

Community Insights

WINTER
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

As I begin another new year as the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, I am pleased to announce that our office has continued to grow and evolve in a positive direction.

In just the last few months, we have welcomed six new employees to the Ombudsman team: Rosalia Silva, our new CICCH Registration Specialist; Shareece Bates, who has promoted to the position of ADR Specialist; Mya Taylor, our new Accounting Assistant; Kelly Valadez, our new Commission Coordinator; Nicole Michael, our new front office Subject Matter Specialist (spotlight on page 4); and Christy Staffen, our new Compliance Investigator for Northern Nevada.

Alongside some fresh faces and new perspectives, this will also be the year of new technology. In 2020, we anticipate the implementation of at least two new online processes. On page 5 of this newsletter is a brief summary of how CE providers can now renew their courses online. Similarly, our Registration Section is working on creating an online portal which will serve to accept and store CICCH forms, including: the Annual Registration Form; Reserve Study Summary Form; Registration Filing Addendum; etc.

The goal is to continue to work towards making our processes easier and more efficient for our constituents. With these new implementations, I am confident that the office will only further serve as an excellent resource for those in the CICCH industry.

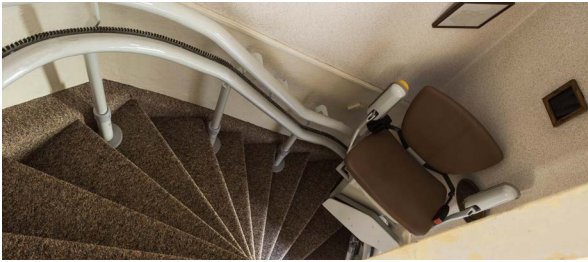
With regard to board member and unit owner training, the CICCH Education Section is also pushing towards creating an online platform that attendees can log into to take pertinent classes and receive certificates of completion at their own pace. By offering this online option, we hope to make access to trainings so easy and comfortable that anyone, especially those who cannot make it to our office during the week, can have access to the content they need to be the best board member they can be. As always, these courses will be offered free of charge.

I additionally look forward to working with the newly created "Taskforce" to tackle the varied issues that currently exist and may arise in the future for HOAs in Nevada. I am ready to start this new year invigorated, open to change, and prepared to face head-on the many unique challenges the CICCH industry brings to my doorstep!

- OMBUDSMAN CHARVEZ FOGER

What can unit owners in a CIC do on their own property?

ALTERING THE UNIT — NRS 116.2111

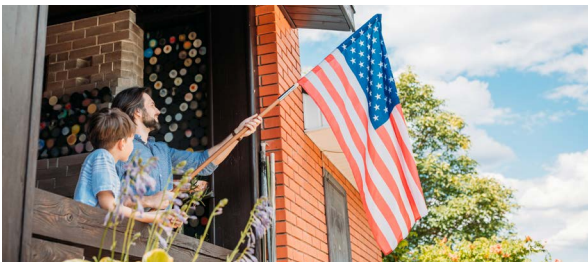


An association MAY NOT prohibit a unit's owner from adding to a unit:

- (1) Ramps, railings or elevators necessary to improve access to the unit for any occupant who has a disability;
- (2) Additional locks to improve the security of the unit; or
- (3) Shutters, including rolling shutters, to improve security or reduce energy costs.

Subject to the provisions of the declaration, permission from the association regarding style/compatibility with the community may still be required.

DISPLAY OF U.S. FLAG — NRS 116.320



An association CANNOT prohibit an owner from displaying the flag of the United States on his or her property, unless it is being used for commercial advertising purposes. The flag MUST be: made of cloth, fabric or paper; displayed from a pole or staff, or in a window; and displayed in a manner that is consistent with 4 U.S.C. chapter 1. The flag CANNOT be made of balloons, flora, lights, paint, paving materials, roofing, siding or any other similar building, decorative or landscaping component.

POLITICAL SIGNS — NRS 116.325



An association CANNOT prohibit a unit's owner or an occupant of a unit from exhibiting one or more political signs on any property that owner or occupant has a right to occupy and use exclusively. Pursuant to the provision cited above, the association CAN restrict the size of the sign and the number of signs allowed to be exhibited for each candidate, political party or ballot question.

DROUGHT TOLERANT LANDSCAPING — NRS 116.330



An association CANNOT unreasonably prohibit a unit's owner from installing or maintaining drought tolerant landscaping on any property that owner has a right to occupy and use exclusively, but a detailed architectural request must be submitted to the board first for approval. As used in this section, "drought tolerant landscaping" means landscaping which conserves water, protects the environment and is adaptable to local conditions, including mulches, decorative rock and artificial turf.

SOLAR ENERGY — NRS 111.239



An association CANNOT prohibit or unreasonably restrict a unit owner from using a system for obtaining solar energy, including one that uses components painted with black solar glazing, on his or her property, or place a restriction which decreases the efficiency or performance of the system by more than 10%, as determined by the Director of the Office of Energy.

WASTE CONTAINERS — NRS 116.332



A unit's owner/tenant MUST be allowed to store containers for the collection of solid waste or recyclable materials outside any building or garage on the premises of the unit during the time the containers are not within the collection area. The association can require that trash cans be screened from view of the street/adjacent property.

PETS — AB 161; 2019



An association CANNOT prohibit a unit's owner from keeping at least one pet not deemed dangerous or vicious pursuant to NRS 202.500 within property that owner has a right to occupy and use exclusively **if** the original declaration and any governing document effective prior to the effective date of this bill does not prohibit such.

PARKING — NRS 116.350



The association CANNOT regulate any **public** road, street, alley or other thoroughfare, but CAN adopt rules that reasonably restrict the parking or storage of recreational vehicles, watercraft, trailers or commercial vehicles in the community to the extent authorized by law.

RENTING / LEASING — NRS 116.335



Unless at the time a unit's owner purchased his or her unit, the declaration:

- prohibited the unit's owner from renting or leasing his or her unit, the association MAY NOT prohibit the unit's owner from renting or leasing his or her unit.
- required the unit's owner to secure or obtain any approval from the association in order to rent or lease his or her unit, an association MAY NOT require the unit's owner to secure or obtain any approval from the association in order to rent or lease his or her unit.

New hire to the Ombudsman's Office



The Ombudsman's Office is pleased to welcome Nicole Michael to the CICCH team!

Nicole has been hired as the new Subject Matter Specialist, located at the front desk of Suite 325 inside the Nevada State Business Center on 3300 W. Sahara Ave., Las Vegas. NV 89102.

She will be tasked with assisting constituents in understanding their rights and responsibilities as they pertain to owning units within

a Common-Interest Community in Nevada. She is also in charge of intake and the processing of all CICCH Intervention Affidavits.

Nicole possesses more than 15 years of real estate experience in escrow, property management and customer service. Throughout her career, Nicole has demonstrated the ability to establish excellent relationships with both clients and internal staff. Nicole promises to work diligently to identify the needs of constituents, striving to gain their trust and assisting

them in resolving issues, however challenging they may be.

"I believe that good communication skills are the foundation of any relationship. The key to professional growth and success exists in providing excellent customer service."

The Ombudsman's Office is excited to add the experience and knowledge that Nicole brings with her regarding the real estate industry to the team. We know that Nicole will be an excellent resource for our constituents.

NEW: Advisory Opinion 20-02

QUESTION:

Under NRS 116.31034(15)(a), when conducting elections for the executive board, is an association permitted to mail secret election ballots to multiple addresses requested by a unit owner?

SHORT ANSWER: No.

Under NRS 116.31034(15)(a) an association must send only one secret election ballot to a unit owner. That secret election ballot must be sent to only one address- EITHER to the mailing address of the owner's unit within the common-interest community, OR to the mailing address that the unit owner designates in writing. Election ballots may not be sent to a unit owner at multiple addresses.



Renewing CE Courses Online

Thus far, providers of Continuing Education (CE) have only been able to renew their courses by mail or hand delivery. Following in the footsteps of other sections within the Nevada Real Estate Division, the Ombudsman's Office is pleased to announce the launch of an online portal which will now allow sponsors of CE-CAM courses to renew their courses online.

Rolling out with the new year, sponsors of both Community Manager and Reserve Study Specialist courses will have the option of renewing courses from the comfort of their own home or office.

Any sponsor who has not yet received an assigned username and password can submit a request to CAMEducation@red.nv.gov to receive necessary information. Upon logging in for the first time, sponsors will be prompted to configure three security questions.

Once these are established, they will have access to the 'Start/Continue Renewal link' on the left-hand side of the page.

If no courses appear on the 'Renew a License' page, the sponsor should verify their courses' expiration dates. A course only becomes available

for online renewal within 45 days of its expiration date. A reminder email will still be sent at least 30 days before a course is slated to renew.

The online renewal application follows the same format as the paper-form application, requiring documents to be uploaded whenever changes to course content and/or instructors or the sponsor have been made.

Providers will have the opportunity to review all entries and selections prior to submission, as well as a breakdown of fees which includes a 1.5 percent convenience fee for credit/debit card payments. If a sponsor has multiple courses to renew, they will need to return to the 'Renew a License' page to renew any additional courses.

In addition to cutting down on paper waste, renewing online will save busy educators the hassle of mailing or hand-delivering applications to the Division, as well as allow for further streamlining of the renewal process. At this time, only renewals can be processed online, not initial course applications which still require the physical submission of original signatures.

TEST YOUR KNOWLEDGE

Match the Answers



Complete the sentence...

1. A meeting of the executive board must be held at a time other than during standard business hours _____.
2. Unless the declaration or bylaws impose more stringent standards, the executive board must review the financial information described in NRS 116.31083(7) at a meeting _____.
3. Any audio recording of a meeting, the minutes of a meeting and a summary of the minutes must be made available to units' owners _____.
4. The executive board shall review the results of the reserve study to determine whether reserves are sufficient and make any necessary adjustments to the association's funding plan _____.
5. After conveyance by the declarant of 50% of the units within a community, at least 1/3 of the members of the executive board must be elected by units' owners _____.
6. An election to remove a member of the executive board must be held _____ from the date the recall petition was received.

- A. WITHIN 30 DAYS
- B. WITHIN 60 DAYS
- C. AT LEAST ONCE EVERY QUARTER
- D. WITHIN 90 DAYS
- E. AT LEAST TWICE ANNUALLY
- F. AT LEAST ANNUALLY

ANSWER KEY

1. E.—NRS 116.31083(1)
2. C.—NRS 116.31083(7)
3. A.—NRS 116.31083(8) & 116.3108(5)
4. F.—NRS 116.31152(1)
5. B.—NRS 116.31032(3)
6. D.—NRS 116.31036(2)(a)(2)

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.

NAME

ALLEGATIONS/VIOLATIONS

DISCIPLINARY ACTIONS

NRED v. Rand
Terkel

2019-415

Type of
Respondent:
Supervising
Community
Manager

The respondent violated the following provisions of law: NRS 116A.620(6) and NAC 116A.325(6) by failing to provide Epic with all books, records and other papers within 30 days of termination; NRS 116A.630(l)(b) and NAC 116A.320 by failing to exercise ordinary and reasonable care in the performance of his duties; NRS 116A.630(2)(a) and NAC 116A.320 by failing to comply with state laws; NRS 116A.640(2)(a) and NAC 116A.345(2)(a) by impeding or otherwise interfering with an investigation of the Division by failing to comply with a request for documents; 116A.630(6)(a) by failing to ensure that the financial documents of the Association were current, accurate and properly documented; and NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(a)) by committing professional incompetence by demonstrating a significant lack of ability, knowledge or fitness to perform a duty or obligation owed to a client and failing to exercise reasonable skill and care with respect to a duty or obligation owed to a client.

Respondent's supervisory community manager permit is revoked for a period of one year unless respondent provides the Division requested documents within the one-year period. Following the one-year revocation period, should the respondent desire to become licensed again as a community manager, he will be required to submit a new application to the Division and comply with all requirements of law. Respondent shall pay to the Division a total fine of \$12,307.86, which includes an administrative fine of \$10,000 for committing the violations of law, plus \$2,307.86 for the Division's attorney's fees and costs.

NRED v.
Greenridge
Homeowners
Association;
Leslie Holland;
Diane Leyva;
Joshua
Schaper;
Carline Rokhs;
Dave Reid; and
Janet Myers

2018-993

Type of
Respondent:
Board of
Directors

Greenridge HOA failed to submit a reserve study summary form to the Division. Upon Division audit, it was discovered that: no reserve study had been conducted since 2010; the reserves were funded at approximately 14%; no reserve contributions had been made in 2015 or 2018; respondent Leyva's husband is a vendor for the association; the association could not provide a balance sheet, income statement, or general ledger; the bank signature card does not have any board member listed as a signor; respondents Leyva and Myers do not pay assessments; the association incurred multiple overdraft charges; the association is not in good standing with the Division; and assessments have not increased since 2009. Respondent violated: NRS 116.31152 by failing to have a reserve study conducted once every 5 years; NRS 116.3115(2)(b) by failing to adequately fund the reserves; and NRS 116.3103 through NAC 114.405 by failing to act as a fiduciary and prepare interim and annual financial statements and maintain current, accurate and properly documented financial records.

The association shall: hire a community manager; adopt a special reserve assessment of \$60 per unit per month for 5 years; report annually to the Chief regarding compliance with its funding plan and maintenance obligations; for the next year, have all board members take 6 hours of Division education; and hold an election within 90 days for all board director seats.

Respondent Holland shall resign from the board and may not serve as a board member or officer of any CIC in Nevada for at least 5 years. Prior to serving in the future, she shall take at least 12 hours of classes offered by the Division.

Respondent Leyva shall resign from the board and shall not serve as an officer or director of any CIC in Nevada for at least 10 years; in no event prior to completion of the reimbursement payment of \$1,560 to the association.

Respondent Myers shall not serve as a board member or officer of any CIC in Nevada for at least 6 years.

New Year, New Commissioners

A Fond Farewell from Ex-Commissioner Williams



"It has been an honor serving as the Commissioner Representative for Community Association Managers for two terms on the Commission for Common-Interest Communities and Condominium Hotels. During this time, I have learned a great deal about our industry and those affected by it.

Having been a Community Manager prior to a management company owner and Commissioner, I have firsthand experience of what a manager goes through on a daily basis. Managers wear many hats and are often asked to do things that are outside their scope of expertise. This is how good people with well-intended ideas get into trouble. As long as managers remain compliant with the law and advise their clients to obtain advice from independent experts relating to matters that are beyond their expertise, they will

not be held accountable for that professional's recommendation. What cannot be overlooked, is a community manager who fails to cooperate with the Division in resolving complaints filed. Many violations would never reach the Commission if the board or manager had simply cooperated with the Division during the resolution process.

One of my proudest accomplishments while on the Commission was lobbying for a legislative statute change to allow managers to receive continuing education credits for attending Commission Hearings. This change further allowed for the Division's approval of 1-hour CE classes, as opposed to the standard 3 hours, allowing for greater diversity of topics covered.

As I exit the Commission, it is a bitter-sweet time in my career.

When I volunteered, I am sure many of my peers had some concerns, as I can be quite vocal and straight forward, but I wanted to give something back to an industry that was very good to me and my family. During my terms I tried to be firm, fair and understanding, sometimes giving the benefit of the doubt when I should not have, but always trying to put myself in others' shoes.

I want to thank the two Governors that had the confidence in me to serve on the Commission during their terms. I also want to thank all the Community Association Managers in the field every day, grinding it out to make their industry better through long days and nights. The industry is nothing without you."

- Ken Williams

A Warm Welcome to New Commissioner Tonya Gale



"Eleven years ago, I was laid off from my job in the construction industry. That fact ultimately afforded me the opportunity to work at a community management company. Within five months of taking the job, I had earned my Provisional Community Manager certificate. Within six years of obtaining my Community Manager certificate, I obtained my Supervisory Community Manager certificate, and also earned CAI's CMCA, AMS, PCAM, and DCAL designations.

With great hesitation, but a push from my vendors, I had several heart to heart conversations with my family and eventually made the extremely difficult decision to start my own management company. In November of 2014, I started Epic Association Management, LLC. It was just me in a lonely little office, without an association to

my name, and I can honestly say that it was the scariest thing I had ever done. I set a goal for myself to sign ten associations within the first year of being in business. By the end of 2015, I had exceeded that goal and hired two full-time employees.

As a management company owner, I am constantly working with my staff to tackle the many frustrations of the HOA industry. Being able to persevere through the lawsuits, continuous complaints, and overall harsh treatment managers receive for simply doing their jobs is not easy, but we move on to conquer the next email, phone, or in-person emergency. Without my amazing staff I would not be where I am today. The professional dedication I receive from them is a direct reflection of the work we have done to become the award-winning office

that we are. I hold my head high knowing that I have turned around financially destitute associations, used my construction background to assist in saving associations thousands of dollars, and did it all with integrity and honesty.

I am honored to have been chosen to take a seat alongside all the other dedicated Commissioners for CICCH. I look forward to the continuing education I will receive and also to improving the industry that I have come to love over the past decade. I always say that everything happens for a reason. Losing my job at a crucial point in my life felt like the worst thing that could ever happen, but it has transformed me into the person I am today, and for that, I am eternally grateful."

- Tonya Gale, SCM, CMCA, AMS, PCAM, DCAL

Questions from our constituents

Q. I sent my complaint to the board alleging violations of law and they put my complaint, including my name, on the agenda without my consent. Are they allowed to do that?

A. Pursuant to NRS 116.31087, not later than 10 business days after receiving a complaint alleging violations of law, the executive board or community manager must acknowledge receipt of the complaint and notify the unit's owner that, upon request, the subject of the complaint will be placed on the next board meeting agenda. Unless specifically requested, names will not be included.

Q. On Annual Registration Form 562, can I list the management company's address, phone number and email as the contact information for board members who do not want to provide their personal information?

A. Pursuant to NAC 116.385, the executive board must provide to the Division the names, mailing addresses and telephone numbers of members of the executive board. This information will be kept confidential by the Division. If there is any change in this information, a Registration Filing Addendum Form 623 must be submitted to the Division within 30 days of the change.

Q. My father and I each own a separate unit in the same community. We would both like to nominate ourselves to run for the board at the upcoming election. Is that allowed?

A. Since you and your father are related by blood, adoption or marriage, you cannot both serve on the board at the same time, UNLESS, during the upcoming election, the number of candidates is less than the number of vacancies. Until the nomination period closes, the association will not know how many candidates there are. As such, you may both choose to nominate yourselves, and if there are more than or equal to the number of candidates as vacancies (not including both of your names), you should be notified that both names cannot be placed on the ballot. At that time, one of you will need to rescind your nomination so that the other will be eligible to run.

Q. My executive board is comprised of three members. About halfway through the year, two of the members resigned and I, as the remaining board member, decided to hold a special election. Now I am confused as to the terms for the new board members and how many vacancies there actually will be at the next election. Did I do things incorrectly?

A. By law, ballots for the election of members of the executive board must be opened and counted at the annual meeting of the units' owners held pursuant to NRS 116.3108(1), however the law does not state that this is the only time in which an election can take place. As a sole remaining board member, you have the option to fill vacancies on the board by appointment instead of election, and then appointees would only serve until the next regularly scheduled election. At the annual election, those then elected to fill the appointed seats would only fulfill the remainder of the unexpired portion of the term. This would have made it easier to comply with the law and keep terms on their appropriately staggered timeframes.

Q. Can the association regulate public roads within my community?

A. Pursuant to NRS 116.350, "in a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication for public use. This provision does not preclude an association from adopting, and does not preclude the governing documents of an association from setting forth rules that reasonably restrict the parking or storage of certain vehicles to the extent authorized by law."

Commissioner Reappointment



We are pleased to welcome CPA Commissioner Richard Layton back for another term. Commissioner Layton was reappointed on November 1, 2019, and his term will expire on October 31, 2022.

Ombudsman Information

October through December 2019

Total Associations Registered in the State of Nevada	3,388
Complaints Received	85
Alternative Dispute Resolution (ADR) Filings	98
Associations Reviewed for Audit	55
Records Requests Processed	3
Training Sessions Conducted	13
Classroom Attendees	229

UPCOMING COMMISSION MEETINGS

- **MARCH 17-19**
- **MAY 19-21**
- **AUGUST 4-6**
- **OCTOBER 27-29**

UPCOMING HOLIDAYS

FEB 17 / WASHINGTON'S BIRTHDAY

STATE OF NEVADA DEPARTMENT OF BUSINESS & INDUSTRY

Terry Reynolds
Director

REAL ESTATE DIVISION

Sharath Chandra
ADMINISTRATOR

Perry Faigin
DEPUTY 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