



# 2021 Year End Review

Rev. 12/02/2021



## **Nevada Real Estate Division**

*Presented By the Training Officer; Office of the  
Ombudsman for Owners in Common-Interest Communities  
and Condominium Hotels Training Program*





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# Introduction

Associations and board members have numerous obligations throughout the calendar and/or fiscal year.

Board members have a fiduciary obligation to act in the best interest of the community and to comply with all applicable laws and regulations.

Though not expressly required by NRS 116, to help ensure all obligations are being (and have been) met, it can be helpful for the board to create a Year End Checklist to evaluate overall performance.

This course is intended to guide boards in creating such a checklist, should they choose to do so.

# Year End Scorecard Might Include:

NRS 116.31155, NRS 116.31158 & NAC 116.445

- Did the association submit the association's Annual Registration form 562 to the division along with the \$4.25 per unit fee?
  - Was it submitted no earlier than 45 days and not later than the last NV business day in the month the association incorporated with the Office of the Secretary of State?
- If board or CAM contact information changed, did the board file a Registration Filing Addendum form 623 within 30 days of the change?



# Year End Scorecard Might Include:

NRS 116.31034

- Did the unit owners elect association directors in accordance with the bylaws and NRS 116.31034?
  - Did the board have at least 3 directors and as many as required by the bylaws?
  - Were any board directors appointed by the board to fill a vacancy that occurred outside of the election cycle?

NRS 116.3103(1)(c)
  - If so, were those appointed board directors elected by the unit owners at the next regularly scheduled election?
  - Once elected, did they only serve the remainder of the term of the seat they filled?



# Year End Scorecard Might Include:

NRS 116.31034

Did the unit owners elect association directors in accordance with the bylaws and NRS 116.31034?

Did the board appoint a president, treasurer, and secretary? NRS 116.3106

Did the board appoint any other officer(s) required by the bylaws?

Did each director read all association governing documents, NRS & NAC 116, and all other applicable federal, state, county laws/regulations/codes?

Did each director complete the form 602 within 90 days of election, appointment, or re-election?



# Year End Scorecard Might Include:

- Did the board hold meetings with such frequency as to properly and efficiently address the affairs of the association? NAC 116.405(8)(c)
  - Did the board have at least 1 meeting each quarter? NRS 116.31083(1)
    - Did the board ensure there was no more than 100 days between any 2 consecutive meetings?
  - Did the board distribute notice of each board meeting to each unit owner at least 10 days before the meeting? NRS 116.31083(2)&(5)
    - Did the notice expressly state the time and place of the meeting?
      - If the meeting was held virtually and/or telephonically, did the notice include instructions for unit owners to access the meeting?

# Year End Scorecard Might Include:

- Did the board hold meeting with such frequency as to properly and efficiently address the affairs of the association? NAC 116.405(8)(c)
- Did the board distribute notice of each board meeting to each unit owner at least 10 days before the meeting? NRS 116.31083(2)&(5)
  - Did the notice inform unit owners they have the right to receive a copy of the minutes and/or audio recordings upon written request?
  - Did the notice inform owners they have the right to speak at each meeting?
- Did the board distribute notice of each board meeting to each unit owner at least 10 days before the meeting? NRS 116.31083(2)&(5)
  - Did the notice inform unit owners they have the right to receive a copy of the minutes and/or audio recordings upon written request?
  - Did the notice inform owners they have the right to speak at each meeting?





# Year End Scorecard Might Include:

- Did the board hold meeting with such frequency as to properly and efficiently address the affairs of the association? NAC 116.405(8)(c)
- Were meetings conducted in accordance with Robert's Rules of Order or any parliamentary process prescribed in the bylaws? NRS 116.3109(4)
- Were all unit owners allowed to speak at the beginning and end of each board meeting?
  - Were all unit owners given equal time to speak?
- Was every board meeting audio recorded? NRS 116.31083(8)
- Were minutes kept for every meeting? NRS 116.31083(8)&(9)
  - Do the minutes accurately reflect the substance of all matters discussed, voted upon, and decided?

# Year End Scorecard Might Include:

- Did the board hold meeting with such frequency as to properly and efficiently address the affairs of the association? NAC 116.405(8)(c)
- At least once a quarter, did the board review: NRS 116.31083(7)
  - the current year-to-date financial statement of the association;
  - A current year-to-date schedule of revenues and expenses for the operating and reserve accounts, compared to the budget for those accounts;
  - A current reconciliation of the operating account of the association;
  - A current reconciliation of the reserve account of the association;
  - The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and
  - The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.



# Year End Scorecard Might Include:

- Did the board hold meeting with such frequency as to properly and efficiently address the affairs of the association? NAC 116.405(8)(c)
- Did the board only meet in executive session for an authorized reason?
  - Attorney client privilege; NRS 116.31085(3)
  - Discuss the character, alleged misconduct, professional competence, or physical or mental health of a CAM or association employee;
  - Discuss a violation of the governing documents and hold hearing regarding such violation;
  - Discuss a unit owners' failure to adhere to a construction schedule or hold a hearing regarding such failure.



# Year End Scorecard Might Include:

- Did the board hold meeting with such frequency as to properly and efficiently address the affairs of the association? NAC 116.405(8)(c)
- Did the board only hold an emergency meeting for situations which
  - could not have been reasonable foreseen, NRS 116.31083(13)
  - affected the health, welfare and safety of the unit's owners or residents of the CIC,
  - required immediate attention of, and possible action by, the board, and
  - made it impracticable to comply with the meeting notification requirements?



# Year End Scorecard Might Include:

NRS 116.3102(1)(b), NRS 116.3103(3), & NRS 116.31151

- Did the association comply with all financial obligations?
  - Did the board adopt a proposed Fiscal Year (FY) budget for the operating and reserve accounts?
    - Were the two accounts budgeted separately to make clear what portion of assessments will be applied to each fund?
    - Did the board review the reserve study prior to adoption?
    - Did the board review the association's funding plan prior to adoption?
      - Is the association "adequately funded"?
        - Will the board meet all financial obligations without imposing special assessments for any reason other than unforeseeable circumstances?
  - Did the board distribute the proposed FY budget to each unit owner no later than 60 days after adoption?



# Year End Scorecard Might Include:

NRS 116.3102(1)(b), NRS 116.3103(3), & NRS 116.31151

- Did the association comply with all financial obligations?
  - Did the board adopt a proposed Fiscal Year (FY) budget for the operating and reserve accounts?
    - Did the unit owners ratify the proposed budget, at a unit owner's meeting, no sooner than 14 and no later than 30 days after the proposed budget was distributed?
      - Was this meeting held not less than 30 days or more than 60 days before the beginning of FY of the association?
  - Were unit owners charged assessments in accordance with their allocated interests as identified in the declaration and in accordance with the ratified budget?
  - Did the board address delinquent accounts in accordance with the association's collection policy?

NRS 116.3116 & NRS 116.31162



# Year End Scorecard Might Include:

NRS 116.3102(1)(b), NRS 116.3103(3), & NRS 116.31151

- Did the association comply with all financial obligations?
  - Did the board cause the association's financial statements to be Audited or Reviewed in accordance with NRS 116.31144?
  - Did the board deposit and maintain association funds in a financial institution authorized pursuant to NRS 116.311395?
  - Did the board maintain financial records in accordance with *The Guide* and GAAP?



# Year End Scorecard Might Include:

- Did the board regularly review vendor contracts, including the Management Agreement, to ensure all terms are being appropriately adhered to by all applicable parties?
- Did the board, when practicable, solicit at least 3 bids from licensed service providers for all association projects?
  - Were all bids obtained sealed? NRS 116.31086, NAC 116.405(8)(d) & AO 11-02
  - Were all bids opened and read aloud at a noticed and agendaized board meeting?
  - Were all bids awarded by vote of the board at a noticed and agendaized board meeting?





# Year End Scorecard Might Include:

NRS 116.3113

- Did the board obtain and maintain appropriate and required insurance?
  - Property insurance**, not less than 80% of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date.
  - Commercial General Liability insurance**, including for medical payments, in an amount determined by the board but not less than any amount specified in the declaration.
  - Crime insurance** which includes coverage for dishonest acts by members of the board, officers, employees, agents, and volunteers. Not less than 3 months of aggregate assessments, including reserves, or \$5m, whichever is less.
    - Cannot contain a conviction requirement.
  - Directors and Officers** (errors and omissions) policy in a minimum aggregate amount of \$1m.



# Year End Scorecard Might Include:

- Did the board review the Reserve Study to ensure all scheduled maintenance was conducted on time? NRS 116.31152
  - Has a new reserve study been conducted at least every 5 years?
    - Has the reserve study been updated as needed?
  - Were all common elements fixed/repaired/maintained/replaced to the standards outlined in the declaration and any applicable laws and codes?
  - Did the board efficiently document completed and/or deferred projects?
    - Did the board review and address previously deferred projects?



# Year End Scorecard Might Include:

NRS 116.31175, NRS 116.3108 & NAC 116.405(8)(g)

- Did the board maintain sufficient records for all association business?
  - Upon written request, were unit owners provided copies of the financial statements, budgets, the reserve study, and any contracts of the association?
  - Upon written request, were all association records, except those considered confidential, made available for unit owners to inspect, audit, examine, and photocopy?



# Year End Scorecard Might Include:

- Did the board fairly and uniformly enforce the association's governing documents?  
NRS 116.31065(5), NRS 116.31031(3)
  - Did the association maintain and abide by a schedule of fines?
  - Did the association provide proper notice and hold a hearing prior to imposing any fines or sanctions in accordance with the governing documents, NRS 116.31031 and NRS 116.31085?
  - Did the association maintain a general record of violations? NRS 116.31175(5)



# Year End Scorecard Might Include:

- Did the board, in all circumstances, act as a fiduciary of the association as outlined in NAC 116.405?
  - Did each member act on an informed basis, in good faith and in the honest belief that their actions were in the best interest of the community?
  - Did each member keep informed of, and remain comply with, all applicable governing documents and laws?
    - Did the board review the latest legislative changes and, as applicable, make arrangements to become compliant?



# Conclusion

If your association honestly answered no to any of these questions, its important for the board to assess why.

What went wrong?

How will it be resolved?

How will it be avoided in the future?



If your association honestly answered yes to each of these questions, you are likely to be in compliance with all obligations.



# Questions?

- <http://red.nv.gov/> - Main Page
- [CICOmbudsman@red.nv.gov](mailto:CICOmbudsman@red.nv.gov) – Email Questions
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