

Westridge ARC and HOA ADU Issues

The Westridge ARC and HOA are considering the approval of a request of a member and resident to build an ADU within Westridge Estates. I oppose any ADU construction and I oppose the approval of any such ADU for the reasons described below. Moreover, also described are the new Colorado ADU law and the legal challenges as to its state Constitutionality and inapplicability to Westridge Estates, and what I believe are internal HOA procedural issues for any such approval. I am writing this only as a member of and homeowner in Westridge Estates, and not in any other capacity.

1. The construction of an ADU in Westridge Estates would be a significant and material change to the composition and nature of our community. Any such change should be by vote of the members of Westridge Estates. The members and homeowners have neither been advised nor consulted as to this proposed construction or change in the nature of Westridge Estates. I believe that this is a substantive procedural error. In addition, mortgage holders of any property here may see the value of Westridge homes decrease if ADUs were built, and their loans then would be in jeopardy, which would be a violation of a mortgage's negative covenants. Mortgage holders likely would be opposed to any change in the nature and value of the properties on which they loaned funds.

2. Several municipalities in Colorado (Aurora, Arvada, Glendale, Greenwood Village, Lafayette, and Westminster) have filed lawsuits against the state regarding the implementation of the ADU law. Larimer County, on its own initiative, although not included in the original legislation, has opted to be included as permitted in this law. However, the contesting municipalities have raised significant claims that the ADU legislation is not State Constitutional, and there may be an additional defect in this law that it violates the US Constitution's 5th Amendment "takings clause," since this is a regulatory taking. As a matter of procedure, it is the State's responsibility to prove that the reasons for the ADU legislation are valid and backed by valid data. The municipalities (in their 68 page complaint) have cited and described a number of peer reviewed studies that counter the State's claims.

3. In the event that the ADU legislation is declared unconstitutional by, ultimately, the Colorado Supreme Court, in not less than two years, or if an injunction is granted against the ADU law, if the Westridge ARC were to approve the ADU construction and it were to be built, the ADU would be in violation of the Westridge HOA Rules and Covenants, but then there would be no remedy for any affected homeowner or the Westridge HOA. Once built, the ADU will stay there.

An ADU, as defined by C.R.S. 29-35-402, is an internal, attached, or detached dwelling unit that provides complete independent living facilities for one or more individuals, is located on the same lot as a proposed or existing primary residence, and includes facilities for living, sleeping, eating, cooking, and sanitation.

Colorado House Bill 24-1152

Legal Challenges

Lawsuits Filed

Several municipalities in Colorado have filed lawsuits against the state regarding the implementation of this bill. The key points of contention include:

- **Local Control:** Cities argue that the bill undermines their home rule authority, which allows them to govern local land use and zoning matters.
- **Executive Order D 2025 005:** This order, signed by Governor Jared Polis, directs state agencies to ensure compliance with various housing laws, including HB24-1152. Some cities claim this order unlawfully threatens to withhold funding from municipalities that do not comply.

Specific Cases

- **Cities Involved:** Aurora, Arvada, Glendale, Greenwood Village, Lafayette, and Westminster are among the cities that have challenged the executive order and the associated laws, asserting that they violate the Colorado Constitution's provisions on local governance.
- **Arguments Against the Bill:** The lawsuits argue that the state's actions exceed its authority and infringe upon the rights of local governments to manage their own land use policies.

Implications of the Lawsuits

These legal challenges could impact the implementation of HB24-1152 and the broader legislative framework aimed at addressing Colorado's housing issues. The outcomes may redefine the balance of power between state mandates and local governance in land use matters.

In the **City of Greenwood Vill. v. State of Colo.** (Case No. **25CV31811**), filed on **May 23, 2025**, in the Denver County District Court, a coalition of six "home-rule" cities—**Greenwood Village, Arvada, Aurora, Glendale, Lafayette,** and **Westminster**—sued the State of Colorado and Governor Jared Polis.

The lawsuit challenges the constitutionality of two major land-use laws enacted during the 2024 legislative session:

- **HB 24-1313:** Mandates dense housing zoning (minimum 40 units per acre) near transit stations.
- **HB 24-1304:** Prohibits local governments from enforcing minimum parking requirements for multifamily housing in transit areas.

Core Legal Arguments

1. **Home Rule Violation:** The cities argue that Article XX, § 6 of the Colorado Constitution grants them exclusive authority over "local and municipal matters," including land use and zoning, which these state laws allegedly usurp.
2. **Impairment of Contracts:** Plaintiffs claim the laws violate Article II, § 11 by retrospectively invalidating existing development agreements and covenants.
3. **Due Process:** The suit alleges HB 24-1313 unconstitutionally eliminates public participation and referendum rights for major land-use decisions.
4. **Governor's Executive Order:** The cities also challenge a May 2025 executive order by Governor Polis that threatened to withhold state grant funds from cities failing to comply with these housing mandates.

For example, there is an irreconcilable conflict within the ARC. This is a predicate issue to address and cure. As the Westridge covenants prohibit an ADU now, on what authority then, specifically, does the ADU submitter rely? On what authority can the ARC approve an ADU? (which much be majority of the 3 members). Does the submitter contend that the present Westridge covenants are void in this regard and that there are no Westridge HOA and ARC guidelines or covenants and restrictions as to the construction of an ADU? If so, what is the substance of that contention? The new Colo ADU law is being challenged by at least 7 municipalities. What result if an ADU is constructed, and the cities ultimately win and the new law is ruled invalid? What remedy to an adjacent or other homeowner who may be impacted and harmed by a property devaluation (which is a necessary result)? I suggest that the ADU harm is irreparable.

As to the 2 current ADUs within Westridge, these ADUs are unequivocally in violation of the Westridge HOA covenants.

ADU residents would necessarily impact water pressure, road maintenance and other community matters. There would be more traffic, of course. Would they, new ADU residents, be expected to pay dues as a separate HOA member? (Irrespective of any HOA board pronouncements). They would be residents of Westridge.? Does an ADU get a USPS address? Will an ADU ultimately be assessed a separate county property tax? Additional residents and unanticipated housing would change the character and nature of Westridge; the current character is precisely why most of us chose to live here. Is this kind of change acceptable? By a majority of the members? Must the members be consulted? I suggest that an ADU is a defacto subdivision, in reality. There is no restriction as to the nature of any occupant of an ADU, how many persons may occupy an ADU, or the relationship between a Westridge homeowner and an ADU resident.

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Cities Sue State and Gov. Polis to Preserve Home Rule

The cities of Aurora, Arvada, Glendale, Greenwood Village, Lafayette, and Westminster have filed a lawsuit against the State and Governor Jared Polis, asking the Denver District Court to preserve state constitutional provisions establishing Home Rule.

The cities are focusing their efforts on two land use bills enacted during the 2024 legislative session that they believe are blatantly unconstitutional as they apply to Home Rule cities. The two land use bills at the center of the lawsuit are HB 24-1304, which prohibits local governments from enacting or enforcing minimum parking requirements on multifamily housing developments located in transit areas, and HB 24-1313, which requires 32 local governments in the Front Range to change their zoning in transit areas and permit a minimum density of 40 dwelling units per acre—a number that, if met, would produce 10 times the existing housing stock around RTD stops in Greenwood Village alone. For parcels under five acres in size, there would be no public hearings on dense housing proposals.

The principle of Home Rule is enshrined in Article 20, Section 6 of the Colorado Constitution, which was established over a hundred years ago to give cities and towns the right to establish their own rules on matters of local concern to their jurisdictions. There is nothing more local than how a community develops, and for over 100 years, local land use planning has been left to residents and their locally elected officials, rather than the state.

“We’re seeing a steady erosion of our citizens’ ability to have a voice in the communities in which they live,” said Greenwood Village Mayor George Lantz. “The flurry of legislative proposals continually eroding our Home Rule rights applies a top-down, one-size-fits-all approach, removing all of their uniqueness. The state doesn’t care how their particular vision of land use will affect our cities and the people living in them. Cities have carefully planned their communities, while the state fails to recognize that jobs are just as important to the transit corridors as housing.”

“We also disagree with the state’s belief that upzoning will result in more affordable housing being built or more ridership on RTD,” Lantz adds. “Affordable housing requires subsidization and the low ridership on RTD is not going to be fixed by zoning.”

The several Home Rule cities filing the legal action will all experience different forms of harm as years of land use decisions made by their residents will be undone under the state’s mandatory one-size-fits-all scheme in HB 1313. Adding insult to injury, the Governor issued an executive order three days ago threatening to withhold millions in

state grant money from any city that the state arbitrarily feels doesn't fully comply with all seven of the land use laws passed in 2024 and 2025. The lawsuit challenges the constitutionality of that order as well.

For media inquiries and to obtain a copy of the complaint, please reach out to:

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