

COMMUNITY INSIGHTS

VOLUME IV, ISSUE II

Department of Business and Industry, Real Estate Division

Spring 2008

Nevada Real Estate Division

OUR MISSION

The mission of the Nevada Real Estate Division is to safeguard and promote interest in real estate transactions by developing an informed public and a professional real estate industry.

Office of the Ombudsman

OUR MISSION

The mission of the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels is to assist homeowners and elected or appointed officials in understanding their rights and responsibilities under Chapter 116 of Nevada law and their governing documents.

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From the Ombudsman's Desk

New staff on board to assist with resolution of disputes, complaints

By **LINDSAY WAITE**
Ombudsman

The Office of the Ombudsman recently announced the promotion of Victoria Broadbent to Program Officer I. This position assists me in the Conference program, and will allow the office to offer more conferencing opportunities.

Many of you already know Vicki as the Administrative Assistant III in our office for the past four years.

"It's always a special moment in one's work life when your job matches what you love doing," Vicki said. "My passion for helping people solve problems started 30 years ago in a New Jersey hospital. With my new position, I am now better than ever able to assist homeowners and HOAs in resolving their disputes through informal conferencing. Prior to the last 8 years spent with the Real Estate Division, I worked in the area of civil rights for persons with disabilities and children with special needs. I look forward to continuing to serve the constituents of Nevada with efficiency and integrity."

In addition, the division recently welcomed a new Compliance Investigator II, Sheryl Sharp.

Sherri, who



previously served the state Contractors Board, handles NRS 116-related disputes. She brings a wealth of investigative experience to the division, having served

more than 20 years as an investigator with Los Angeles County.

"I look forward to bringing my expertise to the division for the benefit of Nevada's homeowners," she said.

Sherri and her husband moved to Nevada in 2002. They have a daughter and four sons.

* * *

Conflicts arise in homeowner associations – that is a given. The main purpose of the Ombudsman Conference Program is to offer assistance to those who have disagreements in HOAs.

The Fall 2007 issue explained the procedure for individuals who want to initiate the Intervention Affidavit process.

This process offers most parties the opportunity to meet with the Ombudsman or Program Officer — along with the person or people with whom there is a disagreement — in an attempt to resolve the dispute. In my experience in this office, where people are willing to meet, almost 50 percent of the meet-

See OMBUDSMAN on Page 3



Sherri Sharp

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VOLUME IV, ISSUE II

is an official publication of the

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Commissioner's Corner

Commission's deliberative nature serves CICs well



By **MICHAEL BUCKLEY**
Commission Chairman

Perhaps the spring weather in Las Vegas really is nicer than last year, but I have a feeling it has something to do with spending more time at home.

Although the Commission on Common-Interest Communities and Condominium Hotels had a number of modest legislative proposals in 2007 (other than some technical corrections, its main proposal was to remove the requirement for reserve specialist licensing), we were extremely busy last spring. Looking over our Web site, I count 13 meetings in March, April and May 2007.

Added to this were numerous appearances before Senate and Assembly committees and attendance at work sessions involving legislative proposals. The next Legislature is less than a year away.

Let me step back in time. My involvement in CIC legislation goes back to 1989 when Steve Hartman and I learned about the Uniform Common Interest Ownership Act, backed by the National Conference of Commissioners on Uniform State Laws. Back then Nevada's condominium law, NRS 117, was considered a "first generation" law, leaving many issues unresolved. We thought, wouldn't this be great for Nevada: a well thought-out, uniform law with input from many sources, official comments to help in interpretation, and a likelihood of being adopted in other states.

In 1990 and 1991, Steve and I joined Chuck Deaner and Darrell Lincoln Clark in vetting the proposal that became NRS 116. I have remained involved in CICs and, in 2007, condominium hotels ever since, either through the Community Associations Institute or the commission. I have come to respect and appreciate the importance of careful deliberation.

Back again to last year, when a couple of curious things happened. First, despite (or perhaps because of) ever greater participation in the legislative process, nothing happened. Although a great deal of time and energy was spent discussing ways to fix perceived problems within CICs, the end result was a flawed bill vetoed by Gov. Jim Gibbons.

More interesting to me was what happened after the session. In June, the commission reviewed the "problems" that AB 396, last year's primary bill relating to CICs, was designed to resolve. The thought was

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Ombudsman

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ings result in a resolution of the conflict.

At these conferences, one of the main goals is for all present to understand clearly the nature of the conflict. Both parties have the opportunity to explain their views. I also like to have each party explain their proposed resolutions. Often times these conferences are the first time that the disputing individuals have met face-to-face, and have articulated the reasons for their points of view.

Listening carefully is important – not only for the Ombudsman and the Program Officer, but for both parties as well. To ensure that each side is truly listening, every effort is made to allow each side to communicate without interruption. I also make an effort to try to have issues addressed one at a time (where possible) so that proposed solutions to each issue can be considered.

I, or the Program Officer, will at times make suggestions to assist the parties in resolving the dispute. In most instances, people are coming to these conferences in good faith with an intent to have the conflict become a thing of the past. Often good intentions result in resolutions of the disputes.

Neither the Ombudsman nor the Program Officer participates to “take sides” or tell one party or the

other that they are right or wrong. Our goals are: 1) to assist in opening communication between the parties; 2) to provide a neutral and judgment-free atmosphere so that each side is comfortable communicating with the other; and 3) to offer suggestions at times where the parties are having difficulty finding common ground.

Managing conflict almost always means opening communication between the disputing parties. It can be hard to look an antagonist in the face and be willing to work something out with him or her. In the end, though, it is in the best interest of the community, and the conflicting individuals, to put the problem in the past and focus on their “common interest” — having a community in which people are happy.



Vicki Broadbent, seated, goes over her new duties as Program Officer with Ombudsman Lindsay Waite.

Want to find a class? Check out the calendars online ...

From the most seasoned community manager to the newest resident, anyone seeking to learn more about HOA living can find the class that fits their needs on the Nevada Real Estate Division Web site, www.red.state.nv.us.

The Office of the Ombudsman regularly updates three calendars to reflect newly scheduled classes for new and veteran community managers, as well as association board members and residents. They include: the pre-certification course for prospective community managers, continuing education for current community managers, and seminars for the general public.

Updates to the community manager calendars are posted weekly. To assist professionals in obtaining their CE credits, the Ombudsman's office requires providers to include a list of all class dates

to the division at least one month in advance. The rule ensures all certificate holders equal access to state-certified classes and allows them to find all available offerings from a single source.

Professionals may also find a list of all approved courses by clicking Community Managers CE Providers on the division's Web site.

Seminars for HOA residents are scheduled throughout the year. A range of new topics debuted earlier this year to include reserves, financial management of an association, and maintenance and risk management. Additional topics are planned for the coming year.

The calendar of homeowner seminars can be viewed by clicking Seminars under the Common-Interest Communities heading on the division's Web site.

Getting into character

Division staffers portray HOA residents in educational video

Mike Colvin loved the place from the outset—the big backyard, the nearby park, the beautifully maintained grounds — it was just the home he had hoped to find. His wife, Julie, liked the home, but was reticent about living in a homeowners association.

Within months, the couple became embroiled in a dispute with their neighbors over construction of a greenhouse.

The ensuing cautionary tale demonstrates many of the rights and responsibilities of living within a homeowners association through the experiences of a fictional couple. It is one of two instructional videos from the Office of the Ombudsman to debut this spring.

The videos, which will be available online and on a limited basis via DVD, present many of the common issues that arise in homeowners associations, such

as dispute resolution and conducting a meeting. One video focuses on the experiences of newcomers in an association, while the other addresses matters from the perspective of a board of directors. Each is approximately 15 minutes long.

“As our first venture into video production for our office, we decided to stick with fundamentals,” said Nick Haley, education and information officer for the Office of the Ombudsman. “We anticipate the videos will draw more visitors to our Web site, where we will have more detailed information available for those who wish to educate themselves on the HOA lifestyle.”

Real Estate Division staff pulled extra duty to perform in the videos. Joining them on-screen was volunteer E.J. Suh.

“We expect the videos will serve as a starting point for residents and board members to learn more about the rules of homeowner association living,” Haley said. “They will form a crucial role in our overall education plan, which also includes more in-depth brochures and seminars that address topics of particular interest or importance, such as elections or reserve studies.”



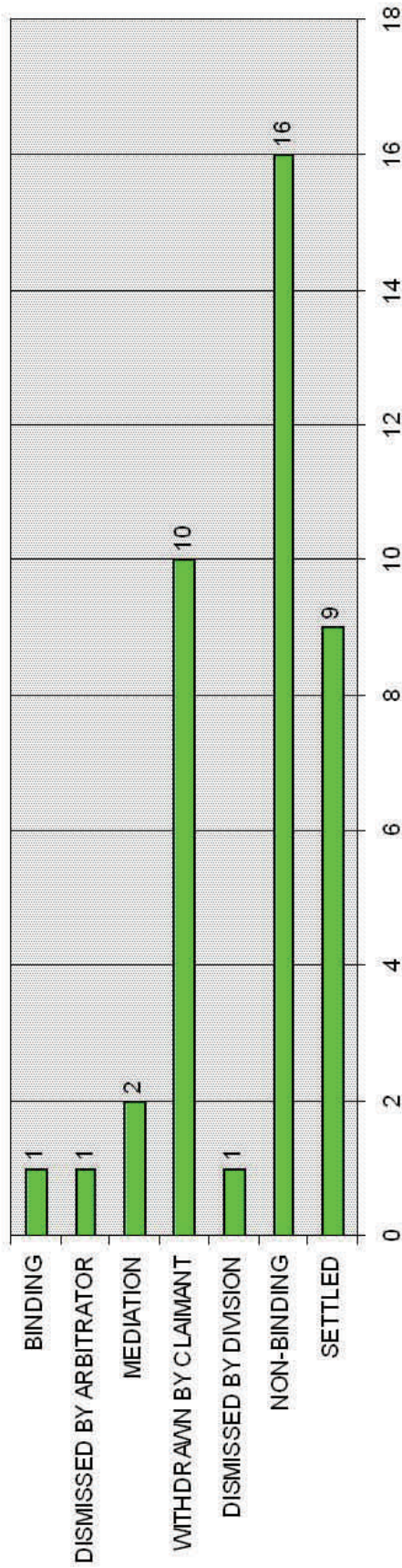
Above, a film crew transforms an office in the Bradley Building into a set for an upcoming video. Below, the crew reviews a scene while shooting on location.



Above, staff members from the Real Estate Division take a break while awaiting the final scene. At right, Jan Holle, a compliance investigator with the division, gets wired for sound as he prepares to portray an HOA president.



Alternative Dispute Resolution Claims From 10-23-07 to 02-29-08



DATE OPEN	DATE CLOSED	CLAIM	FILED BY	TYPE OF RESOLUTION	NATURE OF CLAIM	DISPOSITION
03-30-07	10-23-07	07-97	Homeowner	Non-Binding Arbitration	Association changing definition of common vehicle.	Arbitration found in favor of Respondent. Claimant to reimburse Respondent \$17,715.40 in fees.
06-21-07	10-23-07	07-114	Homeowner	Non-Binding Arbitration	Association passed regulation in violation of governing documents.	Arbitration found in favor of Association. Each side pays 1/2 of Arbitration fees.
12-27-05	10-29-07	06-35	Association	Non-Binding Arbitration	Parking commercial vehicle overnight near homeowner's property.	Arbitration found in favor of Respondent. Each side pays their own costs and fees.
06-21-07	10-29-07	07-112	Homeowner	Mediation	Failure to repair home due to common-area water pipe damage.	Unsuccessful mediation.
04-26-07	11-14-07	07-102	Homeowner	Settlement	Claimant was improperly removed from board.	Settlement Agreement.
03-20-07	11-15-07	07-92	Homeowner	Non-Binding Arbitration	Improperly denied request to build outdoor fireplace.	Arbitration found in favor of Claimant. Each side pays their own fees and \$1,012.50 for Arbitrator fees.
03-01-06	11-16-07	06-55	Homeowner	Settlement	Association revoked approval of landscape after being completed.	Settlement Agreement.
07-03-07	11-16-07	08-03	Association	Non-Binding Arbitration	Failure to maintain property.	Arbitration found in favor of Claimant. Each side owes Arbitrator \$1,246.07.

Alternative Dispute Resolution Claims from 10-23-07 to 02-29-08 (Cont.)

DATE OPEN	DATE CLOSED	CLAIM	FILED BY	TYPE OF RESOLUTION	NATURE OF CLAIM	DISPOSITION
07-30-07	11-21-07	08-16	Association	Withdrawn by Claimant	Respondent renting out property.	Withdrawn by Claimant
01-22-07	11-26-07	07-72	Homeowner	Non-Binding Arbitration	Association asking homeowner to repair gate.	Arbitration found in favor of Respondent. Claimant to reimburse Respondent \$3,100 in fees. Each side owes \$750 in Arbitrator fees.
02-20-07	11-27-07	07-78	Homeowner	Non-Binding Arbitration	Association revoked previously granted permission to build outside wall.	Arbitration found in favor of Respondent. Respondent is to be reimbursed for attorney's fees and costs.
07-20-07	11-30-07	08-10	Association	Withdrawn by Claimant	Failure to maintain landscape.	Withdrawn by Claimant
08-02-07	12-10-07	08-18	Association	Non-Binding Arbitration	Damage caused by Respondents to common area.	Arbitration found in favor of Claimant. Respondent to pay Claimant \$2,192.68.
06-01-74	12-14-07	06-74	Homeowner	Non-Binding Arbitration	Claimants being fined for parking RV in front of home.	Arbitration found in favor of Claimant. Respondent pays Claimant \$1,500 for attorney's fees.
02-02-07	12-14-07	07-73	Homeowner	Settlement	Dereliction of fiduciary duties.	Settlement agreement. Respondent to pay Claimant \$1,125.
10-11-06	12-17-07	07-43	Homeowner	Settlement	Selective enforcement	Settlement Agreement.
07-05-07	12-17-07	08-05	Homeowner	Dismissed by Arbitrator	Improvement made without prior written permission.	Dismissed by Arbitrator.
10-19-07	12-18-07	08-42	Association	Withdrawn by Claimant	Failure to maintain landscape.	Withdrawn by Claimant.
07-06-07	12-18-07	08-08	Homeowner	Settlement	Fines	Settlement Agreement.
05-25-07	12-21-07	07-109	Association	Non-Binding Arbitration	Improvement made without prior written permission.	Each side pays their own attorney's fees and costs and \$1,062.49 in Arbitrator fees.
09-26-07	12-21-07	08-38	Homeowner	Settlement	Dereliction of fiduciary duties.	Settlement Agreement. Association will reimburse homeowner \$1,419
05-30-07	12-31-07	07-110	Homeowner	Settlement	Association removed trees from homeowner's property.	Settlement Agreement
08-16-07	01-03-08	08-23	Homeowner	Non-Binding Arbitration	Failure of association to pay for common-area damage.	Arbitration found in favor of Respondent.
09-20-07	01-07-08	08-35	Association	Non-Binding Arbitration	Failure to maintain landscape	Arbitration found in favor of Claimant. Respondent to reimburse Claimant \$41,550.

Alternative Dispute Resolution Claims from 10-23-07 to 02-29-08 (Cont.)

DATE OPEN	DATE CLOSED	CLAIM	FILED BY	TYPE OF RESOLUTION	NATURE OF CLAIM	DISPOSITION
03-19-07	01-10-08	07-91	Homeowner	Non-Binding Arbitration	Questions on amendments of landscape requirements.	Arbitration found in favor of Respondent. Each side pays their own fees.
08-07-07	01-17-08	08-20	Homeowner	Non-Binding Arbitration	Association charging homeowner for common-area repairs.	Arbitration found in favor of Claimant. Respondent to reimburse Claimant \$1,645.58 in Arbitrator fees.
08-03-07	01-22-08	08-19	Association	Mediation	Homeowner operating business on property.	Unsuccessful mediation.
05-17-07	01-29-08	07-108	Homeowner	Binding Arbitration	Landscape violation notification.	Arbitration found in favor of Claimant. Claimant subsidized \$325 Claimant awarded \$2,500 each side pay \$650 in Arbitrator fees.
12-10-07	01-30-08	08-53	Association	Withdrawn by Claimant	Failure to maintain landscape.	Withdrawn by Claimant.
12-10-07	01-30-08	08-55	Association	Withdrawn by Claimant	Failure to maintain landscape.	Withdrawn by Claimant.
08-17-07	02-04-08	08-25	Association	Withdrawn by Claimant	Leasing property.	Withdrawn by Claimant.
07-02-07	02-07-08	08-01	Association	Non-Binding Arbitration	Failure to maintain landscape.	Arbitration found in favor of Respondent. Claimant to pay \$3,313.60 in fines and attorney's fees.
10-19-07	02-07-08	08-43	Association	Withdrawn by Claimant	Failure to maintain landscape.	Withdrawn by Claimant.
11-02-07	02-07-08	08-46	Association	Withdrawn by Claimant	Failure to maintain landscape.	Withdrawn by Claimant.
12-10-07	02-07-08	08-54	Association	Withdrawn by Claimant	Failure to maintain landscape.	Withdrawn by Claimant.
12-28-07	02-15-08	08-61	Association	Withdrawn by Claimant	Homeowner not reimbursing Association.	Withdrawn by Claimant.
09-20-07	02-22-08	08-34	Association	Non-Binding Arbitration	Failure to maintain landscape.	Arbitration found in favor of Claimant. Respondent to pay Claimant \$23,965.66.
05-18-07	02-26-08	07-106	Homeowner	Settlement	Fines.	Settlement Agreement.
09-19-07	02-28-08	08-32	Homeowner	Settlement	Association wants to remove replaced window in unit.	Settlement Agreement.
01-14-08	02-29-08	08-63	Homeowner	Dismissed by Division	Association not enforcing declarant's obligation to pay his share of costs.	Dismissed by Division.

Ombudsman brochures undergo overhaul, expansion

Every year, thousands of ordinary homeowners contribute to their communities by serving on boards and committees, and, in the process, taking control of their association's finances and other fiduciary duties. Yet, very few people living in homeowners associations fully understand their rights and responsibilities.

To assist board members and other HOA residents in performing what are often very complex tasks, the Office of the Ombudsman has revised and expanded its library of brochures.

"There is much to know about HOA living," said Nick Haley, education officer with the Office of the Ombudsman. "While there is no formal training process for residents, there are resources available for those who wish to educate themselves on their duties as board members, their legal obligations as residents, and their rights protected by Nevada law."

Some of the brochures serve as a tutorial for certain HOA tasks, while others are informational. Secret Written Ballot Guidelines, for example, provides a timeline of important dates in an association election, as well as a sample ballot mailing.

The Ombudsman's Conference explains how to

use the Ombudsman's informal mediation process to resolve disputes.

For those who have never lived in an association, Before You Purchase Property in a Common-Interest Community Did You Know ... asks prospective buyers several important questions. Even for those already living in an HOA, the information may prevent trouble down the road.

All of the brochures are available online at the Real Estate Division's Web site, www.red.state.nv.us. They will also be printed and made available through the Las Vegas and Carson City Real Estate Division offices. All are free to the public.

"Volunteers form the backbone of our state's homeowners associations," Haley said. "HOA directors and other volunteers come from many backgrounds and experiences, but all need to become familiar with Nevada common-interest community law, as well as some of the basic business of running their communities. It is one of the primary goals of our office to ensure they have the tools to do so."

Updates and additional information will be made available through the Web site. Additional titles are planned to cover other subjects of interest to association members and residents.

Commission's name gets even longer as new law goes into effect

As of Jan. 1, 2008, Nevada's Commission on Common-Interest Communities officially added "and Condominium Hotels" to the end of its name to reflect its new scope of authority.

The commission gained authority over matters pertaining to condominium hotels pursuant to NRS 116B, a new section of law that went into effect at the start of the year. The new statute, which is very similar to NRS 116, exclusively governs condominium hotels. The Office of the Ombudsman has taken on new responsibilities similar to those for common-interest communities.

Combining a condominium association with a hotel, the unique property type forms complex legal and financial relationships among private owners and commercial enterprises. A new section of law was created to take into account the essential differences between homeowners associations and the new product type, many of which stem from the inclusion of a hotel unit owner.

Like other common-interest communities, condominium hotels must register annually with the Office of the Ombudsman and pay a \$3-per-unit annual fee. Their members are also entitled to use the office's services, including the dispute resolution process and the ability to file complaints relating to NRS 116B.

Investigators hold regular office hours to hear HOA-related matters

Any person with a dispute regarding a homeowners association or community manager in Nevada may speak with an investigator from the Compliance Section of the state's Real Estate Division. The division may investigate for possible violations of NRS 116, NRS 116A or NRS 116B, among other chapters of Nevada real estate-related law.

In Las Vegas, the division takes appointments and walk-ins from 9 a.m. to 11 a.m. and from 1:30 p.m. to 3:30 p.m. Tuesdays through Thursdays at its offices, located at 2501 E. Sahara Ave., Suite 300. Appointments are processed first. In addition, phone calls are welcome from 8 a.m. to 5 p.m. weekdays at (702) 486-4480.

In Carson City, the division takes appointments and walk-ins from 8 a.m. to 1 p.m. and from 2 p.m. to 5 p.m. weekdays. The office is at 788 Fairview Drive, Suite 200. Call-ins are also welcome at (775) 687-4280.

Offices are closed on weekends and most holidays.

Did you know?

— All of the forms used by the Office of the Ombudsman can be found online at www.red.state.nv.us. Many are interactive, meaning they can be downloaded, the information added right on the electronic file of the form, and then printed.

— Another tool on the Web site is Lookup License, which allows anyone to look up the credentials of companies or individuals licensed through the Nevada Real Estate Division. The data is limited to license type, status and expiration date.

Corner

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that the commission, through regulation, might be able to resolve issues addressed in AB 396.

Because the commission is subject to open meeting law, our process moves much more slowly than the legislative process.

Here's the curious thing: In June, the commission came up with 20 regulatory proposals; by January 2008, it was down to five. Why?

Upon the kind of reflection that is only possible over time, commissioners realized either that the problems were not as egregious as seemed, or the "fix" would have created more problems than it cured. (Remember: "one size does not fit all"?) In some cases, the answers already existed in the regulations.

This recent history offers a chance to reflect on the commission's role in the legislative process. I have raised this issue before, but never had a definitive answer. To my mind, the answer is very important.

In general, I believe the commission should be the primary resource for the Legislature regarding CICs and condo hotels. The commission, comprising managers, homeowners, developers and professionals, offers a diverse sounding board for proposals.

The commission, however, does not act alone. It acts upon information from the Real Estate Division and the public who, in frank and open discussion, consider what is and what isn't a real problem and, if a problem exists, how best to solve it.

As a participant in the 2003 legislative process that created the commission, I agreed with those who foresaw it as a key resource for all to whom CIC issues are a daily fact of life. Even so, I think I can safely speak for the other original members in saying we were quite taken aback at the overwhelming sense of public approval that surfaced in our first year or two of existence – even if we were short on answers.

It is my hope that the commission will continue to earn this respect, not only from the public and its constituents, but from the Legislature. In the frenetic activities of spring in odd-numbered years, we sometimes miss the big picture. We have learned that not

every "problem" can be fixed by law or regulation. Education and communication continue to be the most important tools for us all.

Finally, while I won't be wearing my commission hat next year, I won't be gone. Working with the State Bar of Nevada's new Real Property Section, I will continue to take part in CIC-related matters.

There is a sense of déjà vu. An update of the Uniform Common Interest Ownership Act is under way. Although Nevada is far beyond the original, we will look at this important work product. See the draft at: <http://www.nccusl.org/Update/CommitteeSearchResults.aspx?committee=244>.

New commissioners bring wealth of practical knowledge

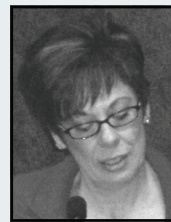
The two newest professionals to serve on the Commission on Common-Interest Communities and Condominium Hotels bring very different backgrounds to the job.

Community manager Jeannie Redinger was sworn in as commissioner last December. Her rare experience as manager of a condominium hotel, Grand Sierra in Reno, will help to shed light on the newest section of Nevada real estate law. She brings first-hand knowledge of the highly complex issues facing the commission's newest responsibility.

Gary Lein's background as a C.P.A. has helped him explain association finances to numerous managers and homeowners, whom he has taught through professional courses and seminars sponsored by the state of Nevada. Lein's appointment was made public in early April. His first meeting as commissioner was the May meeting.



Gary Lein



Jeannie Redinger

2007 Disciplinary Action by the Commission for Common-Interest Communities and Condominium Hotels

Shoreline Condominium Association, Board of Directors Case No. IN-1062 May 2007

Finding of Fact: William Fiedrich, Carol Givens and James Clement, referred to as the respondents and serving as association directors, were found:

- To have failed to hold board of directors meetings on a regular and timely basis.

- To have failed, or acquiesced in the failure to, set or hold elections for members of the board of directors in accordance with either applicable law, or in compliance with the SCA governing documents.

- Not to have held elections by secret ballot.

- To have failed to hold and notice annual unit owner meetings properly.

- During the time Fiedrich was board president, the 2006 annual homeowners meeting was not held.

- Before entering the agreement to sell water rights owned by the association, Fiedrich, acting alone, without the participation of any other board members, mailed questionnaires/ ballots to association homeowners concerning the sale of water rights.

- The questionnaires/ ballots were returned to, and counted by, Fiedrich.

- Fiedrich did not properly provide the questionnaires/ ballots to association members.

naires/ ballots to association members.

- While Fiedrich was president, the questionnaires/ ballots were not opened or counted in a public, properly noticed meeting, in front of the association membership.

- Copies of the questionnaires/ ballots produced at some subsequent time contain hand-written changes.

- While Fiedrich was president, no process or system was followed through which the credibility of the questionnaires/ ballots could be verified.

- Fiedrich, as president, was the person who had advocated that the association sell its water rights, was the individual to whom the questionnaires/ ballots were returned, and was the person who opened them.

- While president, Fiedrich decided to repay the total remaining balance of the \$50,000 loan which he had earlier made to the association back to himself, ahead of schedule.

- Fiedrich, Givens and Clement, while board members and officers, failed to maintain appropriate financial information or records concerning the HOA.

- While board members and officers, failed to review the following financial information at board meetings at least every 90 days: current year-to-date association financial statements, current year-to-date schedules of revenues and expenses for the operating account

and the reserve account, compared with the budgets for such accounts; reconciliations of the operating account; reconciliations of the reserve account; and the latest statements prepared by the financial institutions in which the accounts of the association were maintained.

See DISCIPLINARY ACTION on Page 11

Actions/Decisions

Acts of the Commission for Common-Interest Communities and its appointed administrative law judges are not published in this newsletter by the Real Estate Division until after the 30-day period for filing under Judicial Review. If a stay on discipline is issued by the court, the matter is not published until the final outcome of the review.

A respondent's certificate is automatically suspended for failure to comply with a commission order, and the division may institute debt collection proceedings to recover fines and costs.

The division does not publish names of persons whose certificate applications are denied.

Allegations/Stipulations

Stipulations occur when both the respondent and the Division have agreed to conditions reviewed and accepted by both sides. A stipulation may or may not be an admission of guilt. Stipulations by administrative law judges are presented to the commission for review and acceptance.

Disciplinary Action

Continued from Page 10

- Failed to comply with requirements of law concerning the frequency and nature of their review of the financial information.
- Failed to have basic financial information and documents concerning the association available for review by members.
- Failed to obtain an appropriate reserve study on a timely basis.
- Failed to implement an appropriate plan for funding reserve amounts on a timely basis.
- Contracted for costly improvements to the structures in the association, such as re-roofing, without prior notice to owners.
- Approved costly improvements without approval of homeowners.
- Failed to meet their responsibility to prepare an annual budget.
- Failed to provide any proposed budget to homeowners.
- Failed to obtain approvals from homeowners for any annual budgets.
- Fiedrich permitted Vee Ann Fiedrich, his wife, who was not a board member, to participate in board meetings, and even make or vote on motions.

In summary, the commission found association members were harmed by not having the opportunity for input into important decisions concerning the operation and financial status of the association.

Conclusions of Law: 1. Respondents violated NRS 116.31083 by failing to hold board meetings at least every 90 days.

2. Respondents violated NRS 116.31034 by failing to hold timely elections.

3. Respondents violated NRS 116.31034(8) by failing to hold elections for board members by the required secret ballot process.

4. Respondents violated NRS 116.31083 by failing to review, at a board meeting, the financial information required by law in a timely manner.

5. Respondents violated NRS 116.31151 by failing to prepare annual budgets and/or follow the required budget ratification process.

6. Respondents violated NRS 116.3108(1) by failing to schedule, notice, and/or have annual owner meetings properly.

7. Respondents violated NRS 116.31152 by failing to approve or fund a reserve plan.

8. Fiedrich violated NRS 116.31187 by acting as a director while collecting repayment of the principal plus interest on a loan he made to the association.

9. Respondents violated NRS 116.3103 by allow-

ing Vee Ann Fiedrich, who wasn't a board member, to participate as a director, make motions and vote.

10. Respondents violated NRS 116.3108 by failing to hold timely annual owner meetings.

11. Respondents violated NRS 116.3108 by failing to notice annual member meetings properly.

Decision and Order: 1. The complaint against board members Suzanne Burger, Louise Kehmeier, Sadiq Pantankar, Wayne Karr, David Bliss and Jerry Watters was dismissed.

2. The association was to hire a professional management company on or before Aug. 16, 2007.

3. The board was to obtain a financial audit, on the accrual basis, by a CPA, in preparation for the annual unit owners meeting ordered below.

4. A copy of the financial audit prepared by a CPA was to be provided to the Real Estate Division's chief of compliance within 10 days of the date the board or its representative received the audit.

5. The board was to hold an annual unit owners meeting on or before Nov. 1, 2007.

6. The above annual meeting was to include ratification of the budget for 2008.

7. All unit owners meetings, and all board meetings, are to be recorded by reliable audio recording methods. The audio recordings of each such meeting are to be preserved, protected and maintained for at least two years. The recordings are not to be considered a replacement for written minutes, nor are they to be considered the books or records of the HOA.

8. The board was to have its 2008 annual budget prepared no later than Aug. 31, 2007 and to distribute it in a timely fashion to unit owners for ratification by the annual meeting on or before Nov. 1, 2007.

9. Completion of the audit, and noticing and holding of the annual meeting, were to be provided to the chief of compliance not later than July 31, 2007.

10. The board was to establish a policy of ongoing education for current as well as future board members. The board was to submit its board education policy to the ombudsman for input and approval.

11. The board was to provide a copy of the full "Findings of Fact, Conclusions of Law, and Decision of the Commission on Common-Interest Communities" to all HOA owners and residents, as well as to the division's chief of compliance.

The commission further ordered that unit owners, board members and residents of the association present at any HOA meeting are, at all times, to conduct themselves in an orderly and civilized manner.

It also outlined possible fines for each violation of this order, starting with \$500 for the first and possibly higher for subsequent ones, and required a warning outlining this policy to precede each meeting.

Improper submittal could cost associations money

Nevada homeowners associations were notified in December 2007 that the Ombudsman's office would enforce annual registration, effective Jan. 1, 2008. Following an information campaign, most have complied, submitting the registration form and paying the \$3-per-unit fee required by NRS 116.31155(4).

"Associations have taken the multiple notifications since December seriously," Meriweather said. "The law does not have a provision for waivers and the costs of not complying can add up quickly."

Some points to remember:

1. Registration consists of submitting a completed Form 562 and the correct fees to the Office of the Ombudsman. Deadline is the last day of the month in which the association incorporated with the Secretary of State. Payment must be **received** no later than that day, and no earlier than 45 days prior. So, if an association incorporated in January, registration and payment must arrive between Dec. 17 and Jan. 31.

2. The payment must accompany the completed annual registration and the remittance notice that is sent to the association at the last address on record.

3. Associations must submit the correct amount listed depending on the date the check will be received in the office — or the check will be sent back. This can

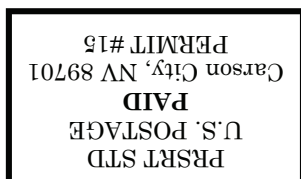
cause additional interest to be applied when the check is returned. Carefully read the notices sent from the office as all outstanding balances will have two different dates and amounts listed. The two amounts correspond to two different dates.

4. If the registration form is not received with the check, the office will send a notice that if the registration is not received within 15 days, the association will be referred to the Secretary of State to have its corporate standing placed in default. To remove the default status, the association must submit the completed registration form to our office. The association is then provided a letter of good standing, which must be submitted to the Secretary of State along with \$75 to remove the default status.

5. Whenever board or management contact info changes, submit Form 623 to the office within 30 days. There is no fee to do so.

If an association fails to pay, any or all of the following may occur: 1. Default corporate status with the Secretary of State; 2. a hearing before an Administrative Law Judge or the Commission for Common-Interest Community and Condominium Hotels; and 3. referral to the state debt collection.

Most of all, do not wait until the last minute.



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