

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM  
HOTELS MEETING MINUTES AUGUST 28, 2018**

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

**VIDEO CONFERENCE:  
DIVISION OF INSURANCE  
1818 E. COLLEGE PARKWAY  
CARSON CITY, NEVADA 89706**

**AUGUST 28, 2018**

**9:15 A.M.**

**1-A) Introduction of Commissioners in attendance**

In Las Vegas: James Rizzi, Charles Niggemeyer, Ken Williams, Richard Layton, Doris Woods, and Deputy Attorney General Asheesh Bhalla sitting as Commission Counsel.

In Carson City: Michael Burke and Ryan Henderson.

**1-B) Introduction of Division Staff in attendance**

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

In Carson City: Sharon Jackson, Deputy Administrator and Chris Cooke, Compliance Audit Investigator.

**2) Public Comment**

Jonathan Friedrich, former commissioner for the Commission for Common-Interest Communities and Condominium Hotels, commented. Mr. Friedrich stated that in late 2013 he raised a question regarding the Commission's authority under NRS 233B.120 to adopt their own advisory opinions concerning Chapter 116. Mr. Friedrich stated that at that time, the Attorney General's Office concluded pursuant to NRS 116.623 the Division, not the Commission has the sole duty and authority to issue advisory opinions as to the applicability of any statutory provision, agency regulation, or decision related to the Uniformed Common Interest Ownership Act. Mr. Friedrich stated that six commissioners were in attendance, three commissioners voted to repeal the motion and three voted to let it stand. Mr. Friedrich stated that the motion failed. Mr. Friedrich asked what has been done with the illegal advisory opinions.

Rana Goodman, resident of Sun City Anthem, commented. Ms. Goodman stated that she became active in homeowner association (HOA) life when Lindsay Waite was the Ombudsman. Ms. Goodman stated that when there was a problem in the HOA, the Ombudsman would conduct an informal conference. Ms. Goodman stated that this past year there was a lot of problems within

the Sun City Anthem Community and many residents signed petitions to have four members of the board removed. Ms. Goodman stated that the board decided to have an independent certified public accounting (CPA) firm handle the recall. Ms. Goodman stated that the CPA firm found that the signatures on the petition regarding one board member had fifty-five signatures of people that were not homeowners and that board member could not be removed based on those findings. Ms. Goodman stated those findings seemed incorrect and requested that the community manager provide Ms. Goodman with a copy of the signatures on the petition. Ms. Goodman stated that she researched every name on the petition through the assessor's office to confirm those names did own homes in Sun City Anthem. Ms. Goodman stated that she discovered fifty-two were homeowners. Ms. Goodman stated that she printed the list and filed a complaint with the Nevada Real Estate Division. Ms. Goodman stated that three weeks later she received the complaint back from the Nevada Real Estate Division stating her complaint was unsubstantiated. Ms. Goodman stated that the proof was enough to have a meeting with the investigator. Ms. Goodman stated that Sun City Anthem Association pays Nevada Real Estate Division \$4.00 a roof top times 7,144 homes, to represent the homeowners but every complaint that has been filed by homeowners throughout the last year has been returned as unsubstantiated. Ms. Goodman stated at the last legislative session there was talk of eliminating NRS 116. Ms. Goodman stated nobody represents the homeowner association.

Michael Kosor, resident of Southern Highlands Community Association, stated his pleas to the Commission have fallen upon deaf ears. Mr. Kosor stated that he was left with no alternative and filed an action against the Nevada Real Estate Division. Mr. Kosor stated there needs to be something to ensure that this Commission knows that complaints are being properly processed and brought before the Commission in an appropriate fashion. Mr. Kosor stated that the Commission is chartered to advise the Division, adopt regulations and conduct disciplinary hearings. Mr. Kosor stated he has been watching the Commission for a couple years and has not seen the Commission do anything but collect money. Mr. Kosor stated CC&R's are written before any homes are built and future owners and residents have no say in the contents. Mr. Kosor stated that legal experts tell homeowners that the CC&R's represent their contractual obligation to abide by their terms. Mr. Kosor stated many of the terms are clearly abusive. Mr. Kosor gave examples of unconstitutional provisions in statute. Mr. Kosor gave examples of abuse of annexation by developers. Mr. Kosor questions why developers are allowed to have employees on the HOA board. Mr. Kosor questions why developers are allowed to hire their own management company in addition to their board members. Mr. Kosor asked who is speaking up on behalf of the homeowners and telling developers what they can and cannot do. Mr. Kosor questions the limit on sanctions in CC&R's that make it almost impossible to go after a developer for improper acts. Mr. Kosor commented on the abuse of the supermajority rules which takes 75% to 80% of homeowner votes to challenge a developer. Mr. Kosor stated the representatives of his community are not representing him but are representing the developer.

### **3-A-2) Administrator's report on personnel and pending litigation**

Sharath Chandra presented a report on pending litigation:

- Pending Litigation Report- Status update Vistana Condominium Owners Association August 2017-The Commission heard the disciplinary case against Vistana Case # 2015-3373  
October 19, 2017-Vistana filed a petition for judicial review; board members are challenging the personal fines assessed against them.

November 2017-The Commission denied Vistana's appeal of the Commission's decision.  
February 2, 2018-Vistana filed a brief in District Court.

March 2, 2018-The Division filed its response to the brief.

April 4, 2018-Vistana filed a reply brief.

April 25, 2018-The Division's motion to submit newly discovered evidence was granted  
Pending Decision-Vistana filed a writ to challenge the court's order allowing newly  
discovered evidence; Vistana filed a motion to stay the court's order. The Supreme Court  
granted their motion to stay and all briefing to the Supreme Court has been filed.

- Pending Litigation Report-Margret Thayer case # 2016-1608  
In November 2017 The Commission heard the disciplinary matter regarding Margret Thayer. The Division's complaint against Ms. Thayer was for performing community management services for an association without a certificate from the Division. Ms. Thayer stipulated to the fact at the hearing and her contract was admitted. The Commission found her in violation of the law. Ms. Thayer filed a petition for judicial review on December 28, 2017 against the Division. The petition challenges the Commission's findings that Ms. Thayer performed the duties of a community manager without a certificate from the Division. The court granted the Division's motion to dismiss the petition for judicial review on April 10, 2018 for failing to name the Commission for Common-Interest Communities and Condominium Hotels as a party to the petition. Ms. Thayer filed an appeal with the Supreme Court and the case has been assigned to the settlement program, but was found not to qualify. The case proceeded with a scheduling order; Thayer's opening brief is due October 1, 2018.

### **3-A-1) Ombudsman report on personnel**

Charvez Foger updated the Commission with the new hires on his team:

- Antonio Brown- Training Officer
- Youngnetta Ruff – Nicholas- Accounting Assistant

### **3B) Ombudsman's report:**

Charvez Foger presented the Commission with this report.

### **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.

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

Charvez Foger presented the Commission with this report.

Chairman Burke asked Mr. Foger about the Alternative Dispute Resolution subsidy amount of \$62,251.

Mr. Foger explained that amount is pending.

**3-B-7) Ombudsman's report on Compliance Section's report**

Terry Wheaton presented the Commission with this report.

**3C) Licensee and Board Member Discipline Report**

Teralyn Thompson presented the Commission with this report.

**3D) Administrative Sanction Report**

Teralyn Thompson stated nothing to report.

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

Commissioner Williams stated there was a change in the report he received from the Controller's Office regarding the pursuit of delinquencies. Commissioner Williams stated that the change was the addition of Ms. Leslie White to the report. Commissioner Williams stated that the report was provided to the Commission.

Commissioner Williams stated that the State Controller's Office is cooperating with the efforts to collect the debts. Commissioner Williams stated a new computer system has made the process more efficient. Commissioner Williams stated that a BDR (Bill Draft Request) may not be needed with the improvements at the Controller's Office.

**4B) For possible action: Petition for consideration to change status of certificate from provisional community manager to full community manager pursuant to the Commission Order for Rosario Orozco Case # 2014-3723 and Case# 2014-3453 dated March 22, 2017.**

Rosario Orozco and her Supervising Community Manager (CAM) Ami Reynaga were present.

Commissioner Williams abstained from deliberating on this case because he is a former owner of CAMCO.

Commissioner Rizzi disclosed that he employs CAMCO on a number of properties, but feels he can be fair and unbiased.

Ms. Briggs read the Commission Orders for case numbers 2014-3453 and 2014-3723 into the record.

Ms. Orozco stated she has done her due diligence and acted within NRS 116.

Ms. Reynaga submitted a letter of recommendation to the Commission and spoke on Ms. Orozco's behalf.

Chairman Burke asked Ms. Briggs if she had a recommendation for the Commission.

Ms. Briggs stated that the decision is up to the Commission.

Commissioner Woods stated the order required Ms. Orozco to have a supervising community manager for twelve months, but Ms. Reynaga has only been supervising Ms. Orozco since January 2018. Ms. Woods asked Ms. Orozco when she became employed with CAMCO.

Ms. Orozco stated she became employed August 3, 2017.

Ms. Reynaga stated that Ms. Orozco had a different supervising community manager when she was hired in August of 2017. Ms. Reynaga stated that she became Ms. Orozco supervising community manager in January of 2018.

Commissioner Rizzi moved to re-instate Ms. Orozco full CAM certificate. Commissioner Layton second. Motion carried with Commissioner Williams abstained.

**4C) For possible action: Discussion and decision regarding election of officers for FY19**

Commissioner Williams moved that the Commission for Common-Interest Communities and Condominium Hotels officers remain the same for the Fiscal Year 2019.

Commissioner Niggemeyer seconds. Motion carried.

**4D) Discussion regarding Commissioners' speaking engagement requests.**

Commissioner Williams has been asked to speak at CAMEO's next board meeting in September 2018.

**4E) For possible action: Discussion and decision to approve minutes of June 19, 2018 Commission meeting.**

Commissioner Layton moved to approve the June 19, 2018 meeting minutes.

Seconded by Commissioner Niggemeyer. Motion carried.

**5A) NRED v. Pecos Creek Homeowners Association, Rodolfo Rocha, Omar Guerra and Ofelia Santos, for possible action**

**Case No. 2016-1949**

**Type of Respondent: Executive Board**

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

Jonathan Kelly, community manager with First Columbia Community Management Inc. (FCCMI), was present for the association.

Pecos Creek Homeowners Association's Treasurer Lacaramioara Stoian was present.

Commissioner Woods stated that FCCMI manages one of the properties that she owns but she feels she can be fair and unbiased.

Ms. Briggs stated that at the last meeting the Commission requested Mr. Kelly and the board members attend the next commission meeting. Ms. Briggs stated that the association was ordered to file an annual registration form and that was not completed. Ms. Briggs stated that the association filed another addendum. Ms. Briggs stated that the Commission ordered the association to update the Secretary of State with the current list of officers and directors and that was not completed. Ms. Briggs stated that the Commission ordered a draft audit and a final audit be provided to Ms. Briggs before August 21, 2018 and that was not completed.

Chairman Burke asked Mr. Kelly why the tasks had not been completed.

Mr. Kelly stated that he spoke to Heather who sent an email to the investigator. Mr. Kelly stated that to his knowledge the filing had been completed. Mr. Kelly stated that the Secretary of State filing is not due until December 2018.

Mr. Kelly commented on the forensic audit. Mr. Kelly stated that board president Sheryl Baca is working with the auditor to complete the task. Mr. Kelly stated that Ms. Baca requested an extension on the forensic audit.

Mr. Kelly referred to the documents given to the Commission regarding a reserve funding plan.

Chairman Burke asked Mr. Kelly about items on the Commission's order from June 2018. Mr. Burke asked Mr. Kelly if he had followed up by checking the Secretary of State's website.

Mr. Kelly stated he had not.

Mr. Burke asked Mr. Kelly if he had contacted the Division to confirm the Division received the information ordered by the Commission.

Mr. Kelly stated he had not.

Commissioner Rizzi asked Mr. Kelly if he provided Heather with new forms.

Mr. Kelly stated he provided new forms and received a confirmation that the Secretary of State had been updated.

Mr. Rizzi asked Mr. Kelly if he had a copy of the forms he submitted to Heather.

Mr. Kelly stated he did not.

Ms. Briggs stated she has a copy of what was submitted which was a registration filing addendum not a registration form.

Mr. Burke asked Mr. Kelly if Mr. Kelly contacted Ms. Briggs before August 21, 2018 concerning the audit.

Mr. Kelly stated he did not.

Mr. Burke asked Mr. Kelly why he did not make contact Ms. Briggs.

Mr. Kelly stated he may have sent an email yesterday.

Commissioner Henderson asked Ms. Briggs for a recommendation discipline.

Ms. Briggs stated the Division should open an investigation against the community manager.

Treasurer Lacaramioara Stoian stated she wanted the President and another board member to be present at the meeting.

Chairman Burke asked Ms. Stoian if Mr. Kelly instructed her on the findings of the last Commission meeting.

Ms. Stoian stated the whole board was instructed.

Chairman Burke asked if the board was made aware that a draft audit was due before August 21, 2018.

Ms. Stoian stated they were aware of the due date.

Chairman Burke asked what Mr. Kelly did to have the draft audit completed before August 21, 2018.

Ms. Stoian stated that Sheryl Baca is working on the draft audit.

Commissioner Henderson asked Ms. Stoian if the other board members knew they were supposed to be present.

Mr. Kelly stated that the board members were notified.

Ms. Stoian asked the Commission for an extension so the board can prepare properly.

Commissioner Henderson stated that extensions have run out.

Commissioner Williams asked Mr. Kelly why the other board member were not present.

Mr. Kelly stated that Ms. Baca is out of the country and he is unsure of the status of Mr. Dionne.

Commissioner Layton asked how many board members are associated with Pecos Creek.

Ms. Stoian stated there are three board members.

Commissioner Layton stated he was reading that a fourth board member could not attend this meeting. Commissioner Layton asked if Pecos Creek is supposed to have a five-member board.

Mr. Kelly answered no. Mr. Kelly stated that Ofiela Santos resigned from the board two weeks prior to this Commission meeting.

Ms. Briggs stated Pecos Creek is supposed to have a five member board.

Commissioner Layton stated that the funding plan that was circulated needs to be reevaluated because there are negative balances. Commissioner Williams stated he does not think this association has had very good guidance.

Commissioner Woods asked who is conducting the audit.

Mr. Kelly stated that Piercy Bowler Firm is conducting the audit.

Commissioner Rizzi moved that Pecos Creek HOA is in non-compliance with the new filing with the Secretary of State, completing the audit, filing an annual registration form and having a true funding plan. Commissioner Rizzi moved that the board appear at the next Commission meeting and provide the missing documents.

Commissioner Rizzi stated that he will not support another continuance.

Commissioner Layton seconds the motion. Motion carried.

**5G) NRED v. Diamond Creek Homeowners Association, for possible action**

**Case No. 2017-1826**

**Type of Respondent: Board Members and Officers**

Edwina Daly, community manager, was present.

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

Ms. Briggs stated that this case was continued from the last meeting because the manager and board member could not report on the financial status of the community. Ms. Briggs stated the reserve study was provided to her, but she does not know if the maintenance that was supposed to be completed was done the year that the board was not performing their duties.

Ms. Daly stated that the auditor, Linda North, has asked for bank reconciliations. Ms. Daly stated she cannot provide bank reconciliations because there were no records after May 2017. Ms. Daly stated that the accounting department is trying to recreate the financials. Ms. Daly stated that the auditor says she cannot finish the audit.

Commissioner Williams asked if this is because the records were not transferred from the last management company.

Ms. Daly stated the records were transferred but there are no records after May of 2017.

Ms. Daly reported on the financial status of the ~~community.~~

~~Mscommunity.~~ Ms. Daly stated the reserves are over funded, partially because the maintenance has not been completed. Ms. Daly stated that the board has no intention of reducing any amounts and will continue to follow the reserve study.



Commissioner Williams asked if the association follows the reserve study will it still be over funded.

Commissioner Rizzi asked if there are other issues that may not have been addressed yet.

Ms. Daly stated they will still be over funded, because the reserve study calls for gate operating equipment, stucco and fencing all of which are not in need of repair at this time.

Commissioner Williams asked Ms. Briggs for a recommendation.

Ms. Briggs stated she would like a report back on the audit and how successful they are at re-creating the records.

Commissioner Layton stated the challenge will be with the homeowners who paid their assessments. Commissioner Layton stated that is what is holding up the audit. Commissioner Layton recommended sending statements to the homeowners and let the homeowners resolve disputes the best they can.

Ms. Daly stated she sent notices and receive many residents' responses with their records of payment. Ms. Daly stated that the accounting department is still unraveling the responses.

Commissioner Williams motioned that Ms. Daly report back to Ms. Briggs with an update in 90 days and report back to the Commission meeting for status check in 180 days.

Commissioner Layton seconds. Motion carried.

**5C) NRED v. Max McCombs; and English Mill Condominium Homeowners Association, for possible action**

**Case No. 2014-1179**

**Type of Respondent: Board Officer and Director**

Max McCombs was present

Jaime Evans, community manager, was present.

Robert Hughes with PMI Reno, was present.

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

Ms. Briggs stated that the Order from March 2018 ordered a status update regarding the reserve assessment.

Mr. McCombs stated the collection efforts are going well. Mr. McCombs stated that one delinquency has been sent to Gail Kerns Law Firm to start the collection process.

Mr. McCombs stated the board has adopted a collection policy and will ratify the collection process at the September 5, 2018 meeting.

Chairman Burke asked what amount is owed by the delinquent unit.

Mr. McCombs stated over \$10,000 dollars in assessment fees. Mr. McCombs stated that there are two individuals that owe \$1,000 dollars. Mr. McCombs stated that one of those individuals questioned the amount of \$54.83 that is being used to fund the reserves.

Ms. Briggs asked- Ms. Evans if Mr. McCombs units are current.

Ms. Evans stated she will send Ms. Briggs the financial statements.

Ms. Briggs stated the other issue is that the annual registration form has not been submitted to the Division.

Ms. Evans stated she has the annual registration form with her.

Ms. Briggs asked if the only board members are Max McCombs and his wife.

Ms. Evans stated at the June meeting there were three board members, but the third member resigned, leaving Mr. McCombs and his wife as the remaining board members.

Mr. McCombs stated there is another homeowner that will be appointed at the September 2018 meeting.

Ms. Briggs stated there should be an effort to create a three member non related board.

Chairman Burke moved that notices be sent to the community seeking new board members within 30 days, hold an election within 90 days and report back to the Commission with the status within 180 days.

Commissioner Williams seconds the motion.

Commissioner Rizzi moved to amend the motion by adding the financial statements be sent directly to Ms. Briggs.

Commissioner Layton moved to amend the motion by adding a status update on the past due account collection efforts.

Commissioner Burke restated the motion that notices be sent to the community seeking new board members within 30 days, hold an election within 90 days, and report back to the Commission with the status of the collection efforts and the financial statements within 180 days to be sent to Ms. Briggs.

Commissioner Williams seconded the motion. 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 November 6-8, 2018 in the South.

Commissioner Williams stated that he would like the State Controller agenda item on the next meeting agenda.

Commissioner Henderson stated that he would like to discuss an investigation of the management company that manages Pecos Creek.

**7) Public Comment**

Byron Goetting, reserve study specialist, commented. Mr. Goetting stated that he would like to change Reserve Study Summary Form 609 and suggested a workshop.

**9) For possible action: Adjournment**

Meeting adjourned on August 28, 2018 at 11:27 a.m.

Respectfully,

Samuel Williams  
Commission Coordinator

NOT APPROVED BY COMMISSION