

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING
AUGUST 27, 2014
LEGISLATIVE BUILDING
401 SOUTH CARSON STREET, ROOM 2134
CARSON CITY, NEVADA 89701**

**VIDEO CONFERENCED TO:
GRANT SAWYER BUILDING
555 E. WASHINGTON AVENUE, ROOM 4412
LAS VEGAS, NEVADA 89101**

AUGUST 27, 2014

9:00 A.M.

1-A) Introduction of Commissioners in attendance

Robert Frank, Jonathan Friedrich, Barry Breslow, Ken Williams, James Rizzi, Scott Sibley, and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

Commissioner Breslow stated that all the items on the agenda that were scheduled for this two day meeting concerning workshops, and adoption hearings on regulation or proposed regulations have been deferred to a later time. Commissioner Breslow stated that small business impact statements were not all complete and that not all regulations were vetted by the Department of Business and Industry therefore those items have been postponed to a later time.

1-B) Introduction of Division Staff in attendance

In Carson City: Joseph Decker, Administrator; Sharon Jackson, Ombudsman; Sonya Meriweather, Chief Compliance Audit Investigator; Claudia Rosolen, Commission Coordinator; Christopher Cook, Compliance Audit Investigator.

In Las Vegas: Teralyn Thompson, Legal Administrative Officer; Jennifer Oerding, Education Officer; Susan Clark, Licensing Manager; Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

1-C) Presentation by Bruce Breslow, Director of the Department of Business and Industry, regarding the role of the Commission and its responsibilities.

Bruce Breslow, Director of the Department of Business and Industry, commented. Director Breslow disclosed that Commissioner Barry Breslow is his cousin. Director Breslow thanked the Commission for the Commission's time. Director Breslow stated that he wants to talk about roles, responsibilities and some general issues involving the Commission, the Division, the Department and who does what. Director Breslow stated that the Department of Business and Industry has fourteen agencies, eighteen programs and a bunch of boards and Commissions. Director Breslow stated that the Commission for Common-Interest Communities and Condominium Hotels is one of the most difficult Commissions as far as the issues that the

Commission must decide on. Director Breslow commended the Commission for all of the time they spend handling commission's business.

Director Breslow stated that all regulations must be vetted by the Department of Business and Industry before moving forward to conduct workshops, hearings and such. Director Breslow went over the procedure on how to present a proposed regulation change with the Commission. Director Breslow stated that there were some steps that were done out of order and some notice requirements that weren't met with the items that were listed on this agenda for workshops and adoption hearings.

Director Breslow stated that Commissioners should never say who they represent because the Commission is here to represent the citizens of Nevada.

Director Breslow stated that the Real Estate Division staff is challenged being the most underfunded agency and has lost employees over the last eight years due to the State's recession. Director Breslow stated that the Division had approximately seventy-two employees in 2009 and has fifty now. Director Breslow stated that in the last Legislative session; the Division was granted seven temporary positions out of a mortgage settlement fund to help the Division. Director Breslow stated that the Department of Business and Industry and the Division are working on budgets in order to make those positions permanent. Director Breslow stated that he will also work with the Division's Administrator to restructure the Division so that things flow better and customer services improves. Director Breslow stated that there will be a lot of changes coming to the Division.

2) Public Comment

In Carson City: Marilyn Brainard, former Commission for Common-Interest Communities and Condominium Hotels commissioner and board member of the Wingfield Springs Community Associations in Sparks, commented. Ms. Brainard provided the Commission with written public comment and read her comments into the record. Ms. Brainard commented on agenda item 13-A. Ms. Brainard stated that during most of her tenure on the Commission when Kateri Gavin first, and then Deonne Contine were Commission Counsel neither ever pointed out that the Commission could not adopt advisory opinions. Ms. Brainard asked what has caused the change. Ms. Brainard asked the Commission to be objective in their actions and wait for the Nevada Supreme Court decision on collections before taking action on agenda item 13-A.

In Carson City: Norman Rosensteel, president of Community Associations Institute Nevada Chapter, commented. Mr. Rosensteel stated that he agreed with Ms. Brainard when she asked the Commission to wait for the Nevada Supreme Court decision on collections and that the Commission should not try to influence the Nevada Supreme Court decision.

In Carson City: Chris Hardin, manager at SFR Investments, commented. Mr. Hardin stated that the financial health of associations in Nevada is important to him. Mr. Hardin stated that the difference between the financial success and failure of those smaller communities is often a small amount of money. Mr. Hardin stated that homeowner associations should not own reverted properties. Mr. Hardin stated that reverted properties are properties which homeowner associations have attempted to sell at foreclosure sales, but could not because no investor wanted

to buy them. Mr. Hardin stated that when properties do not sell at auction to third party buyers, ownership of those properties is transferred to the homeowner association. Mr. Hardin stated that the reason why no investor wants to buy those properties is due to the confusion of the status of the first deed of trust, therefore homeowner association foreclosures must extinguish super priority liens. Mr. Hardin stated that if Nevada untimely decides that the homeowner association super priority lien does not extinguish the first deed of trust, investors at homeowner association foreclosure auctions will not buy most properties because most properties will be subject to a loan that is equal to or greater than the value of the property. Mr. Hardin stated that if investors do not buy properties, the ownership of the property will revert to the homeowner association.

In Carson City: Allison Copening; small business owner, former community association board president and former Nevada State Senator; commented. Ms. Copening provided the Commission with written public comment and read her comments into the record.

Ms. Copening stated that one of the most important roles of an elected or appointed official is to never give the presence of impropriety and to avoid conflict of interest. Ms. Copening stated that agenda item 13-A presents numerous conflicts of interest from various parties. Ms. Copening stated that there is a conflict of interest with the Attorney General's Office representing both the Commission and the Division as these two entities have disagreed with each other on this issue. Ms. Copening stated that the Commission needs independent counsel before a vote is taken. Ms. Copening stated that the Commission is short members and this issue is too serious to take action without a full board. Ms. Copening asked for the vote to be postponed indefinitely or to permanently remove this item from the agenda, and let the Supreme Court make its decision. Ms. Copening asked that Commissioner Friedrich recuse himself from voting since he worked as a process server for the Higher Ground lawsuit and did not disclose it publically when this matter came before the Commission.

In Carson City: Kay Frank, homeowner in Sun City Anthem, commented. Ms. Frank stated that she is appalled that a commissioner's name can be used, especially the name of commissioners that are running for public office. Ms. Frank stated that people who do that know that such action will damage the commissioner's reputation and people who have financial interest are using this opportunity to defame somebody and make it more difficult for them to run for public office. Ms. Frank stated that she believes that this Commission did not allow that commissioner to immediately reply to those remarks when it was timely, but postpone the commissioner's chance to reply until there was no one there to listen. Ms. Frank stated that this is extremely unfair and unjust. Ms. Frank stated that she would like to see fair just practice and asked that people who are lobbyist to stop defaming people who volunteer for a position.

In Las Vegas: Marisa Kagan, homeowner at Aliante and President of Seville Etage HOA, commented. Ms. Kagan stated that she disagreed with Ms. Frank's comment. Ms. Kagan stated that no one is defaming anyone and every comment that has been brought up during the meeting is public record.

Ms. Kagan asked the Commission to postpone agenda item 13-A until after the Supreme Court issues its decision. Ms. Kagan stated that there are too many conflicts of interest. Ms. Kagan stated that the Nevada Real Estate Division's position states that collection costs and fees are not part of the super priority; the Commission's opinion says it is. Ms. Kagan stated that there are

pending cases in Supreme Court over this issue and the outcome of the Commission's vote could influence the Supreme Court decision. Ms. Kagan stated that there is a conflict of interest with the Attorney General's Office representing both the Commission and the Division as these two entities have disagreed with each other on this issue. Ms. Kagan stated that the Commission needs independent counsel before a vote is taken.

In Las Vegas: Pamela Scott, representing Howard Hughes Corporation and a developer at Summerlin, commented. Ms. Scott stated that she was disappointed to see item 13-A on the agenda after the issue of conflict of interest was raised at the last meeting. Ms. Scott agreed that it should not be voted on. Ms. Scott stated that she had a long working relationship with Gail Anderson. Ms. Scott stated that they didn't always agreed on things, but she found her professional, friendly and easy to work with. Ms. Scott stated that over the years that she have dealt with Ms. Anderson's staff she found them friendly professional and quick to return calls. Ms. Scott stated that she never had a problem on getting her license back.

In Las Vegas: Tim Stebbins, Henderson resident, commented. Mr. Stebbins stated that the Real Estate Division will not investigate or enforce violations of NRS 116.3103 through failure to comply with provisions of NAC 116.405. Mr. Stebbins stated that messages from the Division that he received shows that alleged violations are not investigated at all. Mr. Stebbins stated that investigators focus only in finding reasons to close a case. Mr. Stebbins stated that work on these sections might be in vain and a waste of time if the Division will not investigate or enforce whatever the Commission decides. Mr. Stebbins stated that perhaps new wording in the Legislative Counsel Bureau files will prompt the Division to investigate and take action on NAC 116.405 matters in the future.

In Las Vegas: William Wright, Wright Law Firm, commented. Mr. Wright commented on agenda item 13-A by addressing the Attorney General's Opinion. Mr. Wright stated that the Commission should get an independent legal advisor before ruling on this matter.

In Las Vegas: Michael Randolph, thirteen year board member of Paradise Springs Homeowner Association and fourteen years manager of a collection agency that specialize in recovery for home owners associations, commented. Mr. Randolph stated that he has a vested interest in agenda item 13-A. Mr. Randolph asked the Commission to table, or even remove, from the agenda the decision to vacate all previous advisory opinions until after the Supreme Court of Nevada or the Nevada Legislature decide on issues surrounding the super priority.

In Las Vegas: Randolph Watkins; CEO of a local management company, homeowner in Sun City Anthem in Henderson Nevada, and former Commission for Common-Interest Communities and Condominium Hotels commissioner; commented. Mr. Watkins stated that he is disappointed that workshops and adoption hearings have been cancelled. Mr. Watkins asked to remove item 13-A from the agenda until the Supreme Court has issued its ruling.

In Las Vegas: Frank Capello, homeowner in Henderson Nevada, commented. Mr. Capello asked the Commission to let the Supreme Court decide on the super priority lien issue. Mr. Capello stated that the Court will be able to come to a settlement that won't bankrupt home owner associations.

In Las Vegas: Melonie Lancelo, homeowner in Henderson Nevada, commented. Ms. Lancelo asked the Commission to postpone the super priority lien matter indefinitely and delay the vote on agenda item 13-A until the Supreme Court has made its decision.

13-A) For possible action: Discussion and decision to rescind/remove all Commission Advisory Opinions that have been previously adopted in violation of NRS 116.623 on the Real Estate Division's website, Real Estate and Commission books and records as determined by the Attorney General's Opinion dated February 14, 2014.

Commissioner Breslow presented this report.

Commissioner Breslow stated that the Attorney General's Office, at the request of then Chairman Watkins, issued an opinion on the subject matter that questioned the authority of the Commission for Common-Interest Communities and Condominium Hotels to issue itself advisory opinions, interpreting NRS Chapter 116. Commissioner Breslow stated that the letter that came back from the Attorney General's Office dated February 14, 2014 concluded that the Commission did not have that authority. Commissioner Breslow stated that the conclusion was that the Real Estate Division, not the Commission, has the sole duty and authority to issue advisory opinions as to the applicability of any statutory provision, agency regulation or decision related to the Uniform Common Interest Ownership Act. Commissioner Breslow stated that the Commission heard much public comment today on the disparate views on whether the Attorney General's opinion has it right on whether the Commission should act at all or rescind based on the February 14, 2014 opinion.

Commissioner Sibley moved to remove item 13-A from the agenda. Seconded by Commissioner Williams.

Commissioner Frank stated that he is not supporting this motion and supports the Attorney General's opinion.

Commissioner Friedrich stated that he does not believe that this Commission rescinding will have any impact on the Supreme Court. Commissioner Friedrich stated that it violates the law. Commissioner Friedrich stated that each Commissioner took an oath to uphold the Constitution of this State and the United States of America. Commissioner Friedrich stated that by refusing to rescind this agenda item the Commission is violating the Commissioners' oath of office. Commissioner Friedrich stated that what the homeowner association is getting out of this is nine times the monthly assessment. Commissioner Friedrich stated that collection companies are the ones that will receive the lion share and it is the industry that is making a lot of money over this. Commissioner Friedrich stated that he is fighting this. Commissioner Friedrich stated that the Commission is ignoring its responsibilities and believes there will be consequences if it is not repealed.

Commissioner Sibley stated that the real issue is whether or not the Commission can issue opinions and the Commission has issued a lot of opinions in the past. Commissioner Sibley stated that until there is either an order from a court saying that the Commission can't issue an opinion or directions from the Legislature saying that the Commission cannot issue an opinion, the Commission's opinions should stand. Commissioner Sibley stated that the Supreme Court

case with the Financial Institutions Division ruled that the only people who can interpret NRS 116 were this Commission and the Division.

Commissioner Williams stated that he agrees with Commissioner Sibley. Commissioner Williams stated that he would like to digress back to the beginning of the meeting when Director Breslow stated that Commissioners are here to represent everyone in the State.

Commissioner Williams stated that he reviewed the minutes from December 2010 meeting and the Attorney General Deonne Contine never told Chairman Buckley that the Commission could not do it. Commissioner Williams stated that Ms. Contine said that she had some concerns, but it was never a definite definition. Commissioner Williams stated that if the Commission removes and is no longer allowed to issue opinions, the Commission would unjustly serve those who came here today and this is why Commissioner Williams seconded the motion.

Commissioner Rizzi stated that he agrees with Commissioners Sibley and Williams. Commissioner Rizzi stated that he is currently sitting as a homeowner association board president. Commissioner Rizzi stated that he knows that a lot of the fees are absorbed by residents of the association as a charge off. Commissioner Rizzi stated that people living in those communities have to pay those fees. Commissioner Rizzi stated that the Commission should allow the Court to decide.

Commissioner Friedrich stated that as far as the Legislature giving the Commission a direction, the Legislature has done that in NRS 116.623 which specifically states that the Real Estate Division can issue opinions.

Commissioner Frank stated that he would like to respond to the comment that was made by a fellow commissioner that stated that homeowners lose as a result of this collection case. Commissioner Frank stated that he did not see any evidence in all his years of experience as a board of director. Commissioner Frank stated that he sees homeowners gaining by not having collection companies with windfall profits and unregulated abilities to elevate problems in the communities as a result of uncontrolled collection costs. Commissioner Frank stated that he doesn't see how the board or the members are actually gaining by contesting the Attorney General's opinion.

Commissioner Breslow stated that the most net neutral approach here, without directly or indirectly impacting any pending District Court case or any Nevada Supreme Court cases, would be to remove this item from the agenda at this time. Commissioner Breslow stated that in that way the Commission would not make a decision that people could hold up and use. Commissioner Breslow stated that he would let the opinion stand for now and that this decision doesn't preclude the Commission from revisiting this at a later time.

Commissioner Friedrich stated that Commissioner Breslow is violating his oath of office and the laws of the State which have been spelled out in the Attorney General's opinion. Commissioner Friedrich stated that NRS 116.623 states that the Commission does not have the authority.

Commissioner Frank stated that he has been told that the opinion of this Commission on this issue is used every day by certain collection companies to get profit for their companies while the Supreme Court has not ruled on it. Commissioner Frank stated that this Commission issued an opinion that was in conflict with the Real Estate Division and the Attorney General. Commissioner Frank stated that there is a lot of money on the table involved in this decision that will result in continuing profits to the collection companies which may or may not be appropriate.

Motion carried 4 to 2 with Commissioners Frank and Commissioner Friedrich opposed.

3-A) Disciplinary action: Hearing and possible action by the Commission

**NRED v. Cottonwood Court Townhomes Homeowners' Association, INC.; Ann Tissue; Gilber Tissue; and William Maston
Case No. IN-1620**

Type of Respondent: Board members

Senior Deputy Attorney General Michelle Briggs commented. Ms. Briggs stated that the case has been continued and the parties are working with the Division on a settlement.

3-B) Disciplinary action: Hearing and possible action by the Commission

**NRED v. University Heights HOA; Troy Stansbury; Dan O'Brien; Mark Day; and Stephen Myers
Case No. IN-1636**

Type of Respondent: Board members

Senior Deputy Attorney General Michelle Briggs commented. Ms. Briggs stated that the case has been continued and the parties are working with the Division on a settlement.

4) License Denial Appeal: Discussion and possible action by the Commission

License denial appeal of Kerry Michele Guerra

Case No. S-CAM-LDA-15-001 and why applicant should or should not be granted a license.
Kerry Michele Guerra was present.

Commissioner Breslow moved for the Commission meeting to go into closed session to review Ms. Guerra's license denial appeal in accordance with NRS 241.030.

Review and discussion was conducted in closed session.

Meeting returned to open session.

Commissioner Friedrich moved for the Commission to approve the appeal and grant a provisional license. Seconded by Commissioner Sibley.

Motion carried unanimously.

5) For possible action: Adoption Hearing for LCB FILE No. R049-13

Adoption hearing by the Commission for Common-Interest Communities and Condominium Hotels to receive comments regarding proposed regulations known as LCB

File No. R049-13 which establishes the following:

- **Prohibit a management agreement from providing for the compensation of a community manager or his or her employer based on the fines imposed against or collected from units' owners or tenants or guests of units' owners;**
- **Add the language from statute, "or his or her employer" to the regulation concerning the require that the community manager maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable under chapter 116A in an amount of \$1,000,000 or more;**
- **Require that a client maintain crime insurance in accordance with NRS 116.3113; and**
- **Not allow a management agreement to indemnify of a community manager for intentional misconduct, gross negligence or criminal misconduct.**

Commissioner Breslow stated that all the items on the agenda that were scheduled for this two days meeting concerning adoption hearings on regulation or proposed regulations have been deferred to a later time. Commissioner Breslow stated that small business impact statements were not all complete and that not all regulations were vetted by the Department of Business and Industry therefore those items have been postponed to a later time.

**6) For possible action: Adoption Hearing for LCB FILE No. R152-13
Adoption hearing by the Commission for Common-Interest Communities and
Condominium Hotels to receive comments regarding proposed regulations known as LCB
File No. R152-13 which establishes the following:**

- **Revise the minimum number of hours a course must consist of to receive for continuing education approval.**

Commissioner Breslow stated that all the items on the agenda that were scheduled for this two day meeting concerning adoption hearings on regulation or proposed regulations have been deferred to a later time. Commissioner Breslow stated that small business impact statements were not all complete and that not all regulations were vetted by the Department of Business and Industry therefore those items have been postponed to a later time.

**7) For possible action: Adoption Hearing for LCB FILE No. R153-13
Adoption hearing by the Commission for Common-Interest Communities and
Condominium Hotels to receive comments regarding proposed regulations known as LCB
File No. R153-13 which establishes the following:**

- **Require a financial institution which is located outside of this State and which is holding certain funds belonging to an association in this State to appoint the Real Estate Administrator as its agent for the service of process; and**
- **Require the Division to prepare a form which is prescribed for use for the appointment for service of process for any action or proceeding filed against the financial institution.**

Commissioner Breslow stated that all the items on the agenda that were scheduled for this two day meeting concerning adoption hearings on regulation or proposed regulations have been deferred to a later time. Commissioner Breslow stated that small business impact statements were not all complete and that not all regulations were vetted by the Department of Business and Industry therefore those items have been postponed to a later time.

8) Workshop for LCB FILE No. R050-13

Workshop by the Commission for Common-Interest Communities and Condominium Hotels to receive comments regarding proposed regulations known as LCB File No. R050-13 which establishes the following:

- **Revising provisions governing reserve studies;**
- **Revising provisions governing the duties of a member of the executive board of a homeowners' association;**
- **Amending provisions governing the preparation of financial statements by an association;**
- **Revising provisions governing the qualifications and duties of a person who conducts reserve studies; and**
- **Providing other matters properly relating thereto.**

Commissioner Breslow stated that all the items on the agenda that were scheduled for this two day meeting concerning workshops on regulation or proposed regulations have been deferred to a later time. Commissioner Breslow stated that small business impact statements were not all complete and that not all regulations were vetted by the Department of Business and Industry therefore those items have been postponed to a later time.

9) Workshop for LCB FILE No. R065-14

Workshop by the Commission for Common-Interest Communities and Condominium Hotels to receive comments regarding proposed regulations known as LCB File No. R065-14 which establishes the following:

- **Prescribing requirements for notice provided to a person against who a fine for violation will be imposed;**
- **Prohibiting a governing board from imposing a fine in a manner not in accordance with the governing documents;**
- **Providing for procedures for an association to conduct a hearing on an alleged violation;**
- **Allowing a party to make a recording or request a transcript of a hearing on an alleged violation or arrange for an interpreter at a hearing on an alleged violation at his or her expense;**
- **Authorizing a party aggrieved by the decision of an executive board or hearing committee to submit a claim to mediation or a program of dispute resolution maintained by the Real Estate Division of the Department of Business and Industry; and**
- **Providing other matters properly relating thereto.**

Commissioner Breslow stated that all the items on the agenda that were scheduled for this two day meeting concerning workshops on regulation or proposed regulations have been deferred to a later time. Commissioner Breslow stated that small business impact statements were not all complete and that not all regulations were vetted by the Department of Business and Industry therefore those items have been postponed to a later time.

10) Workshop for LCB FILE No. R066-14

Workshop by the Commission for Common-Interest Communities and Condominium Hotels to receive comments regarding proposed regulations known as LCB File No. R066-14 which establishes the following:

- **Authorizing the Real Estate Division of the Department of Business and Industry to investigate a violation under certain circumstances;**
- **Requiring the Real Estate Administrator to file a formal complaint under certain circumstances;**
- **Allowing the Commission for Common-Interest Communities and Condominium Hotels to consider whether a member of the executive board of a unit owners' association has taken or failed to take certain actions when determining whether the member has performed certain duties; and**
- **Providing other matters properly relating thereto.**

Commissioner Breslow stated that all the items on the agenda that were scheduled for this two day meeting concerning workshops on regulation or proposed regulations have been deferred to a later time. Commissioner Breslow stated that small business impact statements were not all complete and that not all regulations were vetted by the Department of Business and Industry therefore those items have been postponed to a later time.

11) Workshop for LCB FILE No. R052-13

Workshop by the Commission for Common-Interest Communities and Condominium Hotels to receive comments regarding proposed regulations known as LCB File No. R052-13 which establishes the following:

- **Adopting provisions governing motions filed after the close of a hearing before the Commission for Common-Interest Communities and Condominium Hotels; and**
- **Providing other matters properly relating thereto.**

Commissioner Breslow stated that all the items on the agenda that were scheduled for this two day meeting concerning workshops on regulation or proposed regulations have been deferred to a later time. Commissioner Breslow stated that small business impact statements were not all complete and that not all regulations were vetted by the Department of Business and Industry therefore those items have been postponed to a later time.

12-A) Ombudsman's Report

Sharon Jackson presented this report. Ms. Jackson thanked Gail Anderson for her leadership during Ms. Jackson's ten years with the Division. Ms. Jackson stated that she looks forward to work with the new Administrator.

- 311 completed Intervention Affidavits received for fiscal year 2014
- 65 cases out of 311 had informal conferences with a resolution rate of 86%
- 22 record requests open and closed
- Spoke at six public outreach events

Ms. Jackson stated that the goals for the Ombudsman Office are:

- Rollout of online registration for community managers
- Installation of a keyword search program for the Q&A Forum on the Division's website
- Implementation of additional training classes

Commissioner Frank stated that some boards make it very difficult for homeowners to receive certain records. Commissioner Frank asked if Ms. Jackson can provide feedback to licensed community managers who deal with boards that denied records request.

Ms. Jackson stated that community managers, as any other constituents, can file a complaint with the Division. Ms. Jackson stated that the only obligation that a community manager has is to tell the board that they are required to provide records upon request. Ms. Jackson stated part of the outreach program is getting out and teaching managers and boards their duties.

Commissioner Friedrich asked if a community manager would have to use an intervention affidavit to file a complaint or do they just have to submit a letter to the Ombudsman's Office.

Ms. Jackson stated that a community manager would have to use an intervention affidavit to file a complaint.

12-B) Program Training Officer's Report

Sharon Jackson presented this report. Ms. Jackson stated that the report shows the number of classes offered by month including questions and answer forums, and the total attendance per class for fiscal year 2014. Ms. Jackson stated that Ken Richardson's position has not been filled yet and that the Division is in the process of recruiting.

12-C-1) Administrative Program Officer's report on number and types of associations registered within the State

Sharon Jackson presented this report.

Commissioner Breslow asked if half of the people in Nevada live in a homeowner association.

Ms. Jackson stated that roughly half of the people in Nevada live in a homeowner association.

12-C-2) Administrative Program Officer's report on Homeowner Association and Compliance Audits

Sharon Jackson presented this report. Ms. Jackson stated that the report shows the Ombudsman's revenues and fees by comparison with fiscal year 2013. Ms. Jackson stated that the revenues are down from fiscal year 2013 by forty-eight hundred dollars.

12-C-3) Administrative Program Officer's report on Alternative Dispute Resolution filings and subsidy claims

Sharon Jackson presented this report. Ms. Jackson stated that of the 134 claims that went to the alternative dispute resolution program: 121 were mediation and 19 were from the referee program. Ms. Jackson stated that the referee program started in October 2013. Ms. Jackson stated that only 1 case of the 19 received a five hundred dollars subsidy.

12-C-4) Administrative Program Officer's report on Notices of Sales

Sharon Jackson presented the delinquent association report. Ms. Jackson stated that this report shows which associations have not paid the annual registration fee.

Commissioner Friedrich stated that he has long been an advocate of increasing that fee from three dollars to a five dollar per year to be used specifically for investigators. Commissioner Friedrich asked if the Division has come to a position on that matter.

Director Breslow stated that if any laws change or fees are increased they would have to be on a budget built and that goes to the Governor's Office. Director Breslow stated that in January the Governor announces the proposed budget and this is when the Commission will see what is coming.

Commissioner Friedrich asked how much of an increase the Division will like to see.

Director Breslow stated that the Division and the Department of Business and Industry are discussing those matters.

Commissioner Williams asked if the positions in question are already funded positions and why it takes so long to fill funded positions.

Joseph Decker stated that aside from the due process required by Human Resources, the Division is looking to find the right people to fill those positions.

Commissioner Frank asked why the Division is providing so much data to the Commission.

Ms. Jackson stated that a lot of this information was developed because there were Commissioners who asked for it.

12-D) Compliance Section's report

Sonya Meriweather presented this report.

12-E) Administrative fine report pursuant to NAC 116A.350 (4)

Teralyn Thompson presented this report.

Commissioner Breslow asked who will know the status of the collection rate of any administrative fines that the Commission has assessed on disciplinary matters over the last two years.

Ms. Jackson stated that the Division is not prepared to give this information at this time. Ms. Jackson stated that the Division will provide this information to the Commission.

Commissioner Sibley asked if the Controller collects money will they notify the Division about case updates.

Ms. Thompson stated that once the fine has been turned over to the Controller's Office and anything has been collected, the Fiscal section will notify the Administrator's Office and then the Division will update the report. Ms. Thompson stated that she has not been contacted by the Fiscal section lately. Ms. Thompson stated that some of these cases have gone to the Controller's Office and some cases have been written off by the Board of Examiners.

12-F) Licensee and board member discipline report

Teralyn Thompson presented this report.

12-G-1) Administrator's report on any changes to personnel status

Sharon Jackson presented this report.

12-G-2) Administrator’s report on Fiscal Year 14 license statistics for community managers

Sharon Jackson stated that the Division doesn’t have any information available about the license statistics for community managers.

12-H) Discussion of Division Advisory Opinion regarding the need for photographic evidence of a violation under NRS 116.31031

Senior Deputy Attorney General Michelle Briggs presented this report. Ms. Briggs stated that this is the Division’s Advisory Opinion for the Commission to discuss.

Commissioner Friedrich stated that it was his understanding that when a notice of a violation goes out it is going to have a clear and detailed photograph. Commissioner Friedrich stated that if the association sends out a courtesy notice, the association is not required to include photographic evidence. Commissioner Friedrich asked what happens if the notice is sent to the wrong house or the alleged violation concerns the incorrect homeowner. Commissioner Friedrich stated that even a courtesy notice should include photographic evidence to support the claim.

Commissioner Frank agreed with Commissioner Friedrich.

12-I-1) Legal Matters Update Report to Commission regarding filing of Case No. A-13-688795-B; State of Nevada, Real Estate Division and Financial Institutions Division v. Account Recovery Solutions, ATC Assessment Collections, Nevada Association Services, and Terra West Collections Group

Senior Deputy Attorney General Michelle Briggs presented this report. Ms. Briggs stated that the case was continued pending the outcome of case No. 63178 and No. 62748 that are dealing with the super priority lien. Ms. Briggs stated that the continuance was extended and if the Supreme Court has not issue a decision by November, the Division will decide what to do.

12-I-2) Legal Matters Update Status of Supreme Court Case No. 63178 (Horizons at Seven Hills Homeowners Association v. Ikon Holdings, LLC) and No. 62748 (Nevada Association Services, Inc. v. Eighth Judicial District Court and Real Parties in Interest, Elsinore, LLC and Peccole Ranch Community Association)

Senior Deputy Attorney General Michelle Briggs presented this report. Ms. Briggs stated that in Case No. 63178 the Division issued an amicus brief. Ms. Briggs stated that once that decision comes out it will resolve most if not all of the issues. Ms. Briggs stated that Case No. 62748 is pending the outcome of the Supreme Court decision.

13-B) For possible action: Discussion and decision to consider revising the information provided in Administrative Program Officer’s reports.

Commissioner Friedrich stated that the Division report that included pages of zip codes can be omitted.

Sharon Jackson stated that the report was not prepared specifically for the Commission. Ms. Jackson stated that the report in question has information that the Division maintains for many purposes. Ms. Jackson stated that the Commission will no longer be provided with that report.

13-C) For possible action: Discussion on NAC 116A. 140 and NAC 116A.255 Continuing Education Law Classes for Commission hearing.

Commissioner Williams stated that due to the number of law classes that are provided to community managers, some of those classes are very redundant and often times they are hard to get. Commissioner Williams stated that he would like to plant the seeds to the possibility of community managers getting law class credits for attending hearing portions of the Commission meeting.

Commissioner Friedrich stated that he does not have any objection. Commissioner Friedrich asked how the Commission is going to determine the number of hours to give a community manager.

Commissioner Williams stated that it would be in full hour increments.

Teralyn Thomson stated a change in regulation would be required and that proposed change would have to be vetted through the Director's Office. Ms. Thompson stated that if approved by the Director's Office, the Division can start the workshop and adoption process.

Commissioner Breslow asked Commissioner Williams if he was committed to seeing this through.

Commissioner Williams stated yes.

Ms. Thomson stated that the Division is not able to open new regulation files until next year.

13-D) Discussion regarding the number of alternative dispute resolutions filed for the NRS 38 Mediation Program since the program went into effect October 1, 2013 including the number of filings which resulted in resolution.

Sharon Jackson presented this report.

13-E) Discussion regarding the number of alternative dispute resolutions filed utilizing the Referee Program since the program went into effect October 1, 2013 and the number of Referee cases for which a subsidy has been paid including the total subsidy the amount expended to date.

Sharon Jackson presented this report.

13-F) For possible action: Discussion and decision to approve minutes of the June 4, 2014 Commission meeting.

Commissioner Friedrich stated that on page six, seventh paragraph down instead of "in term of" it should be "in terms of". Commissioner Friedrich stated that on page seven, second line from the top the sentence should read "Commissioner Breslow stated that he recognizes that this is an important issue and that Commissioner Friedrich wants some finality" instead of "Commissioner Breslow stated that he recognize that this is an important issue and that Commissioner Friedrich want some finality." Commissioner Friedrich stated that on page eight, five lines up from the bottom the word "timeframe" should be "time frame". Commissioner Friedrich stated that on page seventeen, middle of the page should be "Veterans In Politics" instead of "Veteran In

Politics”. Commissioner Friedrich stated that in the same paragraph it should read “post it on top” instead of “posted on top”.

Commissioner Williams stated that on page nine his name is misspelled.

Commissioner Friedrich moved to approve the minutes as amended. Seconded by Commissioner Rizzi.

Commissioner Sibley recused himself from voting on this agenda item as he was not in present at that meeting.

Motion carried unanimously.

13-G) For possible action: Discussion and decision to approve minutes of the July 9, 2014 Commission meeting.

Commissioner Friedrich moved to approve the minutes. Seconded by Commissioner Rizzi.

Commissioner Sibley recused himself from voting on this agenda item as he was not in present at that meeting.

Motion carried unanimously.

13-H) Discussion regarding what information the Commission would like to have concerning sources and histories of proposed regulations.

Commissioner Frank asked to defer this agenda item to the next meeting.

13- I) For possible action: Discussion and decision on proposed changes, additions and deletions to NAC 116, NAC 116A or NAC 116B including but not limited to:

- 1. LCB File No. R050-13; including review of public comments from regulation workshop held August 28, 2014;**
- 2. LCB File No. R065-14; including review of public comments from regulation workshop held August 28, 2014;**
- 3. LCB File No. R066-14; including review of public comments from regulation workshop held August 28, 2014; and,**
- 4. LCB File No. R052-13; including review of public comments from regulation workshop held August 28, 2014.**

Commissioner Breslow stated that these agenda items will not be discussed at this meeting as mentioned at the beginning of the meeting.

13-J) For possible action: Discussion and reconsideration of the Commission’s action to approve courses “Property Owners Associations POA” Part 1 and “Property Owners Associations POA” Part 2 sponsored by MDL Group at the June 4, 2014 Commission meeting without retroactive application.

Commissioner Williams stated that the Commission approved the course but denied the request for retroactivity for community managers that attended the course taught before the Commission approved the course. Commissioner Williams stated that those community managers were aware of the fact that the course did not have the Commission’s approval.

Commissioner Williams move to stay with the original decision to deny the request of retroactivity. Seconded by Commissioner Frank.

Commissioner Friedrich stated that in the past the Division had taken the position that they did not want to approve classes retroactively and that was quite a contentious discussion.

Motion carried unanimously.

13-K) For possible action: Discussion on NRS 116.4109.4(b) the maximum amount of the fee that an association may charge for preparing the certificate (RESALE).

Commissioner Williams move to remove this item from the agenda. Seconded by Commissioner Frank.

Motion carried unanimously.

13-L) For possible action: Discussion and decision regarding election of officers for Fiscal year 2015.

Commissioner Friedrich move to nominated Commissioner Breslow for Chair. Seconded by Commissioner Williams.

Commissioner Frank stated that he is uncomfortable in voting on this matter because he does not know who is going to be on the Commission in December. Commissioner Frank stated that he realizes that the Commission needs leaderships but is happy with the current temporary leadership until the Commission is fully done.

Commissioner Sibley stated that he agrees with Commissioner Frank.

Commissioner Friedrich moves to withdrawal the motion. Seconded by Commissioner Williams.

Commissioner Breslow stated that this is the first meeting of the Commission in the fiscal year and statute requires that the Commission elects officers even if the Commission is not sure if those officers will remain on the Commission. Commissioner Breslow read NRS 116.610 into the record.

Commissioner Friedrich moved to nominate Commissioner Breslow as Chair, Commissioner Sibley as Vice Chair and Commissioner Frank as Secretary. Seconded by Commissioner Williams.

Commissioner Breslow recuses himself from voting on the election of the Chair.

Motion carried unanimously.

Commissioner Sibley recuses himself from voting on the election of the Vice Chair.

Motion carried unanimously.

Commissioner Frank recuses himself from voting on the election of the Secretary.

Motion carried unanimously.

13-M) Discussion regarding Commissioners' speaking engagement requests.

No speaking engagements.

14-1) Key Realty School

“60-Hour Association Manager Course”

Request: 60 Hours Pre-certification Classroom as follows: 40 Hours in subjects listed in NAC 116.120(1)(b); 18 Hours in NRS 116 and NAC 116; and 2 Hours Federal law pertaining to CICs.

Commissioner Sibley disclosed that he is a licensed real estate broker and has taken his continuing education classes at Key Realty School. Commissioner Sibley asked if he had to recuse himself from voting.

Commissioner Breslow asked Commissioner Sibley if he can be fair and impartial with no bias.

Commissioner Sibley stated yes.

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval.

Commissioner Friedrich stated that there is one thing that needs to be clearly spelled out and that is why common-interest communities came about.

Commissioner Frank stated that he feels uncomfortable in providing comments on the quality of the materials since he is not in the business, has not been in the business, won't be in the business and really doesn't feel that he is a good judge in terms of what the quality or content of these courses should be. Commissioner Frank stated that he will rely on the Division's recommendations.

Commissioner Sibley moved to approve the course. Seconded by Commissioner Rizzi.

Motion carried unanimously.

14-2) Kelly Mitchell/Absolute Collection Services

“HOA Collections”

Request: 3 Hours

General

Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval with the caveat that any changes in this topic, due to the pending Nevada Supreme Court decision, are to be added to their curriculum prior to its subsequent offering. Ms. Oerding stated that new material must be approved by the Division prior to being offered for credit.

Commissioner Sibley disclosed that his employer, Nevada Legal News, receives compensation from Absolute Collection Services. Commissioner Sibley stated that this will not affect him from being impartial in his voting.

Commissioner Breslow asked Commissioner Sibley if he is going to receive any compensation by virtue of any money paid to Absolute Collection Services for this class.

Commissioner Sibley stated no.

Commissioner Williams stated that he has prior knowledge of Ms. Mitchell and abstained himself from voting.

Commissioner Rizzi moved to approve the course. Seconded by Commissioner Sibley.

Motion carried 4 to 1 with Commissioner Friedrich opposed.

14-3) Angius & Terry, LLP

“Community Transition from Developer”

Request: 3 Hours

General

Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval.

Commissioner Friedrich disclosed his conflict of interest with Angius & Terry,LLP.

Commissioner Breslow stated that Commissioner Friedrich will be recused from voting on this course.

Commissioner Williams moved to approve the course. Seconded by Commissioner Sibley.

Motion carried unanimously.

14-4) Ken E. Richardson

“HOA Meetings”

Request: 3 Hours

General

Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval.

Commissioner Breslow asked if these classes are taught by Mr. Richardson new consulting business.

Ms. Oerding answered yes.

Commissioner Friedrich stated that he had attended many of Mr. Richardson classes.

Commissioner Friedrich stated that it was a tremendous loss for the Division when Mr. Richardson departed as he did a superb job. Commissioner Friedrich stated that he has nothing but the highest praise for Mr. Richardson.

Commissioner Friedrich moved to approve the course. Seconded by Commissioner Williams.

Motion carried unanimously.

14-5) Ken E. Richardson
“Ethical Issues in HOAs”

Request: 3Hours General Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval.

Commissioner Frank asked if the Division is no longer going to teach any more courses now that Mr. Richardson has departed or if someone else is going to teach courses.

Sharon Jackson stated that there will be someone else teaching courses for the Division.

Commissioner Frank asked if the Division teaches the same courses that Mr. Richardson teaches.

Ms. Jackson stated that Mr. Richardson will not teach the same courses that are provided by the Division. Ms. Jackson stated that Mr. Richardson is required to changes his course material.

Commissioner Williams moved to approve the course. Seconded by Commissioner Friedrich.

Motion carried unanimously.

14-6) Ken E. Richardson
“Legislative Update 2013”

Requested: 3 Hours Legislative Update Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval.

Commissioner Williams asked what qualifies Mr. Richardson to teach a law class.

Ms. Ordering stated that this subject matter was previously approved for a Division sponsored class with Mr. Richardson as teacher.

Sharon Jackson stated that classes developed for the Division by Mr. Richardson remain the Division’s property. Ms. Jackson stated that Mr. Richardson cannot take the information that he developed for the Division and use it outside of the Division.

Michelle Briggs stated that her understanding is that this class was previously approved by the Commission to be taught by a non-attorney. Ms. Briggs stated that there is nothing in the law that states that only an attorney can teach law update classes.

Ken Richardson stated that he would like to withdraw the legislative course and the ethics course because he cannot say that they are not too similar to courses that he developed for the Division. Mr. Richardson stated that he does not want to compromise his integrity if the Division feels that he is offering classes that are the Division’s intellectual property. Mr. Richardson stated that he does not recall that been a condition of his employment. Mr. Richardson stated that he did not sign any statement to that effect, but he will defer to Ms. Jackson and her knowledge of the law. Mr. Richardson stated that he would like to withdraw agenda items 14-5 and 14-6.

Commissioner Sibley stated the legislative update class covers changes in the statute. Commissioner Sibley stated that there is not a lot of work product and is basically taking the changes of statute and discussing them. Commissioner Sibley stated that he hates to see this class withdrawn when there is a need.

Ms. Jackson agreed with Commissioner Sibley.

Commissioner Friedrich stated that he would have no problem with Mr. Richardson teaching the legislative updates class.

Commissioner Sibley stated that the Division is supporting these applications. Commissioner Sibley stated that if Division felt there was plagiarisms, those concerns should have been addressed before the Commission votes on the matter. Commissioner Sibley stated that since the Division is supporting these classes and has already reviewed the course and materials, the Commission should allow Mr. Richardson to teach this class.

Commissioner Frank stated that he agrees with Commissioner Sibley. Commissioner Frank stated Mr. Richardson should not withdraw the ethics class. Commissioner Frank stated that he attended an ethics class that Mr. Richardson taught for the Division and the class was one of the finest classes he's ever taken on ethics. Commissioner Frank stated that Mr. Richardson's personal knowledge and leadership in facilitating discussions in the classroom made the class very powerful and effective.

Mr. Richardson stated that he is comfortable in teaching the legislative update class but withdrawing the ethics class.

Mr. Richardson stated he will make sure that the ethics class is not the same course that was taught at the Division.

Commissioner Friedrich moved to approve the course. Seconded by Commissioner Sibley.

Motion carried unanimously.

14-7) Community Association Solutions

"2013 Legislative Update"

Request: 3 Hours

Legislative Update

Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division is recommending approval with some curriculum changes.

Commissioner Breslow asked if the proposed program sponsor agreed to make those changes if the Commission is so inclined to approve it.

Ms. Oerding stated that the curriculum changes will be taken care of.

Commissioner Friedrich stated that he went to a meeting that was put on by Mr. Leach and Ms. Barry and it was nothing but their opinions. Commissioner Friedrich stated that he will not

approve this course based upon their past performances.

Commissioner Frank stated that he had the same bad experience as Commissioner Friedrich. Commissioner Frank stated that he do not trust them to do a good job on this topic and will oppose this class.

Commissioner Williams moved to approve the course. Seconded by Commissioner Sibley.

Motion failed 3 to 3. Course was not approved.

15) For possible action: Discussion and decision on date, time, place, and agenda items for upcoming meetings.

The next Commission meeting is scheduled for November 18-20, 2014 in Las Vegas.

16) Public Comment

In Carson City: Marilyn Brainard, former Commission for Common-Interest Communities and Condominium Hotels commissioner and board member of the Wingfield Springs Community Associations in Sparks, commented. Ms. Brainard stated that she feels moved to talk about the last vote on not having the legislative update class. Ms. Brainard stated that she attended all the legislative update classes and found them extremely valuable and not bias. Ms. Brainard stated that she is very disappointed that the Commission did not approve the course.

In Las Vegas: Pamela Scott, Howard Hughes Corporation and a developer at Summerlin, commented. Ms. Scott stated that she wants to eco Ms. Brainard's statement. Ms. Scott stated that she attended a lot of legislative update courses that those teachers had given and she thinks they have been excellent. Ms. Scott stated that she is very disappointed that the Commission did not approve the course.

In Las Vegas: Tim Stebbins, Henderson resident, commented. Mr. Stebbins stated that this was a very informative meeting and would like to thank Director Breslow and the Division. Mr. Stebbins stated that the number of public comments at the beginning of the meeting showed a healthy attitude on the part of the public to try to express their concerns and opinions.

In Las Vegas: William Wright, Wright Law Firm, commented. Mr. Wright stated that he would like to eco the opinion of Chris Hardin concerning super priority liens. Mr. Wright stated that he believe that a portion of the Real Estate Division's opinion on super priority liens is accurate when it comes to the extinguishment of the first deed of trust. Mr. Wright stated that prior lines wipe out subordinate liens.

In Las Vegas: Fredrick Wilkening, Frontier Estates, commented. Mr. Wilkening stated that the Commission should require that everybody that sits on a board of directors of a home owner association take three hours a year of classes plus an introductory class for the first year.

17) Commissioner Comment

None.

18) For possible action: Adjournment

Commissioner Friedrich moved to adjourn the meeting. Seconded by Commissioner Rizzi.

Motion carried unanimously. Meeting ended at 3:28 p.m. on August 27, 2014.

Respectfully Yours,

Claudia Rosolen
Commission Coordinator