

A Newsletter from the Common-Interest Communities &
Condominium Hotels Program

Community Insights

FALL EDITION

Department of Business & Industry, Real Estate Division

OMBUDSMAN'S HUDDLE

Nevada Real Estate Division

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With both election season and the 2019 legislative session just around the corner, there may be many changes within the industry headed our way. While the last legislative session brought amendments to the election process, appointments, notices of executive session, insurance requirements, foreclosure notices, among others, there are a number of proposed changes impacting vastly different areas of the law being put before the legislature this session.

With all the ebbs and flows in the industry in years past, the Ombudsman's Office hopes to be a point of stability for the industry in the years to come. One of our main goals is to provide a clear and easy to understand explanation of the law whenever possible. While staff in the Ombudsman's Office cannot interpret the law, they can assist constituents in understanding the law as it is written and help guide associations towards a path that will keep them compliant.

Due to the fact that law is not always clear, we hope to work with those in the industry to ensure that the same interpretation and understanding of the law is being delivered to all those impacted. It is important that provisions of law that govern CICs are being understood and applied with a level of uniformity and that areas often misconstrued are clarified and defined.

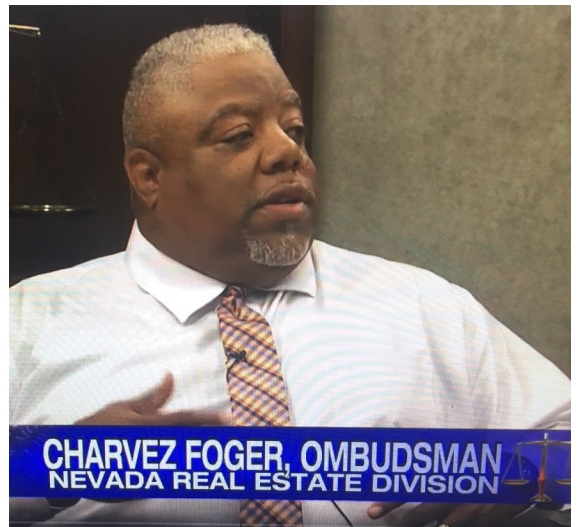
Those involved with HOAs should be able to easily ascertain what is expected of them and we will continue to work closely with

community managers and boards of directors who battle to understand grey areas.

We welcome questions and concerns and value the input of those who bring areas of confusion or contradiction to our attention. We hope that all those involved with CICs feel comfortable working with the office and continue to do so in the future. The Office of the Ombudsman plans to keep the door of communication open, and has prioritized moving towards building a better foundation for those in the industry.

We wish everyone a joyous and safe holiday season!

- Ombudsman Charvez Foger



Screenshot captured from an August 1, 2018 interview regarding HOAs with KOLO 8 News Now Reno

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EDUCATION CORNER

ASSOCIATION MEETINGS

Associations have two types of meetings; either *of* the board ([NRS 116.31083](#)), or *for* the unit owners ([NRS 116.3108](#)) and each have slightly different requirements.

A meeting of the executive board must be:

- (a) Noticed at least 10 days prior. If an agenda is not sent with the notice, the notice must include the date on which, and locations, where copies of the agenda may be conveniently obtained; and
- (b) Held at least once every quarter, not less than once every 100 days, at a time other than during standard business hours at least twice annually.

The agenda must consist of a clear and complete statement of the topics scheduled to be considered during the meeting and a list clearly describing the items on which action may be taken (action may only be taken on those items). While unit owners do not have the authority to dictate what is to be placed on the agenda of a board meeting, if a unit owner submits a written request that the agenda include a perceived violation by the board of a provision of law or the governing documents of the association, the board shall place the subject of the complaint on the next agenda.

At least once every quarter, the executive board shall review financial information of the association at the board meeting, including statements, account reconciliations, and the current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

A period required to be devoted to comments by units' owners *and discussion* of those comments must be scheduled for both the beginning and end of each board meeting. At the beginning of each meeting, comments must be limited to items listed on the agenda; at the end, discussion can be open. The executive board may establish reasonable limitations on the time a unit's owner may speak.

Each meeting of the executive board, aside from executive session, must be audio recorded and each meeting must have minutes taken. Recordings and minutes must be made available to unit owners within 30 days of the meeting.

The executive board can additionally call an emergency meeting or meet in executive session ([NRS 116.31085](#)).

An emergency meeting can only be called if an occurrence requiring action:

- (a) Could not have been reasonably foreseen;
- (b) Affects the health, welfare and safety of residents;
- (c) Requires the immediate attention of, and possible action by, the executive board; AND
- (d) Makes it impracticable to comply with notice and agenda requirements.

In an emergency, notice of the meeting must still be mailed, hand-delivered or posted in a prominent place within the community.

The board may **ONLY** meet in **executive session** to:

- (a) Consult with the attorney for the association on privileged matters relating to proposed or pending litigation;
- (b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association;
- (c) Discuss a violation of the governing documents, including, without limitation, the failure of a unit owner to pay an assessment; and
- (d) Discuss the alleged failure of a unit's owner to adhere to a construction schedule.

An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned requests in writing that an open hearing

Continued on next page

be conducted at a board meeting.

If the executive board is meeting in closed executive session to:

- discuss a violation by a unit owner, the association is required to give notice of the meeting only to the person subject to the hearing scheduled.
- consult with the attorney or discuss employee/agent conduct, the association must post notice of the executive session in one or more prominent places within the community and email any unit owners who have provided an email address.

An executive board may NOT meet in executive session to open or consider bids for an association project, or to enter into, renew, modify, terminate or take any other action regarding a contract. Any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the next meeting of the executive board.



A meeting of the units' owners must be held at least once each year at a time and place stated in or fixed in accordance with the bylaws.

Between 15 and 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be given, which *must* include a copy of the agenda.

The agenda for a meeting of the units' owners must consist of:

- (a) A clear and complete statement of the topics scheduled to be considered, including any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board;

- (b) A clear list describing the items on which action may be taken; and

- (c) A period devoted to comments by unit owners regarding any matter affecting the association and discussion of those comments.

Minutes must be taken and, just like for board meetings, the executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes. Unit owners may audio record any meeting if, before recording, they provide notice to others in attendance.

At the annual unit owner meeting, ballots for the election of members of the executive board must be opened and counted.

An association shall hold a **special meeting** of the units' owners to address any matter affecting the association if its president, a majority of the executive board, or units' owners constituting at least 10% (could be lower if specified in the bylaws) of all unit owners request such a meeting. This request must be made by written petition, signed by the required percentage of unit owners and mailed, return receipt requested, or served by a process server to the executive board or community manager.

The executive board shall set the date for the special meeting so that it is held between 15 and 60 days after the date on which the petition is received. The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition.

Within 60 days after adoption of the annually proposed budget, the executive board shall provide a summary of the budget to each unit owner and set a date for a **meeting of the units' owners to consider ratification**. This meeting must take place within 14 to 30 days after the mailing of the budget summary. Unless at that meeting at least a majority of all units' owners **reject** the proposed budget, the proposed budget is ratified, whether or not a quorum is present ([NRS 116.31151\(3\)](#)).

TRUE OR FALSE?



1. If the executive board has the authority to appoint a hearings committee, that committee's members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board.
2. If you cannot meet the quorum requirement to hold a meeting of the unit owners, you do not need to hold the annual meeting.
3. The termination of a management contract by a majority of the executive board should take place in executive session.
4. If a special meeting is called to conduct a removal election of a director of the board, the election must be held within 90 days of the date the petition signed by unit owners to remove the director was submitted.
5. Every unit owner does not need to be noticed ahead of time of a meeting taking place by the board to hold hearings on alleged violations.

Answers on bottom of next page

OMBUDSMAN INFORMATION - July through September 2018

Total Associations Registered in the State of Nevada	3,290
Complaints Received	112
Alternative Dispute Resolution (ADR) Filings	133
Audits Conducted by the Ombudsman's Office	15
Records Requests Processed	8
Training Sessions	16
Classroom Attendees	298

Main Page: <http://red.nv.gov/>

All forms can be found at:
<http://red.nv.gov/Content/Forms/All/>

Class calendars can be found at:
<http://red.nv.gov/Content/CIC/Program Training/>; and

<http://red.nv.gov/Content/Education/Calendars/CIC/>

If you have any questions, please email:
CICombudsman@red.nv.gov

NEW BROCHURES AVAILABLE!

The Office of the Ombudsman has updated its brochures regarding HOA: Meetings, Elections, and Record Keeping.

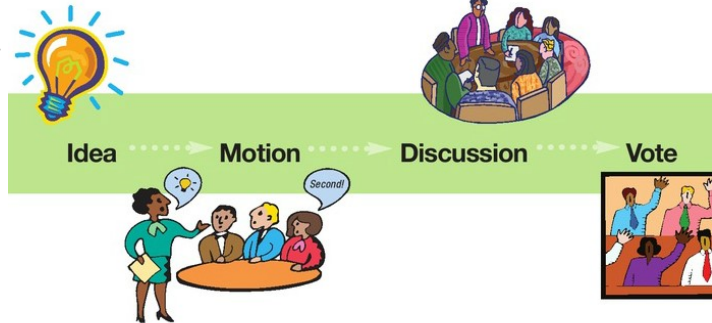
These brochures can be picked up in our office located at 3300 W. Sahara Ave., Suite 325, or found on our website at
<http://red.nv.gov/Content/CIC/Brochures/>



EXPLAINING ROBERT'S RULES

When you attend a meeting of your association, does it seem chaotic? Are those in attendance speaking out of order and speaking over the board? Are board members openly arguing at the table? Is association business constantly being delayed due to meetings being adjourned early?

If you answered 'yes' to any of the questions above, then your executive board may not be conducting meetings pursuant to [NRS 116.3109 \(4\)](#), which states that "meetings of the association must be conducted in accordance with the most recent edition of *Robert's Rules of Order Newly Revised*, unless the bylaws or a resolution of the executive board adopted before the meeting provide otherwise."



Robert's Rules provide a structure for conducting orderly meetings. If rules are established and made known ahead of time, those in attendance can be properly heard and those with voting power can make decisions efficiently and without interruption or argument. Robert's Rules of Order emphasize the three 'C's: command, clarity and courtesy.

Each meeting requires the establishment of a quorum prior to business being conducted, as well as an agenda which *clearly* identifies action items. An agenda for an executive board meeting typically begins with a call to order and includes: the unit owner forum limited to discussion of agenda items, time for approving the last meeting's minutes, any unfinished business, new business, announcements/updates, the open unit owner forum, and adjournment/announcement of the next meeting date.

Motions must also be made at these meetings. At board meetings, motions are made by members of the executive board only.

Board directors:

- obtain the floor when the last speaker has finished speaking and they have been recognized by the Chair.
- make the motion – "I move that we..."
- wait for another director to second the motion, or the Chair will call for a second. If there is no second, the motion is lost.
- wait for the Chair to state the motion for consideration and action by the board – "it has been moved and seconded that we..."
 - wait for the mover of the motion to speak first, expanding on any details of the potential action. The other directors then debate or move to amend the motion.
 - wait for the Chair to ask "are you ready to vote?" at which point a vote on the matter is taken for the record.

Prior to the start of the meeting, the Chair should clearly state the rules and expectations for those in attendance.

The agenda should be adhered to exactly and all motions raised during the meeting should be thoroughly discussed before taking action. Directors make decisions for the association and are the only ones who have a vote at board meetings.

Unit owners only have the right to speak at the beginning and end of a board meeting, and should not be interjecting while the board is in discussion. If a unit owner raises a question during the unit owner forum that the board is not prepared to answer, the matter should be tabled and addressed at the next meeting.

All remarks must be directed to the Chair and language must be courteous, never refer to others by name, or allude to underlying motives.

Answers from previous page:

1. True—[NRS 116.31031\(8\)](#)
2. False—[NRS 116.31034\(15\)\(e\)](#); [NRS 116.31036\(3\)\(d\)](#); [NRS 116.3108\(10\)](#); [NRS 116.31151\(3\)](#)
3. False—[NRS 116.31085\(2\)](#)
4. True—[NRS 116.31036\(2\)\(a\)\(2\)](#)
5. True—[NRS 116.31083\(3\)\(a\)](#)

WHAT'S NEW?

The Office of the Ombudsman's New Program Training Officer



Please welcome our new Program Training Officer, Antonio R. Brown!

Prior to starting with the Nevada Real Estate Division, Antonio worked as a Family

Services Specialist, conducting eligibility determinations for Nevada families, and as a Certified Trainer in the restaurant industry.

While working for the Nevada Division of Welfare and Supportive Services, Antonio had to analyze, understand and utilize the law daily to complete timely and accurate eligibility determinations. "There is no better feeling than to help Nevada families who need it most." Determinations were subject to federal, state, and monthly supervisory audits.

As a Certified Trainer, Antonio was responsible for training newly hired restaurant servers on all aspects of the job, including a myriad of laws concerning health, safety and corporate standards.

Throughout his undergraduate and professional career, Antonio has garnered robust experience in simplifying advanced concepts and presenting information publicly.

Antonio has been a resident of Las Vegas, Nevada for over 22 years, completing his Associate of Science Degree with honors at the College of Southern Nevada in 2014 and his Bachelor of Science Degree in Public Administration at the University of Nevada, Las Vegas in 2016, with an emphasis in public policy.

The Office of the Ombudsman's New Accounting Assistant



Please welcome our new Accounting Assistant III, Youngnetta Ruff-Nicholas!

Youngnetta has worked in accounting, auditing, administrative roles, medical billing, and customer service for over ten years.

Prior to starting with the Nevada Real Estate Division, Youngnetta worked as an Employer Installation Coordinator for Optum Healthcare where she pulled and processed up to 100 plus medical claims on a daily basis. She verified National Provider IDs, group Tax IDs, and both primary and billing addresses for registered individuals, groups, and facilities.

Youngnetta worked closely with Medicare, verifying billing contacts, entering all new providers, calling billing departments to maintain provider records, terming and updating all Medicare contracts, running claim recons as needed, and assisting in clearing errors on claims to be processed for payment.

Youngnetta will be responsible for the maintenance, organization and upkeep of the receivables of the Ombudsman's Office as it pertains to all homeowner associations. She will be performing the duties of reconciliation of the daily deposits receipted for the Nevada Real Estate Division.

TRAINING REMINDER:

The Office of the Ombudsman provides training to any interested associations free of charge. You can request to have the Training Officer come out directly to your meeting space by completing and submitting the form found at <http://red.nv.gov/trainingrequest/>.





GOVERNOR'S CONFERENCE ON BUSINESS 2018

Conference featured speakers and master of ceremonies



Brian Sandoval
Governor
State of Nevada



C.J. Manthe
Director, Department of
Business and Industry



Joseph Okpaku
VP, Public Policy
Lyft



Mark Shunock
Mondays Dark creator, Vegas
Golden Knights In-Arena Host

Don't miss Nevada's premier resource and networking conference for business!

CONFERENCE HIGHLIGHTS

♦ **BUSINESS RESOURCE EXPO** Network with 100+ B2B exhibitors

♦ **BREAKOUT SESSIONS** Attend your choice of five interactive breakout sessions including:

Roadmap to Start or Grow Your Business 3-part series; Startup Insights From Past Pitch Participants; Urban Mobility and Smart Technology: On the Forefront

♦ **CONFERENCE LUNCHEON** With master of ceremonies Mark Shunock, special guest speakers C.J. Manthe and Joseph Okpaku, and keynote address by Governor Brian Sandoval

♦ **FREE PROFESSIONAL HEADSHOTS** Get a free headshot for your online business networking profile at the Microsoft booth

OCTOBER 18, 2018

RIO ALL-SUITE HOTEL & CASINO

Conference attendee: \$50

Nonprofit exhibitor: \$275

B2B exhibitor: \$375

Register online at

business.nv.gov/GCB/Home

Questions? Call (702) 486-0407

Hosted by Nevada Department of Business and Industry



Community Insights

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Nevada Real Estate Division Mission

To protect the public and Nevada's real estate sectors by fairly and effectively regulating real estate professionals through licensure, registration, education and enforcement.

Office of the Ombudsman Mission

To provide a neutral and fair venue to assist homeowners, board members and community managers in handling issues that may arise while living in a common-interest community or condominium hotel.

Community Insights is an official publication of the

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COMMON-INTEREST COMMUNITIES &
CONDOMINIUM
HOTELS
Office of the Ombudsman
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Ombudsman

COMMISSION FOR
COMMON-INTEREST COMMUNITIES &
CONDOMINIUM HOTELS

Michael Burke, ESQ., Chairman
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James Rizzi, Vice-Chairman
Developer Member

Richard Layton, Secretary
Certified Public Accountant Member

Charles Niggemeyer, Commissioner
Homeowner Member

Ryan Henderson, Commissioner
Homeowner Member

Doris Woods, Commissioner
Homeowner Member

Ken Williams, Commissioner
Community Manager Member

CIC COMMISSION MEETINGS 2018

November 6-7-8, 2018 South

Further details found at:

http://red.nv.gov/Content/Meetings/CIC_Calendar/

Our office will be closed:

Nevada Day (observed)
Friday, October 26, 2018

Veteran's Day
Observed Monday, November 12, 2018

Thanksgiving Day/ Family Day
Thursday & Friday, November 22-23, 2018

Christmas Day
Tuesday, December 25, 2018

*We wish you a very
Happy Family Day!*

