



STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION  
ADVISORY OPINION

Subject: <b>What is a “unit’s owner”?</b>	Advisory No. 14-01-116	3 pages
	Issued By:	Real Estate Division
	Amends/ Supersedes	N/A
Reference(s): NRS 116.095, NRS 116.093, NRS 111.205	Effective Date: December 12, 2013	

**QUESTION:**

What is a “unit’s owner” within the meaning of NRS 116?

**SHORT ANSWER:**

A unit’s owner is any person who is considered an owner of real property by law. Real property interests must be transferred in writing. Therefore, a unit’s owner is a person or entity that can provide a written conveyance or other writing that transfers a unit to them. The written conveyance or other writing must be signed by the person transferring the unit. A unit’s owner is also a lessee of a unit if the written lease expires when the common interest community expires. An owner of an entity that is a unit’s owner is anyone who can provide the association with evidence of ownership of the entity regardless of the ownership percentage.

**ANALYSIS OF THE ISSUE:**

NRS 116.095 provides a definition of “unit’s owner” as:

a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common-interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common-interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration until that unit is conveyed to another person. In a cooperative, the declarant is treated as the owner of any unit to which allocated interests have been allocated until that unit has been conveyed to another person.

“Unit’s owner” refers to ownership of a “unit” which is also defined by NRS 116. NRS 116.093 defines a unit as:

a physical portion of the common-interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to paragraph (e) of subsection 1 of NRS 116.2105.

Based on these definitions, it is clear that a unit’s owner is based on ownership or lease rights to real property within a common interest community. According to NRS 111.205 no interest in real property (other than a lease not to exceed 1 year) may be “created, granted, assigned, surrendered or declared... unless by act or operation of law, or by deed or conveyance, in writing subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by the party’s lawful agent thereunto authorized in writing.” In addition, a conveyance must be either acknowledged or proved – as in notarized by a notary public. NRS 111.240.

There may be situations where title to real property is transferred by a court order, but generally speaking, interests in real property must be in writing and notarized. Therefore, a unit’s owner is one who can provide – in writing – evidence of ownership of a unit. Associations can use public records to see who the record owner is of a particular unit. But the law does not require that the writing be recorded in the real property records to be effective. If a unit’s owner wishes to exercise rights under NRS 116 or the association’s governing documents, but they are not the record owner, the association may require such person to provide the writing evidencing their ownership.

The result is no different when spouses are involved. The Division has been asked about a situation involving a husband and wife where only one or the other is the record owner of a unit. Can the spouse who is not the record owner be treated as a unit’s owner since Nevada is a community property state? Regardless of community property law, the non-record owner must provide a deed or other writing in their favor to evidence ownership. A deed or other writing does not need to be recorded to be effective. This approach puts the burden on the owner wanting ownership rights instead of the association who is not in a position to know an individual’s marital status and community property rights.

NRS 116 provides support for putting the burden to prove ownership rights on the person claiming ownership rights. A unit’s owner may be a corporate entity, a trust, a limited liability company, a partnership, or an estate. Under NRS 116.31034(10), a person seeking to serve as a board member who is not the record owner is required to provide proof of their association with the record owner. They must show they are an officer, employee, agent or director of a corporate owner; a trustee or designated beneficiary of a trust owner; a partner of a partnership owner; a member or manager of a limited liability company owner; or a fiduciary of an estate that owns a unit. The proof must be sufficient to the association to show the person is associated with the corporate owner, trust, partnership, limited-liability company or estate and identify the unit(s) owned. Associations should also consider that their governing documents may include

more detail as to what documentation must be shown by a person wanting to serve on the board when they are not the owner in the real property records.

**ADVISORY CONCLUSION:**

Owners have significant rights within an association. It is important that an association grant those rights to anyone who is entitled to them. While a deed need not be recorded to be effective, the law does require that any transfer of an interest in real property be in writing, signed by the grantor, and notarized. An association should require any person claiming to be an owner to provide evidence in writing if they are not the owner of record.