

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

Community Insights

WINTER EDITION

Department of Business & Industry, Real Estate Division

OMBUDSMAN'S HUDDLE

Nevada Real Estate Division

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As the Ombudsman for CICs in Nevada, I am often faced with disgruntled homeowners who ask me why HOAs even exist. While HOAs may be a nuisance to some, their existence came about so that residents who could not on their own afford to install a gym, security gates, pool, park, sports courts, clubhouse, entrance signage, etc., could gain access to such amenities by simply contributing a portion of money into a larger "pot."

By paying monthly assessments, homeowners gain access to certain private facilities and amenities without having to worry about performing all of the necessary upkeep and maintenance over time. Homeowners pay their share, and in return, can expect that the association will maintain the beauty and aesthetic of their community.

Associations further provide structure and order within communities through restrictions on what some homeowners perceive to be nuisances; i.e. multiple vehicles parked on the streets, dead vegetation, loud parties, just to name a few. With regard to the association's governing documents (CC&Rs, Articles, Bylaws, Rules and Regulations), the expectation is that unit owners will make themselves aware of the restrictions that could be placed upon them prior to moving into the community and then abide by any standards of maintenance and behavior established while remaining an owner.

Even if you reside in an association that does not have many amenities or rules, assessments pay for a level of organization. In a HOA, there is a central point of contact for unit owners to utilize when attempting to gain information or have questions about the community answered. An association's democratically elected executive board of directors should act as fiduciaries, be accessible when needed, provide fair treatment in terms of enforcement and afford due process when necessary.

We all care about our communities and want to feel comfortable when we come home each day. That is why when issues arise within HOAs they tend to feel deeply personal and emotional and why I take my position as the Ombudsman very seriously. I will continue to work diligently to be a resource for homeowners throughout Nevada in 2019. On behalf of the Ombudsman's Office, I wish everyone a wonderful new year!

- Ombudsman Charvez Foger

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EDUCATION CORNER



EXECUTIVE BOARD MEMBER YEAR-END REVIEW

As we all embark on a new year, now is an excellent time for association board members to reflect back on how well their association has performed. Below is a list of questions for board members to ask themselves in order to gauge how much they accomplished in 2018.

Have you:

1. Kept informed of laws, regulations and developments relating to common-interest communities through available training materials and education?
2. Complied with all applicable federal, state and local laws and regulations?
3. Refrained from acting for reasons of self-interest, gain, prejudice or revenge?
4. Refrained from acting outside the scope of authority granted in your association's governing documents?
5. Reviewed the governing documents for any areas needing further clarification?
6. Read through the association's vendor contracts and made sure that all terms of agreement are being appropriately adhered to?
7. Held board meetings with enough frequency to properly and efficiently address the affairs and finances of the association (at least once every quarter)?
8. Allowed unit owners to attend, speak and present complaints at board meetings while still maintaining order?
9. Disclosed potential conflicts of interest?
10. Maintained confidentiality regarding unit owners?
11. Held the annual unit owner meeting in conjunction with election results?
12. Appointed board members when necessary?
13. Adopted the budget and sent a summary to unit owners for ratification?
14. Deposited all funds of the association for investment in authorized institutions?
15. Prepared interim and annual financial statements, caused them to be audited or reviewed and discussed such information at board meetings?
16. Maintained current, accurate and properly documented financial records?
17. Made records of the association available to unit owners upon request?
18. Fairly and uniformly enforced the collection policies and governing documents of the association?
19. Submitted all forms and payment to the Division in a timely manner?

20. Obtained, when practicable, at least three bids from reputable service providers who possess the proper licensing?
21. Consulted with appropriate professionals as necessary before making any major decisions impacting the association?
22. Provided notices, ballots, budgets, etc. to unit owners according to the timeframes and requirements referenced in law?
23. Obtained and maintained appropriate insurance for the association?
24. Regulated the use, maintenance, repair, replacement and modification of common elements?
25. Consistently looked to the Reserve Study to ensure that the funding plan in place is still sufficient?

If you answered "yes" to these questions, then you may be on track to running a "healthy" community. If you have any questions regarding this list, you can email CICOmbudsman@red.nv.gov.

COMMUNITY MANAGERS, YOU CAN NOW USE "MY ACCOUNT" TO RENEW YOUR LICENSE ONLINE

TO RENEW ONLINE:

1. You must hold an active Nevada license.
2. You may renew online starting 45 days prior to the expiration date of your license.
3. You must have completed the required 18 hours of continuing education.

HAVE THE FOLLOWING AVAILABLE:

1. A credit or debit card bearing the Visa or MasterCard logo.
2. Proof of education completed as needed to renew your license or permit.

USER ID - your license number (CAM. followed by number with *no* leading zeros).

PASSWORD - the last four digits of your social (SSN).

YOU CANNOT RENEW ONLINE IF:

Your license is expired.

You are changing a license status from inactive to active.

Continue on to this [page](#).

COMMISSIONER REAPPOINTMENT

Pictured below, Commissioner Doris Woods (right) being sworn in by Commissioner Michael Burke, Esq. (left) at the November 6, 2018 CICCH Commission Meeting.



REMINDERS FOR COMMUNITY MANAGERS

Commission Credits Pursuant to [NAC 116A.255](#):

- The Commission will grant up to 6 hours of continuing education credit (Law Credit will only be applied to the hearings portion) during one certification period for attending a meeting of the Commission.
- If a holder of a certificate attends only part of a Commission meeting, the Division may determine the number of hours of credit, if any, that the holder of a certificate may receive.

Course Credits Pursuant to [NAC 116A.250](#):

- A course may not be taken for credit more than once during any two consecutive periods for renewal of a certificate.
- Courses taken to satisfy requirements for renewal must be completed within 2 years immediately preceding the latest date for renewing.
- A holder of a certificate may receive credit for continuing education only upon certification by the sponsor that the licensee has attended and completed at least 90% of the course.

CELEBRATING 30+ YEARS OF SERVICE

The Office of the Ombudsman for CICCH congratulates Christopher J. Cooke on his 30 plus years of service with the State of Nevada!

Chris began his employment with the State of Nevada in 1988 as an Inspector/Investigator for the Nevada Board of Cosmetology. He served in this capacity for 17 years. Chris then took the position of acting Chief of the State Industrial Insurance System, Investigation Section, for the Northern Regional Office. His final stint with the State was with the Department of Business & Industry, Real Estate Division, as a Compliance/Audit Investigator II.

For the past 13 years, the Office of the Ombudsman was fortunate to have Chris working as the sole Compliance Investigator out of Northern Nevada. A native Northern Nevadan, Chris watched the cities around him expand and became a hub of knowledge for Southern Nevada staff regarding all of the unique needs of homeowner associations in the Northern region.

Throughout his many years working for the State of Nevada, Chris has always provided exceptional professionalism and outstanding customer service to

Nevada stakeholders, constituents and internal staff alike.

The State of Nevada commends Christopher J. Cooke on his outstanding tenure as a dedicated State employee, and joins his family, friends and colleagues in extending sincere appreciation to him for 30 plus years of service, with best wishes for a happy and fulfilling retirement.



*Pictured from left to right:
NRED
Administrator
Sharath
Chandra,
CICCH
Ombudsman
Charvez Foger,
CICCH
Compliance
Investigator
Chris Cooke
and Chief of
CICCH
Compliance
Terry Wheaton.*

QUIZ

Which of these must be done within 60 days?

1. Upon request, within ____ days after receiving any payment of a fine, the association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.
2. Within ____ days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the association.
3. The audited financial statement of an association must be made available to the Division within ____ days of request.
4. Within ____ days after adopting the budget, the executive board shall provide a summary of the proposed budget to each unit's owner.
5. Not earlier than ____ days after an assessment becomes past due, the association must deliver to the unit owner a schedule of the fees that may be charged, a proposed repayment plan, and a notice of the right to contest at a hearing.

Answers: 1, 4, 5 2, 30 days 3, 30 days

OMBUDSMAN INFORMATION - October through December 2018

Total Associations Registered in the State of Nevada	3,308
Complaints Received	79
Alternative Dispute Resolution (ADR) Filings	65
Audits Conducted by the Ombudsman's Office	15
Records Requests Processed	11
Training Sessions	9
Classroom Attendees	230

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

All forms can be found at:
<http://red.nv.gov/Content/Forms/All/>

Class calendars can be found at:
http://red.nv.gov/Content/CIC/Program_Training/; and

<http://red.nv.gov/Content/Education/Calendars/CIC/>

If you have any questions, please email:
CICombudsman@red.nv.gov

NEWLY UPDATED CIC FORMS

[562](#)—ANNUAL ASSOCIATION REGISTRATION FORM

[602](#)—DECLARATION OF BOARD MEMBER FORM *(now to be submitted to the Division only upon request)*

[603](#)—INITIAL ASSOCIATION REGISTRATION FORM

[623](#)—REGISTRATION FILLING ADDENDUM FORM

Coming soon... revision to Form 609—RESERVE STUDY SUMMARY FORM

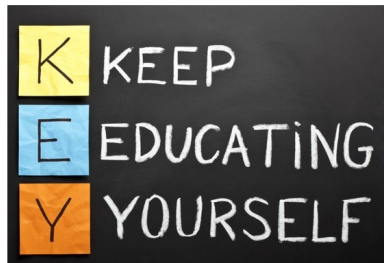
The Office welcomes feedback from stakeholders regarding any ways to simplify and standardize Division forms.

SUBMITTING A CIC CONTINUING EDUCATION COURSE

Below is a list of instructions for those sponsors interested in creating and submitting for approval a course specifically designed to enhance or further the education of community managers for CICs within the state of Nevada.

Step 1. After creating the relevant course, complete **Form 579—CIC CE Application**

- ⇒ A \$100 fee must be submitted to the Division along with Form 579 ([NAC 116A.515](#)).
- ⇒ Course contents must satisfy the requirements of [NAC 116A.232](#).
- ⇒ The course must consist of at least 1 hour of instruction ([NAC 116A.230\(3\)\(a\)](#)).
- ⇒ To meet the criteria of receiving a “Law” designation as opposed to “General,” at least 50% of the course must cite or reference Chapter 116 or 116A ([NAC 116A.140\(2\)\(d\)](#)).
- ⇒ Approval of any CE course is only effective for 1 year ([NAC 116A.230\(1\)](#)).



Step 2. Complete and attach **Form 670—Instructor Application**

Pursuant to [NAC 116A.270](#):

- ⇒ An instructor must have written approval from the Division before teaching any approved course.
- ⇒ An instructor will not be approved if he or she has been disciplined by the Commission or the Division within the immediately preceding 5 years; or more than one time; or has been determined in an administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to real estate in this or any other state.
- ⇒ A person may be approved as an instructor if the person has:
 - (1) A bachelor's degree or more advanced degree, *plus* at least 2 years of full-time experience in the field in which he or she will be providing instruction;
 - (2) At least 75 hours of teaching experience in the field in which he or she will be providing instruction within the 3 years immediately preceding the date of application *plus* at least 3 years of full-time experience in that field;

- (3) At least 6 years of full-time experience in the field in which he or she will be providing instruction; OR
- (4) Any combination of at least 6 years of college-level course work and full-time experience in the field in which he or she will be providing instruction.

⇒ A person applying as an instructor must include with the application satisfactory **documentation** of his or her qualifications and a **resume** outlining his or her experience, education and teaching experience in the field.

Step 3. Complete and attach **Form 848—Retention of Records**

Step 4. Create and attach a **Timed Course Outline**

- ⇒ This outline should represent a brief overview of the class topics being taught and approximately how long it should take to cover each topic.
- ⇒ The total amount of time should add up to the amount of time requested (i.e. for a 2-hour class; 120 minutes of instruction, including any breaks).
- ⇒ A ten (10) minute break is permitted for each one (1) hour of class instruction after the first hour.

Step 5. Submission—Each of the forms and the outline listed above must be submitted, along with the \$100 fee and course material, to the Office of the Ombudsman for CICCHs' Education and Information Officer.

Any course materials, including handouts, can be submitted electronically to CAMEducation@red.nv.gov, while all forms must be submitted by mail or hand delivery to 3300 W. Sahara Ave., Suite 325, Las Vegas, NV 89102.

There are additional requirements if the course submitted is to be approved for distance education (see [NAC 116A.230 & 235](#)).

If you have any questions, please forward them to CAMEducation@red.nv.gov or call 702-486-4480 and ask to speak to the CIC Education section.

PROTECTING YOUR HOME



As temperatures remain cold throughout the Southern Nevada

Valley, homeowners living near a wash, golf course, or areas under construction may have noticed an uptick in the local rodent population. In particular, “Roof Rats” are becoming a major problem for many local HOAs.

Roof Rats are long and thin rodents that have large eyes and ears, a pointed nose and a scaly tail. They have soft and smooth fur that is typically brown, with intermixed spots of black, and their undersides are often black, white or gray. Adult roof rats measure six to eight inches in length, with their tails being notably longer than their heads and bodies, often measuring seven to ten inches long.

Roof Rats get their name from a tendency to find shelter in the upper parts of buildings. They can climb any surface and have incisors that allow them to chew through aluminum, sheet rock, wood and even brick. Once inside, these rats not only damage materials by gnawing through them, but can also contaminate stored food and serve as vectors of dangerous diseases.

According to local pest control experts, they are a rat that can survive just about anything, including a 50 foot fall and treading water for days without drowning. These rats have been known to swim up through sewer lines, even coming up through toilets. They are attracted to fruit trees, but are likely to gravitate anywhere there is water, vegetation and shelter.

The first sign of infiltration is often droppings found in certain areas of the home, as well as evidence of burrowing into insulation behind the stove, fridge, etc. The key is to find points of entry, remove conducive conditions, and then finally seal off the home.

The Southern Nevada Health District has created a short checklist of items or ways in which you can help keep your home and community rodent free:

- ⇒ Weatherproof your home’s windows and doors (eliminate light from around doors).
- ⇒ Seal outer openings, pipe chases and wire entrance gaps with steel wool, aluminum, or wire mesh.
- ⇒ Secure pet doors at night.
- ⇒ Eliminate any unnecessary clutter, material, brush or foliage from your property.
- ⇒ Keep bushes trimmed and clean out leaf litter and clutter that collects below bushes.
- ⇒ Remove landscaping debris quickly.
- ⇒ Stack firewood 12 inches off the ground and keep the area clean.
- ⇒ Keep trash cans (plastic or metal) covered.
- ⇒ Do not put out “food” garbage in plastic bags.
- ⇒ Place sealed plastic bags in trash cans.
- ⇒ Do not leave pet food outside overnight.
- ⇒ It is recommended that rodent control be conducted by a commercial pest control company that is licensed by the Nevada Department of Agriculture.
- ⇒ After rodent-proofing, glue and snap-type traps are effective in reducing rodent numbers.
- ⇒ Do not place traps where they may be accessible to children or pets.
- ⇒ Over-the-counter poison baits can also be useful, provided the label directions are followed, but should not be used in households with children or pets unless under the direction of a licensed pest control company.
- ⇒ You can also download the [Rodents Checklist](https://www.southernnevadahealthdistrict.org/health-topics/rodent-pests.php) to learn more on how to inspect for rodents on your property.

For additional information on control measures and surveillance programs, you can log into the SNHD webpage regarding rodent pests at <https://www.southernnevadahealthdistrict.org/health-topics/rodent-pests.php>.

WHAT HAPPENED AT COMMISSION?

NAME	ALLEGATIONS/ VIOLATIONS	DISCIPLINARY ACTIONS
NRED v. Diana Gillis Case No. 2017-2111 Type of Respondent: Community Manager CAM.1821 (REVOKED)	Respondent violated: NRS 116A.630(1)(a)&(b) and NAC 116A.320 by failing to act as a fiduciary in her relationship with the Association and failing to exercise ordinary and reasonable care in the performance of her duties; NRS 116A 630(2)(a) and NAC 116A.320 by failing to comply with state laws; NRS 116A.630(10) and NAC 116A.320 by failing to cooperate with the Division in resolving complaints filed; NRS 116A.640(2)(a) and NAC 116A.345(2)(c) by impeding an investigation by concealing and failing to provide to the Division facts or documents relating to the business of a client; NRS 116A.620 and NAC 116A.325 by performing community management services for the Association without a signed management agreement; NAC 116A.355 by exceeding the authority granted by the Association and committing unprofessional conduct or professional incompetence by failing to act in the best interests of the Association.	A default judgment has been placed for failing to appear. The Commission ordered the following: Respondent's community manager certificate is revoked for a period of no less than ten years, and in no event sooner than all fines and restitution imposed by the Commission are paid in full. Respondent shall pay an administrative fine to the Division totaling \$15,542.21 (\$13,000 for violations of law and \$2,542.21 for the Division's attorney's fees and costs- no later than January 1, 2019). Respondent shall pay restitution to the Association in the amount of \$8,209.50 no later than January 1, 2019. The Division may institute debt collection proceedings.
NRED v. Hillside Homeowners Association, Sourav Hazra, Roy Whitmore, Kyle Hagemajer, George Smith, and Ramiro Ramirez Case No. 2018-766 Type of Respondent: Executive Board	Respondents violated: NRS 116.3103, NRS 116.3103(4), NRS 116.31083 and NAC 116.405(1) by failing to act in good faith and in the best interests of the Association by acting outside the scope of authority granted by the governing documents and failing to afford an owner rights under NRS 116, including the right to attend board meetings and run for a seat on the board; NRS 116.3103 and NAC 116.405(3) when they committed an act or omission amounting to incompetence, negligence, or gross negligence by failing to follow an Advisory Opinion of the Division; NAC 116.405(4) when they directed or authorized their attorney to disclose the owners' confidential information to a third party without the owners' consent; NRS 116.31183 by retaliating against an owner when they directed or authorized their attorney to notify an owner's lender about a deed with the stated purpose of exposing an alleged breach of the deed of trust because the owner complained in good faith.	The Association shall accept unrecorded deeds as evidence of ownership as set forth in the Division's Advisory Opinion No. 14-01-116. Based on the deed provided, the Association shall restore ownership rights. The Association shall pay an administrative fine to the Division consisting of the costs incurred by the Division in the amount of \$5,102 no later than January 1, 2019. The Division may institute debt collection proceedings.
NRED v. Pecos Creek Homeowners Association, James Gilmore, Rodolfo Rocha, Omar Guerra, Ofelia Santos, and Patricia Yuen Case No. 2016-1949 Type of Respondent: Executive Board	Sheryl Baca and Andrew Dionne are in default of the Commission's Orders by knowingly and willfully failing to appear before the Commission as ordered on two occasions (violation of NRS 116.785 (3)). The remaining board member testified that she was largely left out of decisions made by the other two board members and that the board had not met to discuss the funding plan for their reserve deficit.	Sheryl Baca and Andrew Dionne shall each personally pay an administrative fine to the Division in the amount of \$1,000 no later than January 1, 2019; they shall be immediately removed from the board of the Association and may not serve as a board member or officer of the Association or any other common-interest community in the State of Nevada for a period of no less than 3 years from the date of the Order and in no event prior to full payment of the administrative fine ordered against them. The Association shall immediately begin the process of conducting an election to fill all open board positions. Ms. Stoian, as the sole board member, may take whatever action is necessary to maintain the business of the Association. The Division may institute debt collection proceedings.
NRED v. Vistana Condominium Owners Association, Anthony Kneip, Lynn Williams, and Ardyce Nelson Case No. 2015-3373 Type of Respondent: Executive Board	Respondents initially violated NRS 116.31031 by allowing their manager to impose fines against owners or tenants without an opportunity to cure or a hearing, and violated the law 84 times by allowing the removal of vehicles within the Association without complying with NRS 116.3102(1)(s) or NRS 487.038. Respondents have since failed to comply with previous Orders of the Commission (see July Order).	Respondents shall be immediately removed from the board and from serving as an officer of the Association and are prohibited from serving as a board member or officer of any CIC in the state of Nevada until such time as the full administrative fines owed are paid in full and 9 hours of education provided by the Division is completed. All requirements from previous Orders also remain in effect.

Actions/Decisions

Acts of the Commission for Common-Interest Communities and Condominium Hotels are not published in this newsletter until after the 30-day period allowed for filing under Judicial Review. If a stay on discipline is issued by the court, the matter is not published until the final outcome of the review.

Allegations/Stipulations

Stipulations occur when both the respondent and the Division have agreed to conditions reviewed and accepted by both sides. A stipulation may or may not be an admission of guilt.

Nevada State Business Center
Real Estate Division
Office of the Ombudsman
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Las Vegas, NV 89102

Phone: 702-486-4480
Fax: 702-486-4520
E-mail: CICOmbudsman@red.nv.gov



Nevada Real Estate Division 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 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.

Community Insights is an official publication of the

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DEPARTMENT OF BUSINESS AND INDUSTRY
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HOTELS
Office of the Ombudsman
Charvez Foger
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COMMON-INTEREST COMMUNITIES &
CONDOMINIUM HOTELS

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Homeowner Member

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Homeowner Member

Ken Williams, Commissioner
Community Manager Member

CIC COMMISSION MEETINGS 2019

March 12-14, 2019

June 4-6, 2019

September 17-19, 2019—North

December 3-5, 2019

Further details located at:

http://red.nv.gov/Content/Meetings/CIC_Calendar/

Our office will be closed:

New Year's Day

Tuesday, January 1, 2019

Martin Luther King, Jr.'s Birthday

Monday, January 21, 2019

Washington's Birthday

Monday, February 18, 2019

