



Ever wonder how a territory was granted authority from the federal government to be a state? Here's how Colorado got its authority. Contrast this to CCIOA (UCIOA), CRS 38-33.3.101 et seq, that reflects the state's entwinement in the operation, the encouragement and support of planned communities, and its coercion of the homeowners (See Brentwood citation below). In other words, how Colorado establishes authoritarian, private governments that are treated as independent principalities. Let's look at the misleading and somewhat defiant and arrogant Annotation to CCIOA.

### **Colorado Revised Statutes, 38-33.3-102, Annotation**

<http://198.187.128.12/colorado/lpext.dll?f=FifLink&t=document-frame.htm&l=query&iid=490918e2.4989b301.0.0&q=%5BGroup%20%2738-33.3-102%27%5D>

There is no support for the proposition that enactment of a legislative scheme governing the operation of homeowners' association thereby transforms such homeowners' association into cities or other governmental entities. *Woodmoor Improvement Ass'n v. Brenner*, 919 P.2d 928 (Colo. App. 1996).

The above was dicta, comments not related to the opinion rendered, which involved the doctrine of equitable estoppel and not related to the question of HOAs as state actors or as governments.

Statutory authority to the contrary exists in the Colorado Enabling Act and Colorado Constitution (see below), which require adherence to the US Constitution and principles of the Declaration of Independence. Or have these documents become meaningless? Further legal doctrine relating to what constitutes state action can be found summarized in the US Supreme Court opinion in *Brentwood Academy v. Tennessee Athletic School*, 531 US 288, (2001), or in Steven Siegel's paper, "**The Constitution & Private Govt**", in the William & Mary Bill of Rts J 461 (Summer 1998).

**Section 4 of the Enabling Act reads, in part, emphasis added (**  
<http://198.187.128.12/colorado/lpext.dll?f=templates&fn=fs-main.htm&2.0>);

**§ 4. Constitutional convention - requirements of constitution.** That the members of the convention thus elected shall meet . . . and after organization, shall declare, on behalf of the people of said territory, **that they adopt the constitution of the United States . . .** . whereupon the said convention shall be and is hereby authorized to form a constitution and state government for said territory; provided **that the constitution shall be republican in form . . . and not be repugnant to the constitution of the United States and the principles of the declaration of independence . . . .**

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**The Colorado Constitution reads, under Article II, Bill of Rights**

**Section 3. Inalienable rights.**

All persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

**Section 6. Equality of justice.**

Courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property or character; and right and justice should be administered without sale, denial or delay.

**Section 11. Ex post facto laws.**

**No ex post facto law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges, franchises or immunities, shall be passed by the general assembly.**

**Section 14. Taking private property for private use.**

Private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and except for reservoirs, drains, flumes or ditches on or across the lands of others, for agricultural, mining, milling, domestic or sanitary purposes.

**Section 20. Excessive bail, fines or punishment.**

**Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.**