

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES MAY 19, 2020**

**VIRTUAL MEETING
MAY 19, 2020
9:00 A.M.**

1-A) Introduction of Commissioners in attendance

Michael Burke, James Rizzi, Charles Niggemeyer, Richard Layton, Tonya Gale and Deputy Attorney General Asheesh Bhalla sitting as Commission Counsel.

1-B) Introduction of Division staff in attendance.

Sharath Chandra, Administrator; Perry Faigin, Deputy Administrator; Charvez Foger, Ombudsman; Terry Wheaton, Chief Compliance Audit Investigator; Teralyn Lewis, Administration Section Manager; Kelly Valadez, Commission Coordinator; Monique Williamson, Education and Information Officer; Antonio Brown, Training Officer; Christy Staffen, Compliance Audit Investigator.

Deputy Attorneys Michelle Briggs and Karissa Neff representing the Division.

2) Public Comment

Kerri Hawkins with Cameo stated the virtual meeting's audio was broken up, lagging and making it difficult to hear.

3-A) NRED v. Sherryl Baca, for possible action

Case Nos. 2018-660 & 2018-812

Type of Respondent: CAM.0001439-SUPR

Michelle Briggs was present representing the Division.

Sue Cavaco was present representing Ms. Baca.

Sherryl Baca was present.

Ms. Briggs stated that Ms. Baca had requested a continuance on May 18, 2020. Ms. Briggs stated that the Division has no problem with the continuance. Ms. Briggs stated that the issue was with documents that had been requested several times from Ms. Cavaco and not provided.

Ms. Cavaco stated that the discovery and depositions that were afforded Ms. Baca during the last Commission meeting had been completed. Ms. Cavaco stated that she and Ms. Baca were reviewing and comparing the current documents from the new management company with Ms. Baca's management company's records. Ms. Cavaco stated Ms. Baca desired to appear in person before the Commission and not by virtual meeting.

Ms. Briggs stated that documents produced during discovery were requested and supposed to be provided to the Division when Ms. Cavaco received them prior to the Commission meeting and were not.

Ms. Cavaco stated that the education that was ordered for Ms. Baca was almost complete but slowed because of cancellations due to the pandemic. Ms. Cavaco requested more time to allow Ms. Briggs and the Commission to review the evidence provided.

Ms. Briggs stated that the purpose of giving Ms. Cavaco the time to do the discovery was to

gather the evidence and provide it to the Division. Ms. Briggs stated that Ms. Cavaco has been in possession of the documents since February and has not provided documents to the Division. Ms. Briggs stated that the Division is requesting that documents be provided to the Division by the end of this week.

Chairman Burke stated that Ms. Cavaco should not be picking through the documents and choosing which documents to introduce into evidence. Chairman Burke stated all documents received should be given to the Division.

Ms. Cavaco stated 30 boxes were received and Ms. Cavaco went through the boxes to gather only the documents that pertained to Ms. Baca. Ms. Cavaco stated that those documents had been sent to Division counsel last night. Ms. Cavaco stated that the deadline of the end of this week was unreasonable. Ms. Cavaco stated that she could provide the requested documents 30 days prior to the next hearing. Ms. Cavaco stated that because of her own health concerns, self-quarantining and circumstances out of her control; more time should be given.

Ms. Briggs stated that an email from Ms. Cavaco's assistant stated documents sent were incorrect and the correct documents would be sent later. Ms. Briggs requested that the Commission set a deadline to produce the documents to the Division.

Chairman Burke made a motion that Ms. Baca's two cases would be continued until the August 4-6, 2020 Commission meeting and no other continuances would be granted. Chairman Burke motioned that Ms. Cavaco would turn over all documents, witness list and affidavits no later than June 30, 2020. Seconded by Commissioner Layton. Motion carried.

Chairman Burke asked that Ms. Cavaco get all documents to Ms. Briggs on time or it will not be considered at the hearing.

3-B) NRED v. Belcourt Owners Association, Angela Berliner, Marcia Creamer, Jesse Zambrano, and John Carter, for possible action

Case No. 2018-172

Type of Respondent: Board Members

Michelle Briggs was present representing the Division.

Ms. Briggs stated that there was a stipulation and order to continue.

The Commission was provided with a copy of the stipulation and order to continue.

Chairman Burke moved to approve the stipulation and order to continue dated May 18, 2020 based on the terms stated in the stipulation. Seconded by Commissioner Rizzi. Motion carried.

3-C) NRED v. The Colony, Luis Villareal, Alan Mehr, Allen Nichols, and Marc Morger, for possible action

Case No. 2018-1058

Type of Respondent: Board Members

Michelle Briggs was present representing the Division.

Allen Nichols was present for The Colony.

Chairman Burke stated that respondent Alan Mehr was granted a continuance.

Chairman Burke stated that the case at this time would be for all respondents except for Alan Mehr.

Ms. Briggs stated that there was an answer submitted by Luis Villareal.

The Commission was provided with a copy of Mr. Villareal's answer to the complaint.

Chairman Burke stated that based on Mr. Villareal's affidavit no other evidence was needed.

Ms. Briggs asked that States Exhibits 1 – 124 be admitted into the record.

The Commission was provided with State Exhibits 1 – 124.

Chairman Burke asked if there were any objections from the Commission or Mr. Nichols to State's Exhibits 1 – 124 being admitted into evidence.

No objections were noted.

Mr. Nichols stated that Luis Villareal was the person who handled everything with The Colony. Mr. Nichols stated that Luis Villareal stated he would be present today to handle all the answers to the complaint and documents. Mr. Nichols stated that he did not handle any monies or distribution.

Chairman Burke moved to admit State Exhibits 1 – 124 into evidence. Seconded by Commissioner Layton. Motion carried.

Chairman Burke stated that the statement made by Mr. Villareal was an admission taking full blame for the non-compliance of the association.

Ms. Briggs stated that the case was brought before the Commission to bring The Colony into compliance. Ms. Briggs stated that the Division was requesting that The Colony be required to hold an election, hire a community manager and report back to the Commission in August on the association's progress.

Chairman Burke stated that the complaint was sent to all respondents listed and asked if the Division was asking for defaults against the other Board members for not submitting an answer to the complaint.

Ms. Briggs answered no. Ms. Briggs stated that Mr. Villareal had responded and admitted to the allegations. Ms. Briggs asked that the allegations be taken as true and that the violations have occurred. Ms. Briggs asked that an order be issued to bring the association into compliance.

Chairman Burke moved that the factual allegations and violations of law as to the entity The Colony and Mr. Villareal have been proven. Seconded by Commissioner Rizzi. Motion carried.

Chairman Burke moved to make a finding that the respondent Alan Mehr was granted a continuance until the August meeting and The Colony's respondents, Mr. Villareal, Mr. Nichols and Mr. Morger's hearing will be continued until the August meeting. Seconded by Commissioner Rizzi. Motion carried.

Ms. Briggs stated that the Colony was in default status. Ms. Briggs stated that the Division recommends that the current board members for The Colony work with the Division to become compliant and hire a community manager.

Chairman Burke moved that The Colony through any current board members hire a community manager on or before July 15, 2020. Seconded by Commissioner Gale. Motion carried.

Chairman Burke asked Mr. Nichols who were the current board members for The Colony.

Mr. Nichols stated that the board members are the same as the board members listed in the

complaint. Mr. Nichols asked if the association would be given the opportunity to correct the issues before having to hire a community manager.

Chairman Burke stated that based on Mr. Villareal's affidavit and Mr. Nichols prior statement that Mr. Villareal does everything. Chairman Burke stated that having the board try to step up now to rectify the situation seemed an impossible task. Chairman Burke stated that the association would be better served by hiring a community manager.

Chairman Burke moved that The Colony, through its current board members other than Mr. Villareal, retain a community manager on or before July 15, 2020 and have that community manager report to the Division ahead of the August meeting. Seconded by Commissioner Gale. Motion carried.

Commissioner Layton stated that he had concerns and felt it was critical that once the community manager was in place that The Colony have a reserve study and audit conducted showing where the association stands.

Chairman Burke agreed and stated that the first necessary step should be to hire the community manager and the reserve study and audit could be the next order considered at the August meeting.

Commissioner Gale stated that the task of hiring a community manager should be updated at the August Commission meeting and the community manager could be assigned tasks and deadlines for other items to be completed moving forward.

Chairman Burke moved to amend the motion that The Colony, through its current board members other than Mr. Villareal, to obtain a community manager on or before July 15, 2020, and the community manager is to report to the Division between his or her retention and the August Commission meeting. Commissioner Gale seconded. Motion carried.

3-D) NRED v. Gerald Marks, for possible action

Case No. 2018-952

Type of Respondent: CAM.0000086-SUPR

3-E) NRED v. Gerald Marks, for possible action

Case No. 2018-978

Type of Respondent: CAM.0000086-SUPR

3-F) NRED v. Gerald Marks, for possible action

Case No. 2019-409

Type of Respondent: CAM.0000086-SUPR

Commissioner Burke stated Mr. Gerald Marks was granted a continuance for all three cases until the next Commission meeting.

3-G) NRED v. Michael Skahill, for possible action Case No. 2018-1026

Type of Respondent: CAM.0007489-SUPR

Karissa Neff was present representing the Division.

Michael Skahill was present.

Karissa Neff stated that Mr. Skahill did not respond to the complaint that was filed February 12, 2020 and a default was served on Mr. Skahill May 1, 2020.

State's Witness

Kelly Valadez testified regarding service of the complaint.

Chairman Burke asked Mr. Skahill if he disputed receiving the complaint.

Mr. Skahill stated that there was no dispute.

Chairman Burke asked Mr. Skahill if he disputed that he did not respond to the complaint.

Mr. Skahill stated that he did not dispute not responding but that he didn't realize he need to respond with an answer. Mr. Skahill stated that when he inquired about the March meeting and was told the meeting was cancelled, Mr. Skahill thought the cancellation of the meeting meant he no longer needed to reply with an answer to the complaint at that time.

Chairman Burke asked if Mr. Skahill desired to respond to the complaint.

Mr. Skahill responded yes.

Ms. Neff stated the Division asks that the default be entered against Mr. Skahill and since Mr. Skahill is present that the hearing proceed.

Commissioner Gale stated that Mr. Skahill was offered several times to provide documentation to the Division and Mr. Skahill did not. Commissioner Gale moved to find Mr. Skahill in default for failure to respond to the complaint. Seconded by Commissioner Rizzi. Motion carried.

Chairman Burke moved to find the factual allegations in the complaint deemed to be proven. Seconded by Commissioner Gale. Motion carried.

Chairman Burke moved to find the violations of law based upon the facts in the complaint to have been proven. Seconded by Commissioner Gale. Motion carried.

Karissa Neff stated that the Division recommended that Mr. Skahill be fined \$1,500 and that Mr. Skahill reimburse the Division fees and cost of \$1,646.60 within 60 days. Ms. Neff stated that Mr. Skahill must provide to the Division his management agreement with the association, Mr. Skahill's correspondence with the association, cancelled checks from the association from January 1, 2017 to the present, and the governing documents for the association within 45 days of the effective date of the order. Ms. Neff stated that Mr. Skahill be fined \$10,000 if he failed to provide the documents requested by the due date.

Commissioner Layton stated that he had concerns and didn't want to see Mr. Skahill penalized if the financial institution delayed in producing the requested statements and cancelled checks making it difficult for Mr. Skahill to comply within the 45-day timeframe. Commissioner Layton suggested that if Mr. Skahill could provide proof to the Division showing correspondence with the financial institution that Mr. Skahill was trying to obtain the records and a response from the bank of when the information can be provided it would show good faith and that Mr. Skahill was trying to comply.

Chairman Burke moved that Mr. Skahill be fined \$1,500 and Division fees and cost of \$1,646.60 within 60 days, that Mr. Skahill must provide his management agreement and correspondence with the association, the cancelled checks and bank statements for the association from January 1, 2017 to the present or proof of Mr. Skahill's attempt and correspondence with the financial institution to obtain those records, and Mr. Skahill provide the Division with the governing documents for the association within 45 days of the effective date of the order. Chairman Burke also included in this motion that if Mr. Skahill fails to comply or produce the documents requested within the 45 days, Mr. Skahill will be fined \$10,000 and the revocation of Mr. Skahill's license until he complies with the document production. Seconded by Commissioner Layton. Motion carried.

**3-H) NRED v. Silverstone Ranch Community Association, Thomas Masson, Chrisa Chen, Colleen Malany, Katrina Townsend, Frank Anderson, and William Walter, for possible action
Case No. 2018-1322**

Type of Respondent: Board Members

Michelle Briggs was present representing the Division

William Wright was present representing Silverstone Ranch Community Association.

Chairman Burke stated that Katrina Townsend had been granted a continuance until the next scheduled Commission meeting in August.

Ms. Briggs stated that there are two partial settlements. Ms. Briggs stated there is a partial settlement for the Board members and a partial settlement for Silverstone Ranch Association.

Chairman Burke moved to approve the stipulation for Silverstone Ranch Community Association. Seconded by Commissioner Layton. Motion carried.

Ms. Briggs stated there was a partial settlement for the Board members except for Katrina Townsend. Ms. Briggs read the partial settlement into the record that pertained to Thomas Masson, Chrisa Chen, Colleen Malany, Frank Anderson, and William Walter.

Chairman Burke moved to approve the stipulation as read into the record. Seconded by Commissioner Rizzi. Motion carried.

3-I) NRED v. Lisa Tufano, for possible action

Case No. 2018-977

Type of Respondent: CAM.0008712

Chairman Burke stated that Lisa Tufano had been granted a continuance until the next scheduled Commission meeting in August.

**3-J) NRED v. Vistana Condominium Owners Association, Carlos Aguirre, Victor Chill, John Rhodes, and Linda Williams, for possible action
Case No. 2019-89**

Type of Respondent: Board Members

Michelle Briggs was present representing the Division.

Michelle Briggs stated there was a settlement in this matter.

The Commission was provided with a copy of the settlement.

Chairman Burke moved to approve the Vistana Condominium Owners Association settlement. Seconded by Commissioner Gale. Motion carried.

4-A) Administrator's Report

Sharath Chandra provided the Commission with this report. Mr. Chandra stated that the Division's biggest challenge has been to get Commission positions filled.

Mr. Chandra stated that the Real Estate Division is closed to the public. Mr. Chandra stated even though most employees are telecommuting, the Division is fully operational and conducting business and licensing daily. Mr. Chandra stated that one of the disadvantages of being closed to the public is that all the education classes have been moved to on-line but that the Education section is doing amazing work by engaging homeowners and associations.

Mr. Chandra stated that the Real Estate Division is still waiting for a directive from the governor with the next steps to re-opening to the public. Mr. Chandra stated that because of the current situation there will be significant revenue declines. Mr. Chandra stated that the advantage for the Ombudsman's office is the fact that it is self-funded.

4-B-1) Ombudsman's Report on Intervention Affidavits

4-B-2) Ombudsman's Report on Informal Conferences

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

4-B-4) Ombudsman's Report on auditor report

4-B-5) Ombudsman's Report on alternative dispute resolution program

4-B-6) Ombudsman's Report on education and training officer's report

4-B-7) Ombudsman's Report on Compliance section report

Charvez Foger provided the Commission with these reports in the meeting packet.

4-C) Licensee and board member discipline report

Teralyn Lewis provided the Commission with this report in the meeting packet.

4-D) Administrative sanction report

Teralyn Lewis stated that there was nothing to report.

5-A) Discussion regarding the changes, additions and deletions to NAC 116, NAC 116A or NAC 116B including but not limited to: NAC 116.410, 116B.160 and NAC 116.465.

The Commission was provided with the proposed regulation changes, additions, and deletions.

Sharath Chandra stated that this agenda item is notice that the Division is considering proposed regulation changes. Sharath Chandra stated this is the first step in the rulemaking process.

Commissioner Rizzi moved to proceed forward with the proposed language changes to the regulations. Seconded by Commissioner Gale. Motioned carried with Commissioner Layton abstaining because he could not locate the document.

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

Commissioner Niggemeyer reported on this item. Commissioner Niggemeyer provided the Commission with a report from the Controller's Office. Commissioner Niggemeyer stated that this report was from the March meeting packet and that nothing had changed. Commissioner Niggemeyer stated that this would be a standing agenda item.

5-C) Discussion regarding Commissioner's speaking engagement requests.

The Commission stated there was nothing to report.

5-D) Discussion and decision to approve minutes of December 3, 2019 Commission meeting.

Commissioner Rizzi made a motion to approve the December 3, 2019 meeting minutes. Seconded by Commissioner Layton. Motion carried.

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

Next Commission meeting scheduled for August 4-6, 2020.

7) **Public Comment**

No public comment.

8) **Adjournment**

The meeting adjourned on May 19, 2020 at 11:00 a.m.