

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES MARCH 6, 2018**

**NEVADA STATE BUSINESS CENTER
3300 WEST SAHARA AVENUE
NEVADA ROOM, SUITE 400
LAS VEGAS, NEVADA 89102**

**VIDEO CONFERENCE:
DEPARTMENT OF BUSINESS AND INDUSTRY
DIRECTOR'S OFFICE
1830 E. COLLEGE PARKWAY
SUITE 100
CARSON CITY, NV 89706**

MARCH 6, 2018

9:00 A.M.

1-A) Introduction of Commissioners in attendance

Michael Burke, Ken Williams, James Rizzi, Richard Layton, Doris Woods, Ryan Henderson, Charles Niggemeyer and Deputy Attorney General Asheesh Bhalla as Commission Counsel.

1-B) Introduction of Division Staff in attendance

In Las Vegas: Sharath Chandra, Administrator; Teralyn Thompson, Administration Section Manager; Charvez Foger, Ombudsman; Sonya Meriweather, Mediation Supervisor; Terry Wheaton, Chief Compliance Audit Investigator; Marina Benn, CIC Supervisor; Samiel Williams, Commission Coordinator and Monique Williamson, Training Program Officer.

In Carson City: Sharon Jackson, Deputy Administrator; Christopher Cooke, Compliance Audit Investigator.

2) Public Comment

Michael Kosor, resident of South Las Vegas and member of sub-association board since 2014, commented on a complaint that he filed in 2016 that was closed. Mr. Kosor commented that his complaint was regarding declarant control. Mr. Kosor stated that he lives in an association that appoints three board members that are employed by the developer and the management company is a developer owned entity. Mr. Kosor stated that he complained that the declarant should have released control prior to the 2015 statute change. Mr. Kosor stated that this has not occurred. Mr. Kosor stated he argued that the maximum units should not have been allowed. Mr. Kosor stated there are some forces at play that are refusing to get his case in front of the Commission. Mr. Kosor stated that he would like the Commission to look at the facts within his complaint and make a decision. Mr. Kosor stated that all he can do is go to the courts and ask the courts to intervene.

3B) Administrator's Report on pending litigation

Sharath Chandra gave the Commission a summary:

- Vistana Condominium Owners Association-August 2017 the Commission heard the disciplinary matter regarding this case. In November 2017 the Commission denied Vistana's appeal of the Commission's decision. Vistana has filed a petition for judicial review on October 19, 2017. Vistana board members are challenging the personal fines. Vistana filed their brief on February 2, 2018. The Division's reply was filed March 2, 2018. The Division discovered additional relevant evidence and is trying to have that reviewed by the Commission. The hearing for the petition is scheduled for April 25, 2018.
- Margaret Thayer-November 2017 the Commission heard the disciplinary matter regarding performing community manager services without a Nevada certificate. Ms. Thayer filed a petition for judicial review on December 28, 2017 challenging the Commission's findings. The Division filed a motion to dismiss the petition because it failed to name the Commission as a respondent. The motion to dismiss will be heard on April 10, 2018.

3A) Administrator's Report on personnel

Sharath Chandra presented the Commission with this report.

- New Chief Compliance Audit Investigator-Terry Wheaton
- New Commission Coordinator-Samiel Williams
- Vacancy-Education Information Officer

3-B-1) Ombudsman's report on Intervention Program

Charvez Foger presented the Commission with this report.

3-B-2) Ombudsman's report on Informal Conferences

Charvez Foger presented the Commission with this report.

3-B-3) Ombudsman's report on Alternative Dispute Resolution filings and subsidy claims

Charvez Foger presented the Commission with this report.

3-B-4) Ombudsman's report on Homeowner Association and Compliance Audits

Charvez Foger presented the Commission with this report.

3-B-5) Ombudsman's report on Program Training Officer's Report

Charvez Foger presented the Commission with this report. Mr. Foger stated that in previous years there were only 6 to 10 people attending these classes. Mr. Foger stated that currently over a hundred people attend weekly.

3-B-6) Ombudsman's report on number and types of associations registered within the State

Charvez Foger presented the Commission with this report.

3-B-6) Ombudsman's report on Compliance Section's report

Charvez Foger presented the Commission with this report.

Commissioner Williams asked what the number one issues for community manager and board of director cases.

Mr. Foger stated that he would provide the Commission with statistics regarding most complained issues.

3C) Licensee and board member discipline report

Teralyn Thompson presented the Commission with this report.

3D) Administrative sanction report

No report provided.

4A) Discussion regarding the State of Nevada Controller's Office debt collection process for fines issued by the Commission.

Commissioner Williams presented the Commission with a report of the five oldest and five largest Commission fines that have not been paid.

Commissioner Williams stated that the Commission should send a message that the Commission will not tolerate people ignoring the findings of the Commission.

The Commission tabled this agenda item.

4B) Discussion regarding changes to NAC 116.470 as it relates to the fees allowed in a collection action.

Commissioner Niggemeyer stated that this agenda item was in reaction to public comment that the Commission had about fees being changed by the county at the last Commission meeting. Commissioner Niggemeyer stated that there was a fee increase for lien fees from \$18 to \$40 and there was a shortfall.

Commissioner Niggemeyer stated that he has suggested changes to NAC 116.470 to put the same language that is in NAC 116.470(3). Commissioner Niggemeyer stated that section 3 of the regulation has the language regarding recovering costs from the unit owner without incurring an increase or mark up. Commissioner Niggemeyer stated that his proposed changes are already covered in regulation.

4C) For possible action: Discussion and decision to approve minutes of November 14-16, 2017 Commission meeting.

Commissioner Niggemeyer moved to accept the minutes as presented. Seconded by Commissioner Rizzi. Motion carried.

4D) Discussion regarding Commissioners' speaking engagement requests.

None.

4A) Discussion regarding the State of Nevada Controller's Office debt collection process for fines issued by the Commission.

Commissioner Williams presented the Commission with a report of the five oldest and five largest Commission fines that have not been paid. Commissioner Williams stated that the Commission had discussed having Commission Counsel commence judgement on some of the old cases with past due debt. Commissioner Williams stated that he and Chairman Burke discussed meeting with the Controller's Office when the Commission is in Carson City in August.

Asheesh Bhalla commented that the issue is if the respondent does not show up, there will be a judgement lien placed on their property. Mr. Bhalla stated that there will still have to be a collection process but with a court order, some of these collections will happen in the end.

Chairman Burke stated the conversion from the Commission order to a judgement is a simple petition to the court. Chairman Burke stated the State's filing fee should be waived by statute. Chairman Burke stated that the judgement would be recorded across the known county to protect the judgement. Chairman Burke stated that once the judgement is issued it is valid in the State for six years.

Chairman Burke stated that most every state follows Uniform Enforcement of Judgements Act which would allow one to domesticate the judgement in the other state and record against the property in that state. Chairman Burke stated that if someone were to sell their property, the State is protected and will get its money to the amount that there is any equity in the property.

Commissioner Williams stated that he wants to start with the Harry Randolph and Thomas Mitsky cases.

Commissioner Niggemeyer asked if there is a statute of limitation on the collection process.

Chairman Burke stated that it is a valid order that has been issued and the Commission would file a petition to reduce the order to a judgement. Chairman Burke stated that the respondent would be put on notice when the Commission files the petition with the court. Chairman Burke stated that would be the time for the respondent to raise any statute of limitation arguments.

Mr. Bhalla stated that he would take the Commission's discussion and get the process moving. Mr. Bhalla stated that at the next Commission meeting, there can be an agenda item regarding a status update regarding his findings and the processes completed.

Chairman Burke requested an agenda item for the next Commission meeting regarding the status and possible action to reduce those fines to judgement against Harry Randolph and Thomas Mitsky.

**5A) NRED v. Pecos Creek Homeowners Association, James Gilmore, Rodolfo Rocha, Omar Guerra, Ofelia Santos, and Patricia Yuen, for possible action
Case No. 2016-1949**

Type of Respondent: Executive Board

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Ms. Briggs stated that this is a status update of the reserve study, audit and who is on the board. Ms. Briggs stated that someone who was not an owner was on the board. Ms. Briggs stated that the association is currently not in good standing.

Jonathan Kelly, community manager with First Columbia, was present representing the association. Mr. Kelly stated that Lucy Pino's uncle was the recorded homeowner with the association. Mr. Kelly stated that Ms. Pino's uncle passed away. Ms. Pino is working on getting the property. Mr. Kelly stated that he submitted Ms. Pino's uncle's will to Ms. Briggs. Ms. Briggs stated that it wasn't enough evidence of ownership. Mr. Kelly stated that Ms. Pino is no longer on the board and Andrew Dionne has been appointed.

Mr. Kelly stated regarding the reserve study and audit, the management company dropped the ball. Mr. Kelly stated that there was a miscommunication regarding the timeliness for receipt of the engagement letter. Mr. Kelly stated that he is trying to get other vendors for that contract. Mr. Kelly stated the next time he meets with the Commission; he will have the audit contract completed. Mr. Kelly stated that they have not hired a reserve study specialist.

Commissioner Williams asked why the board members were not present.

Ms. Briggs stated that she would like to see an order from the Commission requiring the reserve study and audits completed by the next Commission meeting.

Commissioner Layton moved that the respondents are to appear at the next Commission meeting and audits and reserve study to be completed by the next Commission meeting. Second by Commissioner Williams. Motion carried.

**5B) NRED v. Vistana Condominium Owners Association, Larry Fitch, Anthony Kneip, Lynn Williams & Ardyce Nelson, for possible action
Case No. 2015-3373**

Type of Respondent: Board Directors

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Richard Haskin, attorney representing the association and individual respondents, was present.

Lynn Blaylock, community manager for association, was present.

Anthony Kneip, board member, was present.

Ms. Briggs stated that this is a status update of compliance with the Commission's order from August 2017. Ms. Briggs stated that the board members were required to pay a fine which has not been done. Ms. Briggs stated that the order required the association to make full restitution to the owners of the vehicles that were improperly towed. Ms. Briggs requested that the board members be removed for failing to pay the fine.

Mr. Haskin stated that the board has been working with Ms. Blaylock to make the restitution efforts which have been cumbersome.

Mr. Haskin stated that every one of the individual board members are retired and on a fixed income. Mr. Haskin stated that the board members are trying to save up to pay the fine because the board members want to remain on the board.

Mr. Haskin stated that there is an appeal of the Commission's findings before the Nevada District Court. Mr. Haskin requested that the Commission table this matter until the next meeting to determine the status of that appeal before the District Court. Mr. Haskin stated that if the board members are removed; there won't be a quorum, there is a concern in the community that there are not enough homeowners interested in running for the board given the communities history.

Commissioner Woods asked how many people have been paid restitution and has partial payments of the Commission fine been discussed.

Mr. Haskin stated that he did not think that partial payments were possible based on the Commission's order.

Ms. Blaylock stated that since the last Commission meeting, one person has been paid back. Ms. Blaylock stated that there were forty-one units that were fined \$75. Ms. Blaylock stated that the fine has been removed from those units and she has to research who paid, when that person paid and refund their money. Ms. Blaylock stated that the association is 65% rented and it is cumbersome to find people who were fined.

Commissioner Layton questioned the board's competence in handling paying restitution prior to hiring Ms. Blaylock.

Chairman Burke stated that one item from the Commission's order has been completed by the association which is the requirement for the board to attend classes.

Ms. Briggs stated that she has not received documentation that those classes have been completed.

Ms. Briggs stated that there was no request from the respondents to stay the Commission's order in their filing with the District Court.

The Commission gave Ms. Blaylock suggestions on how to track down individuals who paid towing fines.

Commissioner Williams stated that he would like to wait until the District Court case order is finalized before the Commission takes action. Commissioner Williams stated that he would like the Commission to be provided a complete list of every one who has been paid at the next Commission meeting.

Chairman Burke stated that he is concerned regarding the lack of attention to the fine that was assessed on the board members. Chairman Burke stated that there has been no effort to contact the Division regarding payment arrangements, no payment has been made and now there is testimony that two respondents are having a hard time making payments. Chairman Burke stated that he does not have a problem with tabling this item until the next Commission meeting regarding the restitution.

Mr. Haskin stated that the intent of the board members is to pay the Commission fine but all are on a fixed income.

Anthony Kneip, respondent, commented on his inability to pay the fine due to health issues and fixed income.

Commissioner Layton recommended that notification goes to all homeowners and ask anyone who paid the towing fine to contact the community management office.

Chairman Burke agreed with Commissioner Layton and wants the association to report back to the Commission at the next Commission meeting.

Commissioner Rizzi made the following motion:

- Association place in their newsletter a statement asking for information from all residents if they were impacted by the illegal towing in order to make restitution.
- Board members to make a minimum monthly payment of \$100 each starting April 1, 2018.
- Defer the removal of the board members at this time.
- Status check at the June meeting regarding responses to the newsletter and confirmation that the board members are making minimum payments

Seconded by Commissioner Layton. Motion carried.

5C) NRED v. Dorothy Keith and Hacienda La Caliente Homeowners Association, for possible action

Case No. 2016-3611

Type of Respondent: Board Directors

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Ashlie Surur was present with Dorothy Keith.

Jonathan Patillo, attorney representing the association, was present.

Hacienda La Caliente board members were present.

Ms. Briggs stated that there was a stipulation and settlement reached. Ms. Briggs read the factual allegations and violations into the record.

All parties agreed to the factual allegations read into the record.

Ms. Briggs read the settlement portion into the records. Ms. Briggs read:

- Ms. Keith agrees not to serve as a board member or officer of any common-interest community located in Nevada for 10 years.
- Hacienda La Caliente Homeowners Association acknowledges that it does not pay petty cash to board members and will not do so in the future.

All parties agreed to the terms of the settlement.

Commissioner Rizzi moved to accept the settlement. Seconded by Chairman Burke. Motion carried.

5D) NRED v. Jeffrey Allan Frederick, for possible action

Case No. 2017-1573

Type of Respondent: CAM.0007580 (REVOKED)

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Mr. Frederick was not present.

Ms. Briggs stated that Mr. Frederick did not answer the complaint and asked that failure to appear be accepted as a default and allegations in the complaint be accepted as true.

Commissioner Niggemeyer moved to accept the request for a default judgement and finding the factual allegations to be true. Seconded by Commissioner Layton. Motion carried.

Ms. Briggs read the violation of law into the record.

Chairman Burke stated that the Commission finds the violation of law has been proven. Seconded by Commissioner Williams. Motion carried.

Ms. Briggs gave the recommended discipline of \$10,000 fine and \$1,516.17 cost of the hearing.

Chairman Burke moved to impose a fine of \$10,000.00 and costs of \$1,516.17. Seconded by Commissioner Rizzi. Motion carried.

Chairman Burke moved that the fine and costs be paid 30 days from the date of the order. Seconded by Commissioner Rizzi. Motion carried.

5E) NRED v. Kristen Gillis, for possible action

Case No. 2017-2082

Type of Respondent: CAM.0001092-SUPR (VOLUNTARY SURRENDER)

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Commissioner Williams stated that he knows Ms. Gillis professionally and he knows her family. Commissioner Williams recused himself.

Kristen Gillis was not present.

Ms. Briggs stated that Ms. Gillis voluntarily surrendered her certificate. Ms. Briggs stated that Ms. Gillis did not respond to the complaint. Ms. Briggs asked that the factual allegations be accepted as true and that Ms. Gillis is in default.

Chairman Burke moved that Ms. Gillis be found in default and that the factual allegations 2 through 15 be found as true. Seconded by Commissioner Woods. Motion carried with Commissioner Williams abstaining.

Chairman Burke moved that violations of law 16 through 28 be found as proven. Seconded by Commissioner Layton. Motion carried with Commissioner Williams abstaining.

Ms. Briggs gave the recommended discipline:

- Revocation of community manager certificate for 10 years but no less than when all fines and costs pursuant to this order be paid
- Fine of \$13,000 and costs of hearing of \$2,595.72

Chairman Burke moved to accept the Division's recommendation for discipline to be paid within 30 days. Seconded by Commissioner Layton. Motion carried with Commissioner Williams abstaining.

5F) NRED v. Diamond Creek Homeowners Association, Roy Cooper, and Kim Cooper, for possible action

Case No. 2017-1826

Type of Respondent: Board Members and Officers

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Roy Cooper was present representing himself and Kim Cooper.

Ms. Briggs stated that the Commission was provided with the Coopers' affidavits. Ms. Briggs stated that the facts are not being disputed by the Coopers'.

Mr. Cooper testified regarding his ignorance to the rules and regulations regarding sitting on a homeowners association board. Mr. Cooper requested to be removed from the board.

Ms. Briggs stated that she would like Diamond Creek Homeowners Association board members to attend the next Commission meeting and provide an update on what the association is doing to comply with NRS and NAC 116. Ms. Briggs stated that she has not been provided with documents regarding meetings, financials or audits. Ms. Briggs stated that the Coopers step down from the board for 10 years and a fine of \$250 each for not responding to the Division's investigation.

Mr. Cooper stated that he agrees to step down from the board but doesn't agree with the \$250 fine each.

Commissioner Henderson stated that he does not believe that the Coopers knowing and willfully committed the violations of law.

Commissioner Henderson moved that the Coopers step down from the board for no longer than 10 years and a total fine of \$250 assessed to be paid within 30 days. Seconded by Commissioner Williams.

Mr. Cooper agreed.

Motion carried.

5G) NRED v. Max McCombs; and English Mill Condominiums Homeowners Association, for possible action

Case No. 2014-1179

Type of Respondent: Board Officer and Director

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Max McCombs was present.

Ms. Briggs stated that this is a status check. Ms. Briggs stated that the Commission issued an order at the last Commission meeting and found Mr. McCombs in default of the settlement

agreement. Ms. Briggs stated that Mr. McCombs provided documentation to the Division. Ms. Briggs stated that Mr. McCombs hired a management company.

Jamie Evans, community manager, was present.

Commissioner Henderson stated that he knows Ms. Evans but it will not affect his judgement.

The Commission reviewed the documents provided by Mr. McCombs.

Ms. Briggs stated that everything the Commission requested has been provided.

Chairman Burke moved that Mr. McCombs appear for a status update at the Commission meeting in August regarding the collection of assessments and on delinquent accounts. Seconded by Commissioner Layton. Motion carried.

**5H) NRED v. Hillcrest Community Association, Melanie Muldowney, Bernard Hirschboeck, Debbie Cooper, Nancy Meyers and Janet Falgiano, for possible action
Case No. 2017-1093**

Type of Respondent: Board Officer and Director

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Janet Falgiano was present.

Debra Cooper was present.

Julie Rogers was present.

Michael Graves was present.

Ms. Briggs stated that at the last Commission meeting there was an order issued removing three of the board members and having Ms. Cooper and Ms. Falgiano continue as board members. Ms. Briggs stated that Ms. Cooper and Ms. Falgiano were to appoint someone into the third position and hire a community manager.

Ms. Cooper presented the Commission with proof that all items ordered by the Commission have been completed.

Ms. Briggs stated that this matter does not need to come back before the Commission.

**5I) NRED v. Cimarron Ridge Association, Richard Shinn, Maggie Shinn and Jason Bishop, for possible action
Case No. 2017-1368**

Type of Respondent: Board Officer and Director

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Greg Dieffenbach was present representing Mr. Bishop.

Chairman Burke disclosed that he's had cases with Mr. Dieffenbach. Chairman Burke stated that it would not affect his judgement.

Ms. Briggs stated that Mr. Bishop has reached an agreement that the factual allegations and violations of law are proven as alleged.

Ms. Briggs stated the Commission issued an order for Maggie and Richard Shinn at the last Commission meeting. Ms. Briggs stated that the associations' case is still pending because the association is conducting an election.

Ms. Briggs stated that the settlement with Mr. Bishop is that Mr. Bishop agrees to step down from the board until the next election and will not be appointed to the board for a period of no less than 5 years. Mr. Bishop agrees not to serve as an officer before December of 2018.

Chairman Burke moved to accept the terms of the settlement. Seconded Commissioner Rizzi. Motion carried.

6) For Possible Action: Discussion and decision on date, time, place and agenda items for upcoming meeting(s).

Chairman Burke stated the next Commission meeting is June 19-21, 2018 in the South.

7) Public Comment

Garrett Roberts, community manager with CCMC, commented. Mr. Roberts asked how the Commission is made up.

Rand Terkel, supervisor community manager, recommended a three hour course for new board members.

8) For possible action: Adjournment

Meeting adjourned on March 6, 2018 at 3:23pm.

Respectfully,

Teralyn Thompson
Administration Section Manager

