

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES MARCH 3, 2015**

**GAMING CONTROL BOARD
GRANT SAWYER BUILDING
555 E. WASHINGTON AVENUE, ROOM 2450
LAS VEGAS, NEVADA 89101**

**VIDEO CONFERENCED TO:
GAMING CONTROL BOARD
1919 COLLEGE PARKWAY,
CARSON CITY, NEVADA 89706**

MARCH 3, 2015

9:00 A.M.

1-A) Introduction of Commissioners in attendance

In Las Vegas: Robert Frank, Richard D. Layton, Ken Williams, James Rizzi, Scott Sibley.

In Carson City: Barry Breslow, Stephen Aichroth and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

1-B) Introduction of Division Staff in attendance

In Las Vegas: Joseph Decker, Administrator; Sharon Jackson, Ombudsman; Claudia Rosolen, Commission Coordinator; Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; Stacey Spoerl, Program Training Officer and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Christopher Cook, Compliance Audit Investigator.

2) Public Comment

In Carson City: No public comments.

In Las Vegas: Neil Schwartz, broker salesperson and commissioner of the Nevada Real Estate Commission, commented. Mr. Schwartz stated that he represents a lot of buyers and sellers who are either purchasing or selling properties that are located in common interest communities. Mr. Schwartz stated that common interest community fees are part of the negotiation between a buyer and a seller. Mr. Schwartz stated that those fees can amount to a great deal of money depending on who pays for them and can have an effect on whether an offer is accepted or not. Mr. Schwartz stated that the amount of common interest community fee is required to be included in the purchase agreement prior of making an offer. Mr. Schwartz stated that many licensees, when they call an association to get information on the amount of the fee, are told that they will not receive that information until they order a demand statement and the re-sale package. Mr. Schwartz stated that demand statement and/or the re-sale package are always prepared after an offer is presented, accepted and an escrow is opened. Mr. Schwartz asked the

Commission to review this matter and give direction to community managers and management-company on how to help those who want to sell or buy into common interest communities. Mr. Schwartz stated that this information is vital in order to make an informed decision and should be provided in a timely manner.

In Las Vegas: Jonathan Friedrich, former Commission for Common-Interest Communities and Condominium Hotels commissioner, commented. Mr. Friedrich stated that he attended a home owner association meeting in order to help an active duty Air Force personnel that is currently deployed to solve an issue that he had with his association. Mr. Friedrich read into the record the thank you letter that he received for his help.

10-A) Administrator's Report

Joseph Decker presented this report. Mr. Decker stated that the Division is triaging cases in the enforcement unit to only misconduct cases for the investigators to work on. Mr. Decker stated that two staff members were reassigned as mediators. Mr. Decker stated that the enforcement unit is now fully staffed. Mr. Decker stated that the Real Estate Division is pursuing its self-funded proposal, the Common-Interest Community and Condominium Hotel section is already self-funded. Mr. Decker stated that there is an increase in the per door fee that is associated with the Division's budget proposal. Mr. Decker stated that the three dollar per door fee was established in 1998 and has not been increased.

Commissioner Frank stated that he received a lot of complaints from constituents that are not satisfied with the outcome of the enforcement unit's investigation. Commissioner Frank asked how the Division is going to handle cases of constituents that are not satisfied and request a review.

Mr. Decker stated that the enforcement unit is not set up to handle dispute resolution, yet at least 80% of the cases that ended up in enforcement are dispute resolution. Mr. Decker stated that the Division is triaging cases in order to keep the misconduct that meets the standard of good cause for investigators to work on, and re-route all other cases to the Ombudsman's Office for dispute resolution. Mr. Decker stated that the Division's enforcement track is not a tool of the public but is a tool of the Administrator to pursue misconduct on behalf of the State. Mr. Decker stated that the service that the Division offers to homeowners and board members is dispute resolution. Mr. Decker stated that he meets with constituents all the time and is happy to express his thought process on how those cases are handled it at any time.

9-1) Seacoast Commerce Bank "HOA Banking - Hollywood Squares Style"

Request: 3 Hours General Classroom

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

Commissioner Frank asked if this class is for board members or community managers.

Ms. Oerding stated that this class is for community managers.

Commissioner Frank asked if any of those classes have an end of course test.

Ms. Oerding stated that by statute, only courses that are over seven hours of continuing education in a day are required to have a pass or fail final exam.

Commissioner Frank stated that any continuing education course should have a final exam.

Commissioner Sibley moved to approve the course. Commissioner Williams seconded.

Motion carried 6 to 1 with Commissioner Frank opposed.

9-2) Gomez Consulting Group

“Basics of Common-Interest Community Infrastructure Management for Community Managers”

Request: 4 Hours General Classroom

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

Commissioner Sibley moved to approve the course. Commissioner Rizzi seconded.

Motion carried 6 to 1 with Commissioners Frank opposed.

9-3) Leach Johnson Song & Gruchow

“How to Define and Understand Common Elements and Limited Common Elements”

Request: 3 Hours General Classroom

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

Commissioner Sibley disclosed that his employer, Nevada Legal News, receives compensation for work provided for Leach Johnson Song & Gruchow. Commissioner Sibley stated that this will not affect his ability to be impartial in his vote.

Commissioner Layton disclosed that his association uses Leach Johnson Song & Gruchow. Commissioner Layton stated that this will not affect his ability to be impartial in his vote.

Commissioner Layton moved to approve the course. Commissioner Sibley seconded.

Motion carried 6 to 1 with Commissioner Frank opposed.

9-4) Leach Johnson Song & Gruchow

“HOA Committees”

Request: 3 Hours General Classroom

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

Commissioner Sibley disclosed that his employer, Nevada Legal News, receives compensation for work provided for Leach Johnson Song & Gruchow. Commissioner Sibley stated that this will not affect his ability to be impartial in his vote.

Commissioner Layton disclosed that his association uses Leach Johnson Song. Commissioner Layton stated that this will not affect his ability to be impartial in his vote.

Commissioner Layton moved to approve the course. Commissioner Rizzi seconded.

Motion carried 6 to 1 with Commissioner Frank opposed.

9-5) Community Association Solutions

“2013 Legislative Update – The Facts”

Request: 3 Hours Law & Legislative Update Classroom

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

Commissioner Sibley disclosed that his employer, Nevada Legal News, receives compensation for work provided for Community Association Solutions. Commissioner Sibley stated that his disclosure will not affect his ability to be impartial in his vote.

Commissioner Layton disclosed that his association uses Community Association Solutions. Commissioner Layton stated that his disclosure will not affect his ability to be impartial in his vote.

Commissioner Williams moved to approve the course. Commissioner Layton seconded.

Motion carried 6 to 1 with Commissioner Frank opposed.

3) Hearing for adoption for LCB File No. R152-13.

Adoption Hearing began at 10:07 a.m. on March 3, 2015.

Introduction of Commissioners in attendance:

In Las Vegas: Robert Frank, Richard D. Layton, Ken Williams, James Rizzi, Scott Sibley.

In Carson City: Barry Breslow, Stephen Aichroth and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

Introduction of Division Staff in attendance:

In Las Vegas: Joseph Decker, Administrator; Sharon Jackson, Ombudsman; Claudia Rosolen, Commission Coordinator; Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; Stacey Spoerl, Program Training Officer and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Christopher Cook, Compliance Audit Investigator.

Chairman Breslow read the changes into the record.

Chairman Breslow called for comments on the proposed regulation.

In Carson City: Norman Rosensteel, president of Community Associations Institute Nevada Chapter, commented. Mr. Rosensteel stated that he is in favor of the proposed regulation.

In Las Vegas: No public comments.

Commissioner Sibley moved to approve the proposed regulation. Commissioner Frank seconded.

Motion carried unanimously.

Adoption hearing ended at 10:20 a.m.

4) Hearing for adoption for LCB FILE No. R049-13

Adoption Hearing began at 10:40 a.m. on March 3, 2015.

Introduction of Commissioners in attendance:

In Las Vegas: Robert Frank, Richard D. Layton, Ken Williams, James Rizzi, Scott Sibley.

In Carson City: Barry Breslow, Stephen Aichroth and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

Introduction of Division Staff in attendance:

In Las Vegas: Joseph Decker, Administrator; Sharon Jackson, Ombudsman; Claudia Rosolen, Commission Coordinator; Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; Stacey Spoerl, Program Training Officer and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Christopher Cook, Compliance Audit Investigator.

Chairman Breslow read the changes into the record.

Section 1

In Las Vegas: Randolph Watkins; CEO of a local management company, certified community manager, homeowner in Sun City Anthem in Henderson Nevada, and former Commission for Common-Interest Communities and Condominium Hotels commissioner; commented. Mr. Watkins stated that this proposed regulation was presented several years ago. Mr. Watkins stated that he highly support all the recommendations.

Commissioner Frank asked Mr. Watkins if there are some things that a management company could be allowed to do to have a percentage of payment for, that are outside the one mentioned referring to section 1-f.

Mr. Watkins stated that this point was dealing specifically with fines based upon violations that some management companies were making part of their agreement. Mr. Watkins stated that as far as what else can be negotiated in a management contract is outside of the scope of this proposed regulation.

In Las Vegas: Mike Randolph, thirteen year board member of Paradise Springs Homeowner Association and fourteen year manager at Homeowner Association Services, commented. Mr. Randolph asked to include the words "or assessment" after the word "late payment" in section 1-f-3. Mr. Randolph stated that currently some management companies are contracted to get a percentage of the late charges that have been posted against an account in a given month. Mr. Randolph stated that those charges are collected as part of the reimbursable at the end of the month, before the money has been collected. Mr. Randolph stated that for an association who's having a problem with a large delinquency factor this proposed regulation can be very expensive.

Commissioner Williams stated that he was the one that proposed this regulation two years ago. Commissioner Williams asked if Mr. Randolph submitted any recommendations or wording to the Commission prior to today.

Mr. Randolph stated that he submitted the proposed changes in writing when this proposed regulation was first brought up, about a year and a half ago.

Commissioner Frank asked if the Commission is allowed to make changes to the proposed regulation before voting to adopt it today.

Henna Rasul stated that if amendments are made, the proposed regulation would have to go back to the Legislative Counsel Bureau.

Teralyn Thompson stated that if the Commission decides to make changes, the proposed regulation would have to go to the Legislative Counsel Bureau and the Commission would be required to conduct another workshop. Ms. Thompson stated that this proposed regulation will expire in July 2015.

Mr. Randolph stated that he would rather see the proposed regulation go through the adoption process today than to have it sent back to the Legislative Counsel Bureau.

Joseph Decker commented on section 1-f-1 regarding "The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners". Mr. Decker asked if the Commission intends to exclude guest of tenants from the list of parties mentioned.

Commissioner Williams stated that guests of tenants are included in the list of parties mentioned.

In Las Vegas: Jonathan Friedrich, former Commission for Common-Interest Communities and Condominium Hotels commissioner, commented. Mr. Friedrich stated that in the past there

have been questions on whether or not a surety bond can be obtained. Mr. Friedrich asked if including a surety bond in section 1-1-1 is viable.

Chairman Breslow stated that surety bonds are a common product that financial services and insurance companies offer. Chairman Breslow stated that he can't tell if surety bonds are available in the market place for this type of potential loss.

Randolph Watkins stated that surety bonds are not difficult to obtain.

Final Comment

In Carson City: No public comments.

In Las Vegas: No public comments.

Commissioner Rizzi moved to approve the proposed regulation. Commissioner Sibley seconded.

Motion carried unanimously.

Adoption Hearing ended at 11:07 a.m. on March 3, 2015.

5) Regulation workshop for LCB FILE No. R052-13

Workshop began at 11:12 a.m. on March 3, 2015.

Introduction of Commissioners in attendance:

In Las Vegas: Robert Frank, Richard D. Layton, Ken Williams, James Rizzi, Scott Sibley.

In Carson City: Barry Breslow, Stephen Aichroth and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

Introduction of Division Staff in attendance:

In Las Vegas: Joseph Decker, Administrator; Sharon Jackson, Ombudsman; Claudia Rosolen, Commission Coordinator; Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; Stacey Spoerl, Program Training Officer and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Christopher Cook, Compliance Audit Investigator.

Public Comment

In Carson City: No public comments.

In Las Vegas: No public comments.

Workshop Hearing ended at 11:23 a.m. on March 3, 2015.

8-A-1) For possible action: Discussion and decision on proposed changes, additions and deletions to LCB File No. R052-13; including review of public comments from regulation workshop held March 3, 2015

Commissioner Sibley moved to continue the propose regulation to the adoption stage.
Commissioner Layton seconded.

Motion carried unanimously.

10-B-1) Ombudsman's Report on intervention

Sharon Jackson presented this report. Ms. Jackson stated that there is an error in the date of the report. Ms. Jackson stated that the correct reporting period is from fiscal year 07/01/2014 to 01/31/2015. Ms. Jackson stated that the total of affidavits received was 209.

10-B-2) Ombudsman's Report on informal conference

Sharon Jackson presented this report. Ms. Jackson stated that the total number of informal conference offered by the Ombudsman's office was 350. Ms. Jackson stated that the Ombudsman's office held 77 informal conferences; 55 were resolved and 29 cases were closed and referred to the Alternative Dispute Resolution program.

10-B-3) Ombudsman's Report on alternative dispute resolution filings and subsidy claims

Sharon Jackson presented this report. Ms. Jackson stated that they had a total of 88 cases opened and 69 mediation claims.

10-B-4) Ombudsman's Report on homeowner association and compliance audits

Sharon Jackson presented this report. Ms. Jackson stated that the auditor has a total of 20 audits in process right now.

10-B-5) Ombudsman's Report on Program Training Officer's Report

Stacey Spoerl presented this report. Ms. Spoerl stated that since the last Commission meeting she has done over eleven presentations and they have been well accepted. Ms. Spoerl stated that every presentation that she had created is on the Division's website. Ms. Spoerl stated that she has done presentations in various locations and times in order to meet people schedules.

Commissioner Frank asked if those sessions can be streamed.

Mr. Decker stated that the Division does not have the technology nor funds to stream courses at this time.

10-B-6) Ombudsman's Report on number and types of associations registered with the state

Sharon Jackson presented this report. Ms. Jackson stated that there are 3,061 registered associations with 508,098 registered units in Nevada. Ms. Jackson stated that there were 382 units that were terminated.

Commissioner Frank asked Ms. Jackson to provide a customer satisfaction survey for those who are using the Ombudsman's Office.

Ms. Jackson stated that the Ombudsman's Office offers a survey to those who go through the informal conference process.

Commissioner Frank and Commissioner Aichroth asked if the results of those surveys can be included in the next Ombudsman's report.

10-C) Compliance Section's report

Joseph Decker presented this report. Mr. Decker stated that the Chief Compliance Investigator position is currently open. Mr. Decker stated that the Division currently has 254 active cases. Mr. Decker stated that the enforcement unit is narrowing the case load down to actual misconduct cases that will be pursued by investigators. Mr. Decker stated that investigators are working through the back log. Mr. Decker stated that it will take a little extra time than previously anticipated to take the misconduct cases to the Commission.

10-D) Administrative fine report pursuant to NAC 116A.350 (4)

Teralyn Thompson presented this report. Ms. Thompson reported that there are no administrative fines at this time.

10-E) Licensee and board member discipline report

Teralyn Thompson presented this report. Ms. Thompson stated that this report is updated after every Commission meeting and when the Division receives an order or a payment. Ms. Thompson stated that Mary Brailey is on time with her payments. Ms. Thompson stated that Richard Willer had made a payment of two thousand dollars.

8-C) Discussion and decision to approve minutes of the November 18-19, 2014 Commission meeting.

Commissioner Frank moved to approve the minutes. Seconded by Commissioner Sibley.

Motion carried unanimously.

8-D) Discussion regarding Commissioners' speaking engagement requests.

No speaking engagements.

8-B-1) For possible action: Assembly Bill 125 relating to constructional defects; enacting provisions governing the indemnification of a controlling party by a subcontractor for certain constructional defects; enacting provisions governing wrap-up insurance policies or consolidated insurance programs covering certain claims for constructional defects; authorizing the parties to a claim for a constructional defect to agree to have a judgment entered before the filing of a civil action under certain circumstances; revising the definition of "constructional defect"; revising provisions governing the information required to be provided in a notice of constructional defect; removing provisions authorizing claimants to give notice of common constructional defects in residences or appurtenances; requiring a claimant to pursue a claim under a homeowner's warranty under certain circumstances; revising provisions governing the damages recovered by a claimant; revising the statutes of repose regarding actions for damages resulting from certain deficiencies in construction; revising provisions governing the tolling of statutes of limitation and repose regarding actions for constructional defects; prohibiting a

homeowners' association from pursuing an action for a constructional defect unless the action pertains exclusively to the common elements of the association. (BDR 3-588)

Teralyn Thompson presented this report. Ms. Thompson stated that section 20 makes changes to NRS 116.3102 regarding litigation for constructional defects. Ms. Thompson stated that the bill has already been signed and approved by the Governor.

8-B-2) For possible action: Assembly Bill 141 relating to common-interest communities revising provisions relating to the foreclosure of liens by a homeowners' association. (BDR 10-751)

Teralyn Thompson presented this report. Ms. Thompson stated that this bill removes a provision in NRS 116.31163 that requires a copy of the notice of default and election to sell to be mailed to holders of certain security interests only if such holders have notified the association of the existence of the security interest 30 days before the recordation of the notice. Ms. Thompson stated that this bill was heard by the Judiciary Committee on 02/25/2015. Ms. Thompson stated that as of today there is no meeting scheduled for this bill.

8-B-3) For possible action: Assembly Bill 149 relating to common-interest communities revising provisions governing retaliatory action by certain persons in common-interest communities. (BDR 10-815)

Teralyn Thompson presented this report. Ms. Thompson stated that this bill makes changes to NRS 116.31183 prohibiting retaliatory action if it causes financial harm, maligns the reputation of the unit's owner or prohibits or interferes with a candidate's campaign to be a member of the executive board. Ms. Thompson stated that this bill also prohibits retaliatory action based on race, color, religion, national origin, physical or mental disability, sexual orientation, gender identity or expression. Ms. Thompson stated that this bill was heard by the Judiciary Committee on 2/26/2015. Ms. Thompson stated that as of today there is no meeting scheduled for this bill.

8-B-4) For possible action: Assembly Bill 169 relating to graywater, requiring the State Board of Health to adopt regulations concerning systems for the collection and application of graywater for a single-family residence, requiring a permit for such graywater systems, providing that state and local governmental agencies must not prohibit graywater systems that meet certain requirements, allowing restrictions on graywater systems within common-interest communities. (BDR 40-804)

Teralyn Thompson presented this report. Ms. Thompson stated that section 11 of this bill adds language to NRS 116 regarding graywater system use restriction in the governing documents. Ms. Thompson stated that this bill was introduced 02/16/2015. Ms. Thompson stated that only a small portion of this bill affect NRS 116.

8-B-5) For possible action: Assembly Bill 192 relating to common-interest communities revising certain provisions concerning a period of declarant's control of a unit-owners' association; revising certain provisions relating to elections of the members of the executive board of a unit-owners' association. (BDR 10-661)

Teralyn Thompson presented this report. Ms. Thompson stated that this bill amends NRS 116.31032 regarding the termination of a declarant's control. Ms. Thompson stated that section 1(a) makes provisions for associations with less than 1,000 units and still keeps to the 60 days.

Ms. Thompson stated that section 1(b) makes provisions for units with 1,000 units or more keeping the 60 days. Ms. Thompson stated that with smaller associations it requires 75% of units that may be created to units' owners, larger associations are required to have 90%. Ms. Thompson stated that section 1(f) changes 25% to 15%. Ms. Thompson stated that no committee meeting has been scheduled for this bill yet.

8-B-6) For possible action: Senate Bill 154 relating to common-interest communities requiring the adoption of regulations concerning continuing education requirements for community managers. (BDR 10-725)

Teralyn Thompson presented this report. Ms. Thompson stated that this bill changes NRS 116A.410 to establish the qualifications for renewal of a certificate and the hours of continuing education. Ms. Thompson stated that this bill requires certificates to be renewed bi-annually which is already in NAC 116A.140(1). Ms. Thompson stated that section 1(g)(2) is being addressed in R152-13 which is due to be adopted by the Commission which would allow for continuing education credits to be done in one hour increments. Ms. Thompson stated that this section also authorizes not more than 5 hours of continuing education credits for attendance of a Commission meeting, mediation or arbitration. Ms. Thompson stated that section 1(g)(2)(I) changes statute to allow for attendance at the disciplinary portion of a Commission meeting to count towards law and legislation updates pursuant to NAC 116A.140(1)(d). Ms. Thompson stated that section 1(g)(2)(II) says that not more than 5 hours of continuing education credits will be awarded by attending any mediation or arbitration arising from a claim within the Division's jurisdiction. Ms. Thompson stated that once this bill is approved and passed it would require changes to regulation.

Commissioner Williams stated that Senate Bill 154 is a bill that he put in. Commissioner Williams stated that there always been trouble for managers to obtain all the required law credits. Commissioner Williams stated that with this bill managers that attend the disciplinary section of the Commission meeting will receive law credits by one hour increments.

8-B-7) For possible action: Senate Bill 174 relating to common-interest communities revising provisions governing eligibility to be a member of the executive board or an officer of a unit-owners' association. (BDR 10-617)

Teralyn Thompson presented this report. Ms. Thompson stated that this bill adds to NRS 116.31034 excluding additional people from being a member of the executive board or an officer of the homeowner association. Ms. Thompson stated that this bill was heard by the Judiciary Committee on 2/24/2015 and no action was taken. Ms. Thompson stated that as of today there are no meetings scheduled for this bill.

Commissioner Williams stated that he does not understand what the changes on Assembly Bill 192 are supposed to accomplish.

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

The next Commission meeting is scheduled for June 16-18, 2015 in Las Vegas.

6) Regulation workshop for LCB FILE No. R050-13

Workshop began at 1:32 p.m. on March 3, 2015.

Introduction of Commissioners in attendance:

In Las Vegas: Robert Frank, Richard D. Layton, Ken Williams, James Rizzi, Scott Sibley.

Barry Breslow was not present.

In Carson City: Stephen Aichroth and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

Introduction of Division Staff in attendance:

In Las Vegas: Joseph Decker, Administrator; Sharon Jackson, Ombudsman; Claudia Rosolen, Commission Coordinator; Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; Stacey Spoerl, Program Training Officer and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Christopher Cook, Compliance Audit Investigator.

Section 1

In Las Vegas: Pamela Scott, representing Howard Hughes Corporation and a developer at Summerlin, commented. Ms. Scott stated that it doesn't make sense to have a reserve study dated from the day of the on-site inspection. Ms. Scott stated that a reserve specialist has no control on when the on-site inspection is done. Ms. Scott stated that reserve study has to do with the fiscal year and should coincide with the fiscal year of the association.

In Las Vegas: Mari Jo Betterley, Nevada State reserve study specialist number 25, commented. Ms. Betterley stated that the reserve study should be done along and coinciding with the operating budget at the beginning of the fiscal year.

In Carson City: Robert Browning, reserve specialist number five, commented. Mr. Browning stated that the official date for the reserve study should be better suited to coincide with the fiscal year of the association and not an arbitrary date on when the specialist happen to do the on-site inspection.

In Las Vegas: Gary Lein, former Commission for Common-Interest Communities and Condominium Hotels commissioner, commented. Mr. Lein stated that he was the one that worked on this proposed regulation. Mr. Lein stated that the base for the proposed changes was that under current regulation there was no trigger point for the five years requirement. Mr. Lein stated that when you look at NRS 116.31152 it stated that the reserve study should be conducted every five years. Mr. Lein stated that in the original regulation the starting and expiration date for the five year is not clear. Mr. Lein stated that the thinking behind this proposed regulation is that the regulation needs to have a start date and it does not have anything to do with the projecting of the funds. Mr. Lein stated that the site inspection is when they actually go out and physically inspect the life expectancy of the components and the quantity.

Section 4

In Carson City: Sandy Duncan, past president Airpark Estates Homeowners association, commented. Ms. Duncan provided the Commission with written public comment and read her comments into the record.

Section 5

In Las Vegas: Jonathan Friedrich, former commissioner for Common-Interest Communities and Condominium Hotels Commission, commented. Mr. Friedrich asked if anybody has determined what the costs of those changes are going to be for associations.

In Las Vegas: Gary Lein stated that form 609 is what needs to be submitted to the Real Estate Division no later than 45 days after the date the executive board adopts the results of each reserve study. Mr. Lein stated that one of the line items on form 609 talks about the full study. Mr. Lein stated that he understood that full study is when someone is going out and inspects the common elements. Mr. Lein stated that nationally a full study means going out, inspecting the common elements by measuring them and doing a quantitative analysis. Mr. Lein stated that this proposed regulation would clarify this point. Mr. Lein stated that an on-site visit is the quantitative analysis without re-measuring of the common elements. Mr. Lein provided the Commission with written public comment and read his comments into the record.

Commissioner Layton stated that on page 9 point (V) he would like to add that the development of a funding plan in writing and that a time frame for that plan be provided.

In Las Vegas: Mari Jo Betterley commented. Ms. Betterley stated that on page 7 point (K) the major components should be evaluated based on the conditions not necessarily based on the date of the installation. Ms. Betterley stated that on page 8 point (I) the term "measurement" is not always an accurate description for quantifying a major component. Ms. Betterley stated that CAI's National Reserve Study standards state "Condition Assessment based upon on-site visual observations" shall be performed. Ms. Betterley asked that "quantify" or "verify" be included.

In Carson City: Robert Browning commented. Mr. Browning stated that on page 7 point (I) most reserve specialist use an inflated cost not a current cost; this is a point that could cause confusion and has not been as realistic as it currently is. Mr. Browning stated that in several areas the term "person" appears in the proposed changes. Mr. Browning stated that there are few firms performing reserve studies whereby only one person works on the study. Mr. Browning stated that proposed provisions that refer to a "person" need to be reviewed to see if the provision is attainable.

In Carson City: Sandy Duncan commented on page 9 point 3 regarding an update to a previous reserve study made without a visit in order to estimate the remaining useful life of major components. Ms. Duncan stated that she does not understand how a change on a reserve study that determines the remaining useful life can be made without an on-site visit.

Section 6

In Las Vegas: Gary Lein provided the Commission with written public comment and read his comments into the record.

In Carson City: Robert Browning commented. Mr. Browning stated that this regulation should be clearer about insurance and not require insurance from each registered reserve specialist. Mr. Browning stated that the registered reserve specialist has the license and the responsibility for the work, but the firm should be the one that has insurance.

Section 7

In Las Vegas: Gary Lein stated that the purpose of this section is to clarify that when an executive board receives the first document they have 210 days to submit a summary of the reserve study to the Real Estate Division. Mr. Lein stated that this change was requested by the Real Estate Division.

In Carson City: Robert Browning commented. Mr. Browning provided the Commission with written public comment and read his comments into the record.

Section 8

Commissioner Layton commented on item 4 regarding the accrual basis of accounting requiring a statement of cash flow and footnotes to be parts of the financial statement. Commissioner Layton stated that he has never seen an association prepare those two additional documents. Commissioner Layton requested that item 4 specifies that statement of cash flow and footnotes to the financial statement are not to be a requirement.

Section 11

In Las Vegas: Gary Lein stated that on page 18 subsection 2-i, should be changed to include “be covered by or” maintain insurance covering liability.

Commissioner Layton stated that on page 17 subsection 1-c should include “and within a reasonable time period”. Commissioner Layton stated that on page 18 subsection 2-i, he would like included that proof of insurance to be submitted to the Real Estate Division as a requirement.

Final Comment

In Las Vegas: Mari Jo Betterley asked that the wording “the study must be completed prior the first date of the fiscal year” be included in the changes for this proposed regulation. Ms. Betterley stated that a reserve study update should be done by verifying measurements and counting all common elements. Ms. Betterley stated that when she prepares a reserve study she uses today’s cost because that is the only accurate number. Ms. Betterley stated that she uses the inflated cost when she does updates.

In Carson City: Robert Browning requested updates on form 609. Mr. Browning stated that Nevada is the only state that has a permit process and the changes that this proposed regulation bring are positive.

Commissioner Williams ask to accept the changes that Mr. Lein proposed.

Commissioner Rizzi asked what would happen if the Commission accepts the proposed changes.

Teralyn Thompson stated that if changes are made, the proposed regulation would have to go back to the Legislative Counsel Bureau for drafting, another workshop will need to be scheduled, and the regulation will have to go through the adoption process. Ms. Thompson stated that this regulation will expire July 2015.

Commissioner Layton stated that he would like to see the reserve analysis done with the full funding method.

Commission Sibley asked Mr. Lein if adopting the proposed regulation without changes would compromise the intent of the regulation.

Gary Lein stated that the proposed changes are minimal and adopting the regulation as is will not affect the intent of the proposed regulation. Mr. Lein stated that there are twelve key items in the proposed regulation that are enhancing and protecting unit owners of Nevada. Mr. Lein stated that the proposed changes can be made at a later time.

Workshop Hearing ended at 2:50 p.m. on March 3, 2015.

8-A-2) For possible action: Discussion and decision on proposed changes, additions and deletions to LCB File No. R050-13; including review of public comments from regulation workshop held March 3, 2015

Chairman Breslow abstained himself from voting because he was not present during the workshop.

Commissioner Layton moved to bring the proposed regulation to adoption. Commissioner Williams seconded.

Motion carried with Chairman Breslow abstaining.

7) Regulation workshop for LCB FILE No. R065-14

Workshop began at 3:02 p.m. on March 3, 2015.

Introduction of Commissioners in attendance:

In Las Vegas: Robert Frank, Richard D. Layton, Ken Williams, James Rizzi, Scott Sibley.

In Carson City: Barry Breslow, Stephen Aichroth and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

Introduction of Division Staff in attendance:

In Las Vegas: Joseph Decker, Administrator; Sharon Jackson, Ombudsman; Claudia Rosolen, Commission Coordinator; Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; Stacey Spoerl, Program Training Officer and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Christopher Cook, Compliance Audit Investigator.

Section 2

In Las Vegas: Barbara Holland, President and principal owner of H&L Realty & Management Las Vegas, commented. Ms. Holland stated that much of this proposed regulation is redundant and it is already found in NRS 116. Ms. Holland commented on section 2-1-g. Ms. Holland stated that they don't always know who the members of the executive board or hearing committee are going to be. Ms. Holland commented on section 2-2. Ms. Holland stated that homeowners don't pick up their certified mail. Ms. Holland suggested to use a certificate of mailing as proof that notice of violation was sent.

In Las Vegas: Pamela Scott, representing Howard Hughes Corporation and a developer at Summerlin, commented. Ms. Scott stated that she sends an average of one hundred hearing notices a month and one thousand courtesy letters a month. Ms. Scott stated that the cost of sending those letters by certified mail should go back to the homeowner that committed the violation. Ms. Scott stated that Ms. Holland's proposal of using a certificate of mailing is not always the answer when the volume of letters to be sent is in the hundreds. Ms. Scott stated that prepaid postage is adequate to send out notices.

In Las Vegas: Ken Saiem, president at Falcon Pointe Association, commented. Mr. Saiem stated that he makes phone calls to homeowners that have violations and most people are cooperative. Mr. Saiem asked that when someone gets called to hearing that the board holds a fine in abeyance for the thirty days so that people won't end up with two fines when the association has a fourteen days moratorium.

In Carson City: Pennie Puhek, Frank Capello, Charles Hernandez and Ken Brensinger, Anthem Highlands Community Association Las Vegas, commented. Ms. Puhek spoke on behalf of the other board members that were present from Anthem Highlands Community Association. Ms. Puhek stated that section 2-1-g can be problematic. Ms. Puhek stated that including the names of the members has the potential of causing harassment. Ms. Puhek commented on section 2-2. Ms. Puhek stated that currently in her association eighty days passes before a hearing takes place. Ms. Puhek stated that allowing additional extensions would take the hearing date well beyond the one hundred and ten days. Ms. Puhek stated that this would generate complaints from other homeowners as they will be under the impression that nothing is being done. Ms. Puhek stated that section 2-4 will only increase expenses to the association. Ms. Puhek stated that in her association they tracked the certified mail that was sent out over a period of six months. Ms. Puhek stated that 73% of the certified mail returned unclaimed.

In Las Vegas: Billie Smith, vice president of a seven hundred and forty-three door association in Henderson, commented. Ms. Smith stated that she is concerned with section 2-g. Ms. Smith stated that including the names of the members could lead to harassment. Ms. Smith stated that section 2-2 could cause additional frustration on homeowners as they only see that a problem is not being taken care of and fail to understand that there are timeframes that need to be followed in order to comply with the process. Ms. Smith agreed with previous comments opposing section 2-4.

In Carson City: Michelle Goodell, Terra West Management, commented. Ms. Goodell commented on section 2-1-g. Ms. Goodell stated that they don't always know who the members of the executive board or hearing committee are going to be. Ms. Goodell agreed with previous comments opposing to section 2-2 and section 2-4.

In Las Vegas: John Radocha, unit owner in a homeowner association in Las Vegas, commented. Mr. Radocha commented on section 2-4. Mr. Radocha stated that homeowners have to send a letter through certified mail when they communicate with the board.

Commissioner Williams stated that section 2-1-g is almost impossible and asked what would happen if there was a name change. Commissioner Williams agreed with the opposition on section 2-2 and section 2-4.

Commissioner Frank stated that the purpose of section 2-1-g is to know who their judges are going to be, which is a fundamental civil right. Commissioner Frank stated that harassment is not a good reason to oppose this section. Commissioner Frank stated that there are ways for boards to deal with harassment.

Chairman Breslow commented on section 2-1-d. Chairman Breslow asked what if the violation has occurred and there is no cure possible. Chairman Breslow stated that it should change to "the proposed action to cure, if a cure is still possible, the alleged violation". Chairman Breslow stated that section 2-1-g should be taken out. Chairman Breslow stated that this section could bring backlash and the management company doesn't usually know which members of the board are going to be available and willing to be part of a hearing committee. Chairman Breslow stated that the person that has been accused of a violation already knows that the hearing committee is going to be some composite of the executive board. Chairman Breslow stated that in section 2-2 it should be ten days not thirty. Chairman Breslow stated that section 2-4 is silly because of the cost of certified mail and the fact that people don't pick up their certified mail. Chairman Breslow stated that once a notice is mailed it's deemed that notice has been given.

Section 3

Chairman Breslow stated that section 3-2 should read "if a respondent cures a violation, if it can be cured, in the time provided".

Section 4

In Las Vegas: Barbara Holland commented on section 4-1-b. Ms. Holland stated that the list of witnesses is hard to obtain and listing the place of employment and the title of a witness is irrelevant to the situation. Ms. Holland stated that she had occasions where people were afraid to testify and they had to cancel a number of hearings because of witnesses' unwieldiness of testifying as they were afraid of retaliation. Ms. Holland stated that if someone feels that the board hasn't conducted a fair hearing they can contact the Ombudsman's Office.

In Carson City: Michelle Goodell commented. Ms. Goodell stated that this section would turn a discussion into a court room. Ms. Goodell stated that all the hearing would have to have an attorney present in order to properly comply with the requirements from this section. Ms. Goodell commented on section 4-4-a. Ms. Goodell stated that thirty days is a long period of time and will move the hearing to sixty days which is unreasonable for the association. Ms. Goodell stated that section 4-5 is another stall tactic.

In Las Vegas: Pamela Scott commented. Ms. Scott stated that she agrees with the comments that have been made concerning this section.

In Las Vegas: Donald Schaefer commented. Mr. Schaefer stated that his association has occasional hearings and this process will increase the cost for homeowners. Mr. Schaefer stated that they will need to hire an attorney in order to comply with the requirements listed in this section.

In Las Vegas: Dan Bess commented. Mr. Bess stated that the proposed regulation is meant to punish all good associations out there. Mr. Bess asked the Commission to start over with a new proposed regulation.

Commissioner Williams stated that all of section 4 should be removed.

Commissioner Rizzi commented on section 4-3-a. Commissioner Rizzi stated that the word "shall" should be removed.

Commissioner Frank stated that the Commission should start over with a new proposed regulation.

Chairman Breslow stated that section 4 should come out completely.

Section 5

In Las Vegas: Barbara Holland commented. Ms. Holland stated that the regulation is asking community managers and associations to go out of their scope.

In Carson City: Michelle Goodell commented. Ms. Goodell agreed with Ms. Holland's comment.

In Carson City: Al Delmue, board president at Reno Vista Ridge Master Property Owners Association, commented. Mr. Delmue stated that sending certified return mail is excessive as most of those letters will return back unclaimed. Mr. Delmue stated that the Division has the means to monitor the actions of boards and does not need to make additional rules.

Commissioner Williams stated that section 5-3 is in direct conflict with NRS 116.310854(c).

Section 6

In Las Vegas: Pamela Scott commented. Ms. Scott stated that section 6-1 is in violation of

current statute.

In Las Vegas: Barbara Holland commented. Ms. Holland stated that they already have problems with cell phone video and people taking things out of context and posting them on social media.

Section 7

In Las Vegas: John Radocha commented. Mr. Radocha stated that he is concerned about military personnel that live in associations. Mr. Radocha stated that those time frames may not be suitable for those who are deployed.

In Carson City: Michelle Goodell commented. Ms. Goodell stated that she has no objection on homeowners filing a grievance, but not allowing the association to charge fines that they reach are inappropriate.

Commissioner Frank stated that most military personnel just want to know what the rules are and follow them.

Final Comments

In Las Vegas: Barbara Holland commented. Ms. Holland stated that the Commission and the Division are supposed to regulate the law not legislate. Ms. Holland stated that no one in the industry feels like they had a fair break from the Commission. Ms. Holland stated that the comments that were made today make her feel like there is a change in direction from the Commission.

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 this regulation should be permanently retired from the Commission's work log.

In Las Vegas: Randolph Watkins, CEO of a local management company, certified community manager, 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 echoes all the opposition. Mr. Watkins stated that this is a bad regulation and should not go any further.

Workshop Hearing ended at 4:23 p.m. on March 3, 2015.

8-A-2) For possible action: Discussion and decision on proposed changes, additions and deletions to LCB File No. R065-14; including review of public comments from regulation workshop held March 3, 2015

Commissioner Williams moved to stop the proposed regulation from going any further. Commissioner Layton seconded.

Motion carried unanimously.

12) Public Comment

In Carson City: No public comments.

In Las Vegas: No public comments.

13) Commissioner Comment

Commissioner Williams stated that continuing education law classes for community managers proposal is in Senate Bill 154.

Commissioner Williams stated that his attempt to contact Nellis and other military entities in order to propose a check list for pre-deployment that includes items related to their association is not getting very far with that.

14) For possible action: Adjournment

Meeting adjourned at 4:30 p.m. on March 3, 2015.

Respectfully Yours,

Claudia Rosolen
Commission Coordinator

NOT APPROVED BY THE COMMISSION