

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM  
HOTELS MEETING MINUTES JUNE 19, 2018**

**NEVADA STATE BUSINESS CENTER  
3300 WEST SAHARA AVENUE  
NEVADA ROOM, SUITE 400  
LAS VEGAS, NEVADA 89102**

**VIDEO CONFERENCE:  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIRECTOR'S OFFICE  
1830 E. COLLEGE PARKWAY  
SUITE 100  
CARSON CITY, NEVADA 89706**

**JUNE 19, 2018**

**9:00 A.M.**

**1-A) Introduction of Commissioners in attendance**

Michael Burke, Ken Williams, James Rizzi, Richard Layton, Doris Woods, Ryan Henderson, Charles Niggemeyer and Deputy Attorney General Asheesh Bhalla sitting as Commission Counsel

**1-B) Introduction of Division Staff in attendance**

In Las Vegas: Sharath Chandra, Administrator; Teralyn Thompson, Administration Section Manager; Charvez Foger, Ombudsman; Terry Wheaton, Chief Compliance Audit Investigator; Marina Benn, CIC Supervisor; Samiel Williams, Commission Coordinator; Monique Williamson, Training Program Officer and Michelle Briggs Senior Deputy Attorney General.

In Carson City: Sharon Jackson, Deputy Administrator.

**2) Public Comment**

Michael Kosor, resident of Southern Highlands Community Association, presented written public comment about a complaint that he filed in 2016. Mr. Kosor stated that the Nevada Real Estate Division is abusing its authority regarding the 2003 legislation which provides homeowners an alternative to appearing in court. Mr. Kosor stated the declarant and the board have failed to uphold declarant control change as required under the statute. Mr. Kosor stated that the associations CC&R's were amended inappropriately to allow the maximum number of units to increase. Mr. Kosor stated that a member of the Attorney General's Office claimed that although the CC&R's were amended, the amendment was not challenged within one year of being recorded, therefore it stands. Mr. Kosor stated that the statute being referenced speaks of association approved amendments, not unilateral. Mr. Kosor stated that he lives in an association where three of the five board members appointed are employed by the developer and the management company is a developer owned entity. Mr. Kosor stated that he has filed six complaints, each of which the Division found unsubstantiated. Mr. Kosor stated that he would like the Commission to look at the facts within his complaint and make a decision. Mr. Kosor stated that all he can do is go to the courts and ask the courts to intervene.

**3-A-1 & 2) Administrator's Report on personnel and pending litigation**

Sharath Chandra presented this report with the Commission:

- Division is planning and budgeting for the next biennium. Due to the growth in Northern Nevada, the Division's northern office is requiring more resources. Two new roles are being proposed. One role will provide limited licensing functions and the second role is an education information officer.
- Bill Draft Requests (BDRs) – The Division is using two BDRs
  - 1) Appraisal – Dodd/Frank Act requirements need to be incorporated.
  - 2) NRS 116A- The language for receiving fingerprint results from the federal government needs to be moved from regulations and added into statute.
- Pending Litigation Report- Status update Vistana Condominium Owners Association Case # A17763350J.

August 2017- The Commission heard the disciplinary case against Vistana  
October 19, 2017-Vistana filed a petition for judicial review; board members are challenging the personal fines assessed against them  
November 2017-The Commission denied Vistana's appeal of the Commission's decision  
February 2, 2018-Vistana filed a brief in District Court  
March 2, 2018-The Division filed its response to the brief.  
April 4, 2018-Vistana filed a reply brief  
April 25, 2018-The Division's Motion to submit newly discovered evidence was granted  
Pending Decision-Vistana filed a writ to challenge the court's order allowing newly discovered evidence; Vistana filed a motion to stay the court's order
- Pending Litigation Report-Margret Thayer case # 2016-1608  
In November 2017 The Commission heard the disciplinary matter regarding Margret Thayer. The Division's complaint against Ms. Thayer was for performing community management services for an association without a certificate from the Division. Ms. Thayer stipulated to the fact at the hearing and her contract was admitted. The Commission found her in violation of the law. Ms. Thayer filed a petition for judicial review on December 28, 2017 against the Division. The petition challenges the Commission's findings that Ms. Thayer performed the duties of a community manager without a certificate from the Division. The court granted the Division's motion to dismiss the petition for judicial review on April 10, 2018 for failing to name the Commission for Common-Interest Communities and Condominium Hotels as a party to the petition. Ms. Thayer filed an appeal with the Supreme Court and the case has been assigned to the settlement program. The settlement conference will take place within the next few weeks.

### **3B) Ombudsman's report:**

Charvez Foger presented the Commission with this report.

#### **3-B-1) Ombudsman's report on Intervention Program**

Charvez Foger presented the Commission with this report.

#### **3-B-2) Ombudsman's report on Informal Conferences**

Charvez Foger presented the Commission with this report.

#### **3-B-3) Ombudsman's report on Alternative Dispute Resolution filings and subsidy claims**

Charvez Foger presented the Commission with this report.

#### **3-B-4) Ombudsman's report on Homeowner Association and Compliance Audits**

Charvez Foger presented the Commission with this report.

### **3-B-5) Ombudsman's report on Program Training Officer's Report**

Charvez Foger presented the Commission with this report. Mr. Foger stated numbers have increased for training class attendance. Mr. Foger stated that in the previous year, there were 44 people attending in May and the year total was 468 people attending these classes. Mr. Foger stated that this year 96 people attended training classes in May and the total year to date is 1,319 people attending training classes.

### **3-B-6) Ombudsman's report on number and types of associations registered within the State**

Charvez Foger presented the Commission with this report. Mr. Foger stated the total number of associations registered in May 3, 2018 was 247. Mr. Foger stated that the total units in all registered associations for May 2018 was 541,763. Mr. Foger stated that eleven new associations registered in May and year to date 1,598 new associations registered in 2018.

### **3-B-7) Ombudsman's report on Compliance Section's report**

Chief Compliance Audit Investigator Terry Wheaton presented the Commission with this report.

Mr. Wheaton stated that there were 15 cases opened against community managers in May for a year to date total of 150. Mr. Wheaton stated that there were 5 cases closed in May against community managers and a year to date total of 122.

Mr. Wheaton stated that there were 10 cases opened against boards of directors in May and year to date a total of 98 cases were opened. Mr. Wheaton stated that twelve cases against boards of directors were closed in May and year to date total of 125.

Mr. Wheaton stated his section has updated several forms to improve the turnaround time for investigations. Mr. Wheaton stated that he believes 120 days is an acceptable amount of time to complete an investigation.

Commissioner Henderson asked about the decrease in attendees to the training classes.

Mr. Foger explained that training class attendees are seasonal and the attendances are always low in summer months.

Commissioner Woods asked about the increase of registrations.

Mr. Foger stated that the Division has become more pro-active in requiring registrations.

### **3C) Licensee and Board Member Discipline Report**

Teralyn Thompson presented the Commission with this report.

### **3D) Administrative Sanction Report**

Teralyn Thompson presented the Commission with this report.

### **4A) Discussion regarding the State of Nevada Controller's Office debt collection process for fines issued by the Commission.**

Commissioner Williams updated the Commission on the progress he has made with the Controller's Office and the collection agencies regarding the pursuit of delinquencies.

**4B) For possible action: Discussion and decision to propose amendments to NRS 353C.150 for a bill draft request regarding delinquent fines and fees by the Commission.**

Commissioner Williams stated that in 2009 there was a statute changed and NRS 353C used to say “State Controller or Agency” could pursue a judgement, the word “agency” was removed from the statute.

Commissioner Williams proposed a BDR (Bill Draft Request) to add the word “agency” back to the statute. Commissioner Williams stated that he will take it upon himself to find someone to carry a BDR through to the legislation and add the word “agency” to the statute.

Chairman Burke explained that the proposed change to the statute would only affect the monies owed from the past 4 years.

**4C) For possible action: Discussion and decision to approve minutes of March 6, 2018 Commission meeting.**

Commissioner Rizzi moved to approve the March 6, 2018 meeting minutes.

Commissioner Williams stated the minutes reflected two agenda items titled 4A.

Chairman Burke moved to approve the March 6, 2018 meeting minutes with the caveat that on page three agenda item 4A be changed to 4E. Second by Commissioner Williams. Motion carried.

Teralyn Thompson stated that the minutes reflect two agenda items titled 4A because agenda item 4A was tabled and later revisited.

Chairman Burke amended his motion and moved to accept the minutes as presented. Seconded by Commissioner Williams. Motion carried.

**4D) Discussion regarding Commissioners’ speaking engagement requests.**

Chairman Burke stated that he would be speaking at the State Bar of Nevada Convention annual meeting in Chicago July 12, 2018.

**5A) NRED v. Green Valley Country Club Estates Homeowners Association, Michael Hayden, Darla Hayden, Gerard Capra and Charles Damus, for possible action  
Case No. 2016-2462**

**Type of Respondent: Board Directors**

Senior Deputy Attorney General Michelle Briggs was present representing the Division. Elizabeth Lowell, counsel representing the respondents, was present.

Ms. Briggs stated that a settlement was reached. Ms. Briggs stated that the settlement was signed and fully approved by the respondents.

Chairman Burke moved to approve the settlement as drafted. Second by Commissioner Rizzi. Motion carried.

**5B) NRED v. Kristen Gillis, for possible action**

**Case No. 2017-1743**

**Type of Respondent: CAM.0001092-SUPR (REVOKED)**

Commissioner Williams stated that he knows Ms. Gillis professionally and knows her family. Commissioner Williams recused himself.

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

Kristen Gillis was not present.

Ms. Briggs stated that Ms. Gillis did not respond to the complaint.

State's Witness

Samuel Williams, Commission Coordinator, testified regarding the address in which the notice of default was mailed.

State's Witness

Christina Pitch, Real Estate Division Compliance Audit Investigator, testified.

Ms. Briggs asked that the factual allegations be accepted as true and that Ms. Gillis is in default.

Chairman Burke moved that Ms. Gillis be found in default and that the factual allegations be found as true. Seconded by Commissioner Rizzi. Motion carried with Commissioner Williams abstaining.

Chairman Burke moved that violations of law 16 through 26 be found as proven. Seconded by Commissioner Layton. Motion carried with Commissioner Williams abstaining.

Ms. Briggs gave the recommended discipline:

- Restitution to Hillcrest Community Association in the amount of \$21,550.00
- Revocation of community manager certificate for not less than 10 years or until restitution, all fines and costs pursuant to this order be paid
- Fine of \$11,000 and costs of hearing of \$1,930.77

Chairman Burke moved to accept the Division's recommendation for discipline to be paid within 60 days. Seconded by Commissioner Rizzi. Motion carried with Commissioner Williams abstaining.

**5C) NRED v. Kristen Gillis, for possible action**

**Case No. 2017-2088**

**Type of Respondent: CAM.0001092-SUPR (REVOKED)**

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

Kristen Gillis was not present.

Ms. Briggs asked that the testimony given in the prior case by Commission Coordinator Samuel Williams and Compliance Audit Investigator Christina Pitch regarding the respondent's address be accepted into the record.

Commissioner Williams stated that he knows Ms. Gillis professionally and knows her family. Commissioner Williams recused himself.

Ms. Briggs asked that the factual allegations be accepted as true and that Ms. Gillis is in default.

Chairman Burke moved that Ms. Gillis be found in default and that the factual allegations be found as true. Seconded by Commissioner Layton. Motion carried with Commissioner Williams abstaining.

Chairman Burke moved that violations of law 11 through 23 be found as proven. Seconded by Commissioner Layton. Motion carried with Commissioner Williams abstaining.

Ms. Briggs gave the recommended discipline:

- Revocation of community manager certificate for not less than 10 years or until restitution, all fines and costs pursuant to this order be paid
- Fine of \$13,000 for violations of law and costs of hearing of \$2,647.77

Chairman Burke moved to accept the Division's recommendation for discipline to be paid within 60 days. Seconded by Commissioner Layton. Motion carried with Commissioner Williams abstaining.

**5D) NRED v. Vistana Condominium Owners Association, Larry Fitch, Anthony Knelp, Lynn Williams & Ardyce Nelson, for possible action**

**Case No. 2015-3373**

**Type of Respondent: Board Directors**

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

Richard Haskins, counsel for the respondents, was present.

Vistana Condominium Owners Association board members were present.

Lynn Blalock, community manager for the association, was present.

State's Witness

Teralyn Thompson, Administration Section Manager, testified regarding payments of the individual respondents.

Ms. Briggs commented that the Commission was clear to the respondents that payments were due the first day of each month. Ms. Briggs stated Larry Fitch has not complied with the Commission's March 2018 order to make payments. Ms. Briggs asked that Mr. Fitch be removed from the board and Mr. Fitch's payment be due in full in 60 days. Ms. Briggs stated that the three board members are not making the payments on time. Ms. Briggs stated that these late payments are an example of board members' lack of respect for the Commission. Ms. Briggs asked that the three board members be removed and that their fines be due in full in 60 days.

Richard Haskins stated that he does not represent Larry Fitch. Mr. Haskins stated that Mr. Fitch resigned from the board and has not served on the board in over six months. Mr. Haskins stated that asked respondents to send their checks to his office and Mr. Haskins will send the checks to the Real Estate Division. Mr. Haskins stated that this is a way to ensure the payments are being made.

Commissioner Woods asked why the checks are not being received by the Real Estate Division on the same date.

Mr. Haskins explained that he mailed the payments out over the weekend. Mr. Haskins stated that Mr. Williams' checks were being sent from out of state.

Commissioner Henderson suggested that Mr. Haskins create an account similar to an escrow account containing several payments. Commissioner Henderson stated that by using that account, Mr. Haskins can send the payments to the Division before the first of each month.

Chairman Burke stated he would like to revise the previous order to add “payments must be made on or before the first day of each month. If the payment is received after the first, a ten dollar fine will be added for each day the payment is late”.

Commissioner Williams agreed with Chairman Burke.

Chairman Burke moved that the payment plan of \$100 per month remain in effect and an amendment be made to states “Mr. Kneip, Ms. Nelson and Ms. Williams submit payments on or before the 10<sup>th</sup> day of each month. If the payment is received after the 10<sup>th</sup> day, a ten dollar fine will be added for each day the payment is late”. Commissioner Layton second. Motion carried.

Chairman Burke asked Mr. Haskins if Larry Fitch still resides in Vistana Condominiums.

Mr. Haskins stated that Vistana is Mr. Fitch’s primary residence.

Chairman Burke asked Mr. Haskins for the date of Mr. Fitch’s resignation.

Mr. Haskins stated September or October of 2017. Mr. Haskins stated that Mr. Fitch was made aware of the Commission fine.

Ms. Briggs stated that Mr. Fitch’s name appears on the petition in district court that Mr. Haskins drafted which indicates that Mr. Fitch is being represented by Mr. Haskins.

Mr. Haskins stated the appeal was filed on behalf of all the respondents.

Chairman Burke asked Mr. Haskins if he is representing Mr. Fitch on the appeal.

Mr. Haskins stated that Mr. Fitch’s name is in the caption but he is not representing him.

Chairman Burke asked Mr. Haskins if Mr. Haskins provided an amendment to the court stating that Mr. Haskins no longer represents Mr. Fitch.

Mr. Haskins stated he has not amended his original appeal.

Chairman Burke asked Ms. Briggs for the Divisions’ recommendation regarding Mr. Fitch.

Ms. Briggs gave the recommended discipline:

- Mr. Fitch cannot serve on a board for no less than 10 years or until restitution, all fines and costs pursuant to this order be paid
- Fine of \$5,128.40 to be paid within 60 days

Chairman Burke moved to accept the Division’s recommendation for discipline. Seconded by Commissioner Rizzi.

Ms. Briggs reminded the Commission of the March 2018 order stating that the associations place in their newsletter a statement asking for information from all residents if they were impacted by the illegal towing in order to make restitution.

Mr. Haskins stated that he and Ms. Blaylock collaborated on a notice that went to each individual homeowner.

Ms. Blaylock presented a spreadsheet of all the restitution attempts and how many homeowners were reached.

Ms. Blaylock stated the listserv email was sent. Ms. Blaylock stated that a notice was placed on five bulletin boards throughout the community. Ms. Blaylock stated that notices were placed on 732 doors throughout the community. Ms. Blaylock stated that three individuals responded and provided proof regarding the amount they paid in towing fees. Ms. Blaylock stated that those three individuals were refunded. Ms. Blaylock stated that year to date 22 units have been refunded for the towing fees and the remaining 20 people that have not been refunded cannot be located.

Chairman Burke suggested sending the notice itself via email.

Chairman Burke moved to have respondents provide documentation to the Division of the completed education courses before September 1, 2018.

Seconded by Commissioner Layton. Motion carried.

**5E) NRED v. Pecos Creek Homeowners Association, Rodolfo Rocha, Omar Guerra and Ofelia Santos, for possible action**

**Case No. 2016-1949**

**Type of Respondent: Executive Board**

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

Jonathan Kelly, community manager with First Columbia, was present for the association.

Pecos Creek Homeowners Association's current board members were present: Sheryl Baca, Ofelia Santos and Andrew Diaz.

Jonathon Kelly presented the Commission with a packet of documents containing a new list of board members, Secretary of State filing, completed reserve study and draft status report for the forensic audit.

Ms. Briggs stated that the packet Mr. Kelly provided shows a reserve study done last year but Mr. Kelly stated multiple times last year that there was no reserve study.

Mr. Kelly stated that he was misinformed regarding the reserve study for last year and that there was a reserve study completed last year.

Chairman Burke asked why the board members on the Secretary of State filing are not the board members sitting in front of the Commission.

Mr. Kelly stated the next Secretary of State filing is not due until December 2018.

Sheryl Baca stated that Secretary of State was not filed correctly in 2017 which put Pecos Creek in default. Ms. Baca stated that Mr. Kelly filed two separate documents for two calendar years at the same time causing the confusion of true board members.



Ms. Briggs requested that a new Secretary of State filing with the true board members be filed June 19, 2018.

Ms. Baca explained the forensic audit may be delayed because the auditor is not aware of several untruths.

Commissioner Williams stated that he would like the forensic audit to be completed by the next Commission meeting August 28, 2018.

Ms. Baca stated that assessments were raised in order to put money into the reserve account. Ms. Baca stated that she has reached out to an attorney to ask if the association can raise the assessment fee for units being sold like a capital contribution.

Chairman Burke moved that the Secretary of State filing be done by close of business June 22, 2018; the audit completed and sent to Ms. Briggs no later than August 21, 2018; and provide a Get Well Plan to Ms. Briggs no later than August 21, 2018.

Seconded by Commissioner Rizzi. Motion carried.

Commissioner Layton asked Ms. Briggs to send him a copy of the audit as soon as she receives it.

**5F) NRED v. Hidden Crest IV Homeowners Association and Anthony Gelsone, for possible action**

**Case No. 2016-3329**

**Type of Respondent: Board Officer and Director**

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

Mike Van Luven, counsel, was present representing Mr. Gelsone.

Anthony Gelsone was present.

Ms. Briggs stated that this case was before the Commission for a status update.

Mr. Van Luven stated that each of the concerns has been addressed.  
Mr. Gelsone stated the association has been holding regular meetings.

Mr. Gelsone commented on the bank accounts, election ballots, vendor accounts and ten percent increase to assessments to fund the reserves.

Commissioner Williams asked what percent the reserve study showed.

Mr. Van Luven stated at the end of 2018 reserve study will be 55% funded. Mr. Van Luven stated that plans are in place to examine whether or not to institute another increase.

Commissioner Williams stated the association is on track so there is no need to return for another status check.

Chairman Burke agreed.

**5G) NRED v. Diamond Creek Homeowners Association, for possible action**

**Case No. 2017-1826**

**Type of Respondent: Board Members and Officers**

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

Edwina Daly, community manager, was present.

Veronica Cruz, secretary and treasurer of the association, was present.

Ms. Briggs stated that there are two board members for the association but one member was not able to attend. Ms. Briggs stated that this is a status check for Diamond Creek Homeowners Association.

Edwina Daly stated that the reserve study had been completed and the board is waiting on the audit.

Commissioner Williams asked the reason for the delay in completing the audit.

Ms. Briggs stated that Diamond Creek had difficulties finding a certified public accountant.

Ms. Briggs asked Ms. Daly for a copy of the reserve study.

Ms. Daly agreed to email Ms. Briggs the reserve study.

Ms. Briggs asked how funded the association is.

Ms. Daly stated she did not know the answers to Ms. Briggs questions.

Commissioner Williams stated that Ms. Daly will need to provide those answers at the next Commission meeting.

Chairman Burke asked Ms. Daly if the audit would be complete by August 28, 2018.

Ms. Daly stated that she believed the audit would be complete by mid-July.

Ms. Briggs asked if the association is following the statute regarding holding board meetings.

Ms. Cruz stated that a board meeting has been held every month for the last three months. Ms. Cruz stated that they have been trying to fill vacant board seats but the difficulty has been in finding actual homeowners not tenants.

Commissioner Woods asked Ms. Daly if the reserve study showed the association being under funded.

Ms. Daly stated the reserve study and the reserve fund closely matched.

Chairman Burke moved that Ms. Daly return in August for a status check, provide the audit to the Division and be well versed. Seconded by Commissioner Layton.  
Motion carried.

**6A) FOR POSSIBLE ACTION: LICENSE DENIAL APPEAL FOR DECISION**

**Christina M. Dehlinger, for possible action**

**FILE No. S-CAM-LDA-18-010**

Susan Clark, Licensing Manager, was present for the Division.

Ms. Dehlinger was present.

Jim Johnson, vice President of the board at Regency, was present.

David Ben-Bassat, director of the board at Regency, was present.

This meeting went into closed session.

Commission Williams moved to grant Ms. Dehlinger her community manager certificate with the stipulation that she return in one year with her supervising community manager. Second by Commissioner Rizzi. Motion carried.

**7) For Possible Action: Discussion and decision on date, time, place and agenda items for upcoming meeting(s).**

Chairman Burke stated the next Commission meeting is August 28-30, 2018 in the North.

**8) Public Comment**

Tim Stebbins, resident of Henderson, commented on confusion regarding ballots and proper election practices.

**9) For possible action: Adjournment**

Meeting adjourned on June 19, 2018 at 1:25pm.

Respectfully,

Samuel Williams  
Commission Coordinator