

# State of Nevada

## Common-Interest Communities and Condominium Hotels Program

Department of Business & Industry  
Real Estate Division



# INTERVENTION AFFIDAVIT

## Disclaimer

This is a general education class. It is not intended as a legal opinion or to provide legal advice or promotion of product. If you feel that the association's governing documents or NRS 116 statutes have been violated you can file a complaint with the NV Real Estate Division

# INTERVENTION AFFIDAVIT

## Learning Objectives

Explanation of the Intervention Affidavit

Actions required before filing

How to file a complaint

Flow of the complaint once received by the  
Division

# NRS 116.41095 Required form of information statement.

You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make.

Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community.

If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs.

# Action

- ▶ The Division cannot take any action until a complaint is filed.
- ▶ The Division cannot respond from email or phone call complaints or personal visits.
- ▶ Compliance division will make the determination if the situation is a violation of NRS116, NRS116a, NAC116 or NAC116a.

# Help to Resolve disputes

The Intervention Affidavit process is a service of the Real Estate Division to help people resolve disputes regarding Nevada common-interest communities and their boards of directors.

The process includes three possible steps:

- • Participation in the Ombudsman's conference, where if both parties are willing, the Ombudsman may request a conference providing a neutral setting in an attempt to resolve the issues through mutual agreement;
- • If the issues involve possible violations of state law, the affidavit and file may be referred to the Compliance section; and
- • If the alleged violations are substantiated, the Division may file a formal complaint for disciplinary action by the Commission of Common-Interest Communities and Condominium Hotels.

# INTERVENTION AFFIDAVIT

## Locating the form

<http://red.nv.gov>



Department of Business and Industry

Nevada Real Estate Division

FORMS



REAL ESTATE DIVISION FORMS

[CLC - Intervention Affidavit.](#)



530	Intervention Affidavit
530A	Intervention Affidavit Instructions

# Why use the Intervention Affidavit ?

- ▶ The Intervention Affidavit process is a service of the Real Estate Division to help people resolve disputes regarding Nevada common-interest communities and their boards of directors.



# Time Constraints

- ▶ Except as otherwise provided in this section, a person who is aggrieved by an alleged violation may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation, file with the Division a written affidavit that sets forth the facts constituting the alleged violation.
- ▶ The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.

NRS 116.760 Right of person aggrieved by alleged violation to file affidavit with Real Estate Division; procedure for filing affidavit; administrative fine for filing false or fraudulent affidavit

NRS 116.760 Right of person aggrieved by alleged violation to file affidavit with Real Estate Division; procedure for filing affidavit; administrative fine for filing false or fraudulent affidavit

An aggrieved person may not file such an affidavit unless the aggrieved person has provided the respondent by certified mail, return receipt requested, with written notice of the alleged violation set forth in the affidavit.

# How to Start

- ▶ Step 1 (Attempt to resolve on your own)
- ▶ Before submitting the Intervention Affidavit, you are required to contact the person or persons with whom you have a dispute via a written notice sent to their last known address.
- ▶ In the written notice you must describe the situation including:
  - (a) any alleged violations,
  - (b) any damages that resulted from the alleged violation, and
  - (c) any proposed corrective action to resolve the alleged violation.

# How to Start

- ▶ The written notice must be sent by certified mail, return receipt requested only.
- ▶ No other method of delivery will be accepted by the Division as mandated by Nevada Revised Statutes (NRS) 116.760(2).
- ▶ You must allow a reasonable amount of time for a response regarding the allegations.

NRS 116.760 Right of person aggrieved by alleged violation to file affidavit with Real Estate Division

# Failed to Resolve the Issue

- ▶ If after contacting the person a resolution is not reached, you may complete the Intervention Affidavit form and submit it to the Office of the Ombudsman
- ▶ Determine a need to file—read form 530a instruction and fill out form 530

# Reference Applicable Statutes

- ▶ You should also reference any applicable statutes regarding the alleged violation.
- ▶ *Any allegation that was not indicated in the written notice and not listed on page 2 of the affidavit cannot be discussed during the conference with the Ombudsman, investigated by the Compliance section, or considered by the Commission for disciplinary action.*

# The Complaint Form

## Instructions on form 530A

- Start statements on the form 530
- State the alleged violations
- State the law and/or governing document violation(s) that has been violated
- State a brief statement of the facts that may give context to the alleged violations(s)
- State how you think the allegations should be resolved

# Searching Entity

(To locate entity #:

<http://nvsos.gov/sosentitysearch/CorpSearch.aspx>)

Go with a wide search:

Ex. Quail Estate West

Type instead Quail Estate



# Searching entity



[Home](#) | [About Barbara](#) | [Calendar](#) | [News](#) | [FAQ](#) | [Forms](#) | [Contact Us](#)

## NEVADA SECRETARY OF STATE BARBARA K. CEGAVSKE

[GO](#)[Home](#)[Information  
Center](#)[Election  
Center](#)[Business  
Center](#)[Licensing  
Center](#)[Securities  
Center](#)[Online  
Services](#)[My Data Reports](#) | [Commercial Recordings](#) | [Licensing](#)

### Nevada Business Search

\* Includes Trademarks, Trade Names, Service Marks, Reserved Names & Business Licenses

Search by

Entity Name:



Quail Estate

Sort by

Relevance



☒ descending ☐ ascending order

☐ Include phonetic matches [?](#)

[Search Tips](#)

[Search](#)

<http://nvsos.gov/sosentitysearch/CorpSearch.aspx>



# NEVADA SECRETARY OF STATE

BARBARA K. CEGAVSKE

Search... **GO**

[Home](#)

[Information Center](#)

[Election Center](#)

[Business Center](#)

[Licensing Center](#)

[Securities Center](#)

[Online Services](#)

[My Data Reports](#) | [Commercial Recordings](#) | [Licensing](#)

## Nevada Business Search

\* Includes Trademarks, Trade Names, Service Marks, Reserved Names & Business Licenses

Search by Entity Name:

Sort by Relevance ☒ descending ☐ ascending order

☐ Include phonetic matches ?

[Search Tips](#)

**Search**

**Search Results** 1 - 5 of 5 search results

Entity Name	NV Business ID	Status	Type
<a href="#">QUAIL ESTATES HOMEOWNERS ASSOCIATION, INC</a>		Expired	Reserved Name
<a href="#">QUAIL ESTATES HOMEOWNERS ASSOCIATION, INC.</a>		Expired	Reserved Name
<a href="#">QUAIL ESTATES HOMEOWNERS ASSOCIATION, INC.</a>		Expired	Reserved Name
<a href="#">QUAIL ESTATES WEST HOMEOWNERS ASSOCIATION</a>	NV19881026852	Active	Dom Non-Profit Coop Corp w/o stock
<a href="#">WHISPERING QUAIL ESTATE, LLC</a>	NV20061266884	Permanently Revoked	Domestic Limited-Liability Company

1

<http://nvsos.gov/sosentitysearch/CorpSearch.aspx>

# Entity Number

Home	Information Center	Election Center	Business Center	Licensing Center	Securities Center	Online Services
My Data Reports   Commercial Recordings   Licensing						

## QUAIL ESTATES WEST HOMEOWNERS ASSOCIATION

[New Search](#)[Printer Friendly](#)[Calculate List Fees](#)

Business Entity Information			
Status:	Active	File Date:	11/3/1988
Type:	Dom Non-Profit Coop Corp w/o stock	Entity Number:	C8791-1988
Qualifying State:	NV	List of Officers Due:	11/30/2015
Managed By:		Expiration Date:	
NV Business ID:	NV19881026852	Business License Exp:	11/30/2015

# Contents of Complaint

- ▶ Provide a copy of the certified letter to the respondent.
- ▶ Proof that it was received – certified return receipt must be stapled to written notice for verification (green card).
- ▶ Pertinent attachments to support the allegations listed in the affidavit.

# Filing against a board

- ▶ If you are filing against a board you can file against the whole board, you do not need to send out individual notices to all board members.
- ▶ List all the members so that if the list changes we are sure of the members you want to file complaint against.

# Just the Facts!

- ▶ Be sure to base your complaint on facts, such as documents, governing documents, NRS116 and not on hearsay.

Just because you do not like how the board is handling decisions is not a reason to file a complaint. Back up your concerns.

# Notarized Signature

- ▶ Your signature must be notarized.
- ▶ Note: A notary is available at no charge from the Division.
- ▶ Please call first if you will require this service, in order for us to determine the best time arrive for assistance .
- ▶ *702-486-4480*

# SAMPLE COMPLAINT:

*State the alleged violations in one or more sentences.*

**Example:** “On August 1, 2011, I received written notice that I violated a HOA policy regarding the proper use of the Clubhouse. The notice stated that I used the Clubhouse during prohibited hours, so I was assessed a fine. However, the association had not provided the revision of the policy, in writing, to the unit owners for at least 30 days before I was assessed. Therefore, I should not have been fined.”

## **BRIEF STATEMENT OF FACTS:**

*Include additional information to support your allegations.*

## **RESOLUTION:**

*State how you think the matter should be resolved.*

## **SUPPORTING LAW:**

*Nevada Revised Statutes 116 and its sub-parts must support your allegations. State the particular provision where the law supports the allegations and/or provide the section of the governing documents that supports your allegations.*

**Example:** NRS 116.31031 allows a homeowner 30 days to be made aware, in writing, of rules before any fines are assessed. OR – if indicated in governing documents – The HOA bylaws adopted provide that a homeowner must be made aware, in writing, of a violation for at least 30 days before any fines can be assessed. See attached bylaws.

**Example:** “I would like the fine removed because unit owners were not made aware, in writing, of the change in policy 30 days prior to the assessment of the fine.”



# Common Error

**COMPLAINT:**

**BRIEF STATEMENT OF FACTS:**

**RESOLUTION:**

**SUPPORTING LAW AND/OR GOVERNING DOCUMENT:**

You must start writing the complaint in the space on the form.  
DO NOT WRITE.. SEE ATTACHED!

\* You can continue writing on second sheet of paper but must start on the actual form. – Otherwise, it will be sent back!

# Common Errors

- ✓ Remember to send in page 1 of form 530
- ✓ Remember to provide the name of respondent
- ✓ Provide a copy of the written notice sent, via certified mail
- ✓ Provide a copy of the required return receipt(PS Form 3811–green form)
- ✓ You must complete page 2 on the Affidavit–Complaint, Brief statement of Facts and Resolution
- ✓ Provide your *notarized* signature

# Make Yourself Copies!

Once information is sent to the Division you will want to be sure you have kept copies for yourself in the event the issue requires filing a claim with the Division's Alternative Dispute Resolution Program (ADR).

The Division does not use actual material from one claim to create a new ADR claim based off an Intervention Affidavit

# Deliver the complaint

- ▶ Mail, or hand deliver, the notarized Intervention Affidavit to the Ombudsman's office

Nevada Real Estate Division, Office of the  
Ombudsman

Common Interest Communities and  
Condominium Hotels Program

2501 E Sahara Avenue, Suite 201  
Las Vegas, NV 89104

# Flow of the Complaint

The process includes three possible steps:

1. Participation in the Ombudsman's conference, where if both parties are willing, the Ombudsman may request a conference providing a neutral setting in an attempt to resolve the issues through mutual agreement; otherwise route of ADR.

2. If the issues involve **possible violations** of state law, the affidavit and file may be referred to the Enforcement section; and.

If the **alleged violations are substantiated**, the Division may file a formal complaint for disciplinary action by the Commission of Common-Interest Communities and Condominium Hotels. The Commission for Common-Interest Communities and Condominium Hotels or a hearing panel may impose.

3. Referral to the ADR program.

# Letters of Acknowledgement

Once the complaint is received the Division will send the claimant an acknowledgement letter and the assigned file number.

# Additional Correspondence

- ▶ Informal conference
- ▶ If after review of the complaint it is determined that the situation be best handled with an informal conference a letter will be sent to the claimant and respondent inviting the parties to arrange a date for an informal conference.

# Additional Correspondence

- ▶ Enforcement
- ▶ If after review of the complaint it is determined that the situation is an issue which the Enforcement Division needs to investigate, the claimant will receive a letter from the investigator assigned to the complaint.
- ▶ \*note at this point all the files are confidential and the Enforcement Division will not share any of the information



# Additional Correspondence

- ▶ Enforcement
- ▶ Once the Enforcement Division has completed the investigation, the claimant will be sent a letter that the case has been completed and the Enforcement division has taken any actions they deemed necessary.
- ▶ If the complaint goes to Commission it will be posted on the Commission agenda.

# Additional Correspondence

- ▶ Alternative Dispute Resolution (ADR)
- ▶ If after review of the complaint it is determined that the situation is an issue which the would best be resolved through the ADR process, the complainant will receive a letter instructing the claimant that a ADR packet needs to be filled out.
- ▶ Original form and materials and information from the Intervention Affidavit will not be transferred for an ADR. A new complaint will need to be filled out.

# Samples of Division Correspondence

# Ex: Intervention Acknowledgement Letter

Date 09/04/2015  
Name Mr. John Smith

RE: Ombudsman's Intervention Affidavit

File Number: 2015-2501

Dear : Mr. Smith

This letter is to inform you that the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels received your intervention affidavit on 09/10/2015.

The affidavit is currently under our review process. You will be notified via mail at a later date regarding the next step in our process.

Sincerely,

Ms. Jones  
Administrative Assistant I

# EX-**Informal conference**

DATE  
NAME

Re: CASE # 2015-2501

Dear: Mr. John Smith

The Nevada Real Estate Division, Office of the Ombudsman, received an Intervention Affidavit on DATE filed by Mr. John Smith against HOA BOD. The certified letter sent in compliance with Nevada Revised Statutes (NRS) 116.760 is dated 08/15/2015.

Ombudsman, Sharon Jackson evaluated the affidavit and determined it meets the criteria for resolution through our informal conferencing process. This is a free service offered by this office to assist associations and homeowners to resolve disputes.

As members of the board of directors you have a fiduciary duty pursuant to NRS 116.3103 (1) and NAC 116.405(7) to cooperate with the Division in resolving complaints filed with the Division. Your attendance at the informal conference is requested by the Division to work toward resolving the complaint. If you refuse to participate in the informal conference, the Commission for Common-Interest Communities and Condominium Hotels may find that you failed to comply with NRS 116.3103(1) and NAC 116.405(7). Please call 702-486-4480 within **10 working days from the date of this letter** to schedule the informal conference.

If a response is not received within that time frame, the affidavit may be forwarded to the Enforcement for an investigation of potential violations of NRS/NAC 116.

Please note that the informal conferencing process is only viable if you and the complainant are willing to make a good faith effort to resolve the issues. Thank you for your prompt attention to this matter.

Regards,  
Sonya Meriweather  
Sonya Meriweather  
Senior Mediation Specialist

9/9/2016

37

# EX-Closed complaint

Date 10/01/2015

NAME Mr. John Smith

ADDRESS

CITY, STATE, ZIP

Re: Case #2015-2501

Dear Mr. John Smith

The Real Estate Division (Division), Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels received your Intervention Affidavit against \_\_\_\_\_. [include description of reason why no conference will be held] Your claim is now closed.

The Ombudsman highly recommends that you address your concerns through the ADR Referee program. This program is offered by the Division for a total cost of the \$50.00 filing fee. The Referee, who is a licensed attorney, will provide the parties with a written decision regarding the matter at the conclusion of the hearing on your complaint.

Enclosed you will find the ADR form and the instructions to submit the complaint to our office.

If you do not wish to proceed with the Referee Program, the same ADR complaint form permits you to select the Mediation process

The ADR Specialist can be contacted for further information at 702-486-4480.

Sincerely,

Sharon Jackson  
Ombudsman

9/9/2016

38

# Does not meet NRS 38 requirement

## **NRS 38.310 Limitations on commencement of certain civil actions.**

1. No civil action based upon a claim relating to:

(a) The interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association; or

(b) The procedures used for increasing, decreasing or imposing additional assessments upon residential property, may be commenced in any court in this State unless the action has been submitted to mediation or, if the parties agree, has been referred to a program pursuant to the provisions of [NRS 38.300](#) to [38.360](#)

A court shall dismiss any civil action which is commenced in violation of the provisions of subsection 1.

# Summary

- ▶ 1<sup>st</sup> try to resolve on your own
- ▶ Determine a need to file a complaint start by reading 530a instructions
- ▶ Actual form is 530
- ▶ State facts not hearsay
- ▶ Sign the affidavit in the presence of a notary and must be notarized
- ▶ Provide a copy of certified written notice
- ▶ Provide the certified return receipt must be stapled to the written notice for verification
- ▶ Mail or hand deliver the completed affidavit package
- ▶ Wait for Division correspondence



# QUESTIONS?

- ▶ Web Site
  - [www.red.nv.gov](http://www.red.nv.gov)
- ▶ Phone
  - 702.486.4480/877.829.9907/775.687.4208
- ▶ FAX
  - 702.486.4520/775.687.4868
- ▶ E-Mail
  - [Ombclasses@red.nv.gov](mailto:Ombclasses@red.nv.gov)
- ▶ Office Locations
  - 2501 East Sahara Ave., Suite 202, Las Vegas, NV 89104
- ▶ 1818 E College Parkway, Suite 110, Carson City, NV 89706

