

NOTICE OF INTENT TO ACT UPON A REGULATION

NOTICE OF HEARING FOR THE ADOPTION, AMENDMENT OR REPEAL OF REGULATIONS OF THE COMMISSION FOR COMMON- INTEREST COMMUNITIES & CONDOMINIUM HOTELS

LCB FILE No. R049-13

The Nevada Commission for Common-Interest Communities and Condominium Hotels will conduct a public hearing at **10:30 a.m. on Tuesday, March 3, 2015, at the Nevada State Gaming Control Board, 555 E. Washington Avenue Hearing Room 2450 Las Vegas, Nevada 89101 with video conference to the Gaming Control Board, 1919 College Parkway Carson City, Nevada 89706.** The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 116A of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.060:

Information Regarding Adoption

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

1. Purpose and need of the Proposed Regulations.

A written management agreement is required between a community manager and a homeowner association which sets forth the terms of consideration for services to be provided and the payment schedule. Based upon cases brought before the Commission and issues raised, the Commission has determined that it is in the best interest of the owners in a homeowner association to not allow any form of compensation to a manager or management company for the collection of fines.

The insurance or surety bond requirement is a restatement of NRS 116A.620(1)(k), but the regulation is amended to add "or his or her employer" will maintain the required insurance, which is in the statute but not the regulation. The homeowner association is required to maintain crime insurance in accordance with NRS 116.3113.

2. Terms of the proposed regulations. The regulations to be adopted concern community managers and will:

- Prohibit a management agreement from providing for the compensation of a community manager or his or her employer based on the fines imposed against or collected from units' owners or tenants or guests of units' owners;

- Add the language from statute, “or his or her employer” to the regulation concerning the require that the community manager maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable under chapter 116A in an amount of \$1,000,000 or more;
- Require that a client maintain crime insurance in accordance with NRS 116.3113; and
- Not allow a management agreement to indemnify of a community manager for intentional misconduct, gross negligence or criminal misconduct.

3. Estimated Economic Effect.

- (a) Adverse effects: The adverse effects will be that licensed community managers which had been receiving compensation or other remuneration based on the number or amount of fines imposed on units’ owners will experience a reduction in the amount compensation or consideration they receive from an association.

Beneficial effects: The beneficial effects will be the prohibition of community managers from earning compensation tied to the number or amount of fines imposed against or collected from units’ owners or tenants or guests of units’ owners will ensure fair treatment of units’ owners.

- (b) Immediate effect: The immediate effect will be that associations who follow the practice of compensating the community manager based upon the number or amount of fines imposed against a units’ owner will have a reduction of revenue in the association’s operating accounts. Community managers pay would be reduced if they have been receiving compensation or remuneration based upon fines imposed.

Long term effects: The long term effects will be that associations will be fair and consistent in the application of governing document rules and reduce potential self-serving conflicts by a community manager or board.

4. Estimated Cost to the Agency.

There is no anticipated direct cost to the Agency as a result of this regulation. It is possible that there will be more complaints for violation of law filed for investigation against a community manager who does not comply with the prohibitions concerning the management agreement.

5. Duplication with other Agencies: This regulation poses no know duplication with any other Agency.

6. Federal Law: This requirement poses no known conflict or duplication regarding Federal law.

7. Federal Regulation: This regulation contains no known conflict or duplication of Federal regulation.

8. New Fee Established:

No new fee is established by this regulation.

Comments and Written Submissions

Persons wishing to comment on the proposed action of the Commission may appear at the scheduled public hearings or may address their comments, data, views or arguments, in written form to:

Nevada Real Estate Division
2501 E. Sahara Avenue, Suite 303
Las Vegas, NV. 89104-4137
Attn: Teralyn Thompson, Administration Section Manager

Written submissions must be received by the Division no later than Monday, March 2, 2015. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

Copies of Proposed Regulation

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available on the Division website at www.red.state.nv.us and at the Division office:

Real Estate Division
2501 East Sahara, Suite 303
Las Vegas, NV. 89104-4137

The text of each regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at:

<http://www.leg.state.nv.us/Register/2013Register/R049-13RP1.pdf>

Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

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This notice of hearing has been posted at the following locations:

Nevada Real Estate Division
1179 Fairview Drive, Suite E
Carson City, NV. 89701

Nevada Real Estate Division
Bradley Building
2501 East Sahara, Suite 102
Las Vegas, NV. 89104-4137
www.red.state.nv.us

Carson City Library
900 North Rook Street
Carson City, Nevada 89701

Las Vegas-Clark County Library District
833 Las Vegas Boulevard North
Las Vegas, Nevada 89101

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Douglas County Library
1625 Library Lane
Minden, Nevada 89423

Elko County Library
720 Court Street
Elko, Nevada 89801

Goldfield Public Library
Fourth & Crook Street
Goldfield, Nevada 89013

Eureka Branch Library
10190 Monroe Street
Eureka, Nevada 89316

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Lincoln County Library
63 Main Street
Pioche, Nevada 89043

Storey County Library
95 South R Street
Virginia City, Nevada 89440

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Mineral County Library
P. O. Box 1390
Hawthorne, Nevada 89415

Tonopah Public Library
P. O. Box 449
Tonopah, Nevada 89049

Pershing County Library
1125 Central Avenue
Lovelock, Nevada 89419

Washoe County Library
301 South Center Street
Reno, Nevada 89501

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Battle Mountain Library
625 South Broad Street
Battle Mountain, Nevada 89820

January 30, 2015