

## Testimony Supporting SB 156

by Tom Clark to the Colorado Senate Business Affairs Committee

February 27, 2017

Mr. Chairman,

My name is Tom Clark. I am speaking in favor of SB 156. I am the CEO of the Metro Denver Economic Development Corporation, and with the Metro Mayors Caucus, the founder of the Homeownership Opportunity Alliance (HOA). I did it for one reason. We were, and are, failing our citizens who want to own a home.

I am not here today to roll out a bunch of data points to impress you about the disaster we are facing...right now in our housing sector.

I am here to say this. We are building the State of Colorado's next tenements. We're doing it in Denver, the small and large cities along the Front Range and even in Durango. And here is why...A city comprised of wealthy citizens, and the poor and only renter is NOT a city. It is not a community. A renter's stay is two years. A condo owner stays six years.

We are saddle with an arcane, complex set of statutes and court decisions that are today, and in the future, will continue to strangle the liberties of young people, the elderly, the poor and the soon-to-be retired. Isn't it amazing that there aren't any class action suits being file in single-family housing developments? And why are companies who have historically built both commercial buildings and condos, are not wrapped up in a protracted lawsuit for their office and manufacturing buildings? And, not now, nor ever, will build another condo? It's because the laws they operate under in the commercial building market are designed to get a quick resolution of a defect, ply the prices of correcting the problem and getting on to a better day.

But not in condos, and that's why a company like Mortenson Construction, doesn't build them anymore. It's because the law has been uniquely smart attorneys and well-meaning policy makers. But in the process, a condo unit "owner" does not even have "standing" in court if the owner has a defect. Only his/her HOA board has standing. And why can't the unit owner talk to the builder about his/her concerns? Because the law prohibits any conversation between the two parties after a majority of the HOA board (with sometimes only three members of the HOA board as a majority, commits to a class action suit. Imagine that...three people having control over my unit, my desire to get my problems repaired instead of waiting while a well-oil law firm takes its time through discovery and into a "jury trial" – again, the only statue in Colorado where such actions are not only permitted by are common practice.

Our condo market should be 23-27% of housing sales in our region. Today, it's less than three percent. In 2015, 187 condos were built while a robust market in **existing** condos sold 11,500

units. In 2016 it dropped to 163 units built. Quite simply, the law prohibits the market to respond to buyers, based on the fears of the General Assembly that individual owners will be exposed to “too much risk.”

Well, I’m here to you. We have done an incredible job of protecting the consumer, particularly if you think that killing of the entire condo market is your definition of “consumer protection.”

If you don’t think you want to put consumers at risk, in the condo market – and it’s a place where you may well-have the **sole** power to restrict its growth, why not turn it over to the cities and counties in Colorado who have already stepped up to provide their citizens with the greatest gift most Americans use to grow into wealth and a decent retirement? And that gift is the ability to buy of home of their choosing in their price range.

And you can do that today. You can change just a few words in this bill that says, “Housing is a shared power between the State and the cities and county governments of Colorado.” With those few words you will open up the opportunity to 3 million Coloradans to purchase a condo and who are already under ordinances or plat notes. And these citizens will have the same rights as single family homeowners have....to get their home fixed right and access to court if necessary.

You have two choices here: do it yourself or share it with those elected officials who are the closest to the citizens and the ones who grapple every day to create well-planned and inclusionary communities.