

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES JUNE 1, 2021**

**VIRTUAL MEETING
JUNE 1, 2021
9:05 A.M.**

1-A) Introduction of Commissioners in attendance

Michael Burke, Charles Niggemeyer, Richard Layton, Tonya Gale, Phyllis Tomasso, Patricia Morse Jarman, James Bruner and Deputy Attorney General Asheesh Bhalla sitting as Commission Counsel.

1-B) Swearing in of newly appointed Commissioner

Chairman Burke swore in Commissioner James Bruner.

1-C) Introduction of Division staff in attendance

Sharath Chandra, Administrator; Charvez Foger, Ombudsman; Terry Wheaton, Chief Compliance Audit Investigator; Kelly Valadez, Commission Coordinator; Evelyn Pattee, Commission Coordinator; Monique Williamson, Education and Information Officer; Antonio Brown, Training Program Officer; and Gary Little, Training Program Officer.

Senior Deputy Attorney General Karissa Neff representing the Division.

2) Public Comment

Michael Kosor, homeowner in Las Vegas, stated that he alleges that the Nevada Real Estate Division is selectively and arbitrarily blocking aggrieved homeowners' access to the Commission. Mr. Kosor stated that he submitted a complaint intervention affidavit earlier this year that was recently closed by the Division because the Division found his allegations could not be substantiated. Mr. Kosor stated that he was given no other explanation or supporting information. Mr. Kosor stated that in his opinion, the findings of the Division were flawed and blocked his access for the Commission's consideration and determination of his complaint. Mr. Kosor stated that the Commission was established by legislation in 2003 and empowered to settle disputes that concern homeowners' associations, and it should be a valuable process to owners but can only work if disputes reach the Commission.

**3-B) NRED v. The Colony, Alan Mehr, Allen Nichols, and Marc Morger, for possible action
Case No. 2018-1058**

Type of Respondent: Board Members

Karissa Neff was present representing the Division.

Chryl Christian, community manager with Performance CAM was present.

Ms. Neff stated that this case is a status update. Ms. Neff stated that during the October 27, 2020 Commission meeting, the Commission ordered that the community manager attend the February 2-4, 2021 meeting to report on the financial condition of the association including the progress with getting a reserve study done. The report of the financial condition of the association was to be provided to Division's attorney one week prior to the February 2-4, 2021 meeting. Ms. Neff stated that Chryl Christian with Performance CAM, LLC appeared at the February 2, 2021

meeting, but Ms. Christian did not provide the financial information one week prior to the meeting. Ms. Neff stated that during the February 2, 2021 meeting, the Commission further ordered Ms. Christian to attend the June 1-3, 2021 meetings and report the financial condition, along with any progress on getting a reserve study and provide this information to the Division's counsel one week prior to the Commission meeting. As of today's meeting, Ms. Neff stated she had not received any updates from Ms. Christian.

Ms. Christian stated that the reserve study was completed and sent to the Division and that an email was sent to Ms. Briggs with the information prior to a week before today's meeting. Ms. Christian stated that the association has completed a reserve study, a budget, and increased their monthly regular assessments to \$200 a month to keep up with the operating account. Ms. Christian stated that a \$600 reserve assessment was set in place for this year that was ratified on April 29th and is being paid toward building up the reserve account because the reserve needs to be close to three million dollars. Ms. Christian stated that she will re-send the information if Ms. Briggs did not receive the email.

Ms. Neff stated that she would ask that the Commission order Ms. Christian to provide the information to Ms. Briggs and herself and continue the status checks to make sure that Division's counsel receives the information.

Ms. Christian stated that she would request that the Commission keep the association on status check because the new board members are questioning the process after being self-managed for so long. Ms. Christian stated that if the status checks do not continue, the association may go back to status quo.

Chairman Burke stated that he would like to keep The Colony on the agenda and have Ms. Christian attend the August 31-September 2, 2021 Commission meeting and that Ms. Christian send an email to Ms. Neff and Ms. Briggs today with the reserve study and accompanying documents.

All the Commissioners agreed with Chairman Burke.

Chairman Burke moved to continue this matter until the next scheduled Commission meeting on August 31, 2021 and require Ms. Christian to provide proof of an email to Ms. Briggs and Ms. Neff by the end of day today with the reserve study and accompanying documents. Chairman Burke further ordered that Ms. Christian appear before the Commission meeting scheduled for August 31-September 2, 2021 to give a status update of the reserve study, assessment payments and status of the new board members and how they are cooperating with what needs to be done. Seconded by Commissioner Layton. Motion carried.

3-D) NRED v. Denise Vargas, for possible action

Case No. 2019-817

Type of Respondent: CAM.0007333-SUPR (Active)

Karissa Neff was present representing the Division.

Denise Vargas was not present.

Ms. Neff stated that this case has been continued until the next scheduled Commission meeting.

Chairman Burke stated that this matter will be continued until the next scheduled Commission meeting.

4-A) Petition for rehearing: for possible discussion and possible action by the Commission

NRED v. James Melvin Fennell

Case No. 2019-1083

Type of Respondent: Provisional Community Manager

License#: CAM.0009222-PROV (Revoked)

Karissa Neff was present representing the Division.

James Fennell was present.

Chairman Burke asked what the basis was for a rehearing.

Mr. Fennell stated that he did not receive the initial notification because he was in the process of moving. Mr. Fennell stated that by the time he received the notification it was after the hearing date and that is why he was unable to attend the hearing on October 27, 2020.

Ms. Neff stated that the initial order imposing discipline against Mr. Fennell was signed by the Commission on November 19, 2020. Ms. Neff stated that the case involved serious allegations that Mr. Fennell was misappropriating money from the Braewood Heritage Association while acting as a provisional community manager. Ms. Neff stated that Mr. Fennell was properly noticed of the October 27-29, 2020 hearing and had signed for the complaint, but Mr. Fennell did not show up at the hearing, so the case proceeded as a default. Ms. Neff stated that because of the default, Mr. Fennell was ordered to pay a \$40,000.00 fine, pay the Division fees and costs in the amount of \$1,935.00, pay the association \$9,350.00, and Mr. Fennell's license was revoked. Ms. Neff stated that on December 3, 2020, Mr. Fennell requested a rehearing and was granted a stay of the order from the Division due to being unemployed until the rehearing. Ms. Neff stated that Mr. Fennell's petition for rehearing was scheduled for February 2-4, 2021 and he was noticed for that Commission meeting but failed to appear. Ms. Neff stated that after failing to appear, Mr. Fennell requested to be placed on the agenda again for today's meeting. Ms. Neff stated that based on Mr. Fennell's prior correspondence, it appears that Mr. Fennell's request is for relief of an order based on him being affected by COVID-19 and contesting his ability to pay and not a proper petition for a rehearing.

Chairman Burke stated that there has been no basis given for a rehearing.

Commissioners Gale, Layton, Tomasso, and Jarman agree.

Chairman Burke moved to deny the request for a rehearing. Seconded by Commissioner Gale. Motion carried. Commissioner Bruner abstained because he was not part of the Commission during the time when the case was heard.

3-C) NRED v. Michael Sosebee, for possible action

Case No. 2019-9

Type of Respondent: CAM.0009040 (Active)

Karissa Neff was present representing the Division.

Michael Sosebee was present.

Andrew Pastwick, Esq. was present representing Mr. Sosebee.

Ms. Neff stated that there is a stipulation for settlement.

Ms. Neff stated that the terms of the settlement are as follows:

1. Mr. Sosebee admits to the factual allegations set forth in the complaint.
2. Mr. Sosebee agrees to not serve on the association's board for a period no less than ten years from the date of the Commission's order approving the settlement.
3. Mr. Sosebee agrees to surrender his community manager's certificate that he currently holds with the Division and not reapply for a ten-year period.
4. Mr. Sosebee agrees to pay the Division a total amount of \$5,193.82 comprised of a fine in the amount of \$2,500.00 and the Division's costs and fees in the amount of \$2,693.82. The total amount shall be paid in 24 monthly installments. The first payment shall be made July 1, 2021.
5. The Division agrees to close the two pending cases, 2021-265 and 2021-167, against Mr. Sosebee.

Mr. Sosebee stated that he agreed with the settlement.

Chairman Burke moved to approve the settlement that Mr. Sosebee admits to the factual allegations contained in case number 2019-9, Mr. Sosebee will not serve on the board for a period of no less than ten years, that Mr. Sosebee immediately surrender his community managers certificate for a period of no less than ten years, Mr. Sosebee pay a total payment to the Division of \$5,193.82, which consists of a \$2,500.00 fine and \$2,693.82 in Division's fees and costs and the total amount of \$5,193.82 shall be paid in 24 equal monthly payments commencing on July 1, 2021, and in consideration of the foregoing, the Division shall close case numbers 2021-265 and 2021-167. Seconded by Commissioner Layton. Motion carried.

3-A) NRED v. Richard Bianco, for possible action

Case No. 2017-2427

Type of Respondent: Board Member

Karissa Neff was present representing the Division.

Richard Bianco was present.

Ms. Neff stated that there was a stipulation for settlement.

The Commission was provided with a copy of the settlement.

Chairman Burke asked Mr. Bianco if he understands as part of the settlement that he is agreeing to not serve as a board member for no less than 5 years.

Mr. Bianco stated that he understood and agreed.

Chairman Burke asked the Commissioners if there were any questions regarding the stipulation.

The Commission had no questions.

Chairman Burke moved to approve the settlement. Seconded by Commissioner Gale. Motion carried.

5-A) Administrator's Report

Sharath Chandra presented this report. Mr. Chandra stated that the legislative session had ended and AB-237 and SB-72 had statutory changes and would require regulatory updates. Mr. Chandra stated that the Division would begin the regulation process soon by doing a comparison of the regulations to make sure that they correspond with any updates in statute. Mr. Chandra stated that the new fiscal year budget is in place and the Division will be filling a couple of vacancies. Mr. Chandra stated that the Division will be opening to the public soon and future Commission meetings will go back to being held in person.

6-A) Discussion regarding 2021 legislative bills related to NRS 116, 116A and 116B.

Chairman Burke asked the Commission if they had any questions.

No questions were noted.

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

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

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

5-B-4) Ombudsman's Report on Auditor's report

5-B-5) Ombudsman's Report on Alternative Dispute Resolution Program

5-B-6) Ombudsman's Report on Education and Training Officers' report

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

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

5-C) Licensee and board member discipline report

Sharath Chandra stated that there was no disciplinary report for this meeting, but one would be provided during the next meeting.

6-B) Discussion regarding Commissioners speaking engagement requests.

The Commission stated that there was nothing to report.

6-C) Discussion and decision to approve minutes of the February 2, 2021 Commission meeting.

Chairman Burke moved to approve the February 2, 2021 meeting minutes. Seconded by Commissioner Niggemeyer. Motion carried with one abstention from Commissioner Bruner because he was not part of the Commission during that time.

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

The next Commission meeting is scheduled for August 31 – September 2, 2021.

8) Public Comment

Michael Kosor stated that Senate Bill 72 that recently passed via the CIC Task Force was sponsored by a committee on the bequest of the CIC. Mr. Kosor stated that the CIC Task Force only met twice prior to the legislative session. Mr. Kosor stated that his issue with Senate Bill 72 is the item where they revised provisions relating to meetings of an executive board. Mr. Kosor stated that in the past, the uniform code has long held that the executive board's access to secret meetings be restricted to four limited criteria. Mr. Kosor stated that one of the criteria was that the board cannot meet in

executive session except to discuss pending litigation with the association's attorney. Mr. Kosor stated that in the most recent legislation, the litigation piece was removed and now anytime an executive board wants to meet with their attorney, they can do so in secret. Mr. Kosor stated that in most cases this would not be abused, but it opens up a level of abuse of which, if you meet with your attorney to discuss anything, you can do so in a secret forum. Mr. Kosor stated that this is counter to everything that we've known in uniform code and Mr. Kosor stated that his main concern is that it was proposed in legislation as part of a task force initiative. Mr. Kosor stated that he looked at the minutes from the task force meetings and could find no mention that this provision was discussed, yet it was part of the legislation. Mr. Kosor stated that he would ask the Commission to look into how this could happen.

Jennifer Agnew stated as a homeowner and board member that she agrees with what Mr. Kosor has stated and Ms. Agnew implores the Commission to realize that Mr. Kosor's voice is not a solitary voice regarding NRED's investigations and all the other items.

8) Adjournment

Meeting recessed at 10:25 a.m. on June 1, 2021.

Minutes prepared by: Kelly Valadez
Kelly Valadez
Commission Coordinator

TO BE APPROVED BY COMMISSION