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February 8, 2022

State of Nevada
Department of Business & Industry, Real Estate Division
Commission for CICCH
3300 W. Sahara Avenue, Suite 350
Las Vegas, NV 89102



REF: Quorum, or not, at the Budget Ratification Meeting

Dear Commissioners:

A lot of confusion exists with unit owners concerning whether or not a quorum must be met before an association's annual budget can be rejected by a majority vote at their Budget Ratification Meeting. The following information applies:

1. **NRS 116.31151** is precise in the criteria for budget ratification meetings:

1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, . . .

3. Within 60 days after adoption of any proposed budget for the common-interest community, . . . Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

I contend that this sentence above is misleading:

Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present.

My old-fashioned, English grammar teacher would label the words, **whether or not a quorum is present**, a misplaced modifying phrase. In essence NO quorum is needed to reject the annual budget, only a majority vote of those unit owners present who reject it.

Our association's Bylaws, written by the long time, acknowledged real estate and UNLV HOA instructor, attorney Charles Deaner, stated:

"Unless at that meeting a majority of the Members present reject the proposed budget, the proposed budget shall be ratified, whether or not a quorum is present."

Attorney Deaner's key word added to the statute is **present**. For me, I believe this means one or more unit owner members present at the budget ratification meeting can reject the annual budget.

In 2005 during our budget ratification meeting the majority unit owner members present rejected the proposed annual budget so it was adjusted with their recommendations and passed subsequently at the rescheduled budget ratification meeting.

2. **NRS 116.311** Voting by units' owners; use of absentee ballots and proxies; voting by lessees of leased units; association prohibited from voting as owner of unit; voting without a meeting.

This statute permits absentee and in-person voting only when electing and/or recalling board members by the unit owner members. However, proxies, in-person and absentee ballots are permitted for all other voting issues to include amendments to the governing documents, budgets and more.

3. To summarize when unit owner members vote, **NRS 116.311** defers to the association's bylaws as:

"Unless prohibited or limited by the declaration or bylaws and except as otherwise provided in this section, units' owners may vote at a meeting . . . "

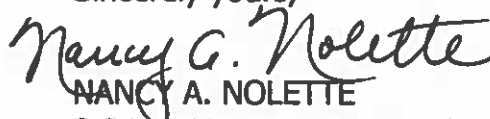
- a. All annual board of directors' elections are conducted via in-person and absentee ballot voting.
- b. All recall elections are held by in-person and absentee ballot voting.
- c. Then the annual budget is always ratified by default unless it is disapproved by 51% of those in-person present voting against its approval.

For years, many have assumed that a quorum of the entire association's unit owner members must attend in-person the Budget Ratification Meeting and vote 51% to reject the annual budget. Traditionally boards never permitted absentee and proxy voting at this meeting. Unit owner members believed this herculean attendance assumption as unattainable that left them feeling powerless and without any fiscal restraining alternatives.

4. I am requesting the Commission for CICCH to evaluate and publish a clear position statement regarding this seemingly word misunderstanding on behalf of the unit owner members residing in common interest communities.

Thank you.

Sincerely yours,


NANCY A. NOLETTE

S.S.L.-P.V.E. Homeowners' Association