

**Nevada Real Estate Division**  
**Our Mission**

To protect the public and Nevada's real estate sectors by fairly and effectively regulating real estate professionals through licensure, registration, education and enforcement.

**Office of the Ombudsman**  
**Our Mission**

To provide a neutral and fair venue to assist homeowners, board members and community managers in handling issues that may arise while living in a common-interest community or condominium hotel.

**Real Estate**  
**Division**

**Sharath Chandra**  
Administrator

**Sharon Jackson**  
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**Charvez Foger**  
Ombudsman

**Ingrid Trillo**  
Editor

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# Community Insights

*A Newsletter from the Common-Interest  
Communities & Condominium Hotels Program*

Department of Business & Industry  
Nevada Real Estate Division

SUMMER 2017

## Ombudsman's Corner

Welcome to the Summer 2017 issue of Community Insights.

Ombudsman Charvez Foger is pleased to announce new Common-Interest Community and Condominium Hotel Commissioners: Michael Burke, Esquire, Attorney Member, and Charles Niggemeyer, Homeowner Member.

The Commission for Common-Interest Communities and Condominium Hotels is a seven-member body appointed by the governor that acts in an advisory capacity to the Division, adopts regulations, and conducts disciplinary hearings.

The Office of the Ombudsman strives to provide board members and community managers with enough education, resources, and timely answers to any questions to ensure that they do not find

themselves in violation of law and in front of the Commission defending their actions in the future.

As the Ombudsman, it is a goal of mine to make myself available to executive boards in need of additional guidance. At their request, and as my schedule permits, I will sit in on meetings and observe proceedings. If any board has concerns as to whether they are complying with the provisions of NRS 116, they can attend training and/or make a formal request for the Office's presence.

For CICs in Northern Nevada, I will be in Reno this coming August, along with the Training Officer, to provide courses and outreach for all those interested.

The training calendar can be found on our webpage at <http://red.nv.gov/Content/CIC/>



This picture was taken on May 4, 2017, at the  
CAI Conference in Las Vegas

<http://red.nv.gov/>

# CIC Program Training

## Training Officer Direct to You!



Training Class;  
"Responsibilities and Duties  
of the Board"

May 2017

Upcoming training classes are posted on the calendar found at:

[http://red.nv.gov/Content/CIC/Program\\_Training/Classes/](http://red.nv.gov/Content/CIC/Program_Training/Classes/)



The Office of the Ombudsman understands that many board members work during the day and cannot attend the variety of classes that we offer onsite during business hours. As such, we have created a new TRAINING REQUEST FORM to provide board members with an opportunity to receive information regarding their responsibilities and duties as fiduciaries of their association in a more convenient manner. HOA Boards can now request training at a time and location outside of standard

operating hours and at a site other than the 3300 W. Sahara building. Simply complete the new form found at <http://red.nv.gov/trainingrequest/>. When scheduling training, be sure that the location you choose is a public place, with enough space for course material to be projected on a wall or screen, and that the presentation is scheduled between 6pm and 8pm, at the latest. The requested topic can be of the board's choice, as long as it pertains to NRS 116.

## Understanding NRS 116.31184

"My next door neighbor is: following me, watching me, threatening to harm me physically, making rude comments under his or her breath, going around the community defaming my character, etc., what can I do?"

With regard to citing harassment, NRS 116.31184 states that: "[anyone in the community] shall not willfully and without legal authority threaten, harass or otherwise engage in a course of conduct against any other person...in his or her common-interest community which: (a) Causes harm or serious emotional distress...; or (b) Creates a hostile environment for that person. A person who violates these provisions is guilty of a misdemeanor."

Unbeknownst to some, NRS 116.745 explicitly defines a violation as "any provision of chapter 116 **except** NRS 116.31184."

A violation citing harassment, therefore, is not enforceable by the Division, but an individual can seek assistance from a law enforcement agency or directly file a civil action in court.



To register for free classes, visit [http://red.nv.gov/Content/CIC/Program\\_Training/Classes/](http://red.nv.gov/Content/CIC/Program_Training/Classes/)

Email: [OMBClasses@red.nv.gov](mailto:OMBClasses@red.nv.gov)

(702) 486-4480

## New CICCH Commissioner Michael Burke



Michael Burke

Michael Burke, Esquire is a Reno-based litigation attorney licensed to practice in both Nevada and California. Mr. Burke relocated to Reno from Los Angeles eight (8) years ago upon taking a position with the firm of Robison, Belaustegui, Sharp & Low. Mr. Burke is now a shareholder with the firm and actively litigates all civil and business matters, including those pertaining to development and real estate.

Mr. Burke has been ranked by *Super Lawyers Magazine* as a

rising star in the Mountain States from 2015-2017 and has been awarded an AV Preeminent Rating by Martindale-Hubbell. Mr. Burke has been named one of Nevada's Legal Elites by *Nevada Business Magazine*, and has consistently been named on the National Trial Lawyers "Top 40 under 40" list. When not practicing law, Mr. Burke enjoys spending time with his wife and daughter on the shores of Lake Tahoe.

## New CICCH Commissioner Charles Niggemeyer



Charles Niggemeyer

Charles (Chuck) Niggemeyer was born in Athens County, Ohio and received a Bachelor of Science Degree in Chemistry from Ohio University. Upon college graduation, Chuck was commissioned as a Second Lieutenant in the United States Air Force (AF) and began his career as a nuclear weapons specialist in Bitburg, Germany. From there, Chuck moved to Reese AFB in Lubbock, Texas to attend pilot training.

During his active duty years, Chuck flew the C-141 while simultaneously functioning in a variety of other positions such as Chief of Training, Chief of Operations, and Chief of the Command Post, just to name a few. Chuck attended AF War College and earned a Master's Degree from Webster University. He spent a total of 24 years in active duty, retiring in December of 1989 as a full Colonel.

Following retirement, Chuck continued his aviation career for

another 12 years as a commercial pilot with Midway Airlines, in Chicago, Illinois, and Alaska Airlines in Seattle, Washington. Since 2002, Chuck has served as president of the board of directors in his HOA, earning the CAI award for board member of the year in 2010 and again in 2015. He plays an active role in his community's Disaster Preparedness Committee, completing the CERT (Community Emergency Response Training) in 2013. Chuck is active in the Community Associations Institute as a member of the Education Committee and Legislative Action Committee, and also serves as the treasurer for the Nevada Chapter Board of Directors.

In his spare time, Chuck enjoys playing golf, traveling, woodworking and spending time with his wife of 52 years and five grandchildren.



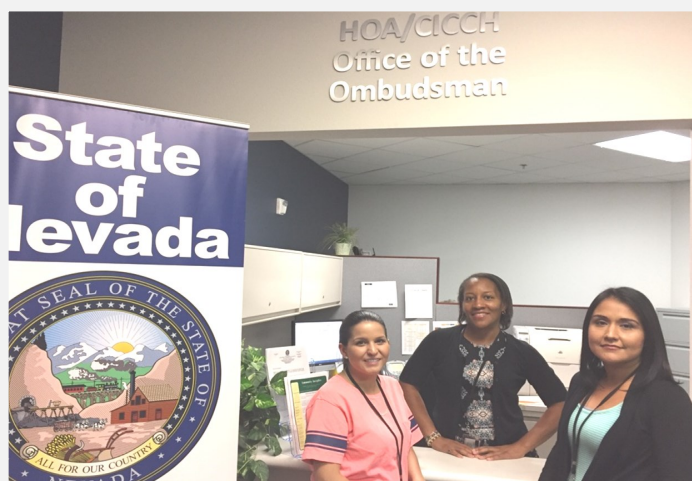


Commissioner Rizzi—Acting Chairman, swearing in appointed Commissioners: left to right Charles Niggemeyer, Michael Burke.

## CICCH Commission Meeting



Attendees at the June 27, 2017  
CICCH Commission Meeting



G. Morales-Lopez S. Bates E. Meza

## New CICCH Employees

**Gabriele Morales-Lopez** has joined the CIC Compliance section as Administrative Assistant II to assist investigators with calls, letters and case files. Originally from San Bernardino CA, she moved to Las Vegas in 2015. Gabriele has 10 years of professional customer service experience. She comes to the Division from the State of Nevada Taxi Cab Authority, where she taught Driver Awareness courses for new drivers and worked with investigators for background screenings, new permits and renewals. We look forward to working with Gabriele.

**Shareece Bates** joined the Ombudsman's office on June 12, 2017, filling the Administrative Assistant I position. Shareece has over 10 years working in community and government relations. She has worked for non-profit agencies as well as the state and federal government providing services and resources to constituents. She will serve at a Subject Matter Expert (SME) in her new capacity, responding to constituents concerns related to common-interest community living. We are fortunate and excited to have her on our team and look forward to utilizing her years of experience in this industry.

**Elizabeth Meza** is originally from San Diego, CA but has lived in Las Vegas for 14 years. Elizabeth has a Bachelor of Science degree with a concentration in Human Resource Management and has over 19 years of professional customer service experience. She began her work for the State of Nevada with the Division of Welfare and then moved to Family Services. She has since been part of the Quality Assurance Unit and we now welcome Elizabeth as an Administrative Assistant IV with the Ombudsman's Office.

"With the  
new day  
comes new  
strength and  
new  
thoughts."

*Eleanor Roosevelt*

**Article by:**

**Gene Cimorelli,  
Senior VP., General  
Manager—**

**First Choice Tree  
Service, Inc.**

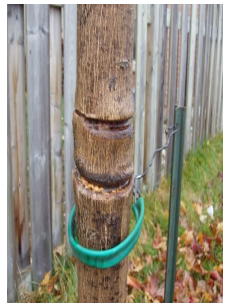
## Landscaping Tips

### DID YOU KNOW?

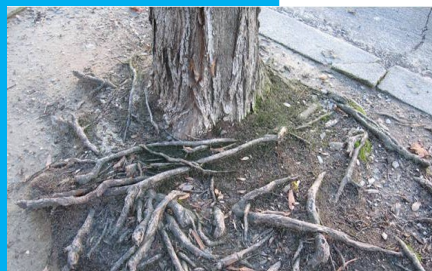
Do you ever walk around your community and notice tree stakes still attached to the trees year after year? This is a major problem in many communities. These stakes are called “transfer stakes” and support the tree trunk when transporting the tree from nurseries. When installing new trees on a property, the installer should be removing these transfer stakes and replacing them with wooden lodge poles or steel stakes. These lodge poles or steel stakes should support the tree for about 6 to 12 months, or until the tree is stable and has established its roots.

**Girdled trunks**, also called “*ring-barking*” is the complete removal of a strip of bark from around the entire circumference of either a branch or trunk of a wooded plant. Girdling can be caused by improper staking.

**Girdling roots** are usually lateral roots at or slightly below the soil line that cut into at least one side of the main trunk. These roots restrict water and nutrients which may be translocated to the leaves. This will promote stress and it may result in failure of the tree.



Girdling Trunks, also called:  
“ring barking”



Girdled Roots

### Common Tree Installation Problems

- Planted too deep – suffocates roots, may cause basil rot
- Planted too shallow – roots may dry out
- Hole too narrow – root system struggles, roots start to girdle
- Straps left on trunk – trunk will girdle
- Stake placed against trunk – may cause sun scowl
- Improper irrigation - emitter only on one side of the root ball

It is important to not only protect trees on your property, but also your community trees. Contact your HOA if you observe any of these issues in your community. Be proactive and help preserve the look of your neighborhood.

We at First Choice Tree Service take pride in working close with Ombudsman Charvez Foger and his professional team to help protect and educate our communities.



“The best  
preparation  
for  
tomorrow  
is doing  
your best  
today.”

*H. Jackson Brown Jr.*

## 79TH LEGISLATIVE SESSION CHANGES THAT AFFECT CICs

**SB 33** - Amendment adds new language to NRS 116 which states that if a unit's owner is a service member or a dependent of a service member, an association cannot initiate the foreclosure of a lien during **any period that the service member is on active duty of deployment or for a period of 1 year immediately following the end of active duty or deployment.** An association must inform each unit's owner that if the person is a service member or dependent of a service member, they may be entitled to certain protections pursuant to statute. The association must also give the person the opportunity to provide information required to allow the association to verify if the unit's owner is an active service member or dependent by providing the social security number and date of birth. Violation of this amendment is a misdemeanor and may be liable for actual damages, attorney's fees and costs. A court would consider any due diligence used by the person before initiating the foreclosure when determining whether to reduce such liability. Effective May 29, 2017.

### **SBI95**

- ◇ **NRS 116.3103, as amended**, provides for the right of the board of directors to fill vacancies in its membership regardless of any provision of the governing documents to the contrary. Such appointments are still only effective until the next regularly scheduled election or the expiration of the term, whichever occurs first.
- ◇ **NRS 116.31034, as amended**, eliminates additional notice provisions for the deemed elected process.....no notices of the deemed elected process after the first notice of eligibility need to be sent. The board must send notice in the notice of eligibility to serve that the board will use the deemed elected process and explain that process.
- ◇ Upon a foreclosure of a property, the purchaser succeeds to all special declarant's rights previously held by the declarant regardless of whether the purchaser executes the conveyance. If the purchaser only wants to succeed to certain special declarant's rights, those limited rights may be listed in the conveyance and it must be signed by the purchaser.
- ◇ The election of members of the board must occur at the annual meeting of the owners where ballots must be opened and counted.
- ◇ For an executive session scheduled to discuss a violation of the governing documents or a failure to adhere to a payment plan, the association need only notify the person who may be subject to a hearing for that meeting. Acknowledgment of this meeting shall be made at the next regularly scheduled meeting of the board and reflected in the minutes of that meeting. If an executive session occurs for any other purpose, notice shall be made by posting in one or more prominent places within the common elements and provided by email to any owners who have provided their email address to the association.
- ◇ Associations must maintain an errors and omissions policy in an amount not less than \$1,000,000. Coverage must extend to board members, officers, employees, agents, volunteers and the community manager and its employees.
- ◇ For rules and restrictions permitted by NRS 116.350, the association may impose fines pursuant to NRS 116.31031 to the extent such fine is authorized by the governing documents.

This bill is effective October 1, 2017

**SB 255** - amends **NRS 116.12065** regarding notice of changes to governing documents which **deletes the requirement of the association's secretary or designated officer to hand deliver or send by USPS a copy of the changes to the mailing address of each unit's owner** and has been changed to "**cause to be delivered**" a copy of changes made. **Amendments to NRS 116.4109** regarding resales of units adds that a purchaser who cancels the contract of purchase must hand deliver or **delivery the notice of contract by email** to the unit owner or authorized agent. Amendments include an additional disclosure to **NRS 116.41095** regarding cancellation of the purchase agreement to include that if the buyer is not the original purchaser and received a resale package, the notice of cancellation may be delivered by email to the seller within the 5 day period in order to exercise their right to cancel. Effective July 1, 2017.

For additional details regarding any of these bills, go to the Nevada Legislature website at:

<https://www.leg.state.nv.us/Session/79th2017/>



## 79TH LEGISLATIVE SESSION CHANGES Continued

**SB 239** - amends **NRS 116.310312** regarding the board entering grounds of a unit to conduct certain maintenance. Section 3—if the unit is vacant and the association has provided the owner with notice and an opportunity for a hearing; as amended, **the association has to have mailed a notice of the intent of the association to maintain the exterior of the unit or abate public nuisance** the association and may enter the grounds. **The association must send notice of its intent by certified mail to the address provided.**

**NRS 116.310312(4)** has been amended to state that **if a unit is in a building that has units divided by horizontal or vertical boundaries that comprise common walls between the units and the unit is vacant, the association may enter the grounds and the interior of the unit to abate a water or sewage leak in the unit and remove any water or sewage that is causing damage or may cause damage to common elements or another unit if the owner refuses or fails to abate.**

**After providing the unit's owner with notice but before a hearing of the board, the association can remove any furniture, fixtures, appliances and components of the unit that were damaged because of water or mold damage from a water or sewage leak to the extent that the removal is necessary because the damage threatens the health or safety of residents of the association, resulting in deterioration of the unit or surrounding areas and adversely affects the use and enjoyment of nearby units. After the association has provided the unit's owner with notice and a hearing before the board, the association may order that the costs of any maintenance or abatement or the reasonable costs of remediation or removal.**

**SB 476** - makes changes to the CIC Commission, amending **NRS 116.600 2(a,b)**- adds additional requirements to members of the Commission who are unit owners by stating that a member must be a unit's owner who **resides in a unit within the State**. This bill does not affect the current term of appointment of any person who, on October 1, 2017, is a member of the Commission.

**SB 258** - revises **NRS 116.31031**: requiring the board to send a written notice for violations of governing document, if the governing documents provide, to cure the violation without imposing a fine. The written notice must:

- \* Include an explanation of the provision of the governing documents that is being violated,
- \* Specify the violation in detail and the proposed action to cure the violation,
- \* Provide a clear and detailed picture of the violation, and
- \* Provide the unit owner or tenant with a reasonable opportunity to cure the violation before the board takes additional action.

Effective October 1, 2017.

**SB 281** - regarding disposition of amounts received from sale price, rents or redemption of property held in trust and claims for recovery of excess proceeds, **NRS 361.610 Section 6(a)** has been amended to include homeowners associations that have caused to be recorded a notice of default and have foreclosed. **NRS 361.610(10)** has been amended to state that if a homeowners association recovers any amount of excess proceeds of sale of a unit, the amount recovered shall be deemed to have satisfied the debt owned by the owner of the unit and the association may not recover any remaining debt by civil action or any other way. Amendment to **NRS 116.3115** specifies that any common expense benefiting fewer than all units and their owners, **including without limitation, common expenses consisting of the payment on behalf of a unit's owner of delinquent property taxes or utility charges owed by the unit's owner**, may be assessed exclusively against the units or units' owners benefited. Effective July 1, 2017.

For additional information visit the Nevada Legislature website at: <https://www.leg.state.nv.us/Session/79th2017/>



# Community Insights

*Community Insights* is an official publication of the  
**STATE OF NEVADA**  
**DEPARTMENT OF BUSINESS AND INDUSTRY**  
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**Sharon Jackson**  
Deputy Administrator

**COMMON-INTEREST COMMUNITIES & CONDOMINIUM HOTELS**  
**Office of the Ombudsman**  
**Charvez Foger**  
Ombudsman

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**COMMON-INTEREST COMMUNITIES & CONDOMINIUM HOTELS**

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Homeowner Member

**Doris Woods, Commissioner**  
Homeowner Member

**Ryan Henderson, Commissioner**  
Homeowner Member

**Ken Williams, Commissioner**  
Community Manager Member

## CIC COMMISSION MEETING

### CALENDAR

AUGUST 29-31 NORTH

NOVEMBER 14-16 SOUTH

More details at:

<http://red.nv.gov/Content/Meetings/Commissions/>



**Our office will be CLOSED**  
**MONDAY, September 4, 2017 in observance**  
**of**  
**LABOR DAY**

