

# Community Insights

SUMMER  
2020

A NEWSLETTER FROM THE COMMON-  
INTEREST COMMUNITIES AND  
CONDOMINIUM HOTELS PROGRAM

DEPARTMENT OF BUSINESS & INDUSTRY  
REAL ESTATE DIVISION







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# Ombudsman's Huddle

**T**hese have been stressful times, and we at the Ombudsman's Office appreciate our constituents' patience and understanding as requirements and expectations have continuously been in flux. Now that we have all had time to adjust to engaging with one another from a distance, we plan to continue to protect our constituents by further facilitating this type of communication.

Over the past few months, we have worked hard to make it as easy as possible for you to conduct business with us either by mail, email or phone, and we ask that you continue to utilize this office primarily through those means. Most individuals will find that all of their questions and concerns can be answered by our staff remotely. Additionally, you can visit our website for [FAQs](#), [training materials](#) and [cheat sheets](#) which provide answers to commonly asked questions.

Although we have no set date yet, when the building does eventually reopen to the public, access to our office will be by appointment only. It is important to remember that these measures are in place in an effort to protect both you and our employees. At the time of reopening, you will be expected to call the office at (702) 486-4480 prior to coming in.

For now, when calling the office regarding specific CICCH office functions, please see further guidance below:

Forms—ask to speak to Registration

Complaints—ask to speak to Compliance

ADR—ask to speak to an ADR Facilitator

NRS/NAC 116—ask to speak to Education

Once again, we thank you for your understanding and compliance during these challenging times.

**- OMBUDSMAN CHARVEZ FOGER**

# Online CICCH Training for Board Members and Unit Owners

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**B**eginning this past May, utilizing the Microsoft Teams platform, CICCH Trainers in both Northern and Southern Nevada have moved all of their live trainings online. So far, evaluations from students have been extremely positive!

To continue to do our part to protect the health and safety of our constituents, the Ombudsman has decided that the live, in-person component of CICCH board member and unit owner training will continue to be held remotely until further notice.

You may review our class calendars and register for upcoming online classes by visiting the [Training Webpage](#). On that page, you will also find detailed instructions on

how to join our classes, along with a suggested online course etiquette (netiquette) guide.

Certificates of attendance, presentation handouts and evaluation forms will be provided digitally to the email address that you use to register, so please take extra care when entering your information on the registration page and make sure you receive a confirmation email. You must attend the full duration of a class to receive a certificate of attendance.

The Ombudsman greatly appreciates the dedication and flexibility shown by both the Trainers and students during this time, and the office plans to continue to make receiving training as easy as possible for those who choose to educate themselves.

## Reminder for Community Managers

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### **LICENSE LOOK-UP AND CE CREDIT**

Community Managers, please remember when attending any continuing education (CE) courses that it is extremely important to sign in using your correct CAM number and legal name. If you do not write your name and number exactly as they are listed under “License Lookup” on the Division’s main page, you may not properly receive credits for attending CE courses.

We have recently observed hyphens being excluded from names and name changes not being reflected on sign-in sheets. Unfortunately, if the name and number on the sign-in sheet do not match the information in our database exactly, credit cannot be assigned under “My Account.”

# Developing an Emergency Response Plan

## A SUMMARY OF KEY STEPS FROM READY.GOV



### **CONDUCT A RISK ASSESSMENT TO IDENTIFY POTENTIAL THREAT AND HAZARD SCENARIOS AND SIGNIFICANT LOSS POTENTIAL.**

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What are potential hazards that the community could face; natural disasters, economic downturns, health crises, acts of extreme violence, accidents such as a fire?  
How could each impact the community?



### **CONDUCT A BUSINESS IMPACT ANALYSIS TO IDENTIFY THE OPERATIONAL AND FINANCIAL IMPACTS FROM AN INTERRUPTION OR DISRUPTION OF KEY SERVICES DURING THESE EVENTS.**

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Which experts should be contacted; the Reserve Study Specialist, Certified Public Accountant, Attorney, Insurance Agent?



### **IDENTIFY OPPORTUNITIES FOR HAZARD PREVENTION AND RISK MITIGATION.**

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What steps should be taken to mitigate each risk; upkeep of fire safety systems, containment of chemicals, emergency call trees, emergency generators?  
Are additional resources needed?



### **ASSESS THE AVAILABILITY AND CAPABILITIES OF RESOURCES FOR INCIDENT STABILIZATION INCLUDING PEOPLE, SYSTEMS, COMMUNICATION TECHNOLOGIES, AND EQUIPMENT.**

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Talk with public emergency services (e.g., fire, police and emergency medical services) to determine response time to your community, knowledge of your area and its hazards, and their capabilities to stabilize any emergency occurring there.  
Are there evacuation, sheltering and lockdown plans in place?



### **DETERMINE WHAT RESPONSE SHOULD LOOK LIKE.**

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How should business operate during this time?  
Is there a way of communicating with homeowners quickly and efficiently?  
Have any full-scale emergency exercises involving key actors been executed?  
Can certain operations be easily shifted?  
Does the association have a culture of preparedness?

Remember, objectives should be tangible and measurable and there should be constant review of the plan and available resources. Board members and any other volunteers or employees should be trained to fulfill their roles and responsibilities, and exercises amongst this group should be conducted regularly to practice plan recommendations.

# Opening your HOA Swimming Pool Safely

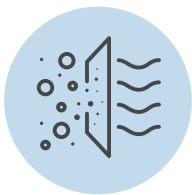
As the summer heat is now upon us, many Nevada residents are eager to get back into their community's swimming pools. While the Governor's guidance, along with local health department information, must continue to be adhered to, the Centers for Disease Control (CDC) recently released its own set of considerations below:

## PROMOTING PREVENTATIVE BEHAVIORS

Encourage all staff and residents to wash their hands often, cover their coughs and sneezes with a mask, and stay home if they have symptoms of COVID-19, a positive test for COVID-19, or were exposed to someone with COVID-19 within the last 14 days. Communities should ensure that adequate supplies such as soap, hand sanitizer, paper towels, tissues, and no-touch trash cans are available, as feasible, in common areas. Associations should post signs about expected behavior throughout the community and include such messages in their electronic mailings, on any website, and any social media accounts.

## MAINTAINING HEALTHY ENVIRONMENTS

Ensure that frequently touched surfaces and shared objects are being cleaned and disinfected at least daily or each time they are used, and that a system is in place to keep items which need to be disinfected separate. Examples of such surfaces are: handrails, structures for climbing or playing, lounge chairs, tabletops, pool noodles, kickboards, door handles, restroom surfaces, handwashing stations, diaper-changing stations, etc. It is wise to consult with the company or engineer that designed the aquatic venue to decide which 'List N disinfectants' approved by the U.S. Environmental Protection Agency (EPA) are best suited for your aquatic venue.



### VENTILATION

Ensure that ventilation systems of indoor spaces operate properly. Increase introduction and circulation of outdoor air as much as possible by opening windows and doors, using fans, or any other methods that do not pose a safety risk.



### WATER SYSTEMS

Take steps to ensure that all water systems (drinking fountains, decorative fountains, hot tubs) are safe to use after a prolonged facility shutdown to minimize the risk of Legionnaires' disease and other diseases associated with water.



### MODIFIED LAYOUTS (OPERATING AT 50% CAPACITY)

Change deck layouts to ensure that in standing and seating areas individuals can remain at least 6 feet apart from those they don't live with.

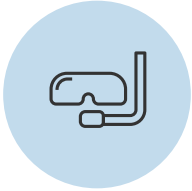


## MAINTAINING HEALTHY ENVIRONMENTS (CONTINUED)



### PHYSICAL BARRIERS OR GUIDES

Provide physical cues or guides (lane lines), visual cues (tape on the decks, floors, or sidewalks), and signs to ensure that staff, patrons, and swimmers stay at least 6 feet apart from those they don't live with, both in and out of the water.

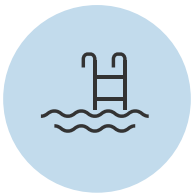


### SHARED OBJECTS

Discourage people from sharing items that are meant to come in contact with the face (goggles, nose clips, and snorkels), as well as items such as food, toys, and supplies with those they don't live with.

## MAINTAINING HEALTHY OPERATIONS

To maintain healthy operations, operators of public aquatic venues may consider limiting aquatic venue use to only staff and swimmers who live in the community.



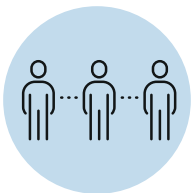
### LIFEGUARDS

If there are lifeguards in place, those actively lifeguarding should not also be expected to monitor handwashing, the use of face coverings, or the social distancing of others (face coverings should not be worn in the water).



### DESIGNATED COVID-19 CONTACT

Designate someone responsible for responding to COVID-19 concerns, whether a board member or management staff.



### GATHERINGS

Avoid group events, gatherings, or meetings both in and out of the water if social distancing of at least 6 feet between people who don't live together cannot be maintained. Ask parents to consider if their children are capable of staying at least 6 feet apart from people they don't live with before taking them to the pool.



### COMMUNICATION SYSTEMS

Have a system in place so that staff and residents can self-report if they have symptoms of COVID-19, a positive test for COVID-19, or were exposed to someone with COVID-19 within the last 14 days, in order to help trace and communicate potential exposures to the community while still maintaining confidentiality in accordance with the Americans with Disabilities Act (ADA).



### RESPONSIVE CLEANING AND DISINFECTION

Immediately close off areas used by a reported sick person until cleaning and disinfecting has occurred. Wait more than 24 hours before cleaning and disinfecting these areas.



# Election Season and Political Signs

**W**ith 2020 turning out to be a very eventful year, it is easy to forget that the country's presidential election is still ahead. As election season approaches, community associations may benefit from refreshing their memories regarding political signs.

NRS 116.325 specifically pertains to the right of a unit owner to exhibit a political sign on their property, with certain limitations. Political signs are defined as those signs which express support for or opposition to a candidate, political party or ballot question in any federal, state or local election or any election of an association.

This provision of law states that "the executive board shall not and the governing documents must not prohibit a unit's owner or an occupant of a unit from exhibiting one or more political signs within such physical portion of the common-interest community as that owner or occupant has a right to occupy and use exclusively."

This right is subject to the following conditions:

a) All political signs exhibited must **not be larger**

**than 24 inches by 36 inches.**

- b) If the unit is occupied by a tenant, the unit's owner may not exhibit any political sign unless the tenant consents, in writing, to the exhibition of the political sign.
- c) All political signs exhibited are subject to **any** applicable provisions of law governing the posting of political signs (including local ordinances).
- d) A unit's owner or an occupant of a unit may exhibit as many political signs as desired, but **may not exhibit more than one political sign for each candidate, political party or ballot question.**

The provisions of this section of law establish the minimum rights of a unit's owner or an occupant of a unit to exhibit political signs. The provisions do not preempt any provisions of the governing documents that provide greater rights and do not require the governing documents or the executive board to impose any restrictions on the exhibition of political signs other than those established by other provisions of law.

## Resuming Towing

In late March, the governor's office advised the Nevada Transportation Authority (NTA) that it had received complaints of overzealous enforcement of parking regulations at residential complexes leading to burdensome costs for citizens attempting to live under new virus mandates.

At that time, Tow Car carriers were limited to essential services so that families could have some peace of mind when taking relatives into their homes to make ends meet.

As of June 24, 2020, NTA has lifted the restriction on all Tow Car carriers for residential complexes

and associations may resume doing business as they once did prior to March 30, 2020.

The Division, NTA and the governor's office thank everyone for their cooperation and understanding during this time.



TEST YOUR KNOWLEDGE

True or False - Electronic Submissions

CIRCLE ONE

1	Unless a provision of NRS 116 specifies the manner in which a notice must be given, an association can deliver any notice required to be given by email, if a unit's owner so designates.	T / F
2	If the executive board holds a meeting to consult with the attorney for the association on privileged matters relating to proposed or pending litigation, notice of the executive session must be posted in at least one prominent place within the common elements, and provided by email to all units' owners who have provided an email address.	T / F
3	A unit owner can be charged up to \$5 to have the minutes of a meeting emailed to them.	T / F
4	To make an automatic payment for a utility each month, money in the operating account of the association may be withdrawn without required signatures.	T / F
5	A potential purchaser of a home is not allowed to cancel the contract of purchase within a specific timeframe by email.	T / F
6	In all cases, units' owners are entitled to cast their vote by electronic ballot.	T / F
7	Upon request by a unit owner, the executive board must provide a copy of financial statements, budgets and the study of the reserves of the association in electronic format at no charge.	T / F
8	The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically.	T / F
9	During the foreclosure process, the association can, if authorized by the parties, deliver by electronic transmission a notice of delinquent assessment.	T / F
10	The executive board is not permitted to distribute to each unit's owner a copy of the budget by email.	T / F

1. T - NRS 116.31068(1)	2. T - NRS 116.31083(3)(b)	3. F - NRS 116.31083	4. T - NRS 116.31153(3)	5. F - NRS 116.4109(2)	6. F - NRS 116.311(9)	7. T - NRS 116.31175(2)	8. T - NRS 116.645(1)	9. T - NRS 116.31162(1)(a)	10. F - NRS 116.31151(1)
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# Reserves for Recovery

“Maintain, enhance and protect!” This important phrase, forever drilled into the heads of burgeoning community association managers and nascent board members, provides guidance to associations on what to focus on during stressful economic times. The entire phrase is usually expanded to “maintain, enhance and protect the value of the asset,” and in this context, the “asset” is comprised of the association’s common areas as well as the fixed assets and personal property maintained by the association.

Being underfunded and unable to maintain the assets of a community should be a rare occurrence in an association. When a novel coronavirus spurs the largest unemployment numbers since the Great Depression, however, and additionally places unexpected financial burdens on communities with common areas that must be routinely sanitized such as gyms, pools, etc., executive boards around the country are surely going to experience some financial

turbulence in the months ahead.

The COVID-19 pandemic resulted in, among other things, the closure of all non-essential businesses. On May 28, 2020, the Las Vegas Review Journal reported that the net effect of these closures was 33% unemployment in Las Vegas. Even though the Governor has since loosened restrictions and allowed businesses to re-open subject to substantial restrictions, the financial fall-out of the pandemic and corresponding business closures is expected to impact association finances for years to come.

To help provide guidance to boards and managers regarding how to deal with the fallout of this multi-faceted challenge, several industry stalwarts recently formed a taskforce to address these uncertainties. This taskforce, named The Reserves for Recovery Taskforce, is comprised of three Nevada credentialed reserve study specialists from different firms, along with an experienced association attorney and certified public accountant. The taskforce’s main goal is to highlight all the

tools available to associations when attempting to navigate this tumultuous time, including the reserve study, collection policy, a review of financial statements and budgets, as well as the board’s current funding plan.

Perhaps the most pressing question is how associations can address unexpected increases in expenses, in conjunction with assessment delinquencies as a result of this pandemic. These monetary shortfalls could prevent many associations from being able to adequately fund their accounts, potentially leading to a degradation of the community over time.

The taskforce arrived at two conclusions. First, each board should meet with its reserve study specialist. While an association is only required to have a reserve study conducted at least once every 5 years (NRS 116.31152(1)(a)), boards of associations facing financial deficits should consider obtaining an updated reserve study to ensure the financial figures contained therein take these shortfalls into account.

## RESERVES FOR RECOVERY CONTINUED



With the assistance of the reserve specialist, the board should attempt to identify any major components of the common elements for which maintenance and repairs can logically be deferred.

Second, the board has the authority to impose special reserve assessments without membership approval (116.3115(2)(b)). As fiduciaries, however, officers and directors must act in the best interests of the association. It would seem counterproductive to impose additional assessments when owners are



already having difficulty paying existing assessments. So, what can the board do to cover its expenses? Pursuant to NAC 116.425(2), the association is expected to maintain “adequately funded reserves,” meaning funds sufficient to maintain the common elements at the level described in the governing documents and reserve study without using funds from the operating account, except for occurrences that are a result of unforeseen catastrophic events. One may reasonably conclude that the COVID-19 pandemic is an “unforeseen catastrophic event,” and as such, reallocating assessment money through the funding plan, increasing or decreasing deposits into one account over the other may be necessary, and would not go against regulation.

By temporarily reallocating transfers of money to either the operating or reserve account based on need, board members are complying with their responsibility

to continuously review the association's financials and adjust the funding plan accordingly. Making changes in allocations through the funding plan also allows boards to use funds for what they were intended; reserve money for long-term projects and operating money for daily maintenance.

If, due to unforeseen catastrophic events, the board engages in the reallocation of assessment money through its funding plan, then in addition to conducting the annual review of the reserve study (NRS 116.31152(1)(b)), the board should obtain an annual update of its reserve study. Reallocating assessment money in this manner is an extraordinary remedy and the annual reserve study will provide the proper documentation to substantiate the temporary practice and give the necessary guidance for future adjustments to the funding plan (NRS 116.31152(1)(c)).

We are living in unprecedented times, and the answers at this point are as complicated as the issues that got us here. We understand that some boards will be forced to make difficult decisions. Hopefully, by thoughtfully working with the reserve study specialist to defer certain projects while simultaneously reallocating money to where it is needed, associations can continue to maintain their communities without the need for large special assessments which place an additional strain on unit owners.

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The content of this article was submitted by the Reserves for Recovery Taskforce:

Mari Jo Betterley, PRA, RS, NV RSS #25

Rob Forney, PRA, NV RSS #4

Robert Browning, PCAM, RS, NV RSS #5

John Leach, Esq., CCAL

For more information on financial planning during these tough economic times, visit <https://reservesforrecovery.com/>



# What happened at Commission?

## 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.

## ACTIONS/DECISIONS

Acts of the Commission for Common-Interest Communities and Condominium Hotels are not published 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.

### NRED V. THE COLONY; LUIS VILAREAL, ALAN MEHR, ALLEN NICHOLS, MARC MORGER

**CASE NUMBER** 2018-1058 **TYPE OF RESPONDENT** Board of Directors

## ALLEGATIONS/VIOLATIONS

Respondents violated: NAC 116.451 by failing to prepare and distribute interim financial statements; NRS 116.31144 by failing to cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year; NRS 116.3115 by failing to have adequate reserves; NRS 116.31152 by failing to have a reserve study performed every five years; and NRS 116.3103 by failing to act as fiduciaries and maintain current, accurate and properly documented financial records.

## DISCIPLINARY ACTIONS

Respondent Luis Villareal, declarant and board president, is responsible for the violations of law. The association shall hire a community manager on or before July 15, 2020. The association's new community manager shall then report to the Commission at its August 2020 meeting. The Commission reserves the right to impose additional discipline at that time.

### NRED V. SILVERSTONE RANCH COMMUNITY ASSOCIATION; THOMAS MASSON, CHRISA CHEN, COLLEEN MALANY, KATRINA YOA-TOWNSEND, FRANK ANDERSON, WILLIAM WALTER

**CASE NUMBER** 2018-1322 **TYPE OF RESPONDENT** Board of Directors

## ALLEGATIONS/VIOLATIONS

The association failed to provide a unit owner with a copy of a \$380,000 settlement agreement and failed to provide the terms of the settlement. The unit owner stated that he had made numerous written requests for financial records related to the payment of the settlement along with requests for a copy of the Settlement Agreement. Respondents violated NRS 116.31175 by failing to disclose the Settlement Agreement and the financial records pertaining to the payment of the settlement. Respondents violated NRS 116.31088(4) by failing to disclose the terms and conditions of the Settlement Agreement at the next regularly scheduled meeting of the executive board of directors.

## DISCIPLINARY ACTIONS

The association will comply with records requests from homeowners in a timely fashion, per NRS 116.31175, and will notice homeowners of the settlement of a civil action, per NRS 116.31088, by placing the matter on the agenda for disclosure of the terms and conditions. The association agrees not to enter into any settlement agreement which contains a confidentiality clause and agrees to have the Division present a class at a board meeting within 6 months from the date of this Stipulation and Order.

# What happened at Commission?

**CONTINUED**

## **NRED V. MICHAEL SKAHILL**

**CASE NUMBER** 2018-1026      **TYPE OF RESPONDENT** Supervising Community Manager

### **ALLEGATIONS/VIOLATIONS**

Respondent, on behalf of the association, submitted the association's annual registration to the Division along with an improperly signed check with only his signature, and no second signature from the appropriate person on behalf of the association. Upon request, the respondent failed to provide the following documents to the Division: 1) the management agreement with the association, 2) operating and reserve bank statements along with cancelled checks from 2017 to present, and 3) the governing documents for the association. Respondent subsequently continued to ignore the Division after three additional requests for such documents. Respondent violated: NRS 116.31153 by sole signing a check to the Division; NRS 116A.630(9) by failing to make the financial records of an association available for inspection by the Division; and NRS 116A.630(10) by failing to cooperate with the Division concerning requests for documents.

### **DISCIPLINARY ACTIONS**

Respondent shall produce all previously requested documents within 45 days and pay a total amount of \$3,146 (\$1,500 fine, \$1,646 in fees and costs) to the Division within 60 days. In the event the Respondent does not provide required documents within 45 days, he shall pay a fine to the Division in the amount of \$10,000 and his supervisor community manager certificate shall be revoked until the documents are provided. The Division may institute debt collection proceedings for failure to timely pay the total fine, or any installment thereof. Further, if collection goes through the State of Nevada, then Respondent shall also pay the costs associated with collection.

## **NRED V. BELCOURT OWNERS ASSOCIATION; ANGELA BERLINER, MARCIA CREAMER, JESSE ZAMBRANO, JOHN CARTER**

**CASE NUMBER** 2018-172      **TYPE OF RESPONDENT** Board of Directors

### **ALLEGATIONS/VIOLATIONS**

Respondents violated: NRS 116.31158 by not registering with the Ombudsman using the Division Annual Association Registration form; NRS 116.31153 by having single-signed checks; NRS 116.31083 by not holding executive board meetings at least once every 100 days, not noticing unit owners of the date, time and place of executive board meetings, not audio recording board meetings, and not providing a copy of the agenda to unit owners prior to board meetings; NAC 116.451, as the interim financial statements were not prepared using accrual basis of accounting in accordance with generally accepted accounting principles; and NRS 116.31034(15)(f), as incumbent board members were given access to ballots. Additionally, the board did not comply with its own bylaws, as there were five board members when there should have only been three.

### **DISCIPLINARY ACTIONS**

Following the Division's advice, respondents held a vote and selected a community manager. This new manager will assist the board with an election for three board seats. Respondents Berlinger, Creamer, Zambrano and Carter will voluntarily step down from their board positions immediately following the election, and will not run for a seat on the board at that time. They further will be precluded from seeking a seat on the board for a period of five years. This matter may be continued to the Commission's August 2020 hearing.

## OUR OFFICES WILL BE CLOSED UNTIL FURTHER NOTICE:

To receive updates as to when the office will reopen, as well as other pertinent, ongoing information, please sign up to receive Ombudsman emails by subscribing from our [Direct Link](#).

## Ombudsman Information

April through June 2020

Total Associations Registered in the State of Nevada	<b>3,415</b>
Complaints Received	<b>62</b>
Alternative Dispute Resolution (ADR) Filings	<b>62</b>
Associations Reviewed for Possible Audit	<b>50</b>
Records Requests Processed	<b>9</b>
Training Sessions Conducted	<b>13</b>
Classroom Attendees	<b>309</b>

## UPCOMING COMMISSION MEETINGS

- **AUGUST 4-6**
- **OCTOBER 27-29**

Further details located on the [CICCH Commission Calendar](#).

## UPCOMING HOLIDAYS

**SEPTEMBER 7 / LABOR DAY**

### STATE OF NEVADA DEPARTMENT OF BUSINESS & INDUSTRY

Terry Reynolds  
Director

### REAL ESTATE DIVISION

Sharath Chandra  
ADMINISTRATOR

### COMMON-INTEREST COMMUNITIES & CONDOMINIUM HOTELS Office of the Ombudsman

Charvez Foger  
OMBUDSMAN

Monique Williamson  
EDUCATION & INFORMATION OFFICER  
EDITOR

### COMMISSION FOR COMMON- INTEREST COMMUNITIES & CONDOMINIUM HOTELS

Michael Burke, Esq., Chairman  
ATTORNEY MEMBER

James Rizzi, Vice-Chairman  
DEVELOPER MEMBER

Richard Layton, Secretary  
CERTIFIED PUBLIC ACCOUNTANT MEMBER

Charles Niggemeyer, Commissioner  
HOMEOWNER MEMBER

Vacant, Commissioner  
HOMEOWNER MEMBER

Vacant, Commissioner  
HOMEOWNER MEMBER

Tonya Gale, Commissioner  
COMMUNITY MANAGER MEMBER

NEVADA STATE BUSINESS CENTER  
REAL ESTATE DIVISION  
OFFICE OF THE OMBUDSMAN  
3300 W. SAHARA AVE. SUITE 325  
LAS VEGAS, NV 89102

PHONE: 702-486-4480  
FAX: 702-486-4520  
EMAIL: [CICOMBUDSMAN@RED.NV.GOV](mailto:CICOMBUDSMAN@RED.NV.GOV)