

From: [Michael Kosor](#)
To: [Kelly Valadez](#)
Subject: Fwd: Case #2021-471 "cannot be substantiated"
Date: Sunday, August 22, 2021 2:28:22 PM

Kelly

Please add the email exchange below to the information I had previously requested be presented to Commissioners before the Aug 31 meeting. As a reminder per our conversation, please send me virtual access to the Commission meeting and the agenda when it is released. I sure wish the information previously provided and items like this were made agenda items by Commissioners.

The exchange below goes to supports my allegations the Division and Ombudsman's Office are failing to comply with their consumer protection roles Nevada legislators have mandated.

It demonstrates how senior NRED officials are in effect blocking the CIC Commission from engaging on complaint affidavits were "good cause" exists. A investigator, without justification or accountability, simply finds a complaint "unsubstantiated". It also demonstrates an example of how NRED policy/interpretations are being withheld from Commission coordination and approval.

You or any Commissioner should feel free to contact me with questions.

Respectfully,

Mike
843-639-1701

-----Original Message-----

From: Michael Kosor <mkosor@aol.com>
To: cfoger@red.nv.gov <cfoger@red.nv.gov>
Cc: TWheaton@red.nv.gov <TWheaton@red.nv.gov>; schandra@red.nv.gov <schandra@red.nv.gov>
Sent: Thu, May 20, 2021 2:39 pm
Subject: Re: Case #2021-471 "cannot be substantiated"

Mr Charvez

I have written to Mr. Wheaton (see below). I called your office when I received no response. Certainly, I'd appreciate **HIS** explanation and will look forward to speaking to him.

To be clear, I was not trying to dictate your schedule. I called asking for a discussion via phone or in person at your availability. Lets be honest, you and/or your assistant attempted to simply dismiss me.

My email expressed concern that you, as the public regulator specifically established to address owner issues, was unable or unwilling to meet or even discuss the lack of an explanation by Mr Wheaton- something I see as a mandate under the law. But maybe here too, we disagree?

To my knowledge we have not discussed this issue in this case previously and certainly not "on numerous occasions". I am afraid you are conflating other NRED actions/case closures related to different affidavits by me or others.

With all due respect, your opinion as to what "options" an HOA *should* have, while important, is not the standard I would have expected any affidavit investigated. The statutes and the associated 2011 NRED Opinion I used (constructed apparently attempting to clarify the poorly written applicable language on the subject) is and should be controlling. This is something your position expressed below appears to be in conflict.

A citizen that takes the time and effort to submit in good faith an affidavit, arguably as intended by our legislators, deserves a response explaining why his/her affidavit was rejected. No bid contracting, even when not repeatedly awarded to an entity affiliated with the appointed board members as was done in this case, is widely forbidden given. Doing so can obviously lead to abused. But here again, it appears we have a disconnect and I seek an explanation.

I look forward to speaking with Mr Wheaton.

Have a good day.

-----Original Message-----

From: Charvez Foger <cfoger@red.nv.gov>

To: Michael Kosor <mkosor@aol.com>

Cc: Terry Wheaton <TWheaton@red.nv.gov>; Sharath Chandra <schandra@red.nv.gov>

Sent: Thu, May 20, 2021 1:15 pm

Subject: RE: Case #2021-471 "cannot be substantiated"

First of all Mr. Kosor. You can't dictate to me when my schedule is free and I do understand my responsibilities as the Ombudsman.

We have discussed this case before as this is your second or third time filing this in our office. This matter has been discussed on numerous occasions. They did not go out to bid. Therefore there was no need to solicit two additional bids. HOA's should have the option of selecting a vendor based on their previous professional relationship.

We will not be sending you another letter explaining why you did not get an explanation to your satisfaction. We believe that the statute, NRS 116.757 is sufficient. Mr. Wheaton would be more than happy to call you today to discuss **(HIS)** decision to close your case if this is something you are opened to.

Have a great day.

From: Michael Kosor <mkosor@aol.com>

Sent: Thursday, May 20, 2021 12:29 PM

To: Charvez Foger <cfoger@red.nv.gov>

Cc: Terry Wheaton <TWheaton@red.nv.gov>; Sharath Chandra <schandra@red.nv.gov>

Subject: Fwd: Case #2021-471 "cannot be substantiated"

Mr Foger

Today, I attempted to schedule a phone call with you to understand why Mr. Wheaton closed case #2021-471. His letter provided no explanation as to what in my complaint "could not be substantiated".

I was instructed by your assistant you were "not available until at least mid-June" (not even a phone call) and an appointment could not be scheduled at this time.

Below is the an excerpt from the NRED Ombudsman web page.

The Ombudsman for Owners in Common-Interest Communities and Condominium Hotels shall:

- Assist in processing claims submitted to mediation or arbitration pursuant to [NRS 38.300](#)

to 38.360, inclusive;

- Assist owners in common-interest communities to **understand their rights and responsibilities as set forth in this chapter** and the governing documents of their associations, including, without limitation, publishing materials related to those rights and responsibilities;
- Investigate disputes involving NRS 116, NRS 116B, or the governing documents of an association, and **assist in resolving such disputes**;
- Assist persons appointed or elected to serve on executive boards of associations to carry out their duties; and
- Compile and maintain a registration of each association organized within the state which includes, without limitation:

I ask, how exactly has your office assisted me in understanding my rights and/or assisted in resolving my dispute? I argue it has not.

I continue to seek an appointment with your office to avail myself of your assistance mandated under the law- that of understanding my rights.

Respectfully

Mike Kosor

-----Original Message-----

From: Michael Kosor <mkosor@aol.com>

To: twheaton@red.nv.gov <twheaton@red.nv.gov>

Cc: cfoger@red.nv.gov <cfoger@red.nv.gov>

Sent: Tue, May 18, 2021 6:09 pm

Subject: Case #2021-471 "cannot be substantiated"

Mr. Wheaton

I received your May 17, 2021 letter wherein you assert the "investigation" of my affidavit (Case No 2021-471- alleging the failure of SHCA to solicit bids prior to renewing its management contract with the declarant's company) found "...my allegation cannot be substantiated...". Yet, none of the facts I presented were disputed by SHCA in its responds to my complaint nor did your investigator note finding any.

Per the Division's own opinion, 11-02, dated September 01, 2011, my affidavit clearly represented the undisputed fact 1) the recently approved SHCA management contract was awarded without soliciting bids. Notably, I assert bids have not been solicited for many years despite multiple renewals. 2) Soliciting of bids by the board was "practicable". It was "performable, feasible" and "possible" - "the standard to which the application of the term ("when practicable") will be defined and measured" (see opinion 11-02).

I ask, what set of facts did your investigation find not substantiated?

The Office of the Ombudsman reviewed the affidavit and forwarded it to your section for investigation. Your response provides no justification for your determination to close my case. Instead, you saw fit to highlight NRS 116.757.

I will remind you NRS 116.757 does not preclude you from explaining why you found my affidavit unsubstantiated. A citizen that takes the time and effort to submit in good faith an affidavit, arguably as intended by our legislators, deserves a response explaining why his/her affidavit was rejected. This can be easily done without violating NRS 116.757- what was not provided.

I will also remind you NRS 116.765 requires your investigation “*determine whether good cause exists to proceed with a hearing on the alleged violation*” (underline added). Not act as judge and jury. It is the Commission, per NRS 116.780, that is tasked to “render a final decision on the merits of the complaint”. Not the Division or your investigator.

The statute requires the Administrator file a formal complaint with the Commission unless you make a determination no good cause exists. But you make no such determination.

I ask for a hearing under the statutes or the justification as to why the Division found "my allegations cannot be substantiated" and my affidavit closed.

Sincerely,

Mike Kosor