

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND
CONDOMINIUM HOTELS MEETING MINUTES MARCH 7, 2023**

**VIA IN PERSON AND WEBEX VIRTUAL MEETING
MARCH 7, 2023**

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

The meeting was called to order at 9:03 A.M.

1-A) Introduction of Commissioners in attendance

Michael Burke, Phyllis Tomasso, Charles Niggemeyer, June Heydarian, James Bruner, Patricia Morse Jarman, and Kim Lighthart.

Commission Counsel: Chief Deputy Attorney General Rosalie Bordelove

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, and staff; Kelly Valadez, Commission Coordinator; and Maria Gallo, Commission Coordinator.

Phil Su, Senior Deputy Attorney General and Christal Keegan, Deputy Attorney General representing the Division.

2) Public Comment

Mike Kosor stated he serves as a director in a large HOA in Las Vegas. Mr. Kosor stated he has provided the Commission with his written comments and would like them to be included in the minutes. Mr. Kosor stated he believes the Division is turning a blind eye to HOA laws being violated, blocking owner efforts to access this Commission hearing for resolution. Mr. Kosor stated that as an elected director he is entitled to access to all records of the Association. Mr. Kosor stated he was denied access to these records and filed a complaint with the Division and the case was closed without any explanation. Mr. Kosor stated after being elected to the board their (insurance) carrier refused to renew their director and officer insurance policy. Mr. Kosor stated that the other board members agreed to an alternative policy where he is listed by name as an exclusion on the policy. Mr. Kosor stated he filed a complaint, and the complaint was closed without any explanation. Mr. Kosor stated he requested to meet with the investigator and Mr. Wheaton, and that was denied. Mr. Kosor stated Mr. Foger did volunteer to meet with him, after that meeting, he only received a one sentence email stating that his case will not be reopened. Mr. Kosor stated the Division must be required to explain their actions or inactions to those who believe they have been aggrieved by their HOA and file a complaint.

Howard McCarley stated he is a resident in a large HOA in Las Vegas. Mr. McCarley stated he would like the Ombudsman to act as a resource and advocate for homeowners. Mr. McCarley stated in his dealings with the Ombudsman's office, the office is not acting on behalf of or in the best interest of homeowners in Nevada. Mr. McCarley stated HOA management is a large industry with unlimited legal and political resources to wield. Mr. McCarley stated homeowners many on fixed incomes do not have the financial or legal means to fight their HOA and wants the Ombudsman's Office to assist and help homeowners to check abuses of management companies, developers and HOA's.

3-A) NRED v. Monterey Grand Manor Owners Association, Dale Milligan, Susan Moore, Richard Jagodzinski, and Saturday Aisuan, for possible action.

Case No. 2021-1049

Type of Respondent: Board Members

Parties Present

Phil Su, Senior Deputy Attorney General was present representing the Division.

I-Che Lai, Esq. was present representing Monterey Grand Manor Owners Association.

Preliminary Matters

Mr. Su stated the parties were in the process of reaching a settlement, but in order to do so, the Association needed to provide an audit update. Mr. Su stated the Association still needs to provide the Division with the final copy of the CPA audit, only a draft copy of the audit had been recently provided. Mr. Su stated once he receives the audit in final form, they have the framework for a settlement.

Mr. Lai stated the CPA audit has been adopted by the board and he is currently waiting for a copy of the audit. Mr. Lai stated he would be able to get a decision on the settlement proposal from his clients and resolve this case.

Chairman Burke stated they will continue this case until the next meeting, with the understanding that the parties are working towards a settlement agreement.

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

Case No. 2021-161

Type of Respondent: Board Members

Parties Present

Phil Su, Senior Deputy Attorney General was present representing the Division.

Patrick Orme, Esq. was present representing Rancho San Juan Homeowners Association.

Preliminary Matters

Mr. Su stated Mr. Orme has been in contact with his office and they have been back and forth about the challenges within the community.

Mr. Orme stated the current board is complying with the rules and regulations and doing what they are able. Mr. Orme stated when the reserve assessment was raised, delinquencies went from 20-25% in November to December to 50% in January to February. Mr. Orme stated this

Association needs to be dissolved, but it cannot be dissolved because of the water main issue, and it would be cost prohibitive for each resident to get their own water meter. Mr. Orme stated his recommendation is to continue with the collection process handled by Varalino.

Chairman Burke thanked Mr. Orme for his work in dealing with the challenges within the community.

Mr. Orme stated they tried to get a new reserve study done with lower percentages to not include the clubhouse and pool, but it could not be completed because the clubhouse and pool would have to be included as long as they exist on the property. Mr. Orme stated the new reserve study was completed but it is the same as the old one and will show that the community remains severely underfunded.

Chairman Burke asked Mr. Orme how much is in the reserve account.

Mr. Orme stated there was currently \$67,000 in the reserve account.

Chairman Burke stated there is a dilapidated clubhouse and a pool that needs to be filled in. Chairman Burke asked how much it would cost to demolish the clubhouse and the pool.

Mr. Orme stated that there is currently \$12,000 in the operating account which would not cover the cost of the work; it would take the operating fund and the reserve fund to complete the demolition.

Chairman Burke stated there needs to be an out of the box resolution to the problems of the Association. Chairman Burke stated if the Association was dissolved, the homeowners would still have to have some sort of agreement so they can pay their water bill.

Commissioner Jarman asked whether a large number of homes were in the foreclosure process. Mr. Orme stated some homes have liens and some are close to receiving the Notice of Sale, but none have made it any further.

Mr. Su stated he and Mr. Orme talked about how much it would cost to set up an individual water meter at each residence and both agreed it is more than the Association has in their reserve fund. Mr. Orme stated he would check in the CC&Rs for language regarding dissolution and the possibility of an agreement specific to the water.

Commissioner Bruner stated it would likely cost up to \$10,000 to hook up an individual water meter, including \$1000 for the meter box and approximately \$8000 for the water connection fee.

Commissioner Burke wondered if there was a hardship provision afforded by the water district.

Commissioner Bruner stated it would not be a feasible option for the homeowners.

Chairman Burke stated all parties should cooperate with each other and try to find ways to set up individual water meters at each lot, demolish the clubhouse, pool, and dissolve the Association.

Mr. Su asked Mr. Orme the status of the recall petition. Mr. Orme stated that the recall petition was for a recall of all board members with no replacements. Mr. Orme stated that in the best interest of the community and to preserve the association resources, he instructed the community manager to withhold sending ballots as the regular election would occur in May.

Commissioner Niggemeyer asked if Mr. Orme knew if the people in the community own their own home and is the problem paying assessments or are they also having trouble paying their mortgage. Commissioner Niggemeyer stated they may still lose their homes to foreclosure because they are not paying their mortgage if they do not own the home outright.

Mr. Orme stated 80% of the community are owners, and he did not know if they owned their homes outright.

Commissioner Bruner recommended that Mr. Orme find out whether the association pays for the sewer. Commissioner Bruner stated that there might be an additional hook-up fee of \$2200 - \$2300 and then the sewer bill will be sent to the homeowners going forward.

Mr. Orme stated the Association pays for the sewer bill.

Commissioner Morse Jarman asked if it would do any good to put in writing to the homeowners what options they are looking at and the costs of what the homeowners could be paying if they do not pay their assessments. Commissioner Morse Jarman suggested that the Association send detailed information including costs for water and sewer in comparison to costs of the assessments.

Mr. Orme stated he could send something to the homeowners laying out the options the Board is considering and even send it out in Spanish.

Commissioner Heydarian stated she wanted an update on the collection process. Commissioner Heydarian stated if there is a mortgage on the property their bank may step in and pay their assessments.

Chairman Burke stated this case will be continued to the next meeting, and all parties should work together to figure out a resolution to having individual water meters installed, and where the Association is in the foreclosure process.

3-D) NRED v. Joyce Ahn, for possible action

Case No. 2021-1232

Type of Respondent: Board Member

Parties Present

Christal Keegan, Deputy Attorney General, was present representing the Division.

Preliminary Matters

Ms. Keegan stated an email was received prior to the meeting stating Ms. Ahn would not be

attending the meeting. Ms. Keegan stated a good cause needs to be shown for a continuance or proceed to a default hearing. Ms. Keegan stated there is concern for Ms. Ahn's health and wellness.

President Burke stated out of an abundance of caution for Ms. Ahn's health and wellness, the case would be continued to the next Commission meeting.

President Burke moved this case will be continued. Seconded by Commissioner Niggemeyer. Motion passed.

3-C) NRED v. Sierra Ranchos Property Owners Association, for possible action

Case No. 2018-1663

Type of Respondents: Board Members

Parties Present

Phil Su, Senior Deputy Attorney General was present representing the Division.

William Roth, Sierra Ranchos Property Owners Association, Secretary was present.

Joy Marvin, Sierra Ranchos Property Owners Association, President was present virtually.

Matthew Kramer, Equus Management, Sierra Ranchos Property Owners Association Community Association Manager was present virtually.

Preliminary Matters

Mr. Su stated in the December 6, 2022, order that the Association was to work with Nortech to determine the work necessary to repair and maintain the roads. Mr. Su stated to his understanding that the Association has been working with Nortech and has received certain documentation from Nortech.

Mr. Roth stated they have been working with Nortech and he is waiting for the principle of the company to review, revise and stamp the report. Mr. Roth stated a recall petition had been sent by several members, however it is close to an election. Mr. Roth stated the goal is to follow the Commission recommendations and to find the funding to fix the roads. Mr. Roth stated part of the delay in progress is due to the conflict between the Washoe County compliance and engineering sections over regulation.

Mr. Su stated the community cannot get bids for the work to be completed until the report from Nortech has been stamped.

Chairman Burke stated he wanted to hear from Equus Management. Chairman Burke stated he wanted an overview as to where they are on everything.

Mr. Kramer stated at the beginning of November the Board approved the contract with Nortech for road evaluation. Mr. Kramer stated in late February he had communication with Nortech that the report was basically completed but they were waiting for the report to be stamped before the report could be delivered to the Association. Mr. Kramer stated he recently sent a follow-up email regarding delivery of the report and had not received a response from Nortech.

Chairman Burke asked what is the next step after the report has been completed and delivered to the Association?

Mr. Kramer stated there needs to be proposals for the road repairs, then the next step would be to work with hydrology and surveying because there are ditches and culverts that need to be addressed to ensure water is going under the roads and through the ditches for the long term.

Chairman Burke stated Mr. Roth referred to a recall of the board and asked about the status of the board.

Mr. Kramer stated there was an election held in the first part of November and only two homeowners ran for the 3 board positions. Mr. Kramer stated at the homeowners' meeting it was asked if any of the homeowners wanted to serve on the board and none volunteered. Mr. Kramer stated that since that meeting one homeowner submitted that they are interested in being on the board, and that is on the agenda for the next meeting. Mr. Kramer stated the homeowner that is interested in joining the board is also the one that submitted the petition to recall the current board members.

Chairman Burke stated he wanted someone to speak about the reserve study.

Mr. Roth stated the original reserve study specialist is ready to provide a new reserve study once the costs have been established to fix and repair the roads. Mr. Roth stated the reserve study specialist was awaiting receipt of the signed contract and engineering report.

Chairman Burke stated he wanted to know about their assessments being raised.

Mr. Kramer stated per the Association's CC&R's they can only raise the assessment amount to the CPI index. Mr. Kramer stated they did raise the assessment by 8.2%, which was the maximum amount. Mr. Kramer stated there is an operating and reserve special assessment to cover the shortfalls in the operating fund and build up the reserve amount for the first contract, so the Association has the funds available. Mr. Kramer stated the funds they are currently collecting are not going to be enough to cover everything, and there will have to be another special reserve assessment once they get firm numbers from the contractors.

Chairman Burke asked if by the next meeting there will be a stamped engineer plan and bids from contractors for the work that needs to be completed on the roads and to help guide the reserve study with the special assessments? Chairman Burke asked if they could commit to getting the bids from contractors using the engineer plans prior to the next Commission meeting.

Mr. Kramer stated he thought that was reasonable if it did not take another 2 months to get the engineering study, if the study is delivered in the next two weeks it is fully within reason to have bids from contractors for the Board's approval.

Mr. Su stated from the emails he has seen they should have had the report in hand, they have a draft not the stamped report.

Chairman Burke asked with the draft report could they solicit bids, subject to the final report. Chairman Burke stated by getting contractors lined up to do a site visit by April and then by May have a bid to the Association so by the June meeting there is a plan.

Mr. Roth stated he thought that was reasonable and they could get one or two bids.

Mr. Kramer stated Nortech has not provided him or the Association with any drafts.

Mr. Su stated Nortech has talked of a draft, but an actual draft has not been provided to the Association.

Chairman Burke stated that it should not take 4 weeks to get a stamped engineering report, so stay on top of Nortech to get the stamped report.

Commissioner Bruner stated that the 5 miles of main roads should be phase one, then the washed out, not drivable or safe roads would be the next phase. Commissioner Bruner stated that at the next meeting the update will be on the first phase.

Chairman Burke made a motion to bring this case back in June and in the interim the Association is to contact Nortech, get the stamped engineering plan by March 31st, get 2 bids from contractors using Nortech plans and continue to work on the reserve study, and give all this information to the Division at least a week before the next Commission meeting.

Chairman Burke asked if there were any additions to his motion.

Commissioner Heydariyan stated the bids must be from properly licensed and insured contractors.

Motion was seconded by Commissioner Niggemeyer. Motion carried.

Mr. Roth asked how you bind future boards to this order?

Chairman Burke stated that the order is directed to the Association so any future boards must comply with this order.

3-E) NRED v Villager Townhouses Association, Erica Darke, Ellen Dauscher, for possible action

Case No.2021-1032

Type of Respondent: Board Members

Parties Present:

Phil Su, Senior Deputy Attorney General was present representing the Division.

Paul Maynard, President was present virtually.

Carl Buchholz, Secretary was present virtually.

Alvan Donnan, Treasurer was present virtually.

Preliminary Matters

Chairman Burke asked if there has been a response to the complaint.

Mr. Su dismissed the complaint against the previous board members as they are no longer homeowners within the Association.

Mr. Su stated, not in the form of an answer, but he has been in contact with the current Board Members about the details of the complaint. Mr. Su stated the Association is in good standing with the Division as all forms and payments have been submitted. Mr. Su stated he has the general framework for a settlement. Mr. Su stated there were a couple of questions for this Commission to consider. Mr. Su stated because the community is self-managed the Division wanted the current board members to take 5 hours of education, and for the Association to hire a full-service Community Association Manager (CAM). Mr. Su stated the Association only wants to hire a financial records service through one of the CAM's they have spoken to. Mr. Su stated the Division would like the Association to hire a full-service CAM for 5 years.

Chairman Burke asked the Board Members if that was an accurate reflection of the Board's desires.

Mr. Maynard stated he believed the current board has the capability to self-govern. Mr. Maynard stated the Board Members are open to hiring a CAM to complete the financial services only. Mr. Maynard stated he would write the request for proposal and get sealed bids to open at the next annual meeting in April. Mr. Maynard stated the Executive Board will meet within the next two weeks to approve the latest reserve study and increase the annual assessment. Mr. Maynard stated all assessments are current, all homeowners have paid their semi-annual payment.

Mr. Donnan stated he agreed with Mr. Maynard to move forward and come into compliance with the regulations.

Chairman Burke stated it sounds like everyone agrees and a settlement can easily be accomplished. Chairman Burke stated part of it would be continuing education for each of the current Board Members, and the only question would be whether the Association wants a CAM to get involved on the financial side.

Commissioner Bruner stated he was glad they were getting their reserve completed, and open to not making them pay the extra money to hire a CAM to run the financials.

Commissioner Morse Jarman stated she thought they needed to hire a CAM and have some oversight.

Chairman Burke stated they do not have an obligation to hire a CAM.

Commissioner Bruner stated it was the past Board Members that put this Association in this situation, and they have moved on.

Mr. Su stated part of the reason the Division was requesting a CAM be hired, because there were deficiencies in the financial documents that were submitted to the Division. Mr. Su stated the Association could also use the assistance of a CAM to coordinate meetings, record meetings, and

to make sure they hold executive board meetings on a regular basis.

Commissioner Niggemeyer stated the educational requirement of the proposed settlement was a big one because there is more to the job of being a Board Member. Commissioner Niggemeyer stated there should be more hours of education required of the Board Members. Commissioner Niggemeyer stated self-managed associations are okay, but they must be up to speed with what NRS requires. Commissioner Niggemeyer asked if the Board Members feel they need a CAM for financial services.

Mr. Maynard stated he did not feel they needed a CAM for financial services. Mr. Maynard stated the two previous officers really dropped the ball and failed to do anything. Mr. Maynard stated they can manage the Association by themselves. Mr. Maynard stated the 5 hours of continuing education will allow them to learn absolutely everything they need to know. Mr. Maynard stated the current Board Members' plan on staying in place for the foreseeable future, while running the Association in a compliant way and moving-forward.

Commissioner Heydarian stated more than 5 hours of education is needed for the Board Members, because the issue is the lack of records and documentation. Commissioner Heydarian stated if everyone is paying their assessments now, what happens if some owners do not pay, and you must move forward to collections. Commissioner Heydarian stated if the records are not in line, it will be difficult for the Association to do. Commissioner Heydarian stated taking on the accounting would be a burden, the Association may want to hire a company, as a separation between the Board Members and the money of the Association. Commissioner Heydarian stated relying on the professionals to help guide the Board regarding finances might be in the best interest of the community.

Chairman Burke stated the Commissioners are just giving suggestions because the matter is not before the Commission and are points to consider in settlement talks that will be presented at a future meeting. Chairman Burke stated these are not mandates and they are just insights that the Commission would like to see in a settlement.

Mr. Maynard stated the Board is interested in getting sealed bids and opening them at a future meeting. Mr. Maynard stated they all agree that hiring a CAM to do the financials is in the best interest of the Association.

Commissioner Niggemeyer stated 5 hours is not enough to learn everything, because this state's legislature meets every other year and the changes that happen must be known, the more training the Board Members take the better and lessens the chance of getting in trouble in the future.

Chairman Burke stated they are going to continue this case to the next Commission meeting with the hope of having a settlement.

**3-F) NRED v Wine Ridge Estates Homeowners' Association, Fernando Hernandez,
Rebecca Coins for possible action**

Case No. 2021-942

Type of Respondent: Board Members

Parties Present:

Christal Keegan, Deputy Attorney General, was present representing the Division.
Ryan Hastings, Esq. was present representing Wine Ridge Estates HOA.

Preliminary Matters:

Ms. Keegan stated the parties wish to settle this matter but there are still some outstanding matters that the Division wishes to present. Ms. Keegan stated the Association has hired a CAM, and all that remains is the Association's compliance with the Division's numerous requests to provide its records to the Division's auditor. Ms. Keegan stated the Association's counsel provided a Dropbox with numerous files and thousands of pages of documents at the very last minute. Ms. Keegan stated she and Division staff have tried to review all the documents but there are still some outstanding documents. Ms. Keegan stated to move forward with a settlement the Division needs the information requested over a year and a half ago. Ms. Keegan stated if the Association does not have the documents because they do not exist, they need to say so, or if documents are missing and still attainable but the Association needs more time, the Division is open to a settlement. Ms. Keegan stated the Division requests that any agreement not extinguish the Association's obligation to provide the information. Ms. Keegan stated the outstanding documents are the CPA audits from 2018, 2019 and 2020. Ms. Keegan stated she was told they would be completed by the end of January 2023. Ms. Keegan stated interim financial statements are missing, the worksheets provided are not compliant with NAC 116.451. Ms. Keegan stated monthly statements are missing from 2019, 2020 and 2021. Ms. Keegan stated the Division requests that the Board Members also complete 6 hours of relevant continuing education, and that the education must be completed within 6 months of the signed order.

Mr. Hastings stated his firm was hired by the Association just before the last commission meeting and he understood that all documents requested had been provided. Mr. Hastings stated it has only been recently that Ms. Keegan made it clear to him that there are still some missing documents. Mr. Hastings stated he went back to his client and obtained those documents and provided them to Ms. Keegan. Mr. Hastings stated some of the documents requested by the Division's auditor are not being referred to by the same name amongst industry professionals. Mr. Hastings stated his client put the documents in named folders, so it was clear what documents were being provided to comply with the request. Mr. Hastings stated he is now hearing for the first time the documents his client believed qualified as interim financial statements are not, and that those are something different from the explanation and description of Ms. Keegan. Mr. Hastings stated he could go back to his client and make sure there is an understanding as to what those documents are, get them prepared and delivered to Ms. Keegan. Mr. Hastings stated his client has been forthwith in submitting documents there just seems to be a name game. Mr. Hastings stated the only documents he cannot submit to the Division because he does not have them yet are the CPA audits, his client was told that they would have the documents by January.

Chairman Burke stated that settlement talks should be between the two counsels, the Commission can chime in. Chairman Burke stated he did not know what the Commission could do because they only have a complaint, they do not have an answer or any other documentation, so he does not want to weigh in.

Ms. Keegan stated she is ready to settle even though there are still missing documents.

Mr. Hastings stated he thought the original settlement terms did not include education for the Board Members and he would have to consult with his client if education is going to be part of the settlement.

Chairman Burke stated because there are still issues with the terms of the settlement, this case should be continued until the next meeting.

4-A) Administrator's Report

Charvez Foger stated there are a few legislative bills the Division is tracking that pertain to collections and foreclosures in Common-Interest Communities. Mr. Foger stated there are also a few bills that the Division is keeping an eye on because they pertain to open meeting laws, property leasing, lending licensure, and discrimination in housing.

4-B) Ombudsman's Summary Report

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

4-C) CIC Compliance Caseload Report and Summary

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

4-D) Licensee and Board Member Discipline Report

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

5-A) Discussion regard Commissioner's speaking engagement request

None

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

Commissioner Niggemeyer stated there a report as of February and that there is basically no change to the report. Commissioner Niggemeyer stated there are a few people they are watching closely. Commissioner Niggemeyer stated he spoke with the Deputy Administrator about establishing a different approach to collection efforts, possibly putting a regulation into effect.

5-C) Discussion and decision to approve minutes of the December 6-7, 2022, Commission meeting

Chairman Burke moved to approve the December 6-7, 2022, meeting minutes. Seconded by Commissioner Niggemeyer. Motion passed.

6) FOR POSSIBLE ACTION: FOR DISCUSSION AND DECISION ON DATE, TIME, PLACE AND AGENDA ITEMS FOR UPCOMING MEETING(S).

Next meeting is June 13-15, 2023.

7) Public Comment

Renee Montenegro stated she is the HOA President of Rancho San Juan and is in favor of sending out an urgent message to the residents about the water and sewer costs. Ms. Montenegro

stated it would help if people understood the law and what is required.

Mike Kosor stated in 2019 the Nevada legislature established the CIC task force, and the purpose of the task force was to study issues of concern to Common-Interest Communities and recommend the enactment of legislation or the adoption of regulations. Mr. Kosor stated the last time this taskforce met was in the fall of 2020. Mr. Kosor stated the Director of Business and Industry along with the Division believe there are no issues of concern to be discussed before this Commission or brought to the legislature. Mr. Kosor stated he listened to the hearing today and to previous hearings and doubts that is the case. Mr. Kosor asked this Commission to try to do something and get some good legislation passed and solve some of these issues that exist. Mr. Kosor stated that Mr. Wheaton commented that 80% of the cases he gets are solved within 90 days. Mr. Kosor stated that the 3 cases he filed took longer than 90 days and he was never contacted by the Division until after there was a decision to close his case. Mr. Kosor stated he is suspect of the data the Commission is receiving as being a good gauge as to whether the Real Estate Division is functioning as expected.

8) Adjournment

Meeting adjourned at 11:32 AM.

Minutes prepared by:

Maria Gallo
Commission Coordinator

To Be Approved by Commission

FILED

MAR 06 2023

**NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS**



Public Comment- CIC Commission meeting 03/07/23

Good morning. My name is Mike Kosor. I serve as a director on a large HOA in Las Vegas. I am a retired Air Force senior officer and in a second career, a former hospital executive. I have served as a director on multiple HOA boards for nearly eight years.

I am here today before this Commission, that serves as the sole oversight body of the Nevada Real Estate Division (NRED), asking you review and act on my allegation the Division is knowingly turning a blind eye to HOA laws violated blocking owner efforts to access Commission hearings for resolution -- or at least, ignoring violations by those I will simply label as special entities. This is not the first time I have raised concerns and requested your assistance.

Limits imposed on my time this morning will not permit me to make my full comments. So, I will summarize. But I ask you take the five minutes it takes to read my full comments you have been provided. I also ask they be made part of the formal minutes.

In the way of background, my HOA has been controlled by its developer for over twenty-three years. The majority of the association's board continues to be appointed by the developer. Two senior VPs of the developer's wholly owned company serve on the association's board and the developer's wholly owned company manages the association's daily operations. Inexplicably, what I just described violates no Nevada law- but it certainly creates a dangerous environment where the abuse of the power and lack of transparency can occur. It is an environment I am certain the Nevada legislators never intended. It needs your attention. But that is not why I am here today.

Last year, I came to serve on this master association's board as one of only two owner elected directors. I ran on a clear platform, one apparently held by a large number of my fellow owners, our association's board was not being transparent and a belief it may be violating the law. I filed three formal complaints with the Division last year- all were closed without explanation. I will provide two simple examples of what I believe are fairly straight forward violations – all ignored by the Divisions. (More examples and details can be found on the website MikeKosor.com)

Under the laws of Nevada, and to my knowledge in every state, a director on the board of a corporation, such as an HOA, has virtually unlimited access to the records of the organization he or she governs. Nonetheless, I have been denied access to some of my association's records by my fellow directors. To be clear, it is undisputed records are being withheld. It is also widely accepted directors are provided virtually unlimited access to organizational records- which would include all confidential and privileged association records. Yet the Division has failed force release of the records and alternatively, bars my access to a Commission hearing to obtain these records. And it refuses to provides an explanation.

My fellow directors also approved a Director and Officer insurance policy, over my objections, that specifically excludes me from coverage- I am a named exclusion. Each of you should have a copy of this exclusion attached to my written statement. Here again, the Division apparently finds clear evidence like this inadequate to find good cause to act or provide for a hearing. Most disturbing, the Division provided me no explanation.

My complaints were reviewed by the Ombudsman's office. They were forwarded for investigation. After four months my allegation of violations were closed with no action and I was provided no explanation. I

was simply and only told via letter, “your complaint has not identified sufficient evidence to proceed with further investigation”.

During the period of the Division’s “investigation”, I was never contacted by the investigator seeking additional information or clarification of the allegations. After receiving the Division’s closure letter and nothing more, like most complainants, I sought to understand what the Division determined was missing from my complaint and/or where my understanding of the law may have been inaccurate. But this would not be forthcoming. I requested a discussion with the investigator and Mr Wheaton. But they were denied. I subsequently reached out to Mr. Foger and received a meeting a month ago.

During my meeting with Mr. Foger, attended by his senior staff, I again asked for an explanation. But I would not receive one. Instead, the meeting would end with a commitment from Mr Foger that he would personally review the complaint. Last week, I was informed by Mr Foger via email, “I do not see any just cause or overwhelming evidence to re-open [the] cases”. Commissioners, I see my meeting with Mr Foger as little more an effort at pacification.

The only way to obtain a hearing before this body is to file a complaint with the Division. However, when the Division arbitrarily or wrongly closes the complaints, owners aggrieved are denied what the law intended. Alternatively, their only course is to file litigation- which is a known lose – lose for everyone.

I acknowledge complaints need to be reviewed before obtaining a hearing. But why action or a hearing is denied to someone who believes they are aggrieved, must be part of the process. The process must be transparent and maybe even educational.

Commissioners, I assert the Division, funded by owner tax dollars and certainly the Ombudsman’s Office, funded by the roof tax levied on each HOA owner, dictates they be held accountable, at a minimum to providing explanations around why good faith complaints are closed when done so without action. “We are simply closing your complaint”, it not enough. If the complainant and the Division read the law differently, that should at a minimum, be explained. If more evidence is needed, what the additional evidence needs to be should, also should be explained. To simply allow the Division to close a complaint with no requirement to explain its position or provide written justification, is not the way our regulators should act. This would never be acceptable in our courts. It is dangerous. It is a failure of due process owners expect and I believe are promised under the law.

There exists no process to hold the Division accountable, outside action by this Commission. If there is something fouled in the Division’s kitchen, as I suggest exists today, who is going to correct it? This Commissioners, is on you. Nevada citizens deserve transparency. The Division must be required to explain its action or inaction when those who believe they have been aggrieved by their HOAs file a complaint as the law provides. The Division can do this without violating the requirement records of its investigations be kept confidential.

I appreciate your time this morning. I hope you will act.

Mike Kosor

Atch: Association DO policy exclusion endorsement

FILED

MAR 06 2023 *mg*

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

**AMENDATORY ENDORSEMENT –
ADDITIONAL EXCLUSIONS**

In consideration of the premium charged for the Certificate of Insurance, it is hereby understood and agreed that **Section V, EXCLUSIONS** is amended to include:

Based on, arising out of, or in any way involving directly or indirectly any claims made by Michael Kosar;

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.