

Pathway of Complaints

Rev. 03/08/2022

- Staff in the Ombudsman's Office is prohibited from providing legal advice. All Materials produced and provided to the public are for informational purposes only and do not serve as legal advice.
- Should confusion arise requiring the interpretation and application of the law to your association's specific circumstances, a legal opinion from a qualified attorney may be necessary.
- Please review the course calendar, training request form, and presentations published on the training webpage to gain an understanding of additional opportunities for education and training. See our training webpage at http://red.nv.gov/Content/CIC/Program_Training/.

Agenda

- Parties Involved
- Civil Action
- First Steps
- Alternative Dispute Resolution (ADR)
- Intervention Affidavit
- Statement of Fact
- Request for Records
- Resale Package Overcharge

Parties Involved: Complainant & Claimant

NRS 116.760 & NRS 38.300(5)

- The complainant is the aggrieved individual who submits a complaint.
 - Any person who is aggrieved by an alleged violation of NRS 116.
- The claimant is the aggrieved individual who requests ADR.
 - Any community member who disagrees with the interpretation, application, or enforcement of an association's governing documents or
 - the procedures used by an association for changing assessment amounts.

Parties Involved: Respondent

NRS 116.085

- Respondent is the individual who allegedly committed the violation or is being asked to participate in ADR.



Civil Action

NRS 116.4117

- Subject to NRS 38.310 and NRS 116.3111, a civil action for damages or other relief for failure or refusal to comply with NRS 116 may be brought by:
 - by the association against:
 - A declarant;
 - A CAM, or
 - A unit's owner.
 - by a unit's owner against:
 - The association;
 - A declarant; or
 - Another unit's owner.
 - by a class of at least 10% of the total number of voting members of the association against a CAM.



First Steps

NRS 116.760(2)&(3)(b)

- Before filing any complaint or ADR claim with the division, a complainant/claimant **MUST** first attempt to resolve the issue directly with the respondent.
 - First: by following any prescribed dispute process outlined in the governing documents; including management agreement and RSS contract.
 - Second: by following the procedures described in NRS 116.31087 and 116.760.



First Steps: Written Notice to Respondent

NRS 116.760(2)

- An aggrieved person may not file a complaint with the division unless they have first provided the respondent with written notice of the alleged violation.
- Notice must:
 - Be mailed to the respondent's last known address, via certified mail, return receipt requested. And,
 - Specify, in reasonable detail:
 - The alleged violation,
 - Any actual damages suffered, and
 - Any corrective action proposed.



First Steps: Written Notice to Respondent continued

NRS 116.31087

- Notice may include a request that the subject of the complaint be placed on the agenda of the next regularly scheduled meeting of the executive board.
- If the board receives such a request, the subject **MUST** be placed on the agenda of the next board meeting for discussion and possible action, if action is deemed appropriate.
 - 10-day notice and agenda requirements still apply.



First Steps: Written Notice to Respondent continued

NRS 116.31087

- If an executive board receives a written complaint from a unit owner alleging the board has committed any violation, the board SHALL acknowledge the receipt of the complaint within 10 days.
- If the written complaint does not specifically request the matter be placed on a board meeting agenda, the acknowledgement MUST include a notice that the matter will be placed on a board meeting agenda upon the written request of the complainant.



First Steps: Pre-Filing Checklist

- ☒ Did I read my association's governing documents and follow the required conflict resolution procedures?
- ☒ Did I send my certified complaint to the respondent, in writing, return receipt requested?
- ☒ Did I give the respondent at least 10 business days to respond to my complaint?
- ☒ Did I make reasonable efforts to resolve this issue directly with the respondent?

If you cannot not answer yes to all of these, you are not ready to file a complaint with the Division.



Knowledge Check



1. Who may file a complaint?
2. The individual who allegedly committed the violation or is being asked to participate in ADR is known as the ____.
3. True/False: A unit owner does not have to read or follow the governing documents before filing a complaint with the division.
4. True/False: A unit owner may file a complaint without contacting the board in writing if they feel the board might retaliate.
5. True/False: The board has the discretion to decide whether a complaint can be placed on a board meeting agenda.

[illegible]

Alternative Dispute Resolution: Purpose

NRS 38.300

- ADR is ONLY for parties with a dispute involving:
 - The interpretation, application or enforcement of
 - any covenants, conditions or restrictions (CC&R's) or
 - any other governing documents applicable to residential property; or
 - the procedures used for increasing, decreasing or imposing additional assessments upon residential property.
- The ADR process is required under NRS 38 before disputing parties may file a civil action in court.
- ADR Claim must be filed within 1 year of discovery or within 1 year of when the violation “reasonably” should have been discovered. NAC 116.520(2)(b)
- If a claimant files for ADR and submits an Intervention Affidavit (form 530) based on the same or similar issue(s), the Division will not continue investigating the Intervention Affidavit.



Alternative Dispute Resolution: Referee vs Mediator

Form 520

- Referees are licensed attorneys approved by the Division to hear disputes and render a decision based on evidence provided. This is a free service provided by the Ombudsman's office.
- Mediators are certified and approved by the Division to promote agreement and compromise. Mediators may charge up to \$167 per hour, not to exceed \$500 for a 3-hour mediation; each party pays half.



Alternative Dispute Resolution: Completing the Form

Form 520

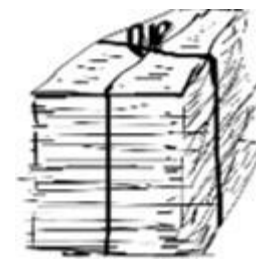
- ADR claim form 520, and 2 copies, must be filled out completely by the Claimant and must include:
 - A brief statement of facts giving rise to the dispute and relevant provision(s) of the governing documents at issue.
 - “Subsection IV, paragraph 3, of ABC HOA Declaration states...”
 - A selection of either mediation or the referee program.
 - The last page of Claim form 520 contains a list of current mediators and referees to select from.
 - Resumes of all mediators and referees can be found at <http://red.nv.gov/Content/CIC/ADR/Panel/>.
- A \$50 filing fee payable to “NRED” either by check, money order or cash must be submitted. Do not send cash in the mail. This fee is non-refundable.



Alternative Dispute Resolution: Notifying the Respondent

NAC 38.350

- 7-10 business days after a claim is filed, the Claimant will be mailed a packet from the Division.
 - The packet will have:
 - A copy of processed ADR Claim form 520,
 - Overview form 523,
 - Blank Respondent Answer form 521,
 - Subsidy Application for Mediation form 668, and
 - Affidavit of service form showing the required documents that must be served [to the respondent].



Alternative Dispute Resolution: Notifying the Respondent continued

NAC 38.350

- This packet must be served (by Claimant or at Claimant's expense) on the Respondent within 45 days.
- If there are multiple respondents,
 - Each respondent must be served separately and
 - A separate Affidavit of Service Form, completed by the server, must be notarized and filed with the Division for each respondent.



Alternative Dispute Resolution: Respondent

NAC 38.350

- Respondent(s) must review all documents served upon them.
- A Respondent form 521, and one copy, must be completely filled out and filed with the Division within 30 days of being served and a copy must be mailed to the claimant.
 - The respondent will state on the form 521 whether they agree with the claimant's selection of mediator or referee.
 - Both parties (not more than two) must agree to participate in the referee program or the dispute automatically defaults to mediation.
 - If both parties cannot agree on a mediator/referee, one will be appointed by the Division at random.
- Respondent(s) should provide a brief statement of their defense regarding the allegations.



Alternative Dispute Resolution: Respondent

continued

Form 520 & Form 521

- Lastly, a \$50 filing fee payable to “NRED” either by check, money order, or cash must be provided at the time of filing. This fee is non-refundable.
- Once a mediator or referee is appointed, they will govern the process going forward.



Alternative Dispute Resolution: Resolution

NRS 38.340

➤ For Refereed cases:

- If either party is unhappy with the decision, they have 60 days to request that the complaint be heard by a judge.
- If both parties are happy with the decision, it is non-binding until confirmed in court (within 1 year).

➤ For Mediations:

- If mediation is unsuccessful, the parties may proceed to court with a letter from the Division, or
 - Both parties can agree to apply for binding or non-binding arbitration for final decision.
- If mediations is successful, parties sign a written agreement which becomes enforceable.

Alternative Dispute Resolution: Subsidy

NAC 116.520

- The Division may subsidize proceedings for mediation to the extent that funds are available in the Account for CICCH in the State General Fund for that purpose.
- Both parties must submit form 668, Subsidy Application, at the time of filing Claim form 520 or Response form 521 with the Division.
- Mediation may be subsidized up to \$250 per party; \$500 per mediation.
- If parties choose to extend the mediation (past 3 hours), it will be at a cost to them of \$200 per hour.



Alternative Dispute Resolution: Subsidy continued

NAC 116.520

- To receive a subsidy:
 - Unit owners may apply only once during each fiscal year of the State (July 1 to June 30) for each unit owned.
 - Associations must be in good standing with the Secretary of State and the Office of the Ombudsman.
- Mediators may require a deposit from both parties before proceedings begin. Any outstanding amount due to the mediator must be paid within 10 days from the date of the mediation.



Alternative Dispute Resolution: Miscellaneous

NRS 38.300

- ADR process is not required, and parties may proceed directly to court, for:
 - claims for injunctive relief (court ordering specific action) where there is an immediate threat of irreparable harm and
 - actions relating to the title of residential property.
- ADR does not apply to civil disputes between owners, or between owners and their association that do not involve the governing documents, or the process used to set the amount of the periodic assessments paid by unit's owners.
 - For example, if an owner cuts down a neighbor's tree, the dispute does not involve the governing documents or the assessment issued and is, therefore, not subject to ADR.



Alternative Dispute Resolution: Miscellaneous

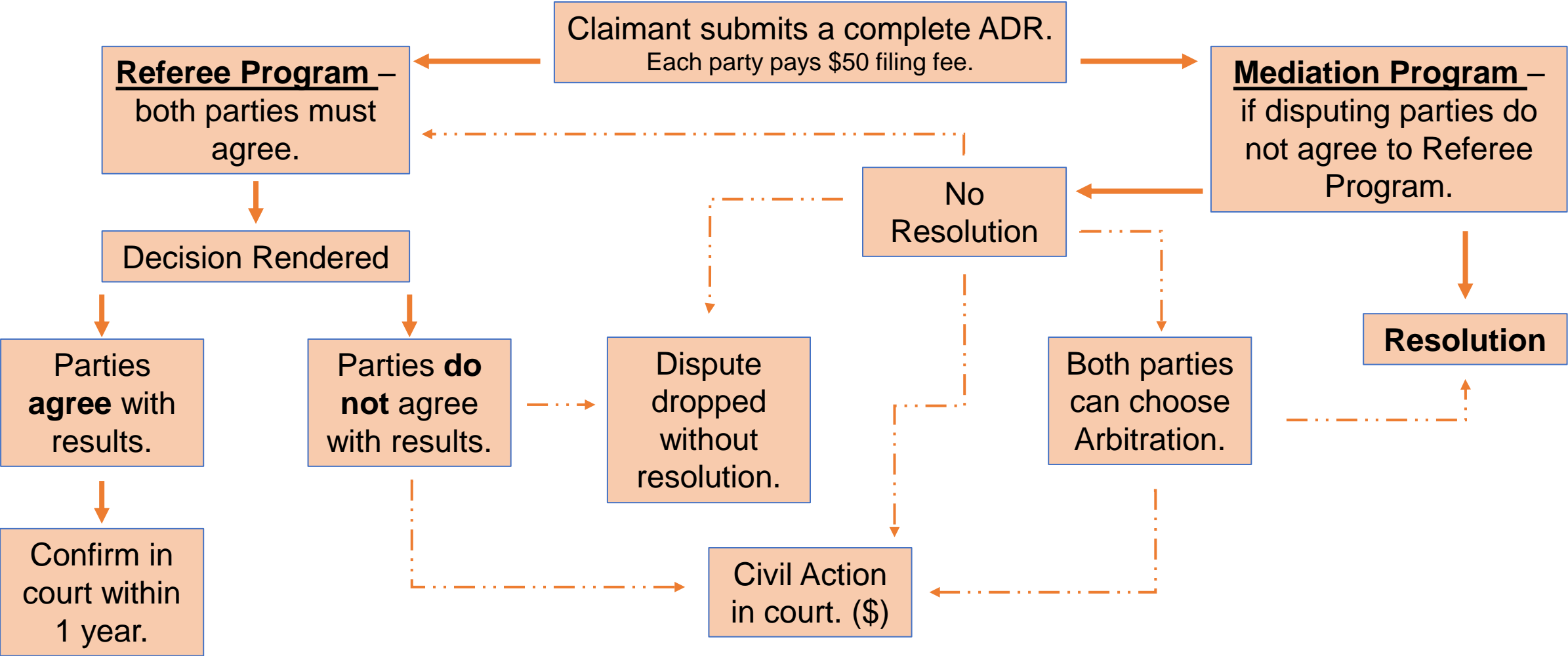
continued

NRS 38.300

- If a civil action is filed between a homeowner and an association concerning governing documents or an assessment dispute before the ADR process has been completed, the court **MAY** dismiss that case without taking any action, in accordance with NRS 38.300.
- Any applicable statute of limitations is suspended until the conclusion of the ADR process.



Alternative Dispute Resolution: Flow Chart



Knowledge Check



1. True/False: The ADR process is required under NRS 38 before disputing parties may file a civil action.
2. What is the statute of limitations on an ADR claim?
3. Is there a filing fee for ADR?
4. Who is responsible for sending a copy of the ADR packet to the Respondent(s).
5. True/False: Any applicable statute of limitations is suspended until the conclusion of the ADR process.

INTERVENTION AFFIDAVIT FORM 530

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
3300 West Sahara Avenue, Suite 325, Las Vegas, NV 89102
(702) 486-4480 / Toll free: (877) 829-9907 / Fax: (702) 486-4520
CICombudsman@red.nv.gov / <https://red.nv.gov>

Intervention Affidavit (Form 530)

The statements immediately below must be met before filing this Affidavit. **Please verify that you have met each requirement by INITIALING each box.** As the aggrieved party, you are attesting you:

INITIALS

1. Understand that this Affidavit cannot be filed more than 1 year after you discovered or reasonably should have discovered the alleged violation (if more than 1 year, you cannot file this Affidavit).

Date alleged violation took place:

2. Have mailed to the Respondent's last known address, allowing at least 10 business days, a certified return receipt requested notice, specifying in reasonable detail:

(a) all alleged violations, which are identical to the allegations listed on the Affidavit

(b) any actual damages suffered; and

(c) any corrective actions proposed

3. Have provided with this Affidavit a copy of the notice with the certified return receipt from the post office stapled to it.

4. Have included on this form all allegations listed in the certified notice and understand that any allegation not identically listed on both the notice and Affidavit will not be addressed by the Division.

5. Have in lieu of a notice, sent certified with return receipt requested, the Intervention Affidavit. ☐ Yes ☐ No

If yes, the certified receipt has been stapled to the Affidavit. Identify exhibits sent:

6. Before filing this Affidavit, have provided the Respondent with at least 10 business days to address/correct the alleged violation(s) of NRS/ NAC 116 and/or the governing documents, and all other reasonable efforts to resolve allegation(s) have failed.

7. Have listed only one alleged violation on page 2 and included the applicable labeled attachments (Exhibits) behind each alleged violation (use a separate page 2 for each alleged violation).

8. I understand once the Affidavit is submitted, the Division cannot provide me with a copy of my submittal.

Have spoken with Ombudsman staff before filing the Affidavit. ☐ Yes ☐ No If yes, name:

Have filed an ADR claim or litigation involving the same allegation(s). ☐ Yes ☐ No If yes, case number:

STATE OF NEVADA COUNTY OF DATE:

1. (Complainant), after being first duly sworn, state under penalty of perjury and based upon personal knowledge have been aggrieved by an alleged violation of Chapter 116 of the Nevada Revised Statutes, Nevada Administrative Code, or the governing documents of the Association.

1. The person or entity who committed the alleged violation and who was sent the required certified letter or certified Affidavit is (if multiple, list each Respondent):

2. The Respondent(s) role in the community:

3. The name of the Association where the alleged violation took place:

4. The Association's Secretary of State (SOS) Business ID Number:

SOS Look-up: <https://esos.nv.gov/EntitySearch/OnlineEntitySearch>

Revised 9/1/2021

Page 1 of 2

Form 530

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
3300 West Sahara Avenue, Suite 325, Las Vegas, NV 89102
(702) 486-4480 / Toll free: (877) 829-9907 / Fax: (702) 486-4520
CICombudsman@red.nv.gov / <https://red.nv.gov>

1. You are required to provide a brief description, per allegation, per page (reprint this page for each separate alleged violation). Only the first allegation is required to be notarized.

2. Each allegation must have its own supporting documentation (Example: Exhibit #1 for allegation #1), which must be placed directly behind the allegation. Do not submit any documents printed double-sided.

3. If you provide video or audio via a USB drive or another electronic format, you MUST indicate the time stamp, which identifies the alleged violation, and where NRED should start viewing.

4. Do not write "See Attached." If additional space is needed, please use a separate sheet. If "See Attached" is written in any section below, your complaint will not be processed and is incomplete.

Pursuant to Nevada Revised Statutes 116.760 (4) The Commission or a hearing panel may impose an administrative fine of not more than \$1,000 against any person who knowingly files a false or fraudulent Affidavit with the Division.

ALLEGED VIOLATION: Allegation # Briefly describe the allegation that occurred. NRED must be able to understand what allegedly happened. Do not list/cite statutes, regulations, or governing documents sections in this space.

RECOMMENDED CORRECTIVE ACTION (Within the board's or NRED's authority):

SUPPORTING LAW AND/OR GOVERNING DOCUMENTS:

I have read the foregoing Affidavit consisting of pages (including all additional attached pages), and it is true and correct to the best of my knowledge and belief.

Complainant Name:

Complainant Signature:

Street Address:

City: State: Zip Code:

Phone:

Email:

State of Nevada County of

Subscribed and sworn before me on by

(Name(s) of person(s) making statement)

(Notary Stamp) Signature of Notarial Office

Mail or hand-deliver the completed Affidavit package to:
NRED, OFFICE OF THE OMBUDSMAN
3300 W. SAHARA AVE., SUITE 325,
LAS VEGAS, NEVADA 89102
Email and fax submissions will not be accepted.
Retain a copy of this packet for yourself before submission as copies from NRED cannot be provided.

Revised 9/1/2021

Page 2 of 2

Form 530

Intervention Affidavit Form 530

NRS 116.760

➤ Used for complaints regarding violations of NRS/NAC 116 or any division/commission order. Examples include:

- The election process
- Meeting notifications
- Records access
- Amending the CC&Rs
- Financial reporting
- Fining process

NRS 116.750

➤ Complaint may be filed against anyone subject to the jurisdiction of NRS 116, except CAM and RSS.

- Association officer/employee/agent
- Board Member
- A unit's owner
- A tenant (if consented in writing)



Intervention Affidavit Form 530

Form 530

- Prior to filing:
 - ✓ Respondent must have been mailed written notice of the complaint and been provided at least 10 business days to correct the alleged violation;
 - ✓ All other reasonable efforts to resolve the issue must have failed before the form 530 may be filed; and
 - ✓ Must be filed within 1 year of discovery or 1 year of when the violation “reasonably” should have been discovered.



Intervention Affidavit Form 530 continued

Form 530

- Form 530 is a 2-page form.
- Allegations are detailed on each page 2 with only 1 allegation per page 2.
 - If multiple allegations are involved, a separate page 2 is required.
- All supporting documentation must be attached and labeled for easy reference.
 - Meeting minutes, budgets, violation notices etc.
 - DO NOT WRITE “SEE ATTACHED”! This will invalidate the form.
- Must be notarized.
 - If multiple page 2s are submitted, only 1 needs to be notarized.



Intervention Affidavit Form 530 continued

Form 530

- It is strongly advised that the complainant make a copy of the entire packet for their own records. Once it is submitted to the Division, it is deemed confidential and will not be returned to the Complainant.
- Upon completion, the entire packet must either be mailed or hand-delivered to the Ombudsman's Las Vegas Office.

NV Real Estate Division
Office of the Ombudsman
CIC/CH Program
3300 W. Sahara Ave., Suite 325, Las Vegas, NV 89102

Email/Fax submissions will not be accepted!



Intervention Affidavit Form 530: False Claims

NRS 116.760(4)

- The CICCH Commission or a hearing panel may impose a maximum administrative fine of \$1,000 against someone who knowingly files a false or fraudulent affidavit with the Division.



Intervention Affidavit Form 530: Initial Review

- When a complaint is received by the Division, the first office to see it is the Mediation Auditor.
- They review the complaint and supporting documentation for initial verification of jurisdiction and “probable cause”.
- Complainant will receive a receipt from the Division when packet is received.
 - “Your packet is under review” or similar response or
 - A rejection letter explaining why the complaint could not be investigated.
 - Lack of evidence, no jurisdiction, form incomplete etc.
- If complaint is not immediately rejected, the respondent (the accused individual) will be contacted and informed of the confidential complaint and asked to provide a response to the accusations.



Intervention Affidavit Form 530: Initial Review

continued

- Once all requested documents are received, the Mediation Auditor makes a recommendation to either the Ombudsman or other appropriate supervisor for the next course of action:
1. Close the file with no further action;
 2. Refer to Ombudsman for informal conference;
 3. Refer to ADR; or
 4. Refer to Compliance Chief for assignment to an investigator.



Intervention Affidavit Form 530: Resolution Option 1

- If the complaint is determined to be unsubstantiated or if it falls outside the Division's jurisdiction, a letter may be sent to the complainant closing the case.
- Complainant may then:
 - Request mediation/referee per NRS 38,
 - Refile with the appropriate agency/office,
 - Refile with the appropriate supporting documentation, or
 - Drop the issue with no further action.



Intervention Affidavit Form 530: Resolution Option 2

- The Ombudsman has the discretion to hold an Informal Conference between the parties.
- **If** this takes place, it will either be:
 - Successful, with parties signing a non-binding agreement that they are expected to adhere to, or
 - Unsuccessful, with either
 - a recommendation to use the ADR process or
 - a recommendation of a referral to Compliance for investigation.



Intervention Affidavit Form 530: Resolution Option 3

- If complaint is referred to ADR, the previously discussed ADR process is followed.



Intervention Affidavit Form 530: Resolution Option 4

- If a complaint is referred to Compliance, an investigation will determine if it is substantiated or not.
 - If unsubstantiated or if it falls outside the Division's jurisdiction, a closing letter will be sent to all parties.
 - If it is determined that enough evidence exists to substantiate all or part of the complaint, the file will be sent to the Compliance Chief who decides the appropriate next step. Either:
 - The division may send a letter of instruction to the respondent,
 - "Here is what you did, here is what you should have done, please do so in the future"
 - The division may send a letter of demand to the respondent,
 - "Here is what you did wrong, and here is what you must do to fix it by this date/time",
or
 - The complaint may be referred to the DAG for possible escalation to the commission for hearing.



Intervention Affidavit Form 530: Commission

NRS 116.770

- Before going to Commission, the case must be reviewed by the DAG who verifies the strength of the Division’s legal case.
- If the DAG escalates a complaint to the Commission:
 - The Commission shall hold a hearing within 90 days.
 - At least 30 days before the hearing, the Division shall give the respondent written notice, including a copy of the complaint and all relevant communications.
- The respondent must file an answer not later than 30 days after the date of the notice. The answer must:
 - Contain an admission or a denial of the allegations and any defense upon which the respondent will rely; and
 - Be delivered personally to the Division or mailed by certified mail, return receipt requested.



Intervention Affidavit Form 530: Commission

continued

NRS 116.785

- If the Commission finds grounds for action against an association, a unit owner, an association's employee, vendor, etc., the Commission may:
 - Issue an order directing the respondent to cease and desist;
 - Issue an order directing the respondent to take action to correct the issue;
 - Impose an administrative fine up to \$1,000 per violation; and/or
 - Order the respondent to pay the cost of the hearing.



Intervention Affidavit Form 530: Commission

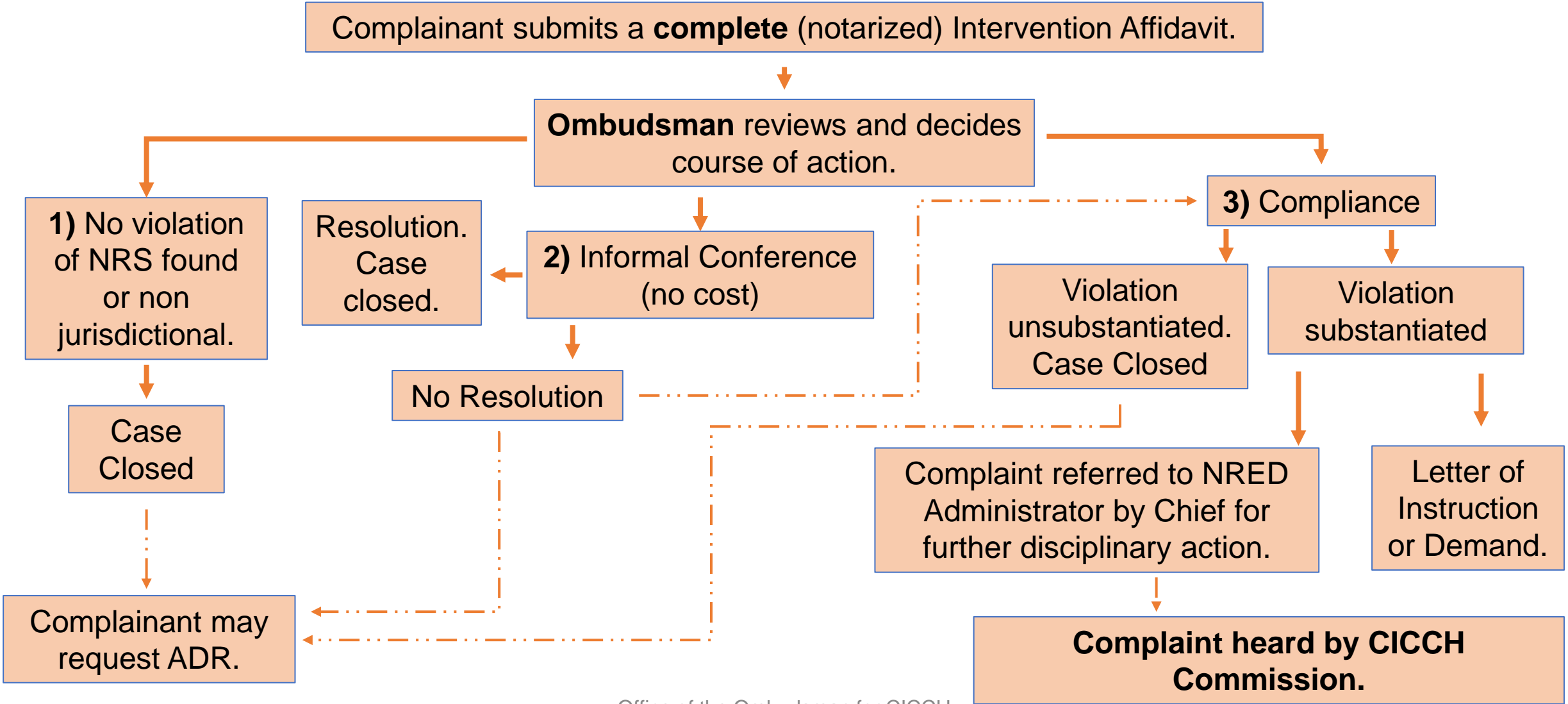
continued

NRS 116.785

- If the Commission finds grounds for action against an association's executive board, the Commission may additionally:
 - Order an audit of the association;
 - Order board member(s) removed from their office/position;
 - Require the association to hire a licensed CAM; and/or
 - Appoint a receiver (defined in NRS 32.175) IF:
 - The board has been guilty of fraud/collusion/or gross mismanagement;
 - The board has been guilty of misfeasance/malfeasance/or nonfeasance; or
 - The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.



Intervention Affidavit: Flow Chart



Knowledge Check



1. True/False: There is no need for corroborating evidence to initiate a complaint.
2. True/False: Form 530 may be submitted to the division by email or in person at the either the Carson City or Las Vegas offices.
3. True/False: When the division receives a form 530, it is automatically assigned to an investigator.
4. True/False: Before going to commission, each case must be reviewed by the DAG.
5. True/False: All substantiated complaints will result in a board member being removed from the board and fined significant amounts of money.

STATEMENTS OF FACT FORMS 514(a)&(b)

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
3300 West Sahara Avenue, Suite 325, Las Vegas, NV 89102
(702) 486-4480 • Toll free: (877) 829-9907 • Fax: (702) 486-4520
E-mail: CICombudsman@red.nv.gov <http://www.red.nv.gov>

STATEMENT OF FACT AGAINST A COMMUNITY MANAGER (#514a)

Statements 1 through 4 cited below must be met prior to filing this Statement of Fact. Please verify that you have met the requirements by **initialing in each box**. As the aggrieved party, you:

- ☐ 1. Have sent the allegations of misconduct in writing to the Community Manager in an attempt to resolve the issue **before** filing a complaint with the Division and provided proof of the written communication in the form of an e-mail or letter. The written communication must include all allegations that you request the Division to consider for possible investigation.
- ☐ 2. Have waited at least 12 working days for the Community Manager to acknowledge and respond in writing to the alleged violation(s).
- ☐ 3. Have listed only one (1) alleged violation per page and have included applicable attachments (Exhibits) behind each such page. You must provide all supporting documentation with the complaint.
- ☐ 4. If you are a tenant, you must have had the complaint approved (written communication) by the unit's owner without the use of a Power of Attorney.

Please indicate whether you have spoken to a staff representative from the Ombudsman's Office to understand which specific provision of NRS or NAC 116 may have been violated. ☐ Yes ☐ No If yes, name: _____

Please Print or Type

Your Name: _____
Your complete physical address: _____
Unit Address, if different: _____ Business Phone: _____
Email Address: _____
Home Phone: _____

Name of Community Manager the complaint is against: _____
Name of Management Company: _____
Address of Management Company: _____
Management Company Telephone No.: _____
Name of the Association: _____
Legal action pending pertaining to the allegations filed? ☐ Yes ☐ No If so, what action? _____
Alternative Dispute Resolution (ADR) claim filed? ☐ Yes ☐ No If so, what date & claim#: _____

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
3300 West Sahara Avenue, Suite 325, Las Vegas, NV 89102
(702) 486-4480 • Toll free: (877) 829-9907 • Fax: (702) 486-4520
E-mail: CICombudsman@red.nv.gov <http://www.red.nv.gov>

STATEMENT OF FACT AGAINST A RESERVE STUDY SPECIALIST (#514b)

on concerning your complaint. The Division's ability to investigate the n
d detailed sworn statement. Attach all pertinent copies of papers and/or
is **advised that you retain a copy of this packet for yourself prior to a**
completion): _____

a brief description, per page (reprint this page for each separate alleged v
supporting documentation (Exhibit #1 for allegation #1, and so on), whi
rior to submitting this package.
DO NOT write "See Attached." If "See Attached" is written in the section
the alleged violation.)

ENTS: (List the applicable laws and/or sections of governing documents.)

VC CAREFULLY
nds of any kind. We cannot force refunds of any kind. In
interests, as we are **not authorized to give legal advice**.
matter.
Community Manager, an investigation will be initiated.
will be advised of the disposition of this matter when the
nd testify should this matter proceed to a hearing before

at the foregoing attached statement consisting

(Signature)

vit package to:

514a
89102

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
3300 W. Sahara Ave., Suite 325 • Las Vegas, Nevada 89102
(702) 486-4480 • Toll free: (877) 829-9907 • Fax: (702) 486-4520
E-mail: CICombudsman@red.nv.gov <http://red.nv.gov>

COMPLAINT AGAINST A RESERVE STUDY SPECIALIST

Please Print or Type
Your Name: _____ Email: _____ (State) (Zip)
Home Phone: _____ (City)
Address: _____ (Street)

Please complete the following information concerning your complaint. The Division's ability to investigate the matter
will depend largely upon you providing a complete and detailed sworn statement. **ATTACH ALL PERTINENT
COPIES OF PAPERS AND/OR DOCUMENTS TO THIS FORM. KEEP ORIGINALS FOR YOUR FILE.**

Name of Reserve Study Specialist complaint is against: _____
Name of Reserve Study Company: _____
Address of Reserve Study Company: _____
Telephone No. of Reserve Study Company: _____ No ☐ If so, what action? _____
Is any legal action pending? Yes ☐ No ☐ If so, what date: _____
Has an Alternative Dispute Resolution (ADR) claim been filed? Yes ☐ No ☐ If so, what date: _____

CONSIDER THE FOLLOWING CAREFULLY

- The Division is not empowered to compel anyone to accede to demands of any kind. We cannot compel refunds of any kind. In this regard, we suggest that you seek private counsel to protect your interests, as we are **not authorized to give legal advice**.
- Do not delay any civil action you might be considering regarding this matter.
- Should the Division determine that a case warrants opening against the Reserve Study Specialist, an investigation will be initiated. Considerable time may be required to complete our investigation. It may be necessary for you to appear and testify should this matter proceed to a hearing before the Commission for Common-Interest Communities.

To start the process, you must:

- Provide to the Division proof of written communication with the Reserve Study Specialist, an investigation. The written communication must include all allegations that you request the Division to consider for possible investigation. The written communication may be in the form of an e-mail, facsimile or letter.
- Allow the Reserve Study Specialist a minimum of twelve (12) business days to respond before filing a complaint with the Division.
- Provide copies of all documentation that supports the allegation(s) against the Reserve Study Specialist.

I declare under penalty of perjury under law of the State of Nevada that the foregoing attached statement consisting of _____ pages is true and correct.

Executed on _____ (Date)

(Signature)

Page 1 of 3
10/10/16

NAC 116A.435 Grounds for disciplinary action; criteria for determining unprofessional conduct and professional incompetence. **QERS 116A.430, 116A.430**

Describe events in the order in which they happened, if possible. Please include dates, names
tes. You must begin describing the events on this sheet. You can attach additional sheets if
**MENT IS NOT ACCEPTABLE. AGAIN, YOUR EXPLANATION MUST BEGIN
YOU NEED ADDITIONAL SPACE, YOU CAN ATTACH ADDITIONAL SHEETS.**

is subject to disciplinary action if the reserve study specialist:
ing:
; or
volving moral turpitude; or
or designation from a nationally recognized professional organization that authorizes him or
in another jurisdiction revoked or suspended.
its an act of unprofessional conduct if the reserve study specialist:

u; or
NRS or any regulation adopted pursuant thereto;
or dishonest conduct, including, without limitation, knowingly communicating false,
liens;
is a false statement of material fact;
in the investigation of a complaint, including, without limitation, failure to produce any
or control of the reserve study specialist after the Division requests the production of
investigating a complaint;
study an activity that is lawful and properly authorized on behalf of a client or fails
ut because of the age, race, color, religion, national origin, disability, marital status,
city of any person, including, without limitation, a member of the executive board,
r
er by the client.
of professional incompetence if, without limitation, the reserve study specialist:
knowledge or fitness to perform a duty or obligation owed to a client; or
with respect to a duty or obligation owed to a client;
without limitation, whether the reserve study specialist has:
against misrepresentation or unethical practices relating to the reserve study;
ge of all pertinent facts concerning a client, including, without limitation, all
reasonably ascertainable and are of customary or express concern to the client,
ervices for which the reserve study specialist does not have the appropriate

NAC 116A.430;

documents, policies and procedures as they relate to a reserve study;
relating to common-interest communities;
erve study specialist was in writing; and
ing and ensured that such changes are signed or initialed by the parties
munities & Condo. Hotels by R145-06, eff. 4-17-2008; A by R164-09,

Page 2 of 3

514b

514b

Statements of Fact (SOF): Violations

- SOF is used when a complaint believes that:
 - A community manager (CAM) violated their Standards of Practice outlined in NRS 116A.630; or
 - A reserve study specialist (RSS) violated their Standards of Practice outlined in NAC 116A.425

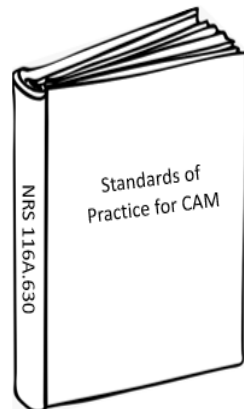
- There is no statute of limitations for either.



Statement of Fact (SOF): Form 514a

NRS 116A.630

- The CAM is a representative of the board. Many of their tasks are ultimately the responsibility of the board.
 - Before you file, ask yourself “Is this the board’s obligation?”
- Use the 514a when a CAM:
 - Is not complying with lawful provisions of the governing documents.
 - Is not complying with lawful directions of the executive board.
 - Is not properly maintaining accounting records or documentation of the authorization for any purchases.
 - Is not causing to be prepared interim and annual financial statements of the association.
 - Is not making financial records available upon request.
 - Is not maintaining internal accounting controls.
 - Is signing checks from the reserve fund.



Statement of Fact (SOF): Form 514b

NAC 116A.425

- Use the 514b when the RSS:
 - Performs a reserve study that is beyond their professional competence.
 - Does not exercise due care and careful planning to the performance of a reserve study.
 - Does not provide mandatory disclosures (financial/business relationship between specialist and client or whether they are an employee of the association.)
 - Does not keep informed of new industry developments.
 - Knowingly makes inaccurate or misleading representations or statements to the association.
 - Misrepresents facts for their own benefit.
 - Had their certificate revoked in another state.



Statement of Fact: Completing the Form

Form 514a/b

- Complainant must verify that:
 - The allegations of misconduct were sent, in writing, to the CAM or RSS in an attempt to resolve the issue before filing a complaint with the Division.
 - The written communication must include all allegations that are requested of the Division to consider for possible investigation.
 - The complainant must provide proof of the written communication in the form of an e-mail or letter.



Statement of Fact: Completing the Form continued

Form 514a/b

- Complainant must verify that:
 - They waited at least 12 working days for the CAM or RSS to acknowledge and respond in writing to the alleged violation(s).
 - They have listed only one (1) alleged violation per page and have included applicable attachments (exhibits) behind each such page.
 - All supporting documentation must be provided with the complaint.
 - If the complainant is a tenant, they must have had the complaint approved (in writing) by the unit's owner without the use of a power of attorney.



Statement of Fact: Resolution

NRS 116A.400 & NRS 116A.420

- Allegations against a CAM or RSS will be investigated by the Division in the same manner and order as the IA process previously discussed.
- If substantiated:
 - A letter may be sent advising the CAM or RSS to correct their behavior;
 - The administrator may impose an administrative fine; or
 - The case may be referred to Commission for further discipline.



Statement of Fact: Commission

NAC 116A.350-360

- Before going before the commission, the DAG reviews the case just like an IA.
- If the Commission finds grounds for action against a CAM or RSS, the Commission may:
 - Revoke or suspend the respondent's certificate for at least 1 year;
 - Impose a fine up to \$5,000 for each violation;
 - Refuse to renew or reinstate a certificate
 - especially if a fine has not paid;
 - Place the community manager on probation;
 - Require the manager or specialist to pay restitution.
 - Require the manager or specialist to pay for the cost of the hearing.



Statement of Fact: Commission continued

NRS 116A.420

- Additionally, if the Division finds that an RSS is not qualified by training and experience to perform the duties outlined in NAC 116A.420, the Division may:
 - Refuse to register the person as an RSS; or
 - Revoke the registration.



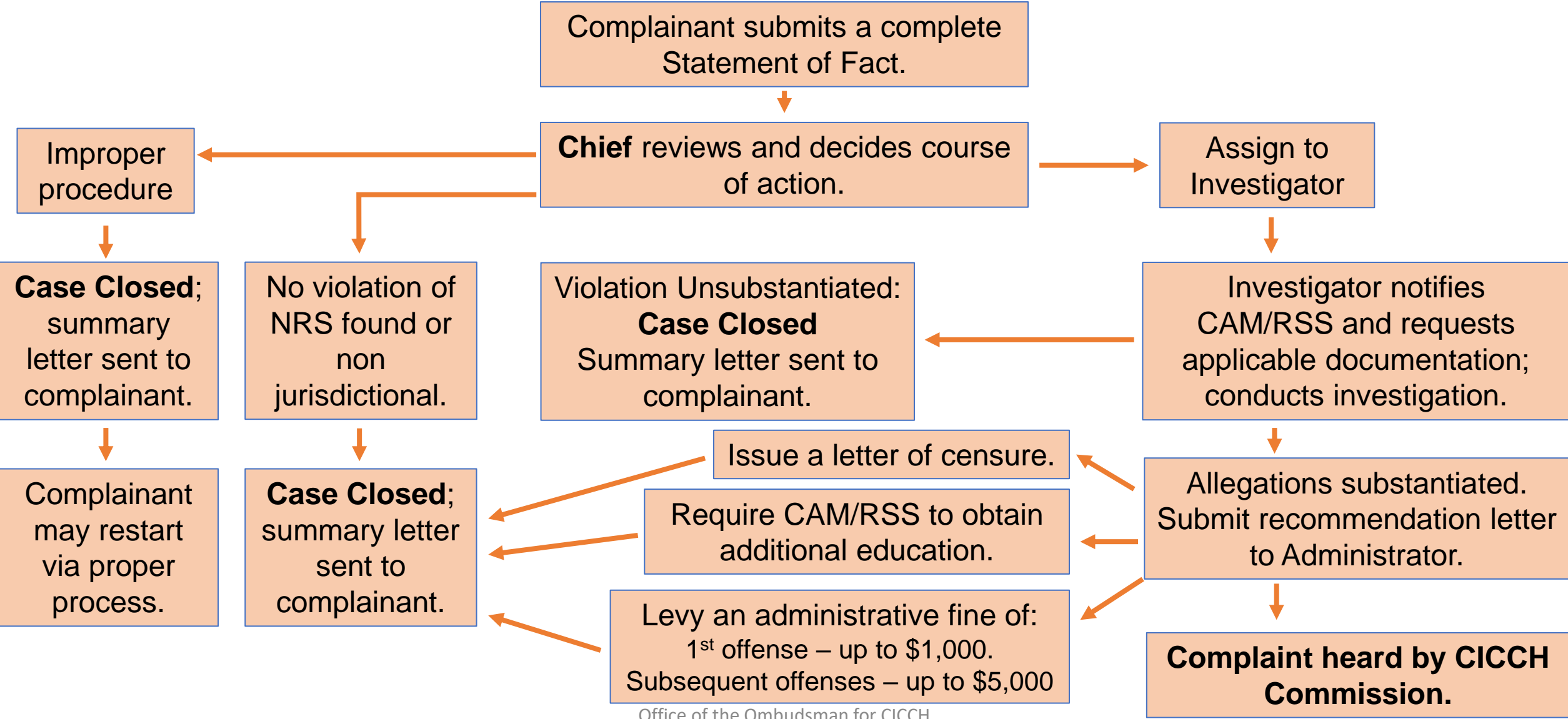
Statement of Fact: Commission continued

NRS 116.780

- The Commission shall render a final decision on the merits of the complaint not later than 20 days after the date of the final hearing.
- The Commission shall notify all parties to the complaint of its decision, in writing, by certified mail, not later than 60 days after the date of the final hearing.



Statement of Fact: Flow Chart



Knowledge Check



1. True/False: The SOF form 514a/b can be used to file a complaint against a CAM/RSS.
2. True/False: A CAM performs duties assigned by the board; most of those duties are ultimately the responsibility of the board.
3. True/False: There is no need for corroborating evidence to initiate a complaint.
4. True/False: There is no requirement that a CAM/RSS be provided written notice of a complaint before one is filed with the Division.
5. True/False: All substantiated complaints will result in a CAM/RSS losing their license.

Complaint Notes

- Each step along the process is designed to aid the parties to find resolution at the lowest (earliest) level possible.
- When a complaint is submitted, the complainant is only entitled to 2 communications from the division.
 1. A letter of receipt acknowledging the packet is under review.
 2. A closing letter when the review/investigation/hearing is concluded.
- All other communications between the division and the complainant are at the discretion of the reviewer/auditor/investigator etc. as needed to conduct the investigation.
- Start to finish, this process could take anywhere from a few weeks (unsubstantiated claims) to several years (commission hearings w/continuations).



Failure to Provide Records

NRS 116.31087 & NRS 116.760

- If a unit owner submits a written request to an association for access and/or copies of the books, records and other documents of the association pursuant to NRS 116.31175, and the association fails to comply within 21 days,
 - The unit owner may then pursue the complaint process previously discussed.



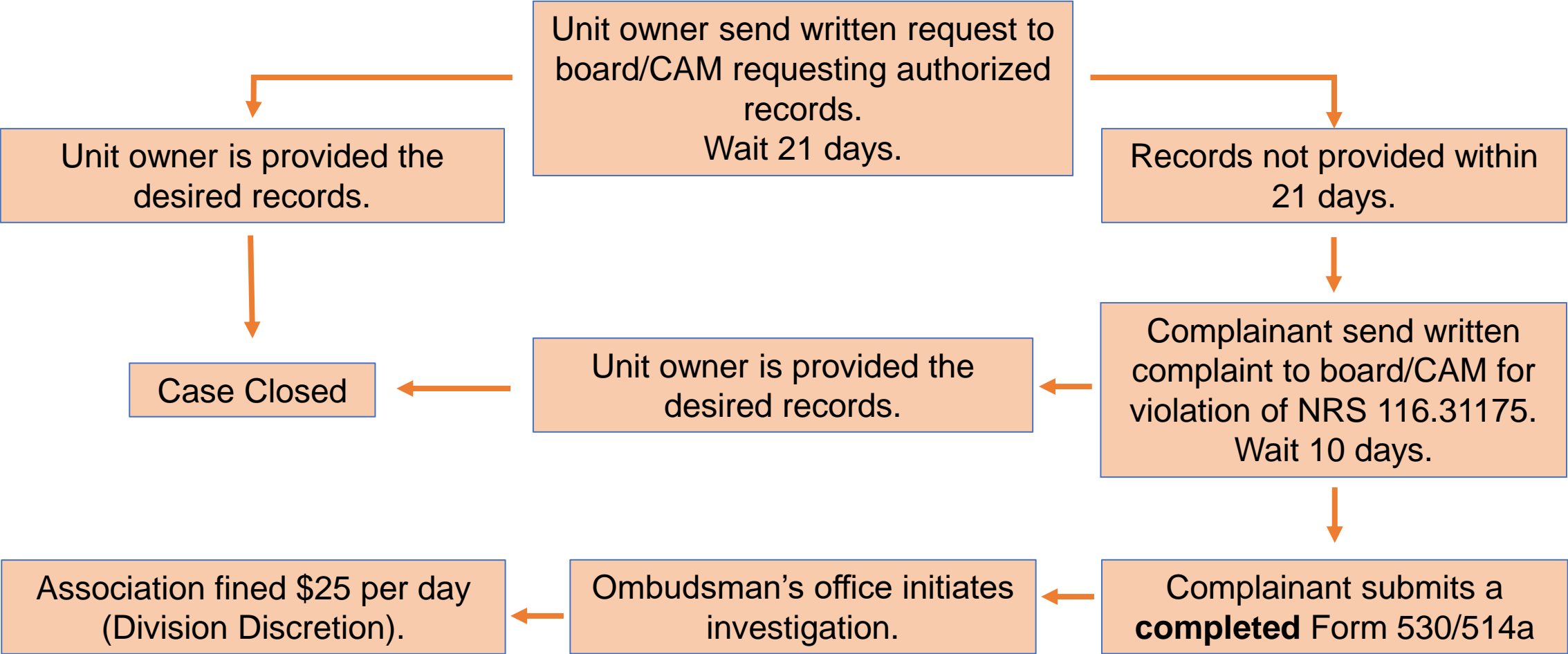
Failure to Provide Records continued

NRS 116.31175

- If the Division receives a properly completed complaint form, they will send a formal notice to the association requesting the specified records be supplied within 14 days, and
 - Initiate an investigation regarding the possible violation for failure to provide those records.
- If the records are not provided within 14 days, the board may be fined \$25 for each day they are not provided.



Request for Records: Flow Chart



RESALE PACKAGE OVERCHARGE FORM

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
3300 West Sahara Avenue, Suite 350, Las Vegas, NV 89102
(702) 486-4480 *Toll free: (877) 829-9907 *Fax: (702) 486-4520
E-mail: CLCOnbuldun@red.nv.gov <https://www.red.nv.gov>

RESALE PACKAGE OVERCHARGE FORM

Effective July 1, 2021, this form can be submitted if you, as a unit owner, have been overcharged for an association Resale Package. **YOU MUST ATTACH A COPY OF THE ITEMIZED RECEIPT, SHOWING ACTUAL AMOUNTS PAID, IN ORDER FOR THIS FORM TO BE PROCESSED.** It is advised that you submit this form as soon as overcharges are realized. In preparing and providing resale documents, an association may not charge ANY fees that exceed these amounts:

TYPE OF DOCUMENT/ACTION	MAXIMUM AMOUNT THAT CAN BE CHARGED (NRS 116.4102 & 116.3102)	AMOUNT ACTUALLY CHARGED
Resale Certificate	\$185 (+ \$100 to expedite)	\$ <input type="text"/> Expedite fee charged \$ <input type="text"/> (if applicable):
<i>Includes a statement of any unsatisfied judgments or pending legal actions against the association, including status, any other fees associated with the resale of a unit, and all current and expected fees or charges for each unit. This fee must be based on the actual costs the association incurs in preparing the certificate.</i>		
Demand Statement	\$165 (+ \$100 to expedite)	\$ <input type="text"/> Expedite fee charged \$ <input type="text"/> (if applicable):
<i>Sets forth the amount of monthly assessment needed for common expenses and any unpaid obligation of any kind currently due from the selling unit's owner.</i>		
Opening/Closing a File	\$350	\$ <input type="text"/>
<i>This fee must be based on the actual cost the association incurs to open or close any file. It may only include fees authorized by the governing documents, including transfer fees, inspection fees, processing fees, and any OTHER fees used to cover association resale costs. Prepaid assessments do not fall under this cap.</i>		
Governing Documents/ Information Statement	\$0 To be provided electronically at no fee. (In the event an association is unable to provide these documents electronically, it may charge up to 25 cents per page for the first 10 pages, and 10 cents thereafter).	\$ <input type="text"/>
<i>Includes the CC&Rs, bylaws, rules and regulations; a copy of the current operating budget and current year-to-date financial statement, including a summary of the reserves; and the "Before You Purchase...Did You Know?" statement.</i>		
TOTAL:	\$700 (or \$900 to expedite)	\$ <input type="text"/>

NOTES: Fees may increase on an annual basis by a percentage equal to the percentage of increase in the Consumer Price Index (All Items). Both a sub-association and Master association (if applicable) have the authority to charge these fees.

Unit Owner Name:

Current Mailing Address:

Phone Number: Email:

Address of unit being sold:

Name of the Association for the home being sold:

Date Resale Package was provided:

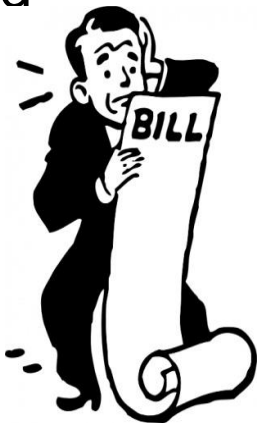
Executed on: (Date) (Unit Owner Signature)

Resale Package Overcharge Form 910

AB237 & NRS 116.4109(4)

Effective June 1st, 2021

- An association shall not charge any fee not authorized in NRS 116.4109.
- An association shall not charge any fee in an amount which exceeds any limits set forth in NRS 116.4109.
- Fee limits will increase annually with CPI
- Violations of these limits may be reported via form 910
 - Upon receipt of a valid form 910, the Division will contact the board/CAM and request a written response.
 - Failure to respond within 30 days automatically equals an admission of guilt and is punishable by an administrative fine of \$250.



Knowledge Check



1. True/False: Before a unit owner may file a Request for Records, they must submit a written request to the board.
2. True/False: A unit owner must first follow all governing document's conflict resolution processes before submitting a complaint regarding records access.
3. How many days does the board have to provide records before the unit owner may pursue the formal complaint process?

Complaints: Forms

<http://red.nv.gov/Content/Forms/All/>

<u>Form</u>	<u>Purpose</u>
Form 530: Intervention Affidavit (IA)	Used to file a complaint against an association concerning a violation of NRS/NAC 116/116A.
Form 514a: Statement of Fact (SOF)	Used to file a complaint against a community manager concerning a violation of their standards of practice (NRS 116A.630).
Form 514b: Statement of Fact (SOF)	Used to file a complaint against a reserve study specialist concerning a violation of their standards of practice (NAC 116A.425).
Form 520: Alternative Dispute Resolution (ADR)	Used to resolve disputes involving the interpretation, application or enforcement of an association’s governing documents or the procedures used for changing assessment amounts.
Form 910: Resale Package Overcharge	Used to file a complaint when a buyer has been charged fees in excess of NRS 116.4109.

Conclusion!



- Parties Involved
- Civil Action
- First Steps
- Alternative Dispute Resolution (ADR)
- Intervention Affidavit
- Statement of Fact
- Request for Records
- Resale Package Overcharge

Questions?

- <http://red.nv.gov/> - Main Page
- CICOmbudsman@red.nv.gov – Email Questions
- http://red.nv.gov/Content/CIC/Program_Training/