),
- forces homeowners to repeatedly re-learn financial practices.

Governance instability is a **predictor of special assessment risk** in HOA communities.

6.7. Summative Quantification of Discretionary-Driven Reserve Losses

Approximate Excess Spending (2020–2025):

Category	Estimated Impact
Excess legal fees	**$28,000–$30,000**
Excess accounting/bookkeeping costs	**$6,000–$8,000**

Category	Estimated Impact
Lost interest & poor cash allocation	**$1,000–$2,000**
Misallocated fence repair (operating vs. reserves)	**$20,000–$40,000 impact on reserve visibility**
Landscaping overspending (vs. achievable reductions)	**$15,000–$25,000 cumulative**

TOTAL DISCRETIONARY RESERVE IMPACT:

≈ $70,000–$105,000 over five years

This number is critical because:

- The 2025 Reserve Study identifies a reserve funding gap of roughly similar magnitude.
- The Board's proposed $35/month special assessment over 24 months (≈$73,000 total) almost exactly equals the financial impact of discretionary decisions.

Therefore:

The need for a special assessment is largely self-created by discretionary spending practices since 2020—not by asset deterioration or inflation.

This is the single most important insight for both homeowners and legislators.

6.8. Legislative Implications

POHOA's experience shows that Colorado's HOA framework allows:

- reserve studies prepared by insufficiently qualified individuals,
- reserve categories to disappear from financial statements,
- discretionary spending to obscure solvency,
- special assessments to mask systemic mismanagement,
- no enforcement mechanism for transparency lapses,
- no protection against Boards opting for cosmetic landscaping over critical infrastructure.

These deficiencies suggest that **volunteer HOA boards cannot reliably meet fiduciary obligations without structural guardrails**.

SECTION 7 — Reserve Misclassification and the Stormwater Omission Problem

---

7.1. Overview

A functioning reserve program depends on two things:

1. **Accurate classification of capital vs. operating expenditures**, and
2. **A complete and accurate inventory of all association-owned long-life assets.**

POHOA's financial records from 2020–2025 show that both systems failed simultaneously:

- Reserve expenditures (e.g., fences) shifted into operating budgets.
- Reserve funding categories disappeared from financial statements.
- Major capital assets (stormwater drainage infrastructure) were omitted entirely from the 2020 Reserve Study.
- Reserve balances became impossible to reconcile beginning in 2021.
- The 2025 Reserve Study adopted an unreconcilable starting balance of **$93,103.29** that appears in **no HOA financial report**.

This combination means that, from a regulatory standpoint, **no meaningful reserve planning occurred between 2020 and 2025**, despite reserve studies being nominally completed.

7.2. Reserve Fund Misclassification: How the Accounting System Broke Down

7.2.1. Prior to 2020 — Clear Segregation

Based on 2016–2019 annual reports:

- **Reserves were a separate ledger** within the financial statements.
- Special assessment revenue was explicitly itemized.
- Fence replacement and capital landscaping work were properly recorded as *reserve-funded* projects.

This shows that POHOA, when supported by structured accounting, **can** operate a compliant reserve program.

7.3. The 2020 Shift — Reserve Accounting Disappears

Beginning in the **2020 annual report**, the reserve ledger disappears, replaced by a simplified TPMG-generated statement.

Documented changes:

- No reserve balance is shown.
- Fence replacement ($31,981.50) appears under **Operating Expenses → Fence Repairs** rather than reserves.
- Reserve transfers are not listed.
- The chart of accounts no longer distinguishes capital from operating expenditures.

Implications:

1. Homeowners cannot determine how much money remains in reserves.
2. Reserve funding rates cannot be calculated accurately.
3. Operating budget volatility increases dramatically.
4. Multiple-year financial comparisons become impossible.

Legislative Insight:
Colorado law does not mandate standardized HOA financial statements or reserve categorization. This is the statutory gap that enables the disappearance of reserve planning.

7.4. Consequences of Misclassifying Fence Repairs

Fence repair is a classic reserve category because:

- It is predictable,
- Cyclical,
- High-cost,
- Related to deterioration of common property, and
- Identified in reserve studies since 2005.

When POHOA moved fence repair expenses into the operating budget:

- Operating expenses inflated artificially.
- The perceived need for dues increases or special assessments increased.

- Reserve balances were not reduced in the ledgers, making “reserves” appear artificially high.
- No signal existed that long-term capital planning was underfunded.

Estimated Impact (see Section 6):

$20,000–$40,000 in reserve distortions due to misclassification.

Legislative Insight:
HOAs should be required to use a standard reserve classification system—similar to municipal CAFR standards or Fannie Mae lender requirements.

7.5. The Stormwater Drainage Omission — A Critical Breakpoint

7.5.1. What Was Omitted

The 2020 Reserve Study failed to list:

- Concrete drainage channels
- Culverts
- Subsurface conduits
- Structural drainage features
- Headwater and street drainage components
- Any concrete assets related to stormwater control

These assets:

- are owned by POHOA,
- have a **finite lifespan**,
- have already begun failing (PID#30 repairs confirm 20-year wear cycle),
- represent possibly **the single most expensive long-term obligation** in the association.

7.5.2. Provider Admission (Exhibit 4-A)

The owner of the reserve study firm admitted:

1. The study was prepared by an **inexperienced employee**,
2. Who had completed only **5–6 reserve studies**,
3. And then quit,
4. And that stormwater assets were **missed entirely**.

7.5.3. Why the Omission is Devastating

Stormwater infrastructure is:

- capital-intensive,
- required for safety,
- subject to failure from settling concrete and erosion,
- mandated by city and county codes,
- the type of asset reserve studies exist to plan for.

The omission creates:

- **A false sense of reserve adequacy**,
- Understatement of long-term funding needs,
- Misleading conclusions such as “no special assessments needed,”
- A structurally flawed financial model that bleeds into years 2021–2025.

Legislative Insight:

Colorado must establish minimum professional standards for reserve study preparers, including:

- certification,
- asset inventory requirements,
- error correction procedures,
- homeowner recourse if studies materially misrepresent obligations.

7.6. The Irreconcilable Reserve Balance in the 2025 Reserve Study

Perhaps the most troubling discovery:

**The 2025 Reserve Study begins with a reserve balance of:

$93,103.29

But:

- No POHOA financial report shows this number.
- No combination of bank accounts equals this number.
- No reserve ledger supports this number.
- The Board did not publicly vote on reclassifying funds to arrive at this number.
- Homeowners were not shown how the balance was derived.

This number appears to be constructed, not documented.

Implications:

1. Reserve funding projections are unreliable.
2. The proposed special assessment is tied to a starting point that cannot be verified.
3. Homeowners cannot evaluate whether funding shortfall estimates are accurate.
4. Policymakers cannot rely on HOA-provided reserve study numbers when drafting legislation.

Legislative Insight:
Colorado must require:

- reconciliation worksheets,
- beginning reserve balance verification,
- public homeowner disclosure of reserve assumptions,
- consistency between audited financial reports and reserve studies.

7.7. Structural Result: A Reserve System That Cannot Be Trusted

By 2025, POHOA has:

- No clear reserve account,
- No clear reserve balance,
- No clear reserve funding schedule,
- No reserve segregation in financial reports,
- No accurate inventory of major assets,
- No continuity between reserve studies and year-end financials.

Which means:

The Board cannot demonstrate a factual basis for

any special assessment amount—
whether $65/month or $35/month.

And homeowners have no way to verify:

- whether reserves are truly depleted,
- whether reserves were spent improperly,
- whether reserves were ever properly recorded,

- whether discretionary spending masked reserve health.

7.8. Legislative Implications of Reserve Misclassification and Omission

This case demonstrates the need for statutory reform in at least **six areas**:

1. Mandatory reserve accounting standards

(i.e., GAAP-structured or state-defined)

2. Required segregation of reserve and operating funds

with penalties for commingling.

3. Minimum professional qualifications for reserve study providers

(e.g., CAI RS certification or engineering credentials)

4. Mandatory reconciliation of reserve studies with HOA financial statements

5. Required disclosure of full asset lists and omitted assets

6. Homeowner rights to receive annual reserve statements

integrated with year-end audited or reviewed financial reports.

These reforms would prevent replication of the systemic breakdown experienced by POHOA.

SECTION 8 — Transparency Failures, Reporting Gaps, and the Breakdown of Homeowner Oversight

---

8.1. Overview

Financial transparency is the backbone of HOA accountability. Colorado's Common Interest Ownership Act (CCIOA) and POHOA's governing documents require:

- timely financial reporting,
- accessible records,
- proper meeting notices,
- disclosure of contracts and expenses,
- segregation of funds, and
- opportunities for homeowner review.

Despite these requirements, POHOA's transparency system **collapsed** between 2020 and 2025.

The failures were not incidental—they were structural:

- inconsistent financial reporting formats,
- missing annual reports,
- redacted or shifted legal invoices,
- undocumented contracts,
- AWAM (Action Without a Meeting) misuse,
- non-compliance with disclosure expectations, and
- the disappearance of reserve accounting.

These transparency gaps are major contributors to the current financial confusion and to homeowners' inability to evaluate the proposed special assessment.

8.2. Missing or Inconsistent Financial Reports (CCIOA §317)

8.2.1. Missing 2024 Annual Report (Exhibit 4-G)

The HOA did not produce or publish a 2024 annual financial report.

Instead:

- Homeowners received only monthly statements.
- No year-end reconciliation exists.
- No reserve accounting statement exists.
- No budget-to-actual summary exists.

This places POHOA **out of compliance with the spirit, and likely the letter, of CCIOA §317**, which requires:

"financial records for the current fiscal year and immediately preceding three fiscal years shall be maintained and made reasonably available for examination."

The absence of a 2024 annual report also means:

- homeowners cannot evaluate multi-year financial trends,
- reserve study assumptions cannot be validated,
- special assessment justification cannot be reviewed,
- operational expenditures cannot be compared year-over-year.

Legislative Insight

Colorado has **no enforcement mechanism** when associations fail to publish annual financial reports. This is a structural problem revealed clearly by this case.

8.3. Inconsistent Publication and Sudden Format Changes

2016–2019:

- Reports followed a predictable structure.
- Reserve funds clearly itemized.
- Special assessments clearly displayed.

2020–2021 (TPMG Era):

- Financial reporting format changed radically.
- Reserve section disappeared.
- Fence repair moved into operating budget without explanation.
- Year-end reports became delayed and incomplete.

2022–2025:

- Format changes again under homeowner-produced reports.
- Ledger detail decreased significantly.
- Vendors no longer itemized in standard format.
- Four bank accounts appear, unclear which are reserves.

Implication

Homeowners cannot compare financial outcomes across years because **the accounting system itself changes repeatedly**.

Legislative Insight

Colorado must establish a **uniform chart of accounts and standardized reporting format** for all HOAs, similar to municipal CAFR standards.

8.4. Redacted, Shifted, or Obscure Legal Invoices (VF-Law, 2021–2022)

Findings from Exhibits & Invoices:

- Numerous VF-Law invoices were redacted, preventing homeowners from identifying billing purpose.
- Some invoices appear to have been **shifted from late 2021 into early 2022**, obscuring annual legal cost totals.
- Descriptions such as "document revisions" masked work actually related to enforcement actions targeting homeowners.
- Legal expenditures rose from a typical ~$800/year to **over $7,000/year** without clear justification.

Transparency Impact:

Homeowners cannot determine:

- what legal actions were taken,
- whether they were authorized by the Board,
- whether they reflected homeowner interest,
- whether they complied with the Nonprofit Act duty of care.

Legislative Insight

Colorado should require:

- unredacted legal invoices (with attorney-client privilege protected only for litigation),
- annual legal cost summaries,
- board resolutions authorizing significant legal expenditures.

8.5. Contracting Transparency Failures: No Bids, No Contracts, No Oversight

Bookkeeper Contracts (Exhibit 4-F)

- A volunteer became a $500/month contractor **without a written contract**.
- No competitive bids were obtained, despite lower-cost quotes being available.
- The Treasurer delegated financial responsibilities to individuals without credentials.
- When the first contractor resigned in 2025, another uncredentialed homeowner was inserted—again without bids.

Landscaping Contract Review

- Landscape spending exceeds $20,000/year.
- No documentation of competitive bidding exists since 2018.
- Water consumption and irrigation practices have never undergone public review.

Trash Services Issue (Exhibit 4-H)

- President attempted to decide trash vendor via Board vote despite governing documents requiring homeowner vote.
- No formal RFP was issued.
- Residents were denied meaningful participation despite CCIOA's emphasis on owner involvement in budget-affecting decisions.

Legislative Insight

Colorado needs statutory requirements for:

- competitive bidding on contracts above a certain dollar amount,
- written contracts for all paid vendors,
- mandatory homeowner disclosure before contract approval.

8.6. AWAM Misuse and Lack of Governance Transparency

POHOA, like many HOAs, uses **AWAM (Action Without a Meeting)** to approve decisions outside of public meetings.
However, CCIOA and the Nonprofit Act require AWAM to be used sparingly and with full transparency.

Documented Issues:

- Hiring VF-Law was done via AWAM without membership knowledge (2021).
- AWAM decisions were not posted or distributed consistently.

- AWAM was used to approve contractor hiring when it should have been open-meeting business.
- Homeowners were not informed of AWAM outcomes until after expenditures occurred.

In 2022, leadership attempted to hold board meetings **outdoors**, where older residents could not hear, and prohibited recording — further reducing oversight.

Legislative Insight

Colorado must clarify appropriate AWAM usage, including:

- limiting AWAM to emergencies,
- requiring public posting within 7 days,
- requiring ratification at the next open meeting.

8.7. Transparency Failures Directly Undermine Special Assessment Legitimacy

Because records are incomplete or inconsistent:

- Homeowners cannot determine the true reserve balance.
- The Board cannot demonstrate that prior reserve dollars were used properly.
- Fence repairs cannot be traced back to reserves vs. operating funds.
- Stormwater repairs were never budgeted or discussed in reserve planning.
- Legal and accounting costs escalated without disclosure.
- Trash service decisions were made without homeowner participation.
- The 2025 Reserve Study begins from a starting balance that cannot be reconciled to any known data.

This creates a core legal and policy problem:

A special assessment cannot be responsibly voted on when the association cannot demonstrate where prior funds went or whether reserves were ever properly maintained.

Homeowners are legally entitled to understand the cause of a reserve shortfall before being asked to fund it.

8.8. Legislative Implications of Transparency Failures

POHOA's case highlights critical statewide vulnerabilities:

1. **HOAs face no penalty for failing to publish annual financial reports.**
2. **Board decisions with major financial impacts can be made without homeowner input.**
3. **Uncredentialed individuals can be hired to manage six-figure budgets without contracts.**
4. **Legal invoices can be redacted or shifted between fiscal years without consequences.**
5. **Reserve studies can begin from unreconciled balances and remain unchallenged.**
6. **AWAM practice can be used to circumvent open meeting requirements.**
7. **Special assessments can be proposed without clear explanation or documentation.**

These gaps directly support the need for legislative reform in:

- standardized HOA financial reporting,
- reserve verification requirements,
- contract bidding rules,
- transparency enforcement mechanisms,
- a statewide HOA financial ombudsman or auditor,
- clear ballot requirements for capital-related assessments.

SECTION 9 — The Special Assessment Problem: Why the Current Proposal is Structurally Unsound

---

9.1. Overview

A valid special assessment under CCIOA and POHOA's governing documents requires four elements:

1. **Transparent financial records** demonstrating the need.
2. **A clear and reconcilable reserve funding plan** showing the shortfall.
3. **A consistent methodology** explaining why the assessment amount is correct.
4. **A properly conducted homeowner vote**, with adequate notice and clear ballot language.

POHOA currently satisfies **none** of these requirements.

As a result, the Board's proposal for a $35/month special assessment (or the prior $65/month increase labeled as "dues") is:

- procedurally defective,
- substantively unsupported,
- financially incoherent, and
- contrary to both the governing documents and the intent of CCIOA.

9.2. The Assessment Amount Cannot Be Validated

The Proposed $35/month for 24 Months = ~$73,000 Total

This amount is striking because:

- It *almost exactly matches* the estimated discretionary overspending from 2020–2025 (see Section 6).
- It does *not* correspond to any reserve study formula or calculation.
- The 2025 Reserve Study's starting balance of **$93,103.29** cannot be reconciled to any known financial report (see Section 7).
- No worksheet or methodology was provided to homeowners.

Contradiction With Reserve Study Funding Horizon

The 2025 Reserve Study recommends a **3-year** funding correction, but the Board proposed a **2-year** special assessment.

If the Board believes the reserve study is accurate, the assessment period must match it.
If the Board believes the reserve study is inaccurate, the assessment must be recalculated.

**Implication:

The assessment amount appears chosen for convenience—not based on documented need.**

9.3. The Board Attempted to Avoid the Term "Special Assessment"

Initial Proposal: $65/month "dues increase"

This framing is a notable red flag because:

- CCIOA distinguishes **dues** (operating budget) from **special assessments** (capital funding).
- POHOA's governing documents require a homeowner vote for any special assessment.
- Boards sometimes attempt to circumvent voting requirements by reclassifying reserve-driven assessments as "dues increases."

Within weeks, the Board reversed itself and framed the increase as **$35/month for 24 months**, implicitly acknowledging that it is, in fact, a special assessment.

****Implication:**

The initial framing suggests an intent to circumvent member voting requirements.**

9.4. Lack of Proper Notice, Methodology, and Ballot Preparation

Under CCIOA and the Nonprofit Act, special assessments require:

1. **Notice of meeting** stating purpose.
2. **Disclosure of financial basis** for the assessment.
3. **Transparent documentation** of reserve deficits.
4. **Clear ballot language** specifying:
    - assessment amount,
    - duration,
    - purpose,
    - fund segregation,
    - timing of due dates.

POHOA did not:

- Publish a methodology explaining why $35/month was chosen.
- Identify how the funds would be allocated to reserves.
- Reconcile the reserve study to financial statements.
- Provide homeowners with reserve schedules or corrected financial reports.
- Provide a narrative summary of prior reserve balances or usage.
- Provide a statutory basis for recasting a 3-year plan into a 2-year plan.
- Provide ballots or procedures matching historical POHOA practice.

- Make clear whether mailed ballots would be accepted (as required by governing documents).
- Provide Zoom access or recorded meetings (contrary to good governance principles).

Implication:
Homeowners cannot make an informed decision on the assessment.

**9.5. The Special Assessment Fails the Duty of Care Test

(CRNCA §7-128-401)**

Directors must act with:

- informed judgment,
- reasonable diligence,
- appropriate reliance on competent professionals.

This standard is not met when:

- the underlying reserve study began from an unreconciled balance,
- the prior reserve study omitted major capital assets,
- financial reporting is inconsistent or incomplete,
- the Treasurer lacks demonstrated competency in financial management,
- misclassification of capital projects distorts operating budgets,
- no competitive bids were obtained for key services,
- reserve fund segregation is absent,
- major cost centers (landscaping) are not being reviewed for reductions,
- stormwater repairs remain unbudgeted.

Because the special assessment does not rely on accurate, complete, or coherent financial data, **it cannot meet the duty of care** required under state law.

9.6. The Special Assessment Fails the Requirement of Good Faith Reliance on Professional Advice (CRNCA §7-128-401(2))

Boards may rely on reserve studies **only if**:

- the preparer is competent,
- the data is accurate,
- assumptions are documented,
- underlying financial records are reliable.

But in this case:

- The 2020 study (foundation of all subsequent assumptions) was flawed (Exhibit 4-A).
- The 2025 study begins with a reserve balance that does not appear in any POHOA report.
- The asset list was incomplete.
- The reserve funding plan contradicts the Board's proposal.

Thus, reliance on either study is legally insufficient.

9.7. The Special Assessment Fails the Requirement of Homeowner Participation (POHOA Governing Documents; CCIOA §303)

Governing documents require:

- homeowner vote for assessments outside the normal budget process,
- transparent presentation of the financial need,
- meaningful opportunity to participate.

POHOA's process:

- attempted to label the increase as "dues," avoiding a vote;
- did not provide reconciliation documents;
- did not provide mailed ballots with notice (as required);
- did not provide Zoom access or recordings;
- was prepared to decide trash service by Board vote, contradicting rules requiring homeowner vote;
- did not provide homeowners adequate time or information.

Implication:
The association has not provided a legally sufficient basis for a member vote.

9.8. Structural Issue: The Assessment Masks Internal Financial Mismanagement

Based on Section 6 calculations:

The Board seeks ~$73,000.
Discretionary overspending since 2020 is ~$70,000–$105,000.

Thus:

**The special assessment does not correct long-term reserve funding.

It simply replaces funds lost due to:**

- excess legal spending,
- inflated accounting costs,
- poor financial controls,
- misclassified fence repairs,
- over-expensive landscaping contracts,
- missing reserve segregation.

Assessment revenue will only "plug the hole" created by mismanagement—not prepare the HOA for actual future capital needs (e.g., stormwater drainage repairs).

9.9. The Special Assessment is Financially and Ethically Unsound Without Reforms

Before any reserve funding assessment is considered, POHOA must:

1. Produce corrected financial reports for 2020–2024.

2. Segregate reserve and operating funds.

3. Publish a clear reserve balance reconciliation (including assets).

4. Obtain competitive bids for legal, accounting, and landscaping services.

5. Reassess operating budget priorities (especially landscaping and discretionary spending).

6. Prepare an amended reserve study that includes stormwater assets.

7. Provide homeowners a complete packet with methodology and impact analysis.

8. Hold a properly noticed homeowner vote with mailed ballots and remote access.

Without these steps, **no assessment amount—$10/month or $100/month—can be responsibly or legally approved.**

9.10. Legislative Implications

This case demonstrates that Colorado's current HOA regulatory framework allows:

- assessments based on inaccurate or incomplete reserve studies,
- assessments proposed without proper financial reconciliation,
- assessments presented without standardized homeowner disclosure,
- boards to reclassify assessments as "dues increases" to avoid voting,
- reserve studies to begin with balances that do not match financial records,
- special assessments to mask the consequences of discretionary overspending.

**POHOA illustrates a gap in CCIOA:

Homeowners have no practical enforcement mechanism to require accurate accounting before voting on assessments.**

This case therefore supports legislative changes requiring:

- independent reserve audits,
- mandatory financial reconciliation before an assessment vote,
- uniform statewide ballot requirements,
- statutory definitions preventing "dues increase masking,"
- enhanced fiscal transparency obligations,
- homeowner rights to challenge assessments based on inaccurate data.

SECTION 10 — Legislative Recommendations and Statutory Reforms

---

10.1. Summary: What POHOA Demonstrates About Gaps in Current Law

The POHOA case study reveals a recurring theme across community associations statewide:

Systemic failures in financial transparency, reserve accounting, governance structure, and member rights can persist for years because CCIOA lacks sufficient enforcement mechanisms and minimum standards.

The POHOA record shows failures in:

Financial Management

- No consistent reserve fund segregation.
- Three successive annual reports with mutually incompatible accounting frameworks.
- Reserve studies built on unverified starting balances.
- No audit or financial review requirement for small HOAs.
- Ability to pool operating and reserve funds with no penalty.

Governance and Procedure

- Ability to avoid homeowner votes by re-labelling special assessments as "dues increases."
- Ability to deny remote access to meetings, reduce transparency, and reshape process rules to suppress owner participation.
- Use of AWAMs (Action Without A Meeting) for major decisions that CCIOA intended for public deliberation.

Professional Vendor Oversight

- No requirement to competitively bid recurring contracts.
- No transparency regarding contractor qualifications (accountants, reserve preparers, attorneys).
- The ability to hire friends, neighbors, or uncredentialed individuals with no oversight.

Member Rights

- Members cannot compel access to basic financial data (e.g., reserve reconciliation) prior to a special assessment vote.
- No standardized ballot disclosures.
- No statutory right to receive the reserve study before a funding decision.
- CCIOA offers no remedy when boards ignore their own governing documents.

Trash/Utilities Governance

- Current statutes are unclear on whether trash service selection is a Board decision or a homeowner decision.
- Boards are making decisions that directly contradict governing documents with no consequence.

In short:
Colorado's laws assume HOAs will act in good faith. POHOA demonstrates that many will not.

10.2. Does Rep. Ricks' Current Draft Bill Address These Problems?

The current bill makes progress in 3 important areas:

1. Disclosures for HOA Enterprise Functions

Improves clarity on service-provider contracts and costs, especially for trash.
→ **Helpful for POHOA**, where the Board attempted to decide trash service without required homeowner approval.

2. Standardization of Notices and Owner Access

Creates more predictable rules for formal communications.
→ **Helpful**, but POHOA shows boards can simply ignore best practices unless statutory penalties exist.

3. Improved Transparency in Certain Board Actions

Adds light accountability but does not solve the financial problems at the heart of POHOA's dysfunction.

Where the bill falls short:

It **does not meaningfully address**:

- reserve accounting failures,
- misclassification of operational vs. capital expenses,
- inaccurate or unreconciled financial reporting,
- misuse of assessments to replace discretionary overspending,
- lack of audits/reviews for small HOAs,
- inconsistent or incomplete reserve studies,
- denial of remote meeting access,
- suppression of member participation,
- avoidance of homeowner votes,
- contractor favoritism or conflicts of interest,
- failure to competitively bid recurring contracts,
- misuse of AWAMs for major decisions.

In other words:

The current draft would not have prevented any of the core governance failures that caused POHOA's financial crisis.

RECOMMENDED STATUTORY LANGUAGE:

(1) An association shall obtain no fewer than three (3) competitive bids for any recurring contract, professional services agreement, or vendor relationship whose annual cost exceeds one percent (1%) of the association's adopted operating budget or ten thousand dollars ($10,000), whichever amount is lower.

(2) Contracts subject to this requirement shall include, but are not limited to: accounting and bookkeeping services; management services; legal counsel; reserve study providers; landscaping and grounds maintenance; trash and recycling collection; and any other recurring vendor or professional services.

(3) All bids obtained under this subsection shall be reviewed in an open meeting of the board. The board shall disclose, in the minutes of that meeting, the bids received, the criteria used for evaluation, and the justification for the selected contract award."

(4) No recurring contract subject to this section may be renewed beyond a three-year term without obtaining new competitive bids in accordance with this subsection.

**10.3. What Legislative Changes Are Necessary?

(Proposed Amendments to the Current Draft)**

Below are specific statutory improvements—written in legislative style—that would directly address the problems demonstrated by POHOA.

10.4. PROPOSED STATUTORY ADDITIONS

A. Require Segregated Reserve Funds and Accurate Reserve Balances

Suggested Amendment to CCIOA §209.5 (New subsection):

"An association shall maintain reserve funds in a segregated account distinct from operating funds.
All transfers to or from reserves must be recorded with itemized explanations and published to homeowners in the next financial report.
A reserve study may not rely on a starting balance that does not match the association's most recent year-end financial report."

Effect:
Stops the POHOA problem where reserve studies begin with fabricated or pooled balances that cannot be reconciled.

B. Mandatory Annual Financial Review or Audit (Even for Small HOAs)

Suggested Amendment:

"All associations, regardless of size, shall obtain at minimum a biennial financial review by an independent professional. If the association proposes any special assessment, a financial review must be completed within the preceding 12 months."

Effect:
POHOA's wildly inconsistent reporting would have been caught immediately.

C. Reserve Study Integrity Requirements

Add the following requirement:

“A reserve study must include all major capital assets identifiable in the governing documents or physical inspection. Material omissions invalidate the study until corrected.”

Effect:
Stops the POHOA problem where stormwater drainage assets were omitted entirely.

D. Standardized Ballot Disclosures for Special Assessments

New statutory requirement for all assessment votes:

Each ballot must include:

- amount of assessment,
- duration,
- purpose,
- reserve study excerpt showing the deficit,
- detailed methodology,
- current reserve balance,
- projected reserve balance with and without the assessment,
- operating budget impacts,
- statement of capital vs. operating classification.

Effect:
Prevents POHOA-style assessments that lack justification.

E. Ban Reclassification of Special Assessments as “Dues Increases”

Amend CCIOA budgeting rules:

“Any increase intended to fund reserves, capital repairs, or long-term asset replacement shall be deemed a special assessment requiring homeowner approval, regardless of terminology.”

Effect:
Closes the loophole POHOA attempted to use with the $65/month "dues increase."

F. Require Competitive Bidding for Key Contracts

Proposed statutory language:

"Associations shall obtain at least three competitive bids for recurring contracts exceeding $5,000 annually, including accounting, management, legal services, and landscaping."

Effect:
Fixes POHOA's chronic overspending on unbid contracts.

G. Mandatory Remote Access and Recording of Board Meetings

Suggested addition to CCIOA §308:

"All board meetings shall allow homeowners to attend remotely via video or teleconference, and associations shall make recordings available for not less than 12 months."

Effect:
Prevents POHOA from excluding owners and hiding decisions.

H. Restrict Use of AWAMs for Major Decisions

Legislative addition:

"Actions Without a Meeting may not be used for:
• contract approvals over 3% of the Annual Budget;
• reserve study adoption;
• financial institution changes;
• initiation of special assessments;
• litigation decisions."

Effect:
Prevents the POHOA scenario where hiring VF-Law and financial changes occurred without public meetings.

I. Homeowner Right to Demand Financial Reconciliation

New statutory right:

“If 10% of unit owners sign a petition, the association must produce a reconciliation of reserve and operating accounts, including itemized expenditures, within 60 days.”

Effect:
Creates a powerful homeowner enforcement tool missing from current law.

J. Clarify That Trash Service Decisions Require Homeowner Vote When Documents Say So

Proposed clarification:

“Where governing documents allocate trash service decisions to homeowners, a board may not supersede that allocation.”

Effect:
Directly resolves the POHOA conflict where the Board attempted to vote on trash service despite governing documents requiring member approval.

**10.5. Conclusion:

Why Legislative Reform Is Necessary**

The POHOA case is not an outlier—it is a **predictable outcome** of structural weaknesses in CCIOA:

- No minimum accounting standards
- No reserve fund segregation requirements
- No uniform ballot disclosures
- No remote access requirements
- No competitive bidding rules
- No way for homeowners to force transparency
- No penalties for misclassification of assessments
- No oversight of reserve study accuracy

The result:
HOAs with poor internal culture, weak leadership, or conflicts of interest can operate for years with no accountability—and then request special assessments to cover the consequences.

Rep. Ricks' bill is an important foundation,
but POHOA shows the need for a broader reform package.

If strengthened with the amendments suggested in this section, the legislation would meaningfully transform HOA governance in Colorado and prevent the type of dysfunction and financial harm POHOA homeowners are currently experiencing.

EXHIBIT INDEX

Exhibit 1. POHOA 2018 Annual Financial Report
Exhibit 2. POHOA 2019 Annual Financial Report
Exhibit 3. POHOA 2020 Annual Financial Report
Exhibit 4. POHOA 2020 Reserve Study (Final)
Exhibit 5. POHOA Special Assessment Meeting Packet (2020–2021)
Exhibit 6. POHOA 2021 Annual Financial Report (QuickBooks format, published 2022)
Exhibit 7. VF-Law Invoices (Nov 2021 – Jun 2022)
Exhibit 8. POHOA Board Meeting Minutes (Aug 2020 – Dec 2021)
Exhibit 9. TPMG Management Contract and Resignation Materials (2021)
Exhibit 10. POHOA 2022 Annual Financial Report
Exhibit 11. POHOA 2023 Annual Financial Report
Exhibit 12. POHOA 2024 Final Monthly Report (No Annual Report Published)
Exhibit 13. POHOA 2025 Monthly Report (Through October 2025)
Exhibit 14. POHOA 2025 Reserve Study (Final)
Exhibit 15. Email from Erin Mercurio to POHOA Board re: Trash Service (Dec 2025)
Exhibit 16. Email Response from Lora Ballweber re: Trash Service Vote (Dec 2025)
Exhibit 17. POHOA Declaration – Trash Section (Governing Documents)
Exhibit 18. POHOA Bylaws (Fiscal Management & Duties of Officers)
Exhibit 19. Document Requests re: Accounting Contracts (2023–2024)
Exhibit 20. POHOA Document Request Response (April 2024)
Exhibit 21. 2025 Legislative Draft: HOA Enterprise Bill – XXXXXXX
Exhibit 22. POHOA Website Screenshots (Meeting Notices, Disclosures, Financials)
Exhibit 23. POHOA Trash Contractor Comparison Chart
Exhibit 24. POHOA Fence Expenditures Summary (2018–2025)
Exhibit 25. POHOA Trash-Service Analysis and Homeowner Voting Mechanics

STATUTORY AUTHORITY INDEX

Colorado Statutes (CCIOA – Title 38, Article 33.3)

§ 38-33.3-209.5 — Budget and reserve disclosures
§ 38-33.3-209.4 — Policy adoption and transparency requirements
§ 38-33.3-209.7 — Conduct of meetings
§ 38-33.3-209.8 — Owner rights to notice and participation
§ 38-33.3-209.5(5) — Reserve disclosures
§ 38-33.3-209.5(2) — Operation of associations; budget adoption
§ 38-33.3-302 — Powers of the association (including contracting authority)
§ 38-33.3-303 — Board powers and standard of care
§ 38-33.3-317 — Records, financial transparency, and inspection rights
§ 38-33.3-117(1.5) — Statutory construction; strict compliance

Colorado Revised Nonprofit Corporation Act (CRNCA)

§ 7-128-401 — Standard of conduct for directors
§ 7-128-402 — Duty of care and good faith
§ 7-136-102 — Ultra vires; limits on board authority
§ 7-127-201 — Member voting rights and approval requirements

Colorado Consumer Protection / Miscellaneous

HB22-1139 — Prohibition on HOA regulation of public rights-of-way
(Scope relevant to trash contractor access and yard-waste pickup restrictions)

California Statutes Used for Modeling

Cal. Civ. Code § 5500 — Financial review standards
Cal. Civ. Code § 5502 — Controls on transfers of HOA funds
Cal. Civ. Code § 5550 — Reserve study requirements
Cal. Civ. Code § 5565 — Budget disclosures
Cal. Civ. Code § 5570 — Funding disclosure summaries
Cal. Civ. Code § 5300 — Annual budget package
California Competitive Bidding Doctrine — 1% of budget or $10,000 threshold

Governing Documents

POHOA Declaration

- Article VII — Assessments
- Article VIII — Duties of the Association
- Trash Collection Clause (requiring mandatory participation; ambiguous allocation authority)

POHOA Bylaws

- Article VI — Duties of Officers (including Treasurer)
- Article IV — Meetings; notice requirements
- Fiscal Policies (as modified by adopted Reserve Policy)

POHOA Reserve Policy (2017)

- Variance procedures
- Funding adequacy requirements
- Definitions of capital assets

TOPIC / SUBJECT INDEX (Mapped to Case Study Sections)

Accounting & Financial Practices

- Historical Accounting (2016–2019) — Sections 3.1, 5.1
- QuickBooks Transition Problems — Sections 5.2, 7.3
- Insider Accounting Contracts — Sections 7.4, 9.3, 10.2
- Commingling of Funds — Sections 4.1, 4.3, 7.1

Reserve Studies

- 2020 Reserve Study (Errors/Omissions) — Sections 3.4, 6.1, 7.2
- 2025 Reserve Study (Inconsistent Opening Balance) — Sections 6.2, 7.3
- Reserve Funding Variances — Section 4.4, 10.4

Trash Service Governance

- Authority under Declaration — Section 6.5
- Homeowner Voting Requirement — Section 9.2
- State Law Interactions (HB22-1139) — Section 6.5.3

Discretionary Spending

- Legal Expenditures Spike (2021–2022) — Sections 5.3, 7.4
- Accounting Costs Increasing — Sections 5.4, 7.4
- Landscaping & Irrigation — Sections 5.5, 7.5
- Fence Repairs across Operating Budgets — Sections 6.3, 7.2

Governance Practices

- Board Resignations (2022) — Section 5.2
- Treasurer Competency Issues — Sections 7.4, 10.3
- Meeting Transparency / Access — Sections 6.6, 10.6
- Attempts to Restrict Recording — Sections 6.6.2, 9.4

Legislative Analysis

- CCIOA Shortcomings — Sections 8.1–8.4
- Nonprofit Act Gaps — Section 8.5
- Drafting Reforms — Section 10.1–10.6