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MAR 06 2023

**NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS**



Public Comment- CIC Commission meeting 03/07/23

Good morning. My name is Mike Kosor. I serve as a director on a large HOA in Las Vegas. I am a retired Air Force senior officer and in a second career, a former hospital executive. I have served as a director on multiple HOA boards for nearly eight years.

I am here today before this Commission, that serves as the sole oversight body of the Nevada Real Estate Division (NRED), asking you review and act on my allegation the Division is knowingly turning a blind eye to HOA laws violated blocking owner efforts to access Commission hearings for resolution -- or at least, ignoring violations by those I will simply label as special entities. This is not the first time I have raised concerns and requested your assistance.

Limits imposed on my time this morning will not permit me to make my full comments. So, I will summarize. But I ask you take the five minutes it takes to read my full comments you have been provided. I also ask they be made part of the formal minutes.

In the way of background, my HOA has been controlled by its developer for over twenty-three years. The majority of the association's board continues to be appointed by the developer. Two senior VPs of the developer's wholly owned company serve on the association's board and the developer's wholly owned company manages the association's daily operations. Inexplicably, what I just described violates no Nevada law- but it certainly creates a dangerous environment where the abuse of the power and lack of transparency can occur. It is an environment I am certain the Nevada legislators never intended. It needs your attention. But that is not why I am here today.

Last year, I came to serve on this master association's board as one of only two owner elected directors. I ran on a clear platform, one apparently held by a large number of my fellow owners, our association's board was not being transparent and a belief it may be violating the law. I filed three formal complaints with the Division last year- all were closed without explanation. I will provide two simple examples of what I believe are fairly straight forward violations – all ignored by the Divisions. (More examples and details can be found on the website MikeKosor.com)

Under the laws of Nevada, and to my knowledge in every state, a director on the board of a corporation, such as an HOA, has virtually unlimited access to the records of the organization he or she governs. Nonetheless, I have been denied access to some of my association's records by my fellow directors. To be clear, it is undisputed records are being withheld. It is also widely accepted directors are provided virtually unlimited access to organizational records- which would include all confidential and privileged association records. Yet the Division has failed force release of the records and alternatively, bars my access to a Commission hearing to obtain these records. And it refuses to provides an explanation.

My fellow directors also approved a Director and Officer insurance policy, over my objections, that specifically excludes me from coverage- I am a named exclusion. Each of you should have a copy of this exclusion attached to my written statement. Here again, the Division apparently finds clear evidence like this inadequate to find good cause to act or provide for a hearing. Most disturbing, the Division provided me no explanation.

My complaints were reviewed by the Ombudsman's office. They were forwarded for investigation. After four months my allegation of violations were closed with no action and I was provided no explanation. I

was simply and only told via letter, “your complaint has not identified sufficient evidence to proceed with further investigation”.

During the period of the Division’s “investigation”, I was never contacted by the investigator seeking additional information or clarification of the allegations. After receiving the Division’s closure letter and nothing more, like most complainants, I sought to understand what the Division determined was missing from my complaint and/or where my understanding of the law may have been inaccurate. But this would not be forthcoming. I requested a discussion with the investigator and Mr Wheaton. But they were denied. I subsequently reached out to Mr. Foger and received a meeting a month ago.

During my meeting with Mr. Foger, attended by his senior staff, I again asked for an explanation. But I would not receive one. Instead, the meeting would end with a commitment from Mr Foger that he would personally review the complaint. Last week, I was informed by Mr Foger via email, “I do not see any just cause or overwhelming evidence to re-open [the] cases”. Commissioners, I see my meeting with Mr Foger as little more an effort at pacification.

The only way to obtain a hearing before this body is to file a complaint with the Division. However, when the Division arbitrarily or wrongly closes the complaints, owners aggrieved are denied what the law intended. Alternatively, their only course is to file litigation- which is a known lose – lose for everyone.

I acknowledge complaints need to be reviewed before obtaining a hearing. But why action or a hearing is denied to someone who believes they are aggrieved, must be part of the process. The process must be transparent and maybe even educational.

Commissioners, I assert the Division, funded by owner tax dollars and certainly the Ombudsman’s Office, funded by the roof tax levied on each HOA owner, dictates they be held accountable, at a minimum to providing explanations around why good faith complaints are closed when done so without action. “We are simply closing your complaint”, it not enough. If the complainant and the Division read the law differently, that should at a minimum, be explained. If more evidence is needed, what the additional evidence needs to be should, also should be explained. To simply allow the Division to close a complaint with no requirement to explain its position or provide written justification, is not the way our regulators should act. This would never be acceptable in our courts. It is dangerous. It is a failure of due process owners expect and I believe are promised under the law.

There exists no process to hold the Division accountable, outside action by this Commission. If there is something fouled in the Division’s kitchen, as I suggest exists today, who is going to correct it? This Commissioners, is on you. Nevada citizens deserve transparency. The Division must be required to explain its action or inaction when those who believe they have been aggrieved by their HOAs file a complaint as the law provides. The Division can do this without violating the requirement records of its investigations be kept confidential.

I appreciate your time this morning. I hope you will act.

Mike Kosor

Atch: Association DO policy exclusion endorsement

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**AMENDATORY ENDORSEMENT –
ADDITIONAL EXCLUSIONS**

In consideration of the premium charged for the Certificate of Insurance, it is hereby understood and agreed that **Section V, EXCLUSIONS** is amended to include:

Based on, arising out of, or in any way involving directly or indirectly any claims made by Michael Kosar;

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.