

COMMUNITY INSIGHTS

VOLUME V, ISSUE I

Department of Business and Industry, Real Estate Division

Winter 2009

Nevada Real Estate Division

OUR MISSION

The mission of the Nevada Real Estate Division is to safeguard and promote interest in real estate transactions by developing an informed public and a professional real estate industry.

Office of the Ombudsman

OUR MISSION

To provide a neutral and fair venue to assist homeowners in handling issues that may arise while living in a common-interest community.

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From the Ombudsman's Desk

Cooperative spirit goes long way in resolving most HOA disputes

By LINDSAY WAITE
Ombudsman

When a person files an Intervention Affidavit alleging that his or her homeowner association's board (sometimes adding in the community manager), a neighbor, or a tenant is violating NRS 116 or the governing documents, the Office of the Ombudsman offers the parties an opportunity to meet and try to resolve the concerns raised. If a mutually acceptable agreement can be reached, tensions are reduced between the parties and the community as a whole benefits.

The process used in the Ombudsman Informal Conference, described below, can also be used within communities. Here are some techniques to consider when addressing concerns with a neighbor, manager, or the board (whom I'll call "respondent").

First, think about what your primary concern is. If you believe there is a violation of NRS 116 or the governing documents, research it so you can show how your point of view is supported by the law or the governing documents. Write down your exact complaints, then write down (or summarize) the part of the law or governing documents that backs that point of view. Make a list of any evidence that supports the claim.

Second, communicate calmly and respectfully to the person whom you believe can address your concern. I strongly recommend that you not make your complaints personal. In



other words, don't attack the respondent. It serves no purpose to get into name-calling and insults. This type of negative behavior often causes problems to escalate.

If you are the person about whom there is a complaint (the respondent), think before you react. Most people don't like to be criticized or accused of wrongdoing. Often it is not easy to accept complaints without some sort of visceral emotional reaction. However, listening to (or reading) the complaint and reflecting on it are better techniques. Unless the matter is, boiled down, simply a personality dispute, it can probably be resolved with communication.

Third (for the person with the complaint), listen. Do so with an open mind to the respondent's point of view. The respondent should listen carefully to you as well.

If you meet, remember to let the other person speak without interrupting. If the meeting degenerates into aggressive behavior or name-calling, it serves no good purpose. Step back and consider your goals. Most people want to solve most problems in which they're involved – it benefits everybody.

Fourth, don't let the meeting turn into a bad experience. Avoid negative feedback. This includes making negative
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Commissioner's Corner

New policies must consider diversity of Nevada's CICs



By **MICHAEL BUCKLEY**
Commission Chairman

The last time I sat down to write this column, I thought it was my last. Not so fast! Here I am back again with a few personal observations.

* * *

As we approach the 2009 legislative session, we tend to think of all the "fixes" for Chapter 116. I thought of writing a cautionary column about trying to fix everything legislatively, but I see that this was well covered in my spring column.

The one thing we must not forget, however, is the diversity of common-interest communities. They are small, large, enormous and everything in between. They are located in the desert and in the mountains, by rivers and lakes, on the Strip, in the cities, and miles out of town. They are owner occupied; second homes; and rented. They are old and new, green and far-from-green. They are garden condominiums, high-rise towers, gated cul-de-sacs with eight homes and sprawling subdivisions with large, private parks.

Many issues (e.g., the high rate of foreclosures) affect all common-interest communities, but not all common-interest communities have similar problems. It is time to remind ourselves again that "one size does not fit all"! A "fix" for one type of community may create problems for several others.

As of the date of this writing, there are nine listed bill draft requests (BDRs) affecting common-interest communities on the 2009 Nevada Legislature Web site. The BDRs do not presently have specific statutory language. Once they do, the Commission will meet to analyze and discuss the proposals. If 2005 and 2007 are any indication, the Commission will likely meet weekly beginning around March 2009 until the fate of the legislation is decided.

* * *

Don't forget that the Division's Web site contains minutes of past Commission meetings with discussions on many items of interest to unit owners and board members. We will make every effort to keep the Web site up to date as we consider and discuss 2009 proposals. On a related note, to increase participation by owners, board members and managers, the Commission began and ended its last meeting with public comment, a practice we hope to continue.

* * *

See **CORNER** on Page 11

Ombudsman

Continued from Page 1

tive personal comments (“You’re crazy!” or “How stupid can you be?”), or revisiting unpleasant history (“When your kids lived here they tore up the neighborhood”).

Also, avoid nonverbal negativity. Body language communicates a lot. Sitting across from someone with crossed arms and a glare doesn’t help matters. Don’t pound the table, point, or raise your voice. Watch your tone of voice. Sarcasm, implications of superiority in intelligence, hostility – none of these things help the parties find common ground. Be respectful.

Fifth, remember that you’re at this meeting to try to resolve a problem, not to exacerbate it. Think about standing in the other person’s shoes. Can you empathize with the other person’s point of view, frustration and emotions? If both sides can focus on that, it’s a big step towards resolving the problem.

Sixth, write down points of agreement and disagreement. Set priorities on what your specific goal is for the meeting. Then, evaluate the points of disagreement to determine 1) if there is a basic misunderstanding of facts, and/ or 2) if there can be a compromise on the points of disagreement. As you find common ground, write this down, too.

Did you work out your concerns? Congratulations! If not, at least you tried in a civil and calm manner. At a minimum, there should be a better understanding of where each side is coming from.

The next step can be filing an Intervention Affidavit with the Office of the Ombudsman, where an informal conference will be offered.

There is another community resource: The Neighborhood Justice Center, 330 S. 3rd St., Suite 600, Las Vegas, NV 89101. Its phone number is (702) 455-3898. NJC offers free mediation services that are particularly helpful in neighbor-to-neighbor disputes.

Credential required: Division issues first reserve study specialist permits

The Nevada Real Estate Division recently issued the first permits to reserve study specialists, creating a new group of professionals serving HOAs.

Regulation R145-06, which went into effect April 17, 2008, requires professionals who perform reserve studies for common-interest communities to obtain a permit through the Division. The regulation fulfills the statutory requirements of NRS 116A.420 and NRS 116A.430.

Permit applicants must complete Form 644, obtain the required fingerprinting card, provide evidence of education, training and experience in the field, and pay a \$250 fee.

With the creation of the new profession, the division is responsible for investigating complaints of violations of NRS 116 and its regulations by permit holders, as well as those who engage in nonpermitted activities. The Commission on Common-Interest Communities and Condominium Hotels is responsible for disciplinary actions, similar to its role with community managers.

In addition to professional standards, the new regulation details requirements for reserve studies. Board members must ensure their reserve studies comply with the law.

For a list of permit holders, visit www.red.state.nv.us and click on Reserve Study Specialists.



Did you know?

Continuing education is not just for community managers. While CAMs must take classes to maintain their credentials, many of the same classes may prove insightful to a community's boards and committees. HOAs may wish to encourage their participants to attend classes and seminars, which may be found at www.red.state.nv.us. The nominal investment in time (and sometimes money) can pay large dividends through more informed decisions, new ideas, and better skills.

Division implements mandatory e-payment for \$10,000 payments

Effective July 1, 2008, NRS 353.1467 requires all payments to the state of Nevada in excess of \$10,000 to be made by electronic transfer.

The Real Estate Division will accept electronic payments through two ACH credit formats: CTX and CCD+. Financial institutions may assist with the initial setup. When making the ACH payment to the state, the wire description should include the information needed to identify the payment (invoice and account numbers, billing period, etc.).

Homeowner associations making payments of more than \$10,000 are directed to contact Lisa Figueroa at (775) 687-4280 for the bank ABA routing number and Real Estate Division account number. These numbers must be provided to the financial institution to process ACH transactions.

New to Commission, a veteran to homeowner associations

At its December 3, 2008, meeting, the Commission on Common-Interest Communities and Condominium Hotels welcomed Randolph Watkins as the new Developer Representative member.

Commissioner Watkins, an executive with Del Webb Communities, brings a wealth of knowledge on

the formation and operation of large master-planned communities, including age-qualified developments.

His appointment follows the departure of Shari O'Donnell, whose term ended in September 2008. He is the second new Commission appointee of the past year, following Accountant Representative Gary Lein.

New staff member assists with Intervention Affidavit filings

Helping the public ensure their affidavits are complete is Rhonda Galvin, who joined the Ombudsman's staff in July. Processing complaints is Galvin's specialty – her previous position with the state of Nevada was with the Labor Commission, where she handled private-sector labor disputes.

"I make sure everything is complete so the intervention can go forward," she said.

As the newest addition to the office, Ms. Galvin also backs up other staffers as the need arises. With every day, Galvin said, there's a chance to learn something new about homeowner associations.

"It's been interesting, definitely a learning experience," she said.

Before coming to Nevada four years ago, Galvin



lived in the San Gabriel Valley of California. She and her husband have five children and an Australian Shepard-mix dog.

HOA 101: Videos, brochures help owners understand association living

We see it time and again: The better homeowner association directors and residents understand their roles and responsibilities, the smoother their communities run.

Over the past few months, the office has expanded its educational outreach to include seminars, videos and a new series of brochures, among other services. Each covers a different topic and/or level of expertise.

"The videos are for the brand-new resident or the first-time director," said Nick Haley, education officer for the Ombudsman.

Someone wanting greater detail on a particular topic may refer to the brochures, or attend one of the seminars.

Got new residents who've never lived in a HOA? Show them the new video, "HOA Living in Nevada." Want some guidelines to help figure out an HOA's required meeting schedule, or how to ensure a fair election? Please read the brochures.

The Office of the Ombudsman sponsors seminars taught by outside professionals and intended

specifically for HOA owners, board members and residents. Subjects include recordkeeping, elections, meetings and reserve studies.

Additionally, the office offers outreach for the general public statewide. These informal events include general information on using governmental services and doing business with the state.

Another option for HOA participants is to attend community manager continuing education classes. While geared toward working professionals, they are a valuable resource for residents and directors. Contact providers for details.

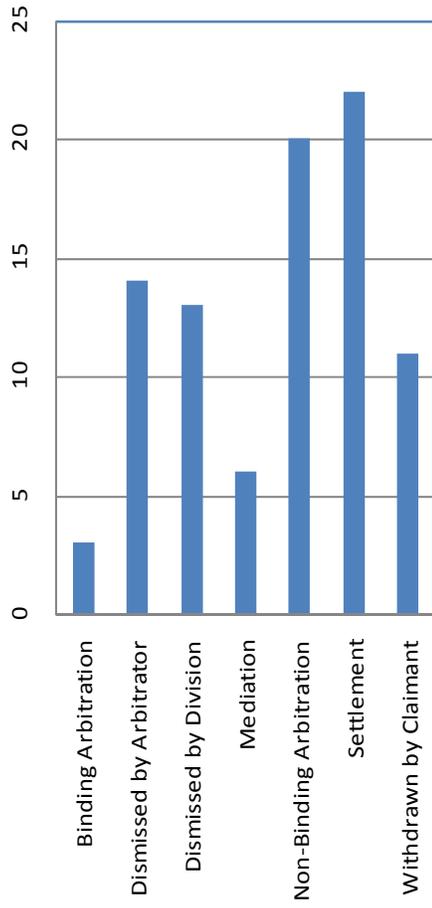
Check the Web site or contact the office for times and locations of classes and seminars.

The videos are posted at www.red.state.nv.us. Those without Internet access may request a DVD from the office for \$5 plus postage and handling for \$2. Brochures and dates of seminars are also available online, or by contacting the office.

More resources are being added regularly. One of the newest is a sample disclosure statement for HOA board candidates.

Alternative Dispute Resolution Claims From 03-01-08 to 10-31-08

Processed Claims



DATE OPEN	DATE CLOSED	CLAIM	FILED BY	TYPE OF RESOLUTION	NATURE OF CLAIM	DISPOSITION
08-16-07	03-05-08	08-24	Homeowner	Non-Binding Arbitration	Enforcement of Governing Documents	Arbitration found in favor of Claimant. Claimant to pay 25% of attorney's fees. Each side pays 1/2 of Arbitrator's fees (\$1867.28)
12-04-06	03-06-08	07-57	Homeowner	Mediation	Enforcement of Governing Documents	Mediation unsuccessful.
10-01-07	03-06-08	08-40	Homeowner	Mediation	Notification Procedure	Successful Mediation
09-24-07	03-10-08	08-36	Association	Non-Binding Arbitration	Maintain Landscape/Property	Arbitration found in favor of Claimant. Respondent to pay Claimant \$6100.00 in fines \$2565.50 in attorney's fees and \$660.00 in arbitration fees.
07-05-07	03-24-08	08-06	Homeowner	Dismissed by Arbitrator	Fiduciary Duties	Dismissed by Arbitrator.
11-01-07	03-24-08	08-45	Association	Withdrawn by Claimant	Rental of Home	Arbitration found in favor of Respondent. Claimant to reimburse \$17,459.21 in costs and fees.
07-25-07	03-27-08	08-13	Homeowner	Non-Binding Arbitration	Other Governing Documents	Arbitration found in favor of Respondent. Claimant to reimburse Respondent \$7,584.61.
12-28-07	04-03-08	08-60	Homeowner	Non-Binding Arbitration	Notification Procedure	Arbitration found in favor of Claimant. Respondent to reimburse Claimant \$3,740.21 in costs and fees.

Alternative Dispute Resolution Claims From 03-01-08 to 10-31-08 (Cont.)

DATE OPEN	DATE CLOSED	CLAIM	FILED BY	TYPE OF RESOLUTION	NATURE OF CLAIM	DISPOSITION
09-28-07	04-03-08	08-39	Association	Non-Binding Arbitration	Rental of Home	Arbitration found in favor of Claimant. Respondent to reimburse Claimant \$21,954.57 in fines and fees.
07-03-07	04-03-08	08-02	Homeowner	Dismissed by Arbitrator	Enforcement of Governing Documents	Dismissed by Arbitrator
03-25-08	04-03-08	08-86	Homeowner	Withdrawn by Claimant	Enforcement of Governing Documents	Withdrawn by Claimant
01-22-08	04-07-08	08-65	Association	Dismissed by Division	Parking	Dismissed by Division
11-28-07	04-07-08	08-48	Association	Dismissed by Arbitrator	Other Governing Documents	Dismissed by Mediator
02-27-08	04-15-08	08-78	Homeowner	Withdrawn by Claimant	Other Governing Documents	Withdrawn by Claimant
12-04-07	05-12-08	08-50	Homeowner	Dismissed by Arbitrator	Architectural Requirements	Dismissed by Arbitrator.
03-21-07	05-15-08	07-93	Homeowner	Binding Arbitration	Enforcement of Governing Documents	Arbitration found in favor of Claimant. Claimant to be reimbursed \$9507.24 in costs, fees and deposit.
07-24-07	05-15-08	08-12	Association	Withdrawn by Claimant	Maintain Landscape/Property	Withdrawn by Claimant
12-06-07	05-15-08	08-52	Homeowner	Mediation	Enforcement of Governing Documents	Successful Mediation
03-25-08	05-20-08	08-87	Association	Dismissed by Division	Fiduciary Duties	Dismissed by Division for lack of service.
03-25-08	05-20-08	08-89	Association	Dismissed by Division	Fiduciary Duties	Dismissed by Division for lack of service.
11-13-06	05-20-08	07-53	Association	Non-Binding Arbitration	Enforcement of Governing Documents	Arbitration found in favor of Respondents. Each side to pay their own attorney's fees.
03-31-08	05-20-08	08-94	Homeowner	Dismissed by Division	Fines	Dismissed by Division for lack of service.
08-21-07	05-28-08	08-26	Homeowner	Non-Binding Arbitration	Fines	Arbitration found in favor of Respondent. Each side pays their own arbitration and attorney's fees.
02-19-08	06-10-08	08-74	Homeowner	Withdrawn by Claimant	Property improvement	Withdrawn by Claimant
09-15-06	06-10-08	07-27	Homeowner	Non-Binding Arbitration	Damage to Claimant's unit.	Arbitration found in favor of Respondent.
09-04-07	06-11-08	08-29	Homeowner	Dismissed by Arbitrator	Damage to common area	Dismissed by Arbitrator
01-16-08	06-11-08	08-64	Homeowner	Binding Arbitration	Damage to Claimant's unit.	Arbitration found in favor of Claimant. Respondent to reimburse Claimant \$4736.40 for costs and fees.
05-01-08	06-26-08	08-106	Homeowner	Dismissed by Division	Parking Issues	Dismissed by Division for lack of service.

Alternative Dispute Resolution Claims From 03-01-08 to 10-31-08 (Cont.)

DATE OPEN	DATE CLOSED	CLAIM	FILED BY	TYPE OF RESOLUTION	NATURE OF CLAIM	DISPOSITION
07-20-07	06-30-08	08-11	Homeowner	Withdrawn by Claimant	Common area maintenance	Withdrawn by Claimant
12-21-07	07-15-08	08-57	Homeowner	Non-Binding Arbitration	Enforcement of Governing Documents	Multiple issues, some found in favor of Claimant, some for Respondent. Each party to reimburse the other for costs and fees totaling \$14,440.55
02-19-08	07-15-08	08-71	Homeowner	Dismissed by Arbitrator	Property Damage	Dismissed by Arbitrator
05-16-08	07-15-08	08-112	Homeowner	Dismissed by Division	Fines	Dismissed due to lack of service.
05-20-08	07-16-08	08-31	Homeowner	Non-Binding Arbitration	Property Damage	Arbitration found in favor of Claimant. Association to reimburse homeowner \$520.00 and to pay Arbitrator \$1420.00 in fees.
05-20-08	07-16-08	08-114	Homeowner	Dismissed by Division	Enforcement of Governing Documents	Dismissed due to lack of service.
03-07-07	07-21-08	07-87	Homeowner	Non-Binding Arbitration	Property Damage	Arbitration found in favor of Claimant. Association to reimburse homeowner \$28190.54 in costs and fees.
09-05-07	07-29-08	08-28	Homeowner	Binding Arbitration	Rental of Home	Arbitration found in favor of Respondent. Each side to pay their own costs and fees.
09-19-07	7-29-08	08-33	Association	Non-Binding Arbitration	Notification Procedure	Arbitration found in favor of Claimants. Respondents to pay Claimants. \$9450.00 in fines.
02-15-08	07-30-08	08-70	Homeowner	Non-Binding Arbitration	Property Damage	Arbitration found in favor of Respondent. Claimant to reimburse \$17459.21 in costs and fees.
02-05-07	08-05-08	07-79	Homeowner	Dismissed by Arbitrator	Notification Procedure	Dismissed by Arbitrator
02-15-08	08-06-08	08-72	Association	Mediation	Additional Assessments	Unsuccessful Mediation
03-03-08	08-07-08	08-80	Homeowner	Dismissed by Arbitrator	Enforcement of Governing Documents	Dismissed by Arbitrator
03-03-08	08-07-08	08-81	Homeowner	Dismissed by Arbitrator	Board Member Election	Dismissed by Arbitrator
06-06-08	08-07-08	08-120	Homeowner	Dismissed by Division	Maintain Landscape/Property	Dismissed by Division
05-22-08	08-08-08	08-116	Homeowner	Withdrawn by Claimant	Enforcement of Governing Documents	Withdrawn by Claimant

Alternative Dispute Resolution Claims From 03-01-08 to 10-31-08 (Cont.)

DATE OPEN	DATE CLOSED	CLAIM	FILED BY	TYPE OF RESOLUTION	NATURE OF CLAIM	DISPOSITION
06-20-06	08-11-08	06-79	Association	Dismissed by Arbitrator	Maintain Landscape/Property	Dismissed by Arbitrator
06-17-08	08-11-08	08-121	Homeowner	Dismissed by Division	Fines	Dismissed by Division
03-27-08	08-25-08	08-92	Homeowner	Non-Binding Arbitration	Notification Procedure	Split decision. Claimant and Respondent had issues found in their favor.
06-26-08	08-25-08	08-129	Homeowner	Dismissed by Division	Rental of Home	Dismissed due to lack of service.
10-18-05	08-27-08	06-21	Homeowner	Dismissed by Arbitrator	Notification Procedure	Dismissed by Arbitrator
10-21-05	08-27-08	06-23	Association	Dismissed by Arbitrator	Property Damage	Dismissed by Arbitrator
11-17-06	08-27-08	07-55	Homeowner	Dismissed by Arbitrator	Parking issues	Dismissed by Arbitrator
08-12-08	09-16-08	09-13	Homeowner	Withdrawn by Claimant	Enforcement of Governing Documents	Withdrawn by Claimant
03-25-08	09-17-08	08-88	Homeowner	Withdrawn by Claimant	Enforcement of Governing Documents	Withdrawn by Claimant
04-04-08	09-26-08	08-96	Association	Non-Binding Arbitration	Maintain Landscape/Property	Arbitration found in favor of Claimant. Homeowner to reimburse association \$8546.37 in costs and fees.
08-20-08	10-06-08	09-17	Association	Dismissed by Division	Notification Procedure	Dismissed by Division
06-02-08	10-13-08	08-117	Association	Withdrawn by Claimant	Maintain Landscape/Property	Withdrawn by Claimant
05-21-08	10-14-08	08-115	Homeowner	Mediation	Enforcement of Governing Documents	Unsuccessful Mediation
03-06-08	10-17-08	08-83	Homeowner	Non-Binding Arbitration	Enforcement of Governing Documents	Arbitration found in favor of Respondent. Claimants to reimburse Respondents \$45,689.88 in fines, fees, arbitration and attorney's costs and fees.
08-25-08	10-20-08	09-19	Association	Dismissed by Division	Board Member Election	Dismissed due to lack of service.
08-06-08	10-23-08	09-12	Association	Withdrawn by Claimant	Notification Procedure	Withdrawn by Claimant
06-23-08	10-24-08	08-124	Homeowner	Dismissed by Arbitrator	Parking	Dismissed by Arbitrator
12-24-07	10-24-08	08-59	Homeowner	Non-Binding Arbitration	Fines	Arbitration found in favor of Respondent. Claimant to reimburse Respondent \$21,755.88 in arbitration and attorney costs and fees.
03-27-08	10-24-08	08-91	Homeowner	Non-Binding Arbitration	Fines	Arbitration found in favor of Respondent. Claimant to reimburse Respondent \$9,916.26 in arbitration and attorney costs and fees.
03-27-06	10-27-08	06-64	Homeowner	Mediation	Property Damage	Unsuccessful Mediation
12-24-07	10-27-08	08-58	Homeowner	Non-Binding Arbitration	Fines	Arbitration found in favor of Respondent.
07-10-08	10-28-08	09-05	Association	Non-Binding Arbitration	Maintain Landscape/Property	Arbitration found in favor of Claimant.

Coming to a venue near you ...

Outreach series outlines summary of services available to HOAs

Help is out there for homeowners associations that know how to find it – and use it. In fact, so many agencies are accessible to HOAs that often simply knowing where to turn and when is a matter of trial and error.

One of the main sources of help in Nevada is, of course, the Office of the Ombudsman. While it can't resolve every situation that arises in an HOA, the office can point residents in the right direction, which is one of the goals of the new Homeowner Outreach series. Through visits to various regions of Nevada, Ombudsman staffers outline the office's dispute resolution services and educational opportunities, and refer attendees to other services available through other governmental agencies. In addition to learning about services, participants can get answers to general HOA questions, and learn tips for handling common issues, including health and safety matters and various nuisances.

The office hosted its first session in the Las Vegas area one recent Saturday afternoon. About 30 HOA residents and directors crowded into a conference room at the Sahara West Li-



brary to hear the three-hour presentation, and pick up copies of various reference guides and brochures.

"Homeowners associations are often like miniature cities and they sometimes need many of the same services as a city," said Nicholas Haley, education officer. "While our office provides resources for education and dispute resolution, there are plenty of other places for HOAs to seek various types of assistance. There's a lot of tools at associations' disposal if they know where to look."

Sessions are planned on a regular basis throughout 2009 with updates to the curriculum to coincide with the Legislative session. Check www.red.state.nv.us or contact the office for future dates.

"It is our goal to develop educational programs that are convenient to use and valuable in their content," Haley said. "We make available everything we can online and in other media, but we realize some people prefer a face-to-face interaction. We provide plenty of options for those who are interested in learning more about the governance of their communities."

AG's office rulings:

HOA definition clarified, jurisdiction of Ombudsman delineated

Two crucial opinions affecting HOAs across Nevada were issued earlier this year from the Attorney General's office.

The first, released May 5, 2008, concerned whether or not the Commission on Common-Interest Communities and Condominium Hotels was authorized to hear legal disputes regarding the covenants, conditions and restrictions, among other governing documents, of a Nevada homeowners association. The AG's opinion was that NRS 116 does not grant jurisdiction over governing documents issues to the commission.

However, this opinion does not prevent any parties with governing documents disputes from filing an Intervention Affidavit with the Ombudsman. The

conference process is still available. The Alternative Dispute Resolution process, which in most cases is required by NRS 38 before pursuing legal action in civil court, is also an option. The Office of the Ombudsman offers information and assistance in using the ADR program.

More recently, the AG's office rendered an opinion regarding the legal status of certain communities with recorded CC&Rs but no common elements. The Aug. 11, 2008, opinion addresses several questions affecting the applicability of NRS 116 with respect to certain communities.

Both legal opinions may be read in their entirety at the Real Estate Division's Web site, www.red.state.nv.us.

2008 Disciplinary Action by the Commission for Common-Interest Communities and Condominium Hotels

Karyn Nussbaum
Case No. IS 06 1298
September 2008

Finding of Fact:

The Division sent the Complaint and Notice of Hearing, Notice of Complaint and the Notice of Documents in the above-referenced matter to respondent's last known home address by certified mail more than 30 days before the scheduled hearing date of July 29, 2008.

■ The Division sent the Complaint and Notice of Hearing, Notice of Complaint and the Notice of Documents in the above-referenced matter to respondent's last known home address by certified mail more than 30 days before the scheduled hearing date of July 29, 2008.

■ The Division received the return receipt for the mailing identified in the preceding paragraph on or about July 7, 2008.

■ The mailing described in paragraph 1 above was not returned to the Division at any time.

■ The location for the hearing changed after initial service of the Documents identified in paragraph 1 above.

■ The Division sent an amended Notice of Hearing with the change of location for the hearing to the respondent's last known home address on July 10, 2008, by certified mail.

■ The amended notice sent to the respondent's last known home address was returned to the Division on July 15, 2008, with a forwarding address.

■ On July 15, 2008, the Division sent the amended notice of hearing in the above-referenced matter to the forwarding address by certified mail.

■ A second notice of complaint was also sent to the forwarding address by certified mail on July 17, 2008.

■ During the Division's investigative process, respondent responded to the Division's initial letter sent to the respondent's previously last known address, prior to the dates set forth above.

■ Respondent failed to respond further to the Division during the investigative process.

■ Additional correspondence sent to the previously last known address during the investigative process after the initial letter was not returned.

■ Respondent did not at any time notify the Division that she was moving or changing her primary address.

■ Respondent did not request or receive a continuance of the hearing set for July 29, 2008.

■ Respondent did not serve an answer or contact the Division, or its counsel after she was served with the Complaint and Notice of Hearing, and Documents in the above-referenced matters before the Commission.

Actions/Decisions

Acts of the Commission for Common-Interest Communities and its appointed administrative law judges are not published in this newsletter by the Real Estate Division until after the 30-day period 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.

A respondent's certificate is automatically suspended for failure to comply with a commission order, and the division may institute debt collection proceedings to recover fines and costs.

The division does not publish names of persons whose certificate applications are denied.

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. Stipulations by administrative law judges are presented to the commission for review and acceptance.

Conclusions of Law:

1. Respondent was duly and properly served with the Complaint and Notice of Hearing and Documents pursuant to the

requirements of NRS 116.770(3).

2. As a result of respondent's failure to appear or respond to the notice, the Commission could proceed with the case as scheduled.

3. The Commission could accept the charges in the Complaint as true, pursuant to NAC 116.580, as a

See DISCIPLINARY ACTION on Page 11

Disciplinary Action

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result of respondent's failure to appear at the hearing scheduled for July 29, 2008, and failure to reply to the Complaint.

Decision and Order:

The Division therefore enters its Decision and Order as follows:

1. The allegations of the petitioner's Complaint, and each of them, are found to be true, pursuant to NAC 116.580.

2. Respondent is found to be guilty of each of the violations alleged in the Complaint.

Wherefore, the Commission orders that the following discipline shall be, and is hereby imposed upon respondent Karyn Nussbaum:

1. Karyn Nussbaum shall pay a fine in the sum of \$3,500;

2. Karyn Nussbaum shall, at her sole expense attend a total of 12 hours of education concerning Nevada common-interest communities that have been approved by the Commission. Respondent shall attend the courses in person, and shall provide proof of attendance and completion of each course to the Division within 30 days of completion of such course;

3. Karyn Nussbaum shall reimburse the Division for costs in the sum of \$1,749.50 incurred in prosecuting the instant matter; and

4. Karyn Nussbaum shall not serve on the Board of any common-interest community in the state of Nevada until she has paid, in full, the amounts set forth above to the Division, and the Division confirms the Respondent has completed the education ordered.

Corner

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As I mentioned in my last article, the National Conference of Commissioners on Uniform State Laws has been working on a revised Uniform Common Interest Ownership Act for quite some time. The work was completed this past summer. Chapter 116 was based on the 1982 version of UCIOA. (There is also a 1994 version, not adopted in Nevada.)

For those not familiar with uniform laws, NCCUSL drafts very often are accompanied by comments containing a discussion of underlying principles, legislative intent and examples of application, all of which can be very useful in struggling with hard-to-understand sections of UCIOA. The Common Interest Ownership committee of NCCUSL has its own Web site (<http://www.nccusl.org/Update/CommitteeSearchResults.aspx?committee=244>) with a great wealth of materials, including the new, improved UCIOA. The 2008 UCIOA has yet to include revised comments, unlike the older versions.

The 1982 version was drafted at a time when more focus was directed at developer abuses. The 2008 UCIOA (as well as the 1994 version) give much more thought to the interaction between executive boards and unit owners. Many principles contained in the latest versions of UCIOA are already law in Nevada. One hopes, however, that to the extent our Legislature is looking for legislative solutions, the 2008 UCIOA will be consulted. (My take on the effect of incorporating 2008 UCIOA into Chapter 116 is on the Division's Web site under Publications.)

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If you are like me, you were greatly disturbed by

the recent newspaper articles concerning the FBI investigation of certain homeowners associations in Las Vegas. When I first read about the cases, I was concerned that the Division and the Commission were not leading the investigation. Upon reflection, however, I realized what we sometimes forget, in our efforts to make and enforce laws and regulations. Namely, neither the Division nor the Commission (nor the Ombudsman) is a police authority. Statutory authority exists, of course, to punish wrongdoers; and procedures exist to resolve disputes. It is clear to me, however, that the real mission of the Division and Commission is EDUCATION. Abuses are less likely to occur in communities with unit owners, officers and directors who understand their rights and responsibilities and participate in their associations.

I think I speak for all of the Commissioners in expressing our appreciation to the Ombudsman's office and the Division's education officer for their continuing efforts at homeowner and board member education. The two educational DVDs on the Division's Web site are outstanding. It wasn't that long ago (1997) that the Legislature in its wisdom decreed that every prospective purchaser of a unit in common-interest community should receive an information statement (NRS 116.41095), essentially a separate piece of paper warning them of what they were getting into. With the educational DVDs now available, owners and board members have the ability to access a user-friendly teaching guide that will go much further than a piece of paper – and not one law or regulation was passed to produce the video! Let's hope these tools are utilized.

Forms, forms, forms

Outreach gathering helps make sense of requirements

Everyone agrees filling out forms for the Ombudsman's Office is tedious. Filling them out again when they are sent back marked as incomplete is even worse.

The Ombudsman's Office doesn't want to handle the same form twice, either. That's why it recently hosted its first seminar to help community managers and others who do business with the state to understand what is required and how to find it.

"Gauging from our response, this kind of get-together was sorely needed. We went over each form one by one and made sure everyone knew what they needed to provide and how to find it. It appears we accomplished our main purpose, which was to give our clientele the knowledge they need to ensure their HOAs are in compliance and avoid late fees," said Sonya Meriweather, Program Officer III with the Real Estate Division.

"It was also valuable for us. Not only will this save us time down the road, but we were all pleased to meet many of the people we do business with daily over the phone."

Staff members explained the office's procedures

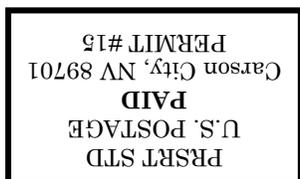
through its forms, including the Annual Registration and the accompanying fees, the roster of master associations and sub-associations, how to use ADR process, the Intervention Affidavit process, and the Reserve Study Summary. As expected, the Annual Association Registration produced the most interest.

"Completing the registration process in particular requires coming up with some often hard-to-find information," Meriweather said. "Hopefully, it's only difficult once, though. After an association gets its records in order, updating them year to year should be much easier."

Additionally, a management company representative offered his insights into how to track down information, such as the elusive Date of First Conveyance, as well as procedures he uses to ensure everything is done on time for every client in a portfolio.

Given the turnout, Meriweather said more sessions are planned.

"Even those who attended the first session may want to come back for future sessions as we anticipate updating our curriculum to meet future needs," Meriweather said.



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