

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES SEPTEMBER 13, 2022**

**VIA IN PERSON AND TEAMS VIRTUAL MEETING
SEPTEMBER 13, 2022**

Nevada State Business Center
3300 W. Sahara Avenue
4th Floor, Nevada Room
Las Vegas, Nevada 89102

The meeting was called to order at 9:05 A.M.

1-A) Introduction of Commissioners in attendance

Michael Burke, Richard Layton, Phyllis Tomasso, Charles Niggemeyer, Patricia Morse Jarman and James Bruner.

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division staff in attendance

Charvez Foger, Deputy Administrator; Jason Wyatt, Ombudsman; Shareece Bates, Administration Section Manager; Terry Wheaton, Chief Compliance Audit Investigator; Kelly Valadez, Commission Coordinator; Maria Gallo, Commission Coordinator.

2) Public Comment

Darren Proulx stated his community Desert Greens, located in Pahrump is in need of assistance. Mr. Proulx stated he is the declarant for the community, having purchased the community in 2016 and he also serves on the board. Mr. Proulx stated that the president of the board is also acting as the manager of the community. Mr. Proulx stated that multiple Intervention Affidavits have been filed with the Division however the Division has cited that due to pending litigation, the allegations would not be addressed. Mr. Proulx stated that the allegations listed in the affidavits have nothing to do with the litigation and he and other unit owners have grown frustrated at the lack of assistance by the Ombudsman's Office. Mr. Proulx stated that there have been other violations of NRS 116 violated by the board president such as initiating litigation without approval of the unit owners. Mr. Proulx stated that the Ombudsman's Office issued the association a Letter of Instruction about one year ago, related to the association's failure to send meeting agendas in a timely manner. Mr. Proulx stated that since that issuance there have only been nine meetings and the agenda for the meeting scheduled September 15, 2022, was only sent yesterday. Mr. Proulx stated he and the other board member are seeking the attention and intervention by the Ombudsman.

Diane Brundage stated she submitted written public comment regarding a gap in NRS specifically that there is no language that allows a homeowner to receive an invoice or copy of their account history. Ms. Brundage stated that she is aware that areas of the statute have been tightened in the last few years, but this language reads '*a homeowner may receive a copy*' and many are not providing information. Ms. Brundage states that several years ago, a few individuals took advantage of gaps in the statute and now the same individuals are repeating the same actions. Ms. Brundage stated that not all management companies have a website that can be accessed by unit

owners to view their account information therefore the language needs to be added in order to protect the unit owners from bad practices.

3) Regulation Workshop for Proposed Changes to NAC 116

Section 1

Shareece Bates read the section into the record.

John Leach, attorney with Leach Kern Gruchow Anderson and Song commented. Mr. Leach stated that he has been in practice since before the Division and Commission were created. Mr. Leach stated he has seen great improvements over the years in the how the Division handles the challenges that exist in the industry. Mr. Leach stated that in over twenty years, he can only recall one instance of a dispute involving the legitimacy of a health safety welfare violation. Mr. Leach stated that many associations who have such disputes oftentimes do not have professional management companies nor do they confer with professionals such as CPAs, reserve study specialists or attorneys. Mr. Leach stated that the regulation as written is attempting to protect the worse offenders by placing a cap on the amount of the sanctions. Mr. Leach stated that the number of violent actions and threats against board members has risen over the last few years and board members and homeowners have an expectation that the association will not tolerate such behavior. Mr. Leach asked the Commission to consider detrimental and/or offensive conduct should be within the jurisdiction of the executive board to evaluate. Mr. Leach referred to the comments submitted by Adam Clarkson.

Adam Clarkson, owner of the Clarkson Law Group and chair of the Community Associations Institute (CAI) Legislative Action Committee (LAC) commented. Mr. Clarkson asked that the Commission consider deleting the regulation as proposed and replacing it with the language suggested by LAC. Mr. Clarkson stated there are a lot of good intentions with the language as drafted but he stated there are also some unintended consequences that could arise. Mr. Clarkson stated the LAC position presents 20 factors to help a board determine whether or not a health safety welfare violation exists. Mr. Clarkson stated the LAC proposal suggests a rebuttable presumption as opposed to an out right cap. Mr. Clarkson stated that the imposition of a cap may be in conflict with NRS 116.31065. Mr. Clarkson also urged the Commission to consider the context of the actual violation and the association in which it occurred. Mr. Clarkson stated a \$5000 violation for a homeowner in a one community may not have the same effect as it does in another. Mr. Clarkson pointed out to the Commission that there is currently no cap on continuing violations, therefore a continuing violation may accumulate and cost a homeowner more over time than a single health safety welfare violation which may be more severe. Mr. Clarkson stated that the community's ability to self-govern is of extreme importance especially since there are sometimes a lack of resources and/or limited law enforcement. Mr. Clarkson stated that federal regulations passed within the last 6 years, require community associations to intervene in situations of discrimination and/or sexual harassment where they have the ability, but the proposed regulation contradicts this requirement. Mr. Clarkson stated that the foundation of many health safety welfare violations stems from violations of nuisance rules and the removal of such language creates a huge problem.

Gregory Kerr, partner with Wolf, Rifkin, Shapiro, Schulman & Rabkin, board member of CAI and vice-chair of CAI LAC commented. Mr. Kerr stated his support for the comments by Mr. Clarkson and the written position submitted by CAI LAC. Mr. Kerr stated his concerns on the \$5000 cap. Mr.

Kerr recalled several situations that have occurred over the past years in associations he represents in which health safety welfare violations have been imposed. Mr. Kerr echoed the comments by Mr. Leach of the increased level of violence against board members. Mr. Kerr stated the proposed regulation does not empower board members to regulate their associations. Mr. Kerr stated that the cap on the violations does not allow the board members to impose a fine commensurate with the violation, especially if/when there is no intervention by law enforcement. Mr. Kerr asked that the Commission adopt or at the least, consider the language proposed by CAI LAC.

Carolyn Glaser, volunteer board president stated her support of the CAI LAC position.

Mark Leon, board member of Mountain's Edge Master Association, stated support of the CAI LAC position on behalf of the entire board of directors.

Nancy Stone, Treasurer of the Cascade Homeowners Association commented. Ms. Stone thanked the previous speakers for their comments and presentation of their concerns.

Dan Sano, President of Cascade Homeowners Association commented. Mr. Sano echoed the appreciation for the previous speakers for their comments. Mr. Sano stated in Section 1, the inclusion of terms '*directly and immediately and eminent*' places an assumption on all health safety welfare violations. Mr. Sano stated that these terms can be subjective and damages can be incurred over time. Mr. Sano suggested that the language not include any language that makes offenses predetermined and allow the board to evaluate the violation. Mr. Sano stated in Section 1.3, the attempt to define vulgar, profane and abusive language may limit a future victim's access to resources. Mr. Sano stated that the current language limits the potential that an evaluation would rightfully acknowledge specific scenarios as health safety welfare.

Section 2

Shareece Bates read the section into the record.

No public comment.

Section 3

Shareece Bates read the section into the record.

No public comment.

Section 4

Shareece Bates read the section into the record.

Adam Clarkson commented. Mr. Clarkson stated that CAI LAC opposes the change made to NAC 116.405(8)(l) which make it a violation for an association if they decide not to abide by a Letter of Instruction sent by the Division. Mr. Clarkson stated that the language improperly shifts the responsibility from the Commission the regulatory body, to the Division. Mr. Clarkson stated there is a constitutional due process problem because the determination was made by the Division without a hearing or agreement. Mr. Clarkson suggested that the terms '*Division or the Office of the Ombudsman*' be replaced by '*Commission*' to keep in line with statutory requirements.

Mike Kosor, director of large declarant-controlled association. Mr. Kosor stated the language in NAC 116.405(3)(c) and (d) is extremely vague. Mr. Kosor stated that the proposed language does

not include reference to the long-standing belief that in order to be found in violation of fiduciary duty, a board member must know that their actions are in violation. Mr. Kosor stated that the proposed language appears to be in direct contradiction to NRS 116.3102(d). Mr. Kosor provided examples of actions that may or may not constitute a violation according to the proposed language. Mr. Kosor stated the language as proposed is not clear and should be omitted.

Section 5

Shareece Bates read the section into the record.

Gary Lien with Hilburn & Lien CPAs commented. Mr. Lien recalled that during his tenure on the Commission, the Commission adopted what they felt at the time was the most comprehensive guide available in the industry, the *PPC Guide (Guide)*. Mr. Lien stated the downside was the product was sold by a for profit company and the price has increased with time. Mr. Lien stated many accounting professionals and management companies utilize the *Guide* as reference. Mr. Lien stated the change may have come from the language in the ASC 606 dealing with contract liability, which falls under the revenue recognition standards. Mr. Lien stated that the discussion around ASC 606, is whether monies are considered income when transferred from the operating fund to the reserve fund or whether the monies should remain on the balance sheet until a future obligation. Mr. Lien stated that the authors of the *Guide* believe that the contract liability should be applied which has caused conflict within the industry as half of the CPAs agree and half do not. Mr. Lien stated that Nevada is the only state which has adopted the *Guide*. Mr. Lien stated that auditors do not make the decision for the association and as a result of the adoption of the *Guide* by the Commission, most associations kept converted to the contract liability. Mr. Lien stated that if the Commission goes forward with the change, larger associations with revenue over \$75,000/annually, will report a certain way while smaller associations will not use the same mechanism. Mr. Lien stated that this change will ultimately cause confusion amongst board members, community managers and Division staff due to the lack of consistency. Mr. Lien stated that the Guide is much more comprehensive.

Mark Little with Bainbridge, little & Co, CPAs commented. Mr. Little stated his agreement with the comments made by Mr. Lien. Mr. Little stated that the previous versions of rules set forth by the Federal Accounting Standards Board (FASB), specific guides were written as individual sections by industry. Mr. Little stated that without the specific guidance for HOAs, CPAs are now required to interpret general guidelines and how they apply to the industry. Mr. Little stated that the Guide provides the most detailed set of rules for HOAs and will not lead to inconsistencies in reporting throughout the state.

Section 6

Shareece Bates read the section into the record.

Byron Goetting commented. Mr. Goetting suggested that the following language be added to 1. An estimate of the amount of reserve funds necessary, *'and the estimated recommended reserve contribution'*.... Mr. Goetting stated it is easy for Reserve Study Specialists to make the amount of money needed to appear higher or lower, and if any project timeline is changed, it alters the amount of money needed. Mr. Goetting stated that the estimated contribution should be relatively stable over time.

Section 7

Shareece Bates read the section into the record.

Adam Clarkson commented. Mr. Clarkson referenced (2)(a) in his recommendation to keep the ‘governing documents’ in the regulation. Mr. Clarkson stated that some association governing documents require a higher level of reserves than is required by state law. Mr. Clarkson stated that it would be important for those associations to maintain the level of funding as required by their governing documents.

Jan Porter, board member commented. Ms. Porter referenced her written comments with mention that some components may have a useful life of more than thirty years. Ms. Porter suggested the following language be added, ‘whereas some components may have a remaining useful life of more than thirty years, the Reserve Study Specialist may with any thirty-year funding plan, fund for the replacement and restoration cost of any such components over its’ expected remaining useful life.’ Ms. Porter stated this will be helpful for board members that may have to consider some very large expenditures to have the stability in finances over the life of the component itself.

Byron Goetting commented. Mr. Goetting stated that the recommended contribution is the most important part of a reserve study. Mr. Goetting stated that he had seen a study written by another specialist where the funding was continuously deferred, which he believes to be improper. Mr. Goetting stated there should be language added to stated that ‘the funding plan should have any increases above and beyond expected inflation should occur within the first five years of the reserve study.’ Mr. Goetting stated that if this is a practice to keep assessments low, the Commission should consider addressing the issue in regulation.

Section 8

Shareece Bates read the section into the record.

Robert Forney, Reserve Study Specialist of Complex Solutions and member of the Reserves for Recovery Task Force commented. Mr. Forney stated the language appears to be confusing as the language appears to cut out the site inspection, so the time period starts and ends with the approval of the study. Mr. Forney suggested the following language, ‘the five-year period for conducting a reserve study concludes with the adoption of the study in the fifth year on or before but no later than the adoption date of the proposed budget for the upcoming year.’ Mr. Forney stated the reserve study is a budgeting tool which the board needs to help prepare their budget for the upcoming year. Mr. Forney stated the reserve study should be done sometime before the budget is prepared in the fifth year. Mr. Forney stated that paragraph, the term *must be commenced*, may unintentionally bind a board to complete a study within that time.

Jan Porter commented. Ms. Porter agreed with the suggestions made by Mr. Forney. Ms. Porter stated that within her association, major road repairs were required and although the study was not yet due, the board felt it relevant to get an updated study. Ms. Porter stated the term ‘must’ limits an association to a specific timeframe not does not take into consideration the number of situations that may arise.

Gary Lien commented. Mr. Lien stated his concern with the term ‘full study’ as it may require a reserve study specialist to quantify or measure common elements more frequently. Mr. Lien stated his concern that there may be an added cost or burden if the association must go thru a full study every five years.

Chris Peitsch community manager commented. Mr. Peitsch stated his concern with adding dates related to the adoption of the reserve study. Mr. Peitsch stated that adding in the dates, add more opportunities that an association may be in violation of the law.

Section 9

Shareece Bates read the section into the record.

No public comment.

Section 10

Shareece Bates read the section into the record.

No public comment.

Section 11

Shareece Bates read the section into the record.

Mark Little commented. Mr. Little suggested that proposed language where the audit is audit adopted within 210 days of the fiscal year, crunches the time required to complete the audit. Mr. Little stated that his appreciation that the recommended language provided to the Division was included in the second draft of the regulation. Mr. Little recommended that the terms ‘and adopted’ be removed from the 210-day deadline to allow the boards to continue to adopt the audit within their regularly scheduled meetings.

Section 12

Shareece Bates read the section into the record.

No public comment.

Section 13

Shareece Bates read the section into the record.

Adam Clarkson commented. Mr. Clarkson stated that the CAI-LAC supports the meaningful increases proposed, however the fee caps have not kept up with the increasing cost of business. Mr. Clarkson stated many collection companies have closed their doors and no new companies have been established due to the flat costs. Mr. Clarkson stated his limited opposition section 4 (a) as the language appears to increase the fee but is actually a reduction of \$350 fees that management companies may charge. Mr. Clarkson recommended that the language be clarified that this applies to all items exclusive of the itemized fee schedule. Mr. Clarkson stated that CAI-LAC provided a position statement to the Commission that lists out the specific fee increases for consideration.

Cameron Clark, President of United Assessment Recovery and licensed collection manager with the Financial Institutions Division, commented. Mr. Clark stated his support for the comments made by Mr. Clarkson. Mr. Clark stated his appreciation for the proposed fee increases. Mr. Clark stated that

the cap should be increased due to the increase of inflation and cost of business.

Michael (Mike) Randolph, owner of HOA Collections, LLC commented. Mr. Randolph stated that the industry has been asking for a raise for over 12 years. Mr. Randolph stated his support for the proposed fees and also suggested that the language 'per agreement' be added due to the number of broken payment arrangements. Mr. Randolph stated each time a payment plan is breached, the process must start over although they are only charged one time. Mr. Randolph implored the Commission to approve the language.

Jan Porter commented. Ms. Porter stated her agreement with the CAI-LAC statement regarding the inclusivity of additional charges. Ms. Porter stated that within her association, the board does not want to be obligated to go to a collection agency if the board is willing to work with a homeowner. Ms. Porter stated her agreement with Mr. Randolph's comment regarding the charges being assessed per agreement.

Steven Parker of First Service Residential commented. Mr. Parker stated that within the last 6 months, his company had increased his staff's payroll to try to keep up with inflation. Mr. Parker stated his support of the increased fees.

Section 14

Shareece Bates read the section into the record.

No public comment.

Section 15

Shareece Bates read the section into the record.

No public comment.

Section 16

Shareece Bates read the section into the record.

No public comment.

Section 17

Shareece Bates read the section into the record.

No public comment.

Section 18

Shareece Bates read the section into the record.

No public comment.

Section 19

Shareece Bates read the section into the record.

No public comment.

Section 20

Shareece Bates read the section into the record.

No public comment.

Section 21

Shareece Bates read the section into the record.

No public comment.

Section 22

Shareece Bates read the section into the record.

Jan Porter commented. Ms. Porter stated her concern that within section 1 (c), as the language does not state how long the school must retain records for each student. Ms. Porter suggested that at a specific timeframe, ex. 2 years or 2-5 years should be added for clarification.

Section 23

Shareece Bates read the section into the record.

No public comment.

Section 24

Shareece Bates read the section into the record.

No public comment.

Section 25

Shareece Bates read the section into the record.

No public comment.

Section 26

Shareece Bates read the section into the record.

No public comment.

Section 27

Shareece Bates read the section into the record.

No public comment.

Section 28

Shareece Bates read the section into the record.

Mark Little commented. Mr. Little reiterated Mr. Lien’s comments that the *PPC Guide* be maintained as the recommended standard.

Section 29

Shareece Bates read the section into the record.

Mark Little commented. Mr. Little reiterated his previous comments from Section 11 be considered where the term ‘and adopted’ be removed.

Section 30

Shareece Bates read the section into the record.

No public comment.

Section 31

Shareece Bates read the section into the record.

Mark Little commented. Mr. Little stated that the adoption language appears to have been missed in the draft; he stated the language should apply to hotel units as well.

Section 32

Shareece Bates read the section into the record.

No public comment.

Section 33

Shareece Bates read the section into the record.

No public comment.

8-A) Discussion and decision regarding proposed changes to NAC 116.

Commissioner Burke suggested the commission review all sections where there was no public comment for further discussion.

Commissioner Burke restated sections 2, 3, 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 30, 32 and 33 had no public comments. Commissioner Burke moved to accept all proposed changes. Seconded by Commissioner Layton. Motion passed.

Commissioner Burke asked for clarification on the additional language for Section 4.

Sharath Chandra gave an explanation of the intent of items 3 (c) and (d). Mr. Chandra stated that the language was added to align with statute. Mr. Chandra stated the overall intent was to further identify if/when a board member's intentional actions cause harm to the association or functions of the executive board.

Commissioner Burke moved to approve the language in Section 4. Seconded by Commissioner Jarman. 1 opposition by Commissioner Niggemeyer. Motion passed.

Commissioner Burke asked for discussion on the additional language for Sections 5 and 28.

Mr. Chandra explained the intent of the language after receiving public comment from industry professionals as well as one of the authors of the *PPC Guide*.

Commissioner Layton gave history and context to the differences between the *PPC Guide* and the ASC 606 Standards.

Commissioner Burke moved to reject proposed changes and revert the language to the original language in regulation. Seconded by Commissioner Tomasso. All approved. Motion passed.

Commissioner Tomasso moved to approve the language in Section 6. Seconded by Commissioner Burke. All approved. Motion passed.

Commissioner Burke asked for clarification on the language in Section 7.

Commissioner Layton stated his agreement with Ms. Porter's comments regarding the 30-year life of a common element. Commissioner Layton suggested adding the suggested language by Ms. Porter and Ms. Colarco. Commissioner Layton also stated that there should be one method and one standard for everyone to follow regarding a reserve study.

Mr. Chandra stated that it would be difficult to come up with language to include all exclusions to the 30-year timeframe. Mr. Chandra stated the Division could put out guidance or bring up as additional regulation to further discuss reserve studies in depth. Mr. Chandra explained the intent of item 2A was that the description of the common elements was better explained in the governing documents whereas the value of those common elements would be better described in the current reserve study. Mr. Chandra stated the Division will review and find a place to add the suggested language.

Commissioner Burke moved to approve the language in Section 7. Seconded by Commissioner Tomasso. 1 opposition by Commissioner Bruner. Motion passed.

Commissioner Burke asked for discussion regarding Section 8.

Mr. Chandra explained the intent of the language was to confine the boundaries of when the next study should commence.

Commissioner Burke moved to approve the language in Section 8 with the suggested revisions. Seconded by Commissioner Tomasso. All approved. Motion passed.

Commissioner Burke asked for discussion regarding Sections 11, 29 and 31.

Commissioner Burke moved to approve the language in Sections 11, 29 and 31 with the suggested language removed. Seconded by Commissioner Layton. All approved. Motion passed.

Commissioner Burke asked for discussion regarding Section 13.

Commissioner Burke asked whether approval of Section 13 would be delayed if all regulations are not approved.

Mr. Chandra explained that the final step is to have an adoption hearing before the regulation is presented to the legislative subcommittee. Mr. Chandra stated a stand alone workshop can be held to review the amendments of the proposed regulation required by the commission.

Mr. Chandra explained the intent of the fee increases for collection costs. Mr. Chandra explained intent of section 4a and stated specific language will be removed.

Commissioner Burke moved for approval of Section 13. Seconded by Commissioner Bruner. All approved. Motion passed.

Commissioner Burke asked for discussion regarding Section 22.

Commissioner Burke echoed the concern about the discussion on time required to maintain records.

Mr. Chandra stated there should be a retention period for records and suggested that the Division put out guidance on specific timeframes.

Commissioner Burke asked for approval of Section 22 with additional language added including length of time of retention. Seconded by Commissioner Layton. All approved. Motion passed.

Commissioner Burke asked for discussion on Section 1.

Mr. Chandra gave history of drafting of language in order to create a definition of a Health Safety Welfare violation. Mr. Chandra stated the Division's concerns with violations being labeled as Health Safety Welfare, being misused especially when violations may ultimately lead to foreclosure. Mr. Chandra stated the Division intent was to have a starting point for an association to consider. Mr. Chandra also stated the purpose of the \$5000 limit.

Commissioner Burke stated concern with the \$5000 cap on violations. Mr. Burke stated there may need to be a rebuttable presumption if a greater fine is imposed.

Deputy Attorney General Asheesh Bhalla stated that the burden of proof will always fall to the association. Mr. Bhalla suggested the Commission consider removing language of what defines the violation.

Commissioner Jarman stated concern whether or not the imposition of a large fine deters violent behavior.

Mr. Chandra stated the Division's intent was to keep a small boundary on what the violations are not which allows the board to make the decision on what they will impose based on the language in their governing documents.

Commissioner Tomasso expressed concern that a person has the opportunity to appeal the violation.

Mr. Chandra stated the process would be the same as outlined in regulation.

Commissioner Burke stated that the threat of harm or violence is clear that a Health Safety Welfare violation exists.

Commissioner Niggemeyer stated the importance of heeding to the recommendations of the public and industry experts.

Commissioner Jarman stated there has to be some protections for board members. Commissioner Jarman stated there are fewer people willing to serve on boards and there will be less if there is a perceived or continued threat of harm. Commissioner Jarman stated there should be a reasonable expectation of safety at board meetings. Commissioner Jarman stated the Commission's discussion on whether a violation exists is becoming cumbersome and the Commission should be able to help develop a simpler process for board members.

Commissioner Tomasso stated there needs to be a better understanding of the description of a Health Safety Welfare violation and the intention of the act. Commissioner Tomasso stated that the proposed language is clear as to what a Health Safety Welfare violation is not. Commissioner Tomasso asked the Commission to consider the immediate and potential threat of bodily harm. Commissioner Tomasso stated the role of the executive board is not to replace law enforcement. Commissioner Tomasso stated that when a fine is imposed if/when someone harms another, only the association benefits from the fine, the victim is not made whole. Commissioner Tomasso stated the role of the board is to protect property values and ensure the maintenance of common elements, not to protect individual persons.

Commissioner Burke stated that the Commission's discussion is indicative of the conflicts faced by executive board members of whether to impose a Health Safety Welfare violation. Commissioner Burke stated that while he appreciated the work done by the Division, it is apparent that no agreement will be reached to approve this section of the regulation. Commissioner Burke asked Mr. Chandra what options are left to continue with the regulation.

Mr. Chandra stated that this section can be carved out of the regulation in order to not impede the approval of the remainder of the proposed regulation. Mr. Chandra stated that the proposed regulation may still have to go to LCB but that would be confirmed by the Division. Mr. Chandra stated that the Commission may need to revisit other sections which had new language added in order to get the current draft approved.

Commissioner Burke moved to table further discussion of Section 1 to revisit Section 7.

Commissioner Burke moved to amend the approval of Section 7 to state that the regulation be approved as written by the Division. All approved. Motion passed.

Commissioner Burke moved to disapprove changes to Section 1 in hopes of revisiting the issue in the future. Seconded by Commissioner Bruner. All approved. Section 1 does not pass.

7-A) Administrator's Report

Sharath Chandra reported that the Division received approval to contract with a new software vendor to upgrade the system. Mr. Chandra stated the system will allow for increased online services and more efficient processes.

7-B) Ombudsman's Report

Jason Wyatt presented this report that was provided to the Commission in the meeting packet.

7-C) CIC Compliance caseload report and summary

Terry Wheaton presented this report that was provided to the Commission in the meeting packet.

7-D) Education and Information Officer Report

Gary Little presented this report that was provided to the Commission in the meeting packet.

7-B) Licensee and Board member discipline Report

Shareece Bates presented this report that was provided to the Commission in the meeting packet.

8-B) Discussion regarding Commissioners' speaking engagement requests.

The Commission stated that there was nothing to report.

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

Commissioner Niggemeyer presented the report that was provided to the Commission. Commissioner Niggemeyer stated many accounts have been moved to collections but he is awaiting an updated report from the Controller's Office.

8-D) Discussion and decision to approve minutes of the May 31-June 2, 2022 Commission meeting.

Chairman Niggemeyer moved to approve the May 31-June 2, 2022 meeting minutes. Seconded by Commissioner Burke. All approved. Motion passed.

8-E) Discussion and decision regarding election of officers for FY23

Commissioner Layton reminded the Commission that his term ends and he cannot be reappointed.

Commissioner Tomasso volunteered to serve as Secretary. Commissioner Niggemeyer moved that Commissioner Tomasso serve as Secretary. Seconded by Commissioner Layton. All approved. Motion passed.

Commissioner Burke moved that Commissioner Niggemeyer serve as Vice-Chair. Seconded by Commissioner Tomasso. All approved. Motion passed.

Commissioner Niggemeyer moved that Commissioner Burke serve as Chair. Seconded by Commissioner Tomasso. All approved. Motion passed.

10) Public Comment

Adam Clarkson commented. Mr. Clarkson stated his appreciation for the Commission for their work deliberating on the proposed regulation.

Mike Randolph commented. Mr. Randolph thanked the Commission.

8) Adjournment

Meeting recessed at 4:24 p.m. on September 13, 2022.

Minutes prepared by: _____
Shareece Bates
Administrative Section Manager

TO BE APPROVED BY COMMISSION

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES SEPTEMBER 14, 2022**

**VIA IN PERSON AND TEAMS VIRTUAL MEETING
September 14, 2022**

Nevada State Business Center
3300 W. Sahara Avenue
4th Floor, Nevada Room
Las Vegas, Nevada 89102

The meeting was called to order at 9:08 A.M.

1-A) Introduction of Commissioners in attendance

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

1-B) Introduction of Division Staff in attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Jason Wyatt, Ombudsman; Shareece Bates, Administration Section Manager; Terry Wheaton, Chief Compliance Audit Investigator; Sonya Meriweather, Senior Resolution Specialist; Gary Little, Training Program Officer; Kelly Valadez, Commission Coordinator; and Maria Gallo, Commission Coordinator.

2) Public Comment

No public comment

**4-G) NRED v. Sierra Ranchos Property Owners Association, for possible action
Case No. 2018-1663**

Type of Respondent: Board Members

Parties Present

Michelle Briggs, Chief Deputy Attorney General was present representing the Division. William Roth, Sierra Ranchos POA, Secretary, was present. Joy Marvin, Sierra Ranchos POA, President, was present via Teams.

Preliminary Matters

Ms. Briggs stated that during the Commission meeting held on May 31, 2022, the Commission ordered the association to retain a community manager and to also address their reserve issues. Ms. Briggs stated that previous work done by unlicensed contractors on the roads have created drainage issues which has resulted in a fine by the county. Ms. Briggs stated that the association needs to hire engineers to find out what work needs to be done, have licensed contractors to perform the work needed to properly maintain the roads and have a plan of how the association will fund the reserves for the work needed. Ms. Briggs stated that the association is here to give a status update on their compliance with the order. Ms. Briggs stated that there has been no communication with the Division regarding if the association has hired a community manager, but Mr. Roth has stated that a manager has been hired. Ms. Briggs stated that it is unclear if the association has received a bid from an engineer for the scope of work that needs to be done. Ms. Briggs stated that one of the board members has resigned and she would like to know what the association is going to do about the vacancy.

Ms. Marvin stated that the community manager that the association had hired resigned before taking over and since then, the association has hired Equus Management, who is set to take over September 1, 2022. Ms. Marvin stated that one engineer that had been working with them had a family issue and could no longer help and a second engineering firm had not returned repeated emails and phone calls. Ms. Marvin stated that the board has contacted another engineer and provided the violations from Washoe county and a map of the association that is willing to come out October 5, 2022, for a meeting to address the issues with the county and obtain a report to update the reserve study with the increase of assessments needed to fund the reserve account to correct the problems with the roads.

Chairman Burke stated that the board only had two members and asked if there were any prospects of getting a third member on the board and if there was an upcoming election.

Ms. Marvin stated that yes there were only two members currently on the board and that the elections are due in November, but no one has come forward to volunteer.

Chairman Burke asked what measures are being taken by the board to alert the homeowners to the board vacancy.

Ms. Marvin stated that the board vacancy has been mentioned during a meeting and a letter will be sent out to the homeowners.

Chairman Burke asked when Equus Management will be up and running.

Ms. Marvin states that she is uncertain when Equus Management would be taking over, but that Mr. Roth has been providing Equus Management with the financial records.

Chairman Burke asked if a contract has been signed with Equus Management and if that contract has been provided to the Division.

Ms. Marvin stated that a contract has been signed, but that a copy of the contract has not been given to the Division. Ms. Marvin stated that she can email a copy of the management contract to the Division.

Chairman Burke states the three issues are that a new board member is needed, when will Equus Management be up and running, and when can an engineer come out and design a plan to rework the roads to correct the violations with Washoe county.

Chairman Burke asked if the association had received a quote for how much the issues with the roads are going to cost.

Ms. Marvin stated that she did not understand how she could obtain a quote if she did not know what work needed to be done.

Mr. Roth stated that there was a \$60,000 contract put together last year for someone to come out and look at the roads and advise the board of the work that needed to be done which did not happen because the association was insolvent. Mr. Roth stated that having an engineer come out and inspect the roads is what is needed for the violations with Washoe county. Mr. Roth stated that the previous board did not understand how to increase the budget to cover the expense of the work

needed. Mr. Roth stated that at that time, all that was needed was to include a credible estimate in the budget, have a budget meeting, and have fifty-one percent of the voters not to reject the proposed budget. Mr. Roth stated that in 2020, the board began trying to follow the engineering recommendations with a limited budget and got a reserve study for a special assessment for the work to be done, but nothing happened.

Ms. Marvin stated that she has contacted an engineer with Summit Engineering, and he is scheduled to come out for a site visit on October 5, 2022, as well as a couple of other engineers that have not responded.

Mr. Roth stated that there is conflicting information that has been given to the association regarding whether permits are needed for the work to be done from the Washoe county chief engineer and the compliance officer.

Commissioner Bruner stated that once the association receives the cost analysis, have that included in the reserve study and a plan of how the association will fund the reserves and report that information to the Commission during the December 6-8, 2022, meeting.

Chairman Burke moved that the two current board members try to have Summit Engineering that is scheduled to come out on October 5, 2022, expedite a report of what work needs to be done, try to obtain and document the attempts to hire a contractor to bid the scope of work, send out notifications to all homeowners that there is an open board seat with instructions on how they can apply and inform them of the election in November, have Equus Management reach out to the Division, have the cost included into the updated reserve study and how is it going to be funded, and provide this information to the Division no less than 10 days prior to the next hearing scheduled for December 6-8, 2022, when the association will appear before the Commission with a status update. Seconded by Commissioner Layton. Motion carried.

4-F) NRED v. Santa Barbara Village Homeowners Association, Larry Denman and Janet Cook-Denman for possible action

Case No. 2021-1139

Type of Respondent: Board Members

Parties Present

Virginia Tomova, Deputy Attorney General was present representing the Division.
Janet Cook-Denman, Santa Barbara HOA board member, was present.
Larry Denman, Santa Barbara HOA board member, was present via telephone.

Opening Statements

Ms. Tomova gave her opening statement.
Ms. Cook-Denman gave her opening statement.

Ms. Tomova asked that the Notice of Documents CICC0001 – CICC0035 be admitted.

Chairman Burke stated that the Notice of Documents are admitted.

State's Witness

Christina Pitch testified.

Ms. Denman-Cook had no questions for Ms. Pitch.

The Commission had no questions for Ms. Pitch.

The witness was dismissed.

Ms. Tomova questioned Ms. Cook-Denman.

Chairman Burke moved to admit a letter dated March 17, 2022, written by Mr. Denman and Ms. Cook-Denman.

Respondent's witness

Robert Sult testified.

Ms. Tomova cross-examined Mr. Sult.

Ms. Cook-Denman stated her case.

The Commission questioned Ms. Cook-Denman.

Closing Statements

Ms. Tomova gave her closing statement.

Ms. Cook-Denman gave her closing statement.

Chairman Burke stated that it is obvious that Santa Barbara Village Homeowners Association had a bad community manager, but the board fell below the standard of care in their responsibilities as board members. Chairman Burke stated that the respondent stated that she did not receive letters from the Division, but then the respondent presented a letter with a response to the Division's letter. Chairman Burke stated that the State has proven their case.

Commissioner Layton stated that he agreed with Chairman Burke,

Commissioner Tomasso stated that she agreed with Chairman Burke, and that the respondents failed to respond to the Division's request or to reach out to the Division or Ombudsman's office for guidance.

Commissioner Morse Jarman stated that she applauds the respondents for volunteering in a difficult situation, but the respondents should have reached out for help when it was realized that they were dealing with an unscrupulous community manager. Commissioner Morse Jarman stated that moving forward that she wants the board members to be successful and that the only way that can happen is to gain knowledge of what is required, learn from all the mistakes that were made, and be determined to make this a better situation.

Factual Allegations

Chairman Burke moved that the factual allegations and the violations of law as pled in the complaint have been proven. Seconded by Commissioner Layton. Motion carried.

Division's recommendation

Ms. Tomova presented this:

- Each respondent complete 9 hours of continuing education of the duties and responsibilities of running an association and how to be an efficient board member within 60 to 90 days,

and that the respondents complete at least 9 hours of continuing education every year that they remain on the board.

- The respondents pay a fine of \$1,000 and the Division's fees and costs in the amount \$1,986.68 for a total amount due of \$2,986.68.

Chairman Burke stated that he agrees with the 9 hours of continuing education within 60 days, and that the respondents complete 9 hours of continuing education every year that they remain on the board but does not know if the burden of the Division's fees and cost should fall to the respondents or to the association.

State's Witness

Kelly Valadez testified regarding service to the association.

Chairman Burke stated that the Division's fees and costs should be paid by the association.

Commissioner Morse Jarman stated that the fine should be waived and that the time frame for the respondents to complete the ordered continuing education should be shortened to 30 days because the respondents need to become educated on their responsibilities immediately.

Chairman Burke moved that each of the board members for Santa Barbara Village Homeowners Association complete 9 hours of continuing education as provided by the Division within 45 days and provide proof of completion to the Division, the fine of \$1,000 is waived, the Division's fees and costs of \$1,986.68 be paid by the association within 60 days of the date of the order, and as long as the respondents remain board members, they must complete no less than 9 hours of continuing education each year. Seconded by Commissioner Bruner. Motion carried.

4-D) NRED v. Laguna Palms Homeowners Association, Denise Jugenheimer, Steven Bock, Peter Albert, and Suzanne Suter, for possible action Case No. 2020-666

Type of Respondent: Board Members

Parties Present

Virginia Tomova, Deputy Attorney General was present representing the Division.
Shawn Johnson, Esq. was present representing Laguna Palms HOA.

Ms. Tomova stated that a stipulation for settlement of disciplinary actions had been reached and the settlement had been provided to the Commission in their meeting packet.

Settlement

Ms. Tomova read the terms of the settlement into the record as follows:

- RESPONDENTS agree to pay the Division a total amount of \$4,659.88 ("Amount Due"), consisting of a \$3,000.00 fine imposed by the Division and the Division's prehearing costs and attorneys' fees in the amount of \$1,659.88.
- The Amount Due shall be payable to the Division as follows: RESPONDENTS shall pay \$4,659.88 within 60 days of the date of the order approving this stipulation.
- RESPONDENTS agree to pay the complainant and homeowner, Mayra Encarnacion the amount of \$13,674.00, as restitution for the damages she incurred because of the water damage to her unit and the Association's lack of proper insurance coverage at the time when the damage occurred ("Complainant's damages.")
- The Complainant's damages shall be payable to Ms. Encarnacion as follows: RESPONDENTS shall pay \$13,674.00 within 60 days of the date of the order approving the

- Stipulation.
- RESPONDENTS also agree to provide a copy of an insurance policy in compliance with NRS 116.3113.
 - RESPONDENTS and the Division agree that by entering into this Stipulation, the Division does not concede any defense or mitigation RESPONDENTS may assert and that once this Stipulation is approved and fully performed, the Division will close its file in this matter.
 - RESPONDENTS agree and understand that by entering into this Stipulation, RESPONDENTS are waiving their right to a hearing at which RESPONDENTS may present evidence in their defense, their right to a written decision on the merits of the complaint, their rights to reconsideration and/or rehearing, appeal and/or judicial review, and all other rights which may be accorded by the Nevada Administrative Procedure Act, the Nevada Real Estate Brokers and Salespersons statutes and accompanying regulations and the federal and state Constitutions.
 - RESPONDENTS understand that this Agreement and other documentation may be subject to public records laws. The Commission members who review this matter for approval of this Stipulation may be the same members who ultimately hear, consider, and decide the Complaint if this Stipulation is either not approved by the Commission or is not timely performed by RESPONDENTS.
 - RESPONDENTS fully understand that they have the right to be represented by legal counsel in this matter at their own expense.
 - Each party shall bear their own attorney's fees and costs, except as provided above.
 - RESPONDENTS agree that if the terms and conditions of this Stipulation and Order are not met, RESPONDENTS shall appear before the Commission and explain their failure to comply with the settlement terms. Alternatively, the Division may, at its option, rescind this Stipulation and Order as to the RESPONDENTS in default and proceed with prosecuting the Complaint before the Commission.
 - Once executed, this Stipulation will be filed with the Commission and will be placed on the agenda for approval at its next public meeting. The Division will recommend to the Commission approval of the Stipulation. RESPONDENTS agree that the Commission may approve, reject, or suggest amendments to this Stipulation that must be accepted or rejected by RESPONDENTS before any amendment is effective.

Chairman Burke asked Mr. Johnson if his clients were in agreement with the terms of the settlement.

Mr. Johnson stated that his clients agreed.

Chairman Burke asked the Commission if they had any questions, comments, or concerns regarding the stipulation.

The Commission had none.

Chairman Burke moved to accept the settlement agreement as entered into, signed and read into the record. Seconded by Commissioner Niggemeyer. Motion carried.

4-E) NRED v. Rancho San Juan Homeowners Association, Christopher Seckler, Sebastian Mayo, and Cesar Valdez, for possible action

Case No. 2020-666

Type of Respondent: Board Members

Parties Present

Virginia Tomova, Deputy Attorney General, was present representing the Division.
Patrick Orme, Esq. was present representing Rancho San Juan HOA

Ms. Tomova stated that the Division and Rancho San Juan Homeowners Association have been working together on an amenable plan to properly fund the association. Ms. Tomova stated that Mr. Orme has been working with the association to have them comply with the Division, but some of the board members and 63% of the homeowners cannot afford to make regular payments toward their homeowner's association dues. Ms. Tomova stated that the Division would like to continue to work with Mr. Orme and the association and they are proposing that because of the situation and with the assistance of Mr. Orme, the association can create a bare bones budget and with the recommendations from Mr. Orme certain amenities will be shut down such as the pool and clubhouse to get the association to the bare minimum for maintenance. Ms. Tomova stated that Mr. Orme had previously proposed a receivership and potential dissolution of the association, but that would be costly and not possible.

Mr. Orme stated that the underlying issue is funding the reserve account because there is 50% of the residents that do not pay their regular homeowner's assessments, whether it is because of an inability to pay or a willful intention not to pay because the homeowners do not like certain board members and those homeowners have gone to collections and will eventually go through the foreclosure process. Mr. Orme stated that placing the homeowners' association into receivership is not a possibility unless there is funding available through the State for low-income residents. Mr. Orme stated that it is a problem when there is only one water meter for the association, with only 50% of residents paying their assessments making it hard for the association to cover the costs of the water bill. Mr. Orme stated that it would cost approximately \$2500 to \$3000 per unit to individually meter the homes and if that were to happen it could be possible to discuss dissolution of the association. Mr. Orme stated that receivership would be costly and could possibly bankrupt the association. Mr. Orme stated that the association only had one board member and with 50% of the homeowners are ineligible to serve because they were behind on their assessments, but there are two people willing to serve if the Commission has the authority to allow the association to appoint them to the board without having to go through the election procedure.

Ms. Tomova stated that the Division does not want to see homes being foreclosed upon and proposes to get the association down to a bare bones minimum budget, get an estimate of what the bare maintenance cost for the association would be and divide those costs amongst the homeowners to obtain a new monthly assessment cost and add an additional amount on top of that to put toward the reserves. Ms. Tomova stated that this would be a start to get a budget going and some money coming in.

Chairman Burke stated that this proposal might not solve the problem because when there is a 50% rate of the residents not paying their assessments, it is more likely than not a willful spiteful position rather than an inability to pay. Chairman Burke stated that the association does need to move forward with the foreclosure process with the residents that are the most delinquent. Chairman Burke stated that the association trying to lower their overhead costs is wise and required.

Mr. Orme stated that the residents that were in the foreclosure process have received notices, but that part of the problem is that the notices are written in English and not Spanish for this primarily Spanish speaking community.

Commissioner Morse Jarman asked why the notices would be in English if the residents primarily

Speak Spanish.

Mr. Orme stated that he does not know the answer to that question, and he would have to speak with the collection agency that sends out the notices.

Commissioner Niggemeyer asked if the residents were aware that the pool was going to be filled in and the clubhouse closed and if that does not solve the problem then would the association move to the foreclosure process.

Mr. Orme stated that the residents would be notified of the closures of the pool and clubhouse during a board meeting.

Chairman Burke stated that if the pool and clubhouse were closed, that would have to be accounted for in the reserve study.

Chairman Burke stated that the association needs to get new board members and the association should have a board meeting and notice on the agenda that the clubhouse and pool are going to be closed.

Commissioner Morse Jarman stated that any notices to homeowners and the agenda should be in English and Spanish.

Chairman Burke moved that this matter will be continued to the next scheduled Commission meeting and in the interim Mr. Orme should contact the Ombudsman's office for the appointment of the new board members, notice residents and have a board meeting regarding the pool and clubhouse, inform homeowners that are delinquent with their assessments that they will be facing potential foreclosure for failure to pay, and give an update on where the association is with the reserve study. Seconded by Commissioner Bruner. Motion carried.

4-A) NRED v. J. Scott Hedlind, for possible action

Case No. 2021-65

Type of Respondent: Community Manager

License No.: CAM.0000190.SUPR (Active)

4-B) NRED v. J. Scott Hedlind, for possible action

Case No. 2021-224

Type of Respondent: Community Manager

License No.: CAM.0000190.SUPR (Active)

4-C) NRED v. J. Scott Hedlind, for possible action

Case No. 2021-1084

Type of Respondent: Community Manager

License No.: CAM.0000190.SUPR (Active)

Parties Present

Virginia Tomova, Deputy Attorney General, was present representing the Division.

J. Scott Hedlind was present.

Preliminary Matters

Ms. Tomova stated that the Division had filed a notice of default for Mr. Hedlind's failure to file an answer with the Division to the three complaints in case numbers 2021-65, 2021-224, and 2021-

1084. Ms. Tomova stated that Mr. Hedlind was present during the May 31, 2022, Commission meeting where the Commission ordered Mr. Hedlind to file an answer for the three complaints within 20 days, due on June 20, 2022, and there has been no response or communications with Mr. Hedlind.

Mr. Hedlind stated that he takes responsibility for not providing a response because he was going through some issues causing delay.

Chairman Burke moved that Mr. Hedlind is in default for case numbers 2021-65, 2021-224, and 2021-1084. Seconded by Commissioner Layton. Motion carried.

Case# 2021-65 Factual Allegations

Chairman Burke moved that for case 2021-65 the respondent failed to respond and therefore finds the factual allegations as pled in paragraphs 1-20 are found to be true. Seconded by Commissioner Layton. Motion carried.

Case# 2021-65 Violations of Law

Chairman Burke moved that based on the factual allegation being proven, that the violations of law as pled in paragraphs 21-24 are found to be proven. Seconded by Commissioner Layton. Motion carried.

Case# 2021-65 Division's Recommendation

Ms. Tomova presented the recommendations as follows:

- The respondent's community manager certificate be revoked.
- The respondent pays a fine of up to \$5,000 for each violation of law.
- The respondent pays the Division's investigative fees and costs of \$1,900.96.
- All fines, fees, and costs to be paid within 90 days.

Commissioner Bruner stated that the fines for the four violations of law should be \$10,000 and that the respondent pay the Division's fees and costs.

Chairman Burke moved that Mr. Hedlind's community manager certificate be revoked, Mr. Hedlind pay a fine in the amount of \$10,000 and the Division's fees and costs in the amount of \$1,900.96 for a total due of \$11,900.96 payable within 90 days. Seconded by Commissioner Layton. Motion carried.

Case# 2021-224 Factual Allegations

Chairman Burke moved that providing that Mr. Hedlind has been found in default for case 2021-224 the factual allegations as pled in paragraphs 1-27 are found to be proven. Seconded by Commissioner Layton. Motion carried.

Case# 2021-224 Violations of Law

Chairman Burke moved that based on the factual allegations being found proven, the violations of law as pled in paragraphs 29-33 have been proven. Seconded by Commissioner Layton. Motion carried.

Case# 2021-224 Division's recommendations

Ms. Tomova presented the recommendations as follows:

- The respondent pays a fine of up to \$5,000 for each violation of law.
- The respondent pays the Division's investigative fees and costs of \$1,434.88

Commissioner Layton stated that the respondent should pay a \$10,000 fine and repay the Division's fees and costs.

Chairman Burke moved that for case 2021-224 Mr. Hedlind pay a fine in the amount of \$10,000 and the Division's fees and costs in the amount of \$1,434.88 for a total amount due of \$11,434.88 payable within 90 days. Seconded by Commissioner Bruner. Motion carried.

Case# 2021-1084 Factual Allegations

Chairman Burke moved that providing that Mr. Hedlind has been found to be in default for case number 2021-1084 that the factual allegations as pled in paragraphs 1-13 are found to be proven. Seconded by Commissioner Layton. Motion carried.

Case# 2021-1084 Violations of Law

Chairman Burke moved that based on the factual allegations being found to be proven that the violations of law as pled in paragraphs 14-16 have been proven. Seconded by Commissioner Layton. Motion carried.

Case# 2021-1084 Division's recommendations

Ms. Tomova presented the recommendations as follows:

- The respondent pays a fine of up to \$5,000 for each violation of law.
- The respondent pays the Division's investigative fees and costs of \$1,434.88.
- The respondent's community manager certificate is revoked for no less than 10 years

Commissioner Layton moved that for case 2021-1084 Mr. Hedlind pay a fine in the amount of \$10,000 and the Division's fees and costs in the amount of \$1,434.88 for a total due of \$11,434.88 payable within 90 days and that Mr. Hedlind's community manager certificate be revoked for a period of no less than ten years and Mr. Hedlind must appear before the Commission if he wishes to re-apply. Seconded by Chairman Burke. Motion carried.

4-H) NRED v. Michael Skahill, for possible action

Case No. 2021-596

Type of Respondent: Community Manager

License No.: CAM.0007489.SUPR (Inactive)

4-I) NRED v. Michael Skahill, for possible action

Case No. 2021-903

Type of Respondent: Community Manager

License No.: CAM.0007489.SUPR (Inactive)

4-J) NRED v. Michael Skahill, for possible action

Case No. 2021-1078

Type of Respondent: Community Manager

License No.: CAM.0007489.SUPR (Inactive)

Parties Present

Virginia Tomova, Deputy Attorney General, was present representing the Division
Michael Skahill was not present.

Preliminary Matters

Ms. Tomova stated that there had been no answer filed to the complaints for case numbers 2021-

596, 2021-903, and 2021-1078 and the Division would like to enter a default in all three cases against the respondent.

State's Witness

Kelly Valadez, Commission Coordinator, testified regarding service of the complaint.

Chairman Burke moved that the Division properly served Mr. Skahill in case numbers 2021-596, 2021-903, and 2021-1078 and that Mr. Skahill is in default. Seconded by Commissioner Niggemeyer. Motion carried.

Case# 2021-596 Factual Allegations

Chairman Burke moved that providing that Mr. Skahill has been found to be in default for case number 2021-596 that the factual allegations as pled in paragraphs 1-17 are found to be proven. Seconded by Commissioner Layton. Motion carried.

Case# 2021-596 Violations of Law

Chairman Burke moved that based on the factual allegations being proven, that the violation of law as pled in paragraphs 18-20 have been proven. Seconded by Commissioner Layton. Motion carried.

Case# 2021-596 Division's Recommendations

Ms. Tomova presented the recommendations as follows:

- The respondent's community manager certificate be revoked for a period of no less than ten years.
- The respondent pays a fine of up to \$5,000 for each violation of law.
- The respondent pays the Division's investigative fees and costs of \$1,738.46.
- All fines, fees, and costs to be paid within 90 days.

Chairman Burke moved that for case number 2021-596, Mr. Skahill pay a fine in the amount of \$15,000, and the Division's fees and \$16,738.46 payable within 90 days, and that Mr. Skahill's community managers certificate be revoked for a period of no less than ten years and that he must appear before the Commission if he wishes to reapply. Seconded by Commissioner Layton. Motion carried.

Case# 2021-903 Factual Allegations

Chairman Burke moved that providing that Mr. Skahill has been found to be in default for case number 2021-903 that the factual allegations as pled in paragraphs 2-32 have been proven. Seconded by Commissioner Layton. Motion carried.

Case# 2021-903 Violations of Law

Chairman Burke moved that based on the factual allegations being proven, that the violations of law as pled in paragraphs 33-40 have been proven. Seconded by Commissioner Layton. Motion carried.

Case# 2021-903 Division's Recommendations

Ms. Tomova presented the recommendations as follows:

- The respondent pays a fine of up to \$5,000 for each violation of law.
- The respondent pays the Division's investigative fees and costs of \$1,597.38.
- All fines, fees, and costs to be paid within 90 days.

Chairman Burke moved that for case number 2021-903, Mr. Skahill pay the Division's a fine in the

amount of \$40,000 and the Division's fees and costs in the amount of \$1,597.38 for a total amount due of \$41,597.38 payable within 90 days. Seconded by Commissioner Layton. Motion carried.

Case# 2021-1078 Factual Allegations

Chairman Burke moved that providing that Mr. Skahill has been found to be in default, the factual allegations as pled in paragraphs 1-10 have been proven. Seconded by Commissioner Layton. Motion carried.

Case# 2021-1078 Violations of Law

Chairman Burke moved that based on the factual allegations being proven, that the violations of law as pled in paragraphs 1-3 have been proven. Seconded by Commissioner Niggemeyer. Motion carried.

Case# 2021-1078 Division's Recommendations

Ms. Tomova presented the recommendations as follows:

- The respondent's community manager certificate be revoked.
- The respondent pays a fine of up to \$5,000 for each violation of law.
- The respondent pays the Division's investigative fees and costs of \$1,509.88.
- All fines, fees, and costs to be paid within 90 days.
- The respondent's community manager certificate is revoked for no less than 10 years

Chairman Burke moved that for case number 2021-903, Mr. Skahill pay the Division's a fine in the amount of \$15,000 and the Division's fees and costs in the amount of \$1,509.88 for a total amount due of \$16,509.88 payable within 90 days and that Mr. Skahill's community manager certificate be revoked for a period of no less than ten years and Mr. Skahill's must appear before the Commission if he wishes to re-apply. Seconded by Commissioner Layton. Motion carried.

6-A) Respondent Srdjan Pantic's petition for reconsideration of a payment plan for Commission fine and costs.

NRED v. Srdjan Pantic, for possible action

Case No. 2019-836

Type of Respondent: Board Member

Parties Present

Virginia Tomova, Deputy Attorney General, was present representing the Division
Srdjan Pantic was present virtually.

Mr. Pantic stated that he is requesting an additional twelve months to pay his fine and costs due to the Division.

Chairman Burke stated that Mr. Pantic's remaining amount due was \$9135.90, which would make the monthly payments of \$761.33 each month for the next twelve months.

Ms. Tomova stated that the Division does not agree with extending the time period to pay the fine and costs originally ordered by the Commission, because the violations were egregious.

Chairman Burke asked Mr. Pantic what the maximum amount he could afford to pay each month.

Mr. Pantic stated that he could pay \$900 each month.

Chairman Burke stated that he was in favor of allowing a payment plan.

Chairman Burke moved that Mr. Pantic be allowed ten months to pay the remaining balance of the fine and costs ordered provided that a payment is made of no less than \$900 each month. Seconded by Commissioner Niggemeyer. Motion carried 5 to 1 with Commissioner Morse Jarman opposed.

5-A) Respondent Christopher Seckler's petition for reconsideration of a payment plan for Commission fine and payment plan.

NRED v. Rancho San Juan Homeowners Association, Christopher Seckler, Sebastian Mayo, and Cesar Valdez

Case No. 2021-161

Type of Respondent: Board Member

Parties Present

Virginia Tomova, Deputy Attorney General, was present representing the Division. Christopher Seckler was not present.

Chairman Burke stated that no action would be taken on this matter because Mr. Seckler was not present, and this item will be continued until the next scheduled Commission meeting.

9) Discussion and decision on date, time, place, and agenda items for upcoming meeting(s) including setting the meeting calendar for 2023.

- December 6-8, 2022
- March 14-16, 2023
- June 6-8, 2023
- September 26-28, 2023
- December 5-7, 2023

10) Public Comment

None.

11) Adjournment

Meeting adjourned at 12:44 p.m. on September 14, 2022.

Minutes prepared by: *M Gallo*
Maria Gallo
Commission Coordinator