

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES NOVEMBER 17-18, 2015**

**GAMING CONTROL BOARD
1919 COLLEGE PARKWAY
CARSON CITY, NEVADA 89706**

**VIDEOCONFERENCE TO:
GRANT SAWYER BUILDING
GAMING CONTROL BOARD
555 E. WASHINGTON AVENUE, ROOM 2450
LAS VEGAS, NV. 89101**

NOVEMBER 17, 2015

9:00 A.M.

A) Introduction of Commissioners in attendance

In Carson City: Barry Breslow, Stephen Aichroth, Ken Williams, James Rizzi, Scott Sibley, Richard Layton, and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

1-B) Introduction of Division Staff in attendance

In Carson City: Joseph Decker, Administrator; Michael Jory, Deputy Administrator; Sharon Jackson, Ombudsman; Stacey Spoerl, Program Training Officer; Chris Sewell, Chief Compliance Investigator; Chris Cooke, Compliance Investigator; Claudia Rosolen, Commission Coordinator; and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Las Vegas: Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; and Sandra Saenz, Licensing Supervisor.

2) Public Comment

In Carson City: Peter Smith, attorney representing Cottonwood Court Townhomes Homeowners Association, commented. Mr. Smith asked the Commission when his matter will be heard.

Chairman Sibley suggested speaking with Senior Deputy Attorney General Michelle Briggs.

In Las Vegas: None

3) Regulation workshop for LCB FILE No. R115-15

Workshop began at 9:03 a.m. on November 17, 2015.

Introduction of Commissioners in attendance:

In Carson City: Barry Breslow, Stephen Aichroth, Ken Williams, James Rizzi, Scott Sibley, Richard Layton, and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

Introduction of Division Staff in attendance:

In Carson City: Joseph Decker, Administrator; Michael Jory, Deputy Administrator; Sharon Jackson, Ombudsman; Stacey Spoerl, Program Training Officer; Chris Sewell, Chief Compliance Investigator; Chris Cooke, Compliance Investigator; Claudia Rosolen, Commission Coordinator; and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Las Vegas: Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; and Sandra Saenz, Licensing Supervisor.

Chairman Sibley asked if the copy of the proposed regulation contains the provision “not to exceed the three month”.

Teralyn Thompson stated that the copy that the Commission was provided with has “not to exceed the three month”. Ms. Thompson stated that the Legislative Counsel Bureau provided her with a new draft in which they took out that section. Ms. Thompson stated that the Legislative Counsel Bureau stated that by statute it can’t be added to regulation.

Joseph Decker stated that the Legislative Counsel Bureau feels that the three months provision limiting the number of months after the expiration of a contract is in direct contradiction with NRS 116A.620(2)(b) which states “Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal provision.”

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 is concerned about the increase in fees for community managers. Ms. Brainard stated that she has gathered information from other states that have licensed managers and Nevada is the most expensive state. Ms. Brainard asked the Division to reconsider the fee increase.

In Las Vegas: No public comments.

Workshop ended at 9:23 a.m. on November 17, 2015.

6-A) 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: LCB File No. R115-15; including review of public comments from regulation workshop held November 17, 2015

Commissioner Williams stated that it was his understanding that the fee increase was part of the Division’s plan of becoming self-sufficient.

Mr. Decker stated that it is only the application fee that has been increased not the renewal fee. Mr. Decker stated that the Common-Interest Communities budget is a self-contained budget, within the Real Estate master budget, that is already self-funded. Mr. Decker stated that monies that are coming in from that sector are staying in that sector. Mr. Decker stated that the Division has not had a fee increase since the Ombudsman’s program was initiated. Mr. Decker stated that

for the past ten years the Division has been depleting the reserve account for the Common-Interest Communities budget.

Chairman Sibley stated that the Legislature and the Governor authorized the fee increase.

Commissioner Williams moved to accept the changes to the propose regulation without the three months provision. Commissioner Layton seconded.

Motion carried unanimously.

Commissioner Breslow stated that the concerns that were raised in previous meetings about the month to month community association contracts that are going on forever were noted. Commissioner Breslow stated that the power of the Commission to do something about it at this time does not exist. Commissioner Breslow asked those in the field to note the concerns and potential abuses and to react in a way that is fair and equitable.

4) License Denial Appeal for Mary Felicia Novak-File No. S-CAM-LDA-16-001.

Parties Present:

Mary Felicia Novak was not present.

Teralyn Thompson stated that Ms. Novak received notice to appear.

Senior Deputy Attorney General Michelle Briggs requested that Ms. Novak's request for an appeal be denied.

Chairman Sibley asked if Ms. Novak provided any documentation requesting a closed hearing.

Ms. Thompson stated that Ms. Novak submitted a letter requesting the appeal and that Ms. Novak was going to request a closed hearing.

Commissioner Breslow asked Ms. Thompson if the Division received any communication from the applicant in the last 24 hours indicating that Ms. Novak had any personal or business matter that precluded her to be present.

Ms. Thompson stated that she had not checked her work emails for the day.

Commissioner Breslow asked to postpone this agenda item for the afternoon to give Ms. Thompson the time to check her work email.

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

NRED v. Cottonwood Court Townhomes Homeowners' Association, Inc.; Ann Tisue; Gilbert Tisue and William Maston, for possible action

Case No. IN-1620

Type of Respondent: Executive Board

Parties Present:

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Ann Tisue, Gilbert Tisue and William Maston were not present.

Peter Smith was present representing Cottonwood Court Townhomes Homeowners Association.

Preliminary Matters:

Ms. Briggs gave the Commission background history regarding the case.

Ms. Briggs provided the reserve study for Cottonwood Court Townhomes Homeowners Association to the Commission.

Ms. Briggs stated that according to page four of the reserve study, the association is currently underfunded in the amount of \$31,897.08. Ms. Briggs stated that the reserve study recommends that the association fund that amount and that the association collect \$62 in assessments per month.

Peter Smith gave the Commission background history regarding the actions that the respondents took in concern with the Division's requests.

Commissioner Breslow asked Mr. Smith why the Commission should overlook statutory and regulatory requirements for Cottonwood.

Mr. Smith stated that the regulation provides for threshold and baseline funding which is described as being less than what the Division would call full funding and that is what Cottonwood has done. Mr. Smith stated that buyers buy in with full notice of what the reserve study and accounting shows.

Commissioner Layton stated that page twenty-seven of the reserve study shows that at the end of 2015 the reserve is only funded 23.1% of what the reserve study has recommended.

Mr. Smith stated that is what the chart shows, but he does not understand how the chart was made.

Commissioner Layton stated that his concern is that units are now being sold. Commissioner Layton stated that he is not certain that the people that are buying in fully understand the financial responsibilities that they are accepting since the property is well underfunded.

Mr. Smith stated that the reserve study was prepared with the premise that everything was going to be replaced and rebuilt after fifty years. Mr. Smith stated that it was unrealistic and that the association asked the reserve study specialist if it could tone down what would be the necessary monthly payment because the association didn't think that the place will need to be completely rebuilt in fifty years. Mr. Smith stated that the roofing element that is included in the study is beyond thirty years and that could be exempt from the calculation.

Commissioner Williams stated that he does not understand why the developers will not fund the reserve account. Commissioner Williams stated that on page four where it outlines the shortfalls, it shows that if the funds are not provided the association will have to have a special assessment

of \$2,453.62 per unit. Commissioner Williams asked if a realtor will have to disclose that amount to prospective buyers.

Mr. Decker stated that what would have to be disclosed is that the reserves are underfunded and a copy of the reserve study would be provided; however the information would have to be interpreted by the buyer. Mr. Decker stated that the realtor is not obligated to point it out specifically. Mr. Decker stated that the issue is that it is a more attractive property if the assessments are low and it's a little more unclear to a buyer that a special assessment is looming in the future because the reserves are underfunded.

Paul Gore, unit owner and the current vice president of the board, was introduced to the Commission.

Commissioner Breslow asked Mr. Gore what was the resistance to fund the reserve study at the level recommended, or close to the level recommended, by the reserve study specialist.

Mr. Gore stated that he didn't know why. Mr. Gore stated that the association has been trying to get the situation resolved.

Commissioner Rizzi stated that on page twenty of the reserve study it appears that the reserve study specialist was given some directive to force the forty dollar assessment in for an extended period of time. Commissioner Rizzi stated that it is not a reasonable expectation for a buyer that is coming in to have a more than double assessment in the years to come. Commissioner Rizzi stated that he is very concerned.

Commissioner Aichroth asked if the intent of the original two owners is to sell off and get out of the system entirely.

Mr. Smith stated that Ms. and Mr. Maston are interested in selling off their units. Mr. Smith stated that he does not know what the Maston's intents are.

Commissioner Aichroth asked Mr. Gore what are the monthly fees aside from the reserve assessment.

Mr. Gore stated that homeowners are paying \$205 per unit plus \$40 assessment fee.

Commissioner Aichroth asked where the \$40 assessment came from.

Mr. Smith stated that the first reserve study performed by Mr. Maston concluded that \$32 was appropriate and when the reserve study came in it was raised to \$40.

Commissioner Breslow asked if Mr. Smith represents all parties involved.

Mr. Smith stated that he represents Cottonwood Court Townhomes Homeowners' Association. Mr. Smith stated that he had never discussed with the other respondents if he was going to represent them personally in this matter.

Chairman Sibley asked if Ann Tisue, Gilbert Tisue and William Maston were individually noticed for the hearing.

Ms. Briggs stated that they were properly noticed.

Violations of Law

Commissioner Breslow moved to accept paragraph 13 of the complaint as true. Commissioner Williams seconded.

Commissioner Breslow stated that the failure of those individuals to appear is severely limiting his ability to give the benefit of any doubt to them as to their conduct. Commissioner Breslow stated that he believes that the Division has proven this violation and that the motion should carry.

Motion carried unanimously.

Commissioner Breslow moved to accept paragraph 14 of the complaint as true. Commissioner Layton seconded.

Motion carried unanimously

Division's Recommendation for Discipline

Michelle Briggs gave the Division's recommendation for discipline.

- Respondents Ann Tisue, Gilbert Tisue and William Maston, shall pay to the association's reserve account the sum of \$31,897.08
- Respondents Ann Tisue, Gilbert Tisue and William Maston, shall pay an administrative fine to the Division in the amount of \$3,085.93, representing the total amount due for the Division's attorney's fees and costs.
- For the association to hire a community manager.
- For the association to comply with the reserve study and pay monthly funding of \$62.51 based on the shortfall being made up.

Mr. Smith stated that the two violations of law duplicate each other. Mr. Smith stated that the only violation is the failure to establish adequate reserves. Mr. Smith stated that the parties should be entitled to rely on the reserve study that said that homeowners should pay \$40 per month. Mr. Smith stated that NAC 116.425(1) (m) there is a variety of funding levels and they used a threshold funding. Mr. Smith stated that Mr. and Ms. Maston were partners in action assets and were the prime movers of the company that built the complex and bought ten units. Mr. Smith stated that Ms. Tisue bought three units very early so she should not be a declarant. Mr. Smith stated that the association has plans to have a reserve study done every five years. Mr. Smith stated that the board is willing and able to adjust the monthly fees to the \$62.51. Mr. Smith stated that the shortfall of \$31,897.08 is going to be a shock.

Commissioner Breslow reminded Mr. Smith that he should be in favor of the recommendations because they will benefit his client. Commissioner Breslow asked Mr. Smith if the association wants a community manager.

Mr. Smith stated that the association does not want to hire a community manager. Mr. Smith stated that he can run the meetings for the association and save on the cost of hiring a community manager.

Chairman Sibley stated that the State only asked to have reserve account funded, as law requires, and did not asked to impose fines to those individuals. Chairman Sibley stated that what the State is asking is reasonable.

Commissioner Aichroth move to accept the Division's recommendation for discipline. Commissioner Rizzi seconded.

Commissioner Breslow asked to have due dates for the payments.

Ms. Briggs recommendations:

- Respondents Ann Tisue, Gilbert Tisue and William Maston, jointly and severally, pay to the association's reserve account the sum of \$31,897.08 which may be paid over the course of 1 year from the date of the Order in 3 installments of \$10,632.36 each as follows:
 - a) The first installment shall be due 60 days from the date of the Order;
 - b) The second installment shall be due 210 days from the date of the Order; and
 - c) The final installment shall be due no later than 365 days from the date of the Order.
- Respondents Ann Tisue, Gilbert Tisue and William Maston, jointly and severally, shall pay an administrative fine to the Division in the amount of \$3,085.93, representing the total amount due for the Division's attorney's fees and costs, no later than 60 days from the date of the Order.
- For the Association to hire a community manager no later than 60 days from the date of the Order.

Commissioner Aichroth amended his motion to include the recommended due dates. Commissioner Rizzi seconded.

Motion carried unanimously.

5-C) Disciplinary action: Hearing and possible action by the Commission
NRED v. Max McCombs; and English Mill Condominiums Homeowners Association, for possible action

Case No. 2014-1179

Type of Respondent: Board Officer and Director

Parties Present:

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Max McCombs was present.

Preliminary Matters:

Ms. Briggs gave the Commission background history regarding the case.

Factual Allegation:

Mr. McCombs and Ms. Briggs agreed that items deemed admitted are 3, 4, 5, 6, 8, 11, 12, 13, 14, 16, 18 and 20.

Violation of Law:

Commissioner Williams stated that in Mr. McCombs answer to violation number 21 he stated that he had tried to encourage other members to be on the board but no one was interested.

Commissioner Breslow disclosed that he knows Dale McCombs, Max McCombs' brother. Commissioner Breslow stated that this will not affect his ability to be fair and impartial.

Commissioner Breslow asked if the respondent had any concerns with him being involved in the consideration of this stipulation.

Mr. McCombs stated that he was fine with having Commissioner Breslow proceeding in this case.

Commissioner Breslow asked why the respondent didn't transition the association to the owners as required by statute.

Mr. McCombs stated that he didn't fully know the statute and he had tried to encourage other members to be on the board but no one was interested because most of them live out of state.

Commissioner Breslow asked to take "knowingly and willfully" out.

Ms. Briggs had no objections.

Ms. Briggs and the Respondent stepped outside to discuss a stipulation.

6-B) Discussion and decision to approve minutes of the September 22, 2015 Commission meeting.

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

Motion carried unanimously.

6-C) Discussion regarding Commissioners' speaking engagement requests.

No speaking engagements.

6-D) For possible action: Discussion and decision regarding election of Secretary for FY 16.

Commissioner Breslow moved to approve Commissioner Aichroth as Secretary. Commissioner Layton seconded.

Commissioner Aichroth recused himself from voting on the election for the Secretary.

Motion carried with Commissioner Aichroth abstaining.

8-C) Compliance Section's report

Chris Sewell presented this report. Mr. Sewell stated that the Enforcement Section has a new administrative assistant and together they are streamlining the report process. Mr. Sewell stated that the Division currently has 139 active cases. Mr. Sewell stated that the Division is actively pursuing a couple of cases from 2012-2013. Mr. Sewell stated that the Enforcement Section is now all in one office which helps with collaboration between investigators.

8-A) Administrator's Report

Joseph Decker presented this report. Mr. Decker stated that the northern office has moved to a new location. Mr. Decker stated that in the south there is major construction going on at the Bradley Building limiting access and entry to the parking lot and the building.

Mr. Decker stated that when the Division's focus transitioned to dispute resolution, the Enforcement Section ended up with one extra investigator position. Mr. Decker stated that the Division is trying to reassign that position to the Ombudsman Section to assist with mediations and with the tripling of Alternative Dispute Resolution (ADR) cases that the Division is handling now. Mr. Decker stated that nine out of ten of the cases that are going through the mediation process are resolved to the satisfaction of both parties. Mr. Decker stated that the Division had good press on that including an article in State Line magazine a Washington, D.C. based magazine which discusses the difference between some of the programs that the other states have. Mr. Decker stated that Nevada has the oldest Ombudsman in the country and that Nevada has some of the most comprehensive laws governing homeowner associations to the point where they discuss Nevada being a model for other states.

Commissioner Aichroth asked if there is a timeframe for the reassignment of the investigation position to the Ombudsman's Office.

Mr. Decker stated that the Division has submitted the paperwork to the Director's Office, but does not have a timeframe.

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

Sharon Jackson presented this report. Ms. Jackson stated that 114 interventions have been received since July 2015. Ms. Jackson stated that the Division held 99 informal conferences with a resolution rate of 81% since inception.

8-B-2) Ombudsman's Report on alternative dispute resolution filings and subsidy claims

Sharon Jackson presented this report. Ms. Jackson stated that the number of cases has increased because a lot of cases that were going to the Enforcement Section are now being given the option to move forward to the Alternative Dispute Resolution (ADR) program. Ms. Jackson stated that the Division is subsidizing that program. Ms. Jackson stated that a lot of cases are related to the super priority lien. Ms. Jackson stated that banks are filing with the Division so that they can move forward and go to court.

8-B-3) Ombudsman's Report on homeowner association and compliance audits

Sharon Jackson presented this report. Ms. Jackson stated that in fiscal year 2016 the Division had a total of 11 audits. Ms. Jackson stated that the amount retrieved by the auditor was \$10,197.71.

8-B-4) Ombudsman's Report on Program Training Officer's Report

Sharon Jackson and Stacey Spoerl presented this report. Ms. Jackson stated that the Division now has Q&A once a month and attendance has gone down. Ms. Jackson stated that Ms. Spoerl is having hours for walk in assistance. Ms. Jackson stated that last month Ms. Spoerl assisted 53 walk in constituents.

Ms. Spoerl stated that the people that are coming in are board members and unit owners. Ms. Spoerl stated that she educates them to the statutes that best fits the scenario that they are inquiring about. Ms. Spoerl stated that the Ombudsman's Office has created a new board member letter which provides them with the information that is on the Division's website and how to contact the Division. Ms. Spoerl stated that the Division has an email address for members of the public to ask questions. Ms. Spoerl stated that board members now have the opportunity to request to have the Training Program Officer to come to their location.

8-B-5) Ombudsman's Report on number and types of associations registered with the State

Sharon Jackson presented this report. Ms. Jackson stated that in September the number of registered associations was 3,097 with a total of 479 new units.

8-B-6) Ombudsman's Report on informal conference

Sharon Jackson presented this report. Ms. Jackson stated that the Division held 99 informal conferences with resolution rate of 81% since inception. Ms. Jackson stated that the year to date resolution rate is 90%. Ms. Jackson stated that the last page of the report is for the survey on the programs that the Division offers.

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

Teralyn Thompson stated that she has nothing to report at this time.

8-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 payment. Ms. Thompson stated that Leslie White, Audra Collins, and Ryon Collins were added to the report and started making payments.

Mr. Decker stated that the Division started exercising some of the Administrator's disciplinary authority against licensed community managers for some of the more minor violations that do not have to go to the Commission.

Ms. Thompson stated that those fines are reported to the Commission after they are paid because if they are not paid the case can possibly go in front of the Commission.

8-F) Discussion regarding Division Advisory Opinion 16-01 dated October 22, 2016 regarding capital improvement expense

Joseph Decker stated that this advisory opinion was requested by the industry. Mr. Decker stated that the question that the advisory opinion should clarify is "Does the including of the capital improvement expense in the budget that is then ratified by unit owners constitute unit owners' votes to improve that capital improvement on its own?". Mr. Decker stated that the governing documents will say whether the board has the authority to engage in capital improvement or not.

Mr. Decker stated that if the board has the authority the board doesn't need the unit owner vote other than when there are some proximity requirements. Mr. Decker stated that it's a governing document issue. Mr. Decker stated that if the governing documents are silent there is the possibility that the board may have the authority to engage in capital improvement but the Division did not address that argument. Mr. Decker stated that the Division answered the question concerning the ratification of the budget.

G) Status report on LCB File No. R050-13

Joseph Decker stated that this regulation was adopted by the Commission and has been approved by the Legislative Commission. Mr. Decker stated that the Legislative Commission approved the incorrect language. Mr. Decker stated that the Division is waiting for a response from the Legislative Counsel Bureau regarding correcting this error.

Commissioner Williams asked when this regulation was going to be in effect.

Ms. Thompson stated that the regulation has been in effect since August 10, 2015 when it was approved by the Legislative Commission.

Commissioner Williams asked how this affects licensees.

Mr. Decker stated that there are some continuing education issues that impact reserve study specialist among other things. Mr. Decker stated that the Division doesn't know how to enforce and doesn't want to enforce the regulation in the current state.

8-H) For possible action: Discussion and decision regarding proposed regulations regarding the election process

Joseph Decker stated that what is currently included in regulation regarding the election process outline are: candidate disclosure, candidate eligibility, candidate statements, nominations, secret written ballot process. Mr. Decker stated that the issue that he discussed with former Commissioner Frank last year was that the Division has no enforcement tool to determine if the process has been followed. Mr. Decker stated that the Division has a proposal to address the election process. Mr. Decker stated that the Division's proposal creates a certified election monitor that the Division screens, certifies, and regulates. Mr. Decker stated that it would be someone that does not work for the association in any other capacity, would keep records, and the Commission would have the authority to discipline.

Commissioner Breslow asked how often the Division is presented with alleged impropriety with respect to an election.

Mr. Decker stated that it does occur but it usually comes out as a secondary complaint after the elections, or years later regarding a board member.

Commissioner Layton asked if the Division could do some sort of certification so that whomever is doing the verification has to sign stating that specific items were done and procedures were followed as per the Division's protocol.

Mr. Decker stated that Commissioner Layton's proposal is a Division policy issue. Mr. Decker stated that the Division can create a certification form and require community managers to complete and submit the form to the Division without regulations.

Commissioner Williams asked to view a sample of the form at the next meeting.

5-C) Disciplinary action: Hearing and possible action by the Commission
NRED v. Max McCombs; and English Mill Condominiums Homeowners Association, for possible action

Case No. 2014-1179

Type of Respondent: Board Officer and Director

Violations of Law

Mr. McCombs and Ms. Briggs agreed that items deemed admitted are 24, 25, and 26. Ms. Briggs stated that they agreed to remove "knowingly and willfully" and to a settlement.

Settlement

- Respondents agree to pay to the Division the sum of \$438.54 within 30 days of the date of the Order.
- Respondents agree to file an annual registration form with the Division and every year thereafter as required by NRS 116 and take all necessary steps to put the Association in good standing with both the Division and the Nevada Secretary of State within 60 days from the date of the Order.
- Respondents agree to adopt the most recent reserve study obtained by Mr. McCombs from a reserve study specialist and to file Form 609 with the Division within 60 days from the date of the Order.
- In accordance with the Association's reserve study, Respondents agree to impose a reserve assessment on all unit owners or add to the regular budget for 2016 the amount of \$54.83 monthly per unit to be paid to the Association's separate reserve bank account.
- Respondent Max McCombs agrees to consult with a community manager regarding the requirements of NRS 116, but the Association is not required to be managed by a community manager.
- Respondents agree to have board meetings every 100 days and to provide notice to the owners of the board meetings no less than 10 days prior.
- Respondents agree to send all unit owners a nomination form every 6 months until there is a full board in place.

Chairman Sibley asked if the respondent agreed with the terms of the stipulation.

Mr. McCombs stated that he agreed with the stipulation.

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

Motion carried unanimously.

7-1) Nevada Association Services, Inc.
"Collections in the Common Interest Community Industry"

Request: 3 Hours

General

Classroom

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

Chairman Sibley disclosed that Nevada Association Services is a client of his employer. Chairman Sibley stated that this will not affect his ability to be impartial in his vote.

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

Motion carried unanimously.

7-2) Angius & Terry, LLP.

“Legal and Practical Fundamentals of Contracts”

Request: 1 Hours

General

Classroom

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

Commissioner Williams asked if the Division has ever considered having one of the contractor boards as a speaker.

Norman Rosensteel, instructor, stated that that they will consider that for future courses.

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

Commissioner Layton disclosed that his association uses Angius & Terry periodically. Commissioner Layton stated that this will not affect his ability to be impartial in his vote.

Chairman Sibley disclosed that Angius & Terry is a client of his employer. Chairman Sibley stated that this will not affect his ability to be impartial in his vote.

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

Motion carried unanimously.

7-3) Angius & Terry, LLP.

“Parliamentary Procedure – A Matter of Order”

Request: 2 Hours

General

Classroom

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

Chairman Sibley disclosed that Angius & Terry is a client of his employer. Chairman Sibley stated that this will not affect his ability to be impartial in his vote.

Commissioner Layton disclosed that his association uses Angius & Terry periodically. Commissioner Layton stated that this will not affect his ability to be impartial in his vote.

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

Motion carried unanimously.

7-4) Angius & Terry, LLP.

“How to Conduct an Efficient Board Meeting”

Request: 2 Hours

General

Classroom

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

Chairman Sibley disclosed that Angius & Terry is a client of his employer. Chairman Sibley stated that this will not affect his ability to be impartial in his vote.

Commissioner Layton disclosed that his association uses Angius & Terry periodically. Commissioner Layton stated that this will not affect his ability to be impartial in his vote.

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

Motion carried unanimously.

7-5) Angius & Terry, LLP.

“Outstanding Customer Service Tactics for Community Managers”

Request: 1 Hours

General

Classroom

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

Chairman Sibley disclosed that Angius & Terry is a client of his employer. Chairman Sibley stated that this will not affect his ability to be impartial in his vote.

Commissioner Layton disclosed that his association uses Angius & Terry periodically. Commissioner Layton stated that this will not affect his ability to be impartial in his vote.

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

Motion carried unanimously.

7-6) NACM Educational Committee

“Lobbying in the HOA Industry”

Request: 1 Hours

General

Classroom

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

Commissioner Williams disclosed that Bryan Gresh lobbied for Commissioner Williams in the past and recused himself from voting.

Chairman Sibley disclosed that Bryan Gresh may have potentially represented one of his companies in the past. Chairman Sibley stated that this will not affect his ability to be impartial in his vote.

Commissioner Aichroth moved to approve the course. Commissioner Breslow seconded.

Motion carried with Commissioner Williams abstaining.

7-7) The Clarkson Law Group, P.C.

“2015 HOA Caselaw Series – Part 1 – Assessment Issues & CC&R Amendments”

Request: 1 Hours General Classroom

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

Commissioner Williams asked how many parts are there in the course.

Ms. Oerding stated that the author of the course wishes to have a total of 3 parts.

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

Motion carried unanimously.

7-8) Ben C. Scheible

“Common-Interest Communities Law Update 2015”

Request: 3 Hours Legal Classroom

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

Commissioner Williams asked if the course is going to be taught in the north and the south.

Ms. Oerding stated that the instructor stated that he would like to have this course in the north and south.

Commissioner Williams asked if the instructor has any common-interest communities experience or only real estate.

Ms. Oerding stated that the outline that the instructor provided was comprehensive.

Commissioner Williams asked if the instructor has any affiliates.

Ms. Oerding stated that the instructor is an attorney and owns an education company in Reno, Nevada.

Commissioner Layton stated that he is concerned due to the lack of common-interest communities' clients.

Commissioner Breslow moved to approve the course. Commissioner Aichroth seconded.

Commissioner Breslow amended his motion to postpone this course until the next meeting agenda. Commissioner Aichroth seconded.

Motion carried unanimously.

4) License Denial Appeal for Mary Felicia Novak-File No. S-CAM-LDA-16-001.

Chairman Sibley asked Ms. Thompson if Ms. Novak was present or if she had contacted her.

Ms. Thompson stated that Ms. Novak was not present and that she had not received any email or messages from Ms. Novak.

Commissioner Breslow move to deny the request for appeal. Commissioner Layton seconded.

Commissioner Breslow stated that Ms. Novak's reasons to request the appeal weren't sufficient to justify reversal and the fact that Ms. Novak wasn't present to advocate her cause and explain the circumstances that would otherwise have justified that. Commissioner Breslow stated that those are the reasons why he moved to deny her appeal. Commissioner Breslow stated that if it turns out that Ms. Novak was prevented for reasons beyond her control from being present and from communicating those circumstances to the Division, he will be willing to reconsider her appeal request.

Motion carried unanimously.

9) For possible action: Discussion and decision on date, time, place, and agenda items for upcoming meetings dates 2016.

Teralyn Thompson presented the dates for the 2016 Commission meetings.

- February 2-4, 2016

The Commission agreed to table this agenda item for the following meeting day.

10) 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 thanked the Commission for postponing the law class until some further information will be provided.

In Las Vegas: Tim Stebbins, Henderson resident and director of the Nevada Homeowner Alliance PAC (NHA), commented. Mr. Stebbins stated that Chairman Sibley did a good job on his first meeting as chair.

10) For possible action: Adjournment

The meeting recessed at 12:17 p.m. on November 17, 2015.

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES NOVEMBER 18, 2015**

**DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE
1818 E. COLLEGE PARKWAY
1ST FLOOR HEARING ROOM
CARSON CITY, NV. 89706**

**DEPARTMENT OF BUSINESS AND INDUSTRY
2501 E. SAHARA AVENUE
2ND FLOOR CONFERENCE ROOM
LAS VEGAS, NV. 89104**

NOVEMBER 18, 2015

9:00 A.M.

A) Introduction of Commissioners in attendance

In Carson City: Barry Breslow, Stephen Aichroth, Ken Williams, James Rizzi, Scott Sibley, Richard Layton, and Senior Deputy Attorney General Henna Rasul as Commission Counsel.

1-B) Introduction of Division Staff in attendance

In Carson City: Joseph Decker, Administrator; Michael Jory, Deputy Administrator; Sharon Jackson, Ombudsman; Chris Sewell, Chief Compliance Investigator; Chris Cooke, Compliance Investigator; Claudia Rosolen, Commission Coordinator; and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Las Vegas: Teralyn Thompson, Administration Section Manager; Jennifer Oerding, Education Officer; Stacey Spoerl, Program Training Officer; and Sandra Saenz, Licensing Supervisor.

2) Public Comment

In Las Vegas: Mary Felicia Novak commented. Ms. Novak stated that she was on the agenda for a license denial appeal. Ms. Novak stated that she misunderstood the notice and asked to have her appeal revisited.

Chairman Sibley stated that there is a procedure that needs to be followed and suggested to Ms. Novak to go to the Division for instructions.

In Las Vegas: Pennie Puhek, resident at Anthem Highlands Community Association in Henderson, commented. Ms. Puhek stated that her association is currently in violation of State law because the Division is refusing to move forward with complaints that her and other parties in her association filed to resolve issues against their board.

In Las Vegas: Ken Brensinger, Secretary at Anthem Highlands Community Association, commented. Mr. Brensinger stated that nothing has changed since last time he came in front of

the Commission asking for help in directing the Deputy Attorney General to file an injunction against an individual and board members who refuse to attend association meetings in order to establish a quorum by removing them from their board position.

In Las Vegas: Frank Capello, homeowner at Anthem Highlands Community Association in Henderson, commented. Mr. Capello asked if any investigation has been opened and if the residents of Anthem Highlands Community Association would be notified if a case is opened.

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

NRED v. 222 Incline Court, LLC; Falcon Capital, LLC; Gordon R. Lane; and Glenn Hartman

Case No. IN-1650 (2013-1203)

Type of Respondent: Executive Board

Parties Present:

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Gordon Lane and Michael J. McLaughlin representing Falcon Capital, LLC were present.

No one from 222 Incline Court, LLC was present.

Glenn Hartmann was not present and did not respond.

Senior Deputy Attorney General Michelle Briggs requested a fifteen minute continuance.

9) For possible action: Discussion and decision on date, time, place, and agenda items for upcoming meetings dates 2016.

Teralyn Thompson presented the dates for the 2016 Commission meetings.

- February 2-4, 2016 location South

Chairman Sibley stated that the Commission will address the schedule and discuss future meeting dates at the February meeting.

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

NRED v. 222 Incline Court, LLC; Falcon Capital, LLC; Gordon R. Lane; and Glenn Hartmann

Case No. IN-1650 (2013-1203)

Type of Respondent: Executive Board

Preliminary Matters:

Ms. Briggs gave the Commission background history regarding the case.

Ms. Briggs asked for a default judgment against 222 Incline Court, LLC and Glenn Hartmann.

Chairman Sibley asked if 222 Incline Court, LLC and Glenn Hartmann received proper notice.

Ms. Briggs stated that they received notice individually, through their attorney and through the registered agent for the entity.

Commissioner Breslow moved for a default against 222 Incline Court, LLC and Glenn Hartmann for failure to respond. Commissioner Layton seconded.

Ms. Briggs, Gordon Lane and Falcon Capital, LLC agreed on a settlement.

Settlement for Gordon Lane and Falcon Capital, LLC

- Respondents agree to pay to Northwood Unit-Owners' Association \$10,000 within 30 days from the Order.
- Respondents agree to provide to the Northwood Unit-Owners' Association all plans for the construction of buildings as affordable housing apartments, including without limitation, any changes to the plans and repairs made to the apartments by respondent Falcon Capital, LLC after construction without admitting any liability.

Commissioner Layton moved to accept the settlement for Gordon Lane and Falcon Capital, LLC. Commissioner Williams seconded.

Motion carried unanimously.

Division's Recommendation Discipline for 222 Incline Court, LLC and Glenn Hartmann

Michelle Briggs gave the Division's recommendation for discipline.

- Respondents pay to the Division a total fine of \$19,515.86. The fine reflects an administrative fine of \$15,000.00 for committing the violations of law, plus \$4,515.86 for the Division's attorney's fees and costs. The fine shall be paid within 30 days of the date of the Order.
- Respondents are jointly and severally liable for the total fine.
- Respondent shall transfer the common area parcel with Washoe County Assessor's parcel number 124-911-01 currently in the name of 222 Incline Court, LLC to the Northwood Unit-Owners' Association within 30 days of the date of the Order.
- Respondents shall pay to the Northwood Unit-Owners' Association c/o Incline Property Management, 848 Tanager Street, Suite M, Incline Village, NV 89451 the sum of \$102,802.01 within 30 days of the date of the Order.
- Respondents shall be jointly and severally liable for the sum due to the Association.
- The Division may institute debt collection proceedings for failure to timely pay the total fine. Further, if collection goes through the State of Nevada, then Respondent 222 Incline Court, LLC and Glenn Hartman shall also pay the costs associated with collection.

Commissioner Breslow moved to approve the recommended discipline. Commissioner Layton seconded.

Motion carried unanimously.

10) Public Comment

In Las Vegas: Tim Stebbins, Henderson resident and director of the Nevada Homeowner Alliance PAC (NHA), commented. Mr. Stebbins stated that he was very interested in the cases that were presented at the Commission meeting.

11) Commissioner Comment

None.

12) For possible action: Adjournment

Meeting adjourned at 9:44 a.m. on November 18, 2015.

Respectfully Yours,

Claudia Rosolen
Commission Coordinator

NOT APPROVED BY THE COMMISSION