

## ► FREQUENTLY ASKED QUESTIONS: FILING AN INTERVENTION AFFIDAVIT

### What happens after I file an Intervention Affidavit?

Staff at the Ombudsman's office reviews the Affidavit to make sure it is complete and validate that you sent the certified notice to the Respondent. If so, the Affidavit is reviewed and the Ombudsman determines the potential paths the Affidavit may take, such as: Informal Conference, referral to the Alternative Dispute Resolution (ADR) process, referral to Compliance or closure due to other specific reasons.

- If it is determined the parties should participate in an Informal Conference, you and the Respondent will receive a letter requesting your attendance at a conference with a neutral third party to hopefully facilitate a resolution.
- If it is determined the allegations pertain to the interpretation, application or enforcement of the governing documents, reimbursement is being sought, or the parties are at an impasse and court involvement may be required, you will be informed about the Alternative Dispute Resolution (ADR) process and the potential subsidy available for consideration.
- If it is determined that good cause exists to investigate the allegations, the complaint is sent to Compliance to be investigated for violations of law. The potential outcome may be a Letter of Instruction (LOI); a Compliance Demand Letter (CDL); a recommendation to the Ombudsman to present the case before Commission for Common Interest Communities and Condominium Hotels for disciplinary action; or if the allegations cannot be substantiated, a letter of closure.

### What if I disagree with the direction determined for my Intervention Affidavit?

The direction of the Affidavit is at the Ombudsman's discretion. One of the many duties of the Ombudsman is to give guidance to the parties as the Ombudsman deems necessary to assist them in resolving any alleged violations. Neither party has a say-so in the determination.

### Do I have to fill out an Intervention Affidavit for each complaint against my HOA?

No. Page 2 of the Affidavit allows you to copy the page so that each allegation can be listed separately. Just make sure the allegations listed on the Affidavit match the exact allegations included in the certified letter sent to the Respondent.

### Can I remain anonymous when I file an Intervention Affidavit?

No. One of the main requirements prior to filing an Affidavit is that you notify the Respondent, by certified mail return receipt requested, of the allegations and allow the Respondent a reasonable opportunity to correct the violation. By satisfying this mandate, you are not anonymous. However, a written affidavit filed with the Division pursuant to [NRS 116.760](#), all documents and other information filed with the written affidavit, and all documents and other information compiled as a result of an investigation are confidential.

### What if the Respondent retaliates against me for filing the Intervention Affidavit?

NRS 116. 31183 - An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

- (a) Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;

- (b) Recommended the selection or replacement of an attorney, community manager or vendor; or
- (c) Requested in good faith to review the books, records or other papers of the association.

Should you experience retaliation based on the above, you can file an Affidavit. The Affidavit must include documentation showing any adverse action that was taken against you and the resulting negative impact. You must be able to prove that the action taken was in response to (a), (b), or (c) above.

### How long can I expect to wait after I file an Intervention Affidavit?

That depends. Each process has specific timeframes, some statutorily mandated, therefore no definitive timeframe can be given. For each process, you will receive a letter informing you which process the Affidavit is being administered under.

### Can I file an Intervention Affidavit because I am being threatened or harassed?

NRS 116.31184 - A community manager, an agent or employee of the community manager, a member of the executive board, an officer, employee or agent of an association, a unit's owner or a guest or tenant of a unit's owner shall not willfully and without legal authority threaten, harass or otherwise engage in a course of conduct against any other person who is the community manager of his or her common-interest community or an agent or employee of that community manager, a member of the executive board of his or her association, an officer, employee or agent of his or her association, another unit's owner in his or her common-interest community or a guest or tenant of a unit's owner in his or her common-interest community which:

- (a) Causes harm or serious emotional distress, or the reasonable apprehension thereof, to that person; or
- (b) Creates a hostile environment for that person.

A person who violates this provision is guilty of a misdemeanor.

Although this statute is included in this chapter of law, it is not enforceable by the Division because the person who violates it is guilty of a misdemeanor, and a misdemeanor would need to be determined in court by a judge.

### When should I file an Intervention Affidavit versus a Statement of Fact?

An Intervention Affidavit (Form 530) should be utilized for allegations pertaining to a board member, unit owner, or declarant. A Statement of Fact (Form 514a) should be utilized for allegations pertaining to community managers. A Complaint Against a Reserve Study Specialist (Form 514b) should be utilized for allegations against a Reserve Study Specialist.

At times, it can be difficult to determine whether the allegations pertain to the board or the community manager. Please refer to NAC 116.405, board duties, and NAC 116A.425, standards of practice for a community manager when determining which form to use. In addition, it is important to know which duties have been delegated to the community manager by the board of directors, through the management agreement.

### How many times can I file an Intervention Affidavit?

While NRS 116 does not prohibit a person from filing multiple Affidavits, the Division highly recommends that prior to filing any Affidavit, you:

1. Read your governing documents to confirm whether the board acted within the scope of its authority.
2. Read NRS 116 to confirm whether your allegations are in fact violations of law.
3. Open the lines of communication by addressing the matter with the board, either in writing or by attending a board meeting.