

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND  
CONDOMINIUM HOTELS MEETING MINUTES SEPTEMBER 10, 2024**

**VIA IN PERSON AND WEBEX VIRTUAL MEETING  
SEPTEMBER 10, 2024**

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

VIDEO CONFERENCE TO:  
Nevada Division of Insurance  
1818 East College Parkway  
Suite 103  
Carson City, Nevada 89706

**1) COMMISSION/DIVISION BUSINESS:**

A) Chairman Tomasso called the meeting to order at 9:10 A.M. and led in the Pledge of Allegiance.

Introduction of Commissioners in attendance: Phyllis Tomasso, June Heydarian, James Bruner, Kim Lighthart, Patricia Morse Jarman, Robert “Bob” Sweetin, and Sara Gilliam, a quorum was established.

Commission Counsel: Joseph Ostunio, Deputy Attorney General.

**B) Introduction of Division staff in attendance**

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Sonya Meriweather, Ombudsman; Shareece Bates, Administration Section Manager; Terry Wheaton, Chief Compliance Audit Investigator; Kelly Valadez, Commission Coordinator; Maria Gallo, Commission Coordinator; Phil Su, Senior Deputy Attorney General; and Christal Keegan, Deputy Attorney General.

**2) Public Comment**

Mike Kosor stated he has been in front of the Commission for many years. Mr. Kosor stated he is a unit owner in a large association in Las Vegas that has been under the declarant’s control for 25 years. Mr. Kosor stated the association is managed by a board of 5, most of whom were appointed by the developer. Mr. Kosor stated the management company is a wholly owned subsidiary of the developer. Mr. Kosor stated he has provided some materials that were included in the meeting packet and those documents layout what needs to be said. Mr. Kosor stated NRED has abused its discretion, and the CIC Commission has done nothing about it. Mr. Kosor stated the solution is that the CIC Taskforce could or should look at a few regulations and statutes that need to be adjusted, so that homeowners have a voice. Mr. Kosor stated that according to the administrator, if the CIC Taskforce elects not to do its job, the Commission has the capability to do the same thing. Mr. Kosor stated the last time any regulatory issue was on

the agenda was in March of 2022 and in December of 2022, the Commission passed some regulatory changes. Mr. Kosor stated that those changes have not been published and made available to the homeowners. Mr. Kosor stated it has been even longer since the Commission looked at the statutes; there have been briefs about the statutes from the administrator but that was back in June of 2021. Mr. Kosor asked what the real job of the Commission is other than sitting in judgement of boards and other individuals that NRED brings in front of the Commission. Mr. Kosor asked if everyone that needs to have access to the Commission. Mr. Kosor stated NRS.116.31032 lays out when declarant control should cease for his large association, that percentage is 90%. Mr. Kosor stated the declarant has submitted documents to NRED that state 80% of the units have been conveyed. Mr. Kosor stated the CC&R's of the community state declarant control should cease when 75% of the units have been conveyed. Mr. Kosor asked why the declarant hasn't ceased control if 80 % of the units have been conveyed per the documents they submitted to NRED. Mr. Kosor stated the association claims there was a change in the statute in 2015 that makes the CC&R's not applicable anymore. Mr. Kosor stated he has asked the Ombudsman and the Administrator for assistance, and they have not provided any assistance, the Administrator states the statute is clear. Mr. Kosor stated he provided some other statutes for the Commission to look at to help the homeowners.

Heather Scherloski stated she and her husband own a unit at the Boca Raton Condominium Community Association in Las Vegas. Ms. Scherloski stated when they bought their unit, they were informed that the unsold units would be sold individually, and their Homeowners Association (HOA) would become a real HOA controlled by the homeowners. Ms. Scherloski stated the non-profit HOA has been hijacked by a for-profit apartment rental business run by out of state investors. Ms. Scherloski stated NRED, and this Commission has allowed majority investors to control the HOA board when homeowners were to have control of the board in 2013. Ms. Scherloski stated the HOA is an abject failure and the association is the third major HOA scandal in the Las Vegas Valley in the last 20 years and the minority homeowners are "left holding the bag". Ms. Scherloski stated \$11M was stolen from the HOA. Ms. Scherloski stated they have an underfunded reserve fund, they have major infrastructure and other problems, and the homeowners must pay a special assessment because NRED and this Commission let \$11M be stolen from the HOA. Ms. Scherloski stated the large expenditures that are now required are being prioritized to make the majority owners competitive in the apartment rental industry and minority owners are having a difficult time selling their units because of the apartment rental business. Ms. Scherloski stated the mandate of the Department of Business and Industry includes the objective "to ensure the legal operation of business in order to protect consumers". Ms. Scherloski stated if NRED and this Commission had prevented the theft of the \$11M when we came to you in 2018 these large special assessments would not be happening. Ms. Scherloski stated all the minority owners have been failed by NRED and this Commission.

Wagner Chaves stated he is a homeowner at the Boca Raton Condominium Community Association in Las Vegas. Mr. Chaves stated Boca Raton is not a typical HOA because they have faced scandal after scandal. Mr. Chaves stated Boca Raton has one of the highest HOA fees in the valley and the root of the problem is the investor-controlled board and their illegal apartment rental business. Mr. Chaves stated that some of the major issues are stolen funds, \$11M, including a construction defect settlement have been misappropriated, the HOA faces significant financial gaps despite having one of the highest fees in Las Vegas. Mr. Chaves stated

there have been failures to complete audits of the financial statements and to properly update minority owners on the financial situation. Mr. Chaves stated special assessments are needed to address various issues, and the minority owners fear this year's assessment will not be the last. Mr. Chaves stated that since 2019 there have been three lawsuits involving former and current majority owners for illegal apartment rentals, violating the governing documents and Clark County zoning laws. Mr. Chaves stated the for-profit goals of the apartment rental business conflicts with the HOA's non-profit legal requirements. Mr. Chaves stated minority owners have faced unresolved issues with parking spaces, storage units and deeds since 2007 because the apartment rental business prioritizes its tenant's needs. Mr. Chaves stated from 2007 to 2018 homeowners were denied representation on the board despite being entitled to control by 2013. Mr. Chaves stated that as of June 2021 homeowners held two of the five board seats and one board position was taken away in June of 2022, and as of the June 2024 election minority owners now have no representatives on the board. Mr. Chaves stated NRED should immediately intervene in their HOA board and give control to the homeowners of Boca Raton as it was supposed to be done in 2013 and stop the corruption of the board members employed by the rental investor.

Alex Zenkin stated he lives at the Boca Raton Condominium Community Association and often stays in California since his employer is in San Jose. Mr. Zenkin stated he attends Boca Raton board meetings when he can get off from work and he asks as many questions as he is allowed. Mr. Zenkin stated many answers from the management company are very concerning and the board rarely speaks and never attends meetings in person because they do not live in the Boca Raton Community. Mr. Zenkin stated the minority owners are not provided with adequate information about bidding on big dollar contracts. Mr. Zenkin stated since purchasing his unit they have had six different management companies and a dozen different managers. Mr. Zenkin stated that the majority owner that controls the board runs an illegal apartment rental business and is only concerned with his bottom line at the expense of the minority owners. Mr. Zenkin stated the minority owners must pay for excessive wear and tear caused by the majority owner's high renter turnover. Mr. Zenkin stated that minority owners were not aware there was a plumbing system that required special maintenance, now the HOA must pay upwards of \$1M to repair the damage caused by the lack of maintenance. Mr. Zenkin stated this is not the fault of the minority owners that were kept in the dark about the plumbing issue. Mr. Zenkin stated they were told that the windows in almost all the units are at risk of falling out. Mr. Zenkin asked how much this will cost to repair it and can the minority owners believe the majority owner-controlled board and the management company about the repair costs. Mr. Zenkin stated if \$11M had not been allowed to be stolen from our HOA there would be plenty of reserve funds and other monies to pay for the \$2M in unexpected costs and if the \$3M in unspent construction defect monies had not been allowed to be stolen there would be lots of money to address the window and plumbing problems. Mr. Zenkin stated the HOA fees are already very high, and now they must pay a large special assessment that would not be required if the above-mentioned millions of dollars had not been allowed to be stolen.

Benjamin Wiebers stated he is a homeowner at the Boca Raton Condominium Community Association here in Las Vegas. Mr. Wiebers stated when he bought his unit in 2011, he was told that the unsold units would eventually be sold when the housing market recovered, and the HOA would become a real HOA controlled by the homeowners. Mr. Wiebers stated Boca Raton has

never been a real HOA and NRED and this Commission has allowed it to be hijacked by a for-profit apartment rental business run by out-of-state investors whose motives are profits at all costs, and you have allowed majority investors to control the HOA board when homeowners were to have control of the board in 2013. Mr. Wiebers stated at the March 2024 Commission meeting, it was mentioned that combining a non-profit HOA with a for-profit apartment rental business would be an abject failure. Mr. Wiebers stated Boca Raton is the third major HOA scandal in the Las Vegas Valley in the last 20 years and the minority homeowners are “left holding the bag”. Mr. Wiebers stated “the bag” is the \$11M that was stolen from the HOA, an underfunded reserve, major infrastructure and other problems and now the homeowners must now pay a special assessment because NRED and this Commission let \$11M be stolen from the minority owners and their rights were trampled on. Mr. Wiebers stated the mandate of the Department of Business and Industry is “to ensure the legal operation of business in order to protect consumers”. Mr. Wiebers stated the nightmare has been well-documented and the minority owners continue to live out this nightmare every day. Mr. Wiebers stated \$1.55M was recovered by lawsuit settlements, however this amount only covered the legal fees. Mr. Wiebers stated if NRED and this Commission had prevented the theft of this \$11M in 2018, or subsequently ensure the recovery of this \$11M by enforcing NRS116.31038 these large assessments would not have happened. Mr. Wiebers stated NRED, and this Commission has failed the minority owners of Boca Raton.

Michael Novak stated he is a co-founder and co-managing director of a company and has a concern with a nationally traded management company’s violations of loan covenants and regulations. Mr. Novak stated there is a new issue involving a different major national management company that manages a significant number of community associations in Nevada. Mr. Novak stated a forensic investigation was conducted on an HOA in Chicago with approximately \$10 million in annual revenues and over 700 condominium units. Mr. Novak stated that these findings revealed several critical issues such as: governance and oversight failures, financial mismanagement and compliance issues, lack of transparency and accountability, legal and compliance risk, ethical and legal implications and financial management concerns. Mr. Novak stated the gravity of this management company’s misconduct underscores the urgent need for decisive action to protect the rights and interests of our citizens and urges the Commission to address these issues with the seriousness they warrant.

### **3) DISCIPLINARY ACTION: DISCUSSION AND POSSIBLE ACTION BY THE COMMISSION:**

#### **A) NRED v. Bordeaux Homeowners Association, Inc., for possible action.**

**Case No. 2023-771**

**Type of Respondent: Homeowners Association**

#### **Parties Present**

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

Michael McKelleb Esq. was present representing the Respondent.

#### **Preliminary Matters**

Chairman Tomasso stated she wanted to delay this case until the December meeting because the Respondent submitted over 50 pages of documents a day before the meeting and the Commissioners have not had time to review all the documents.

Mr. McKelleb stated he understood the Commission's position on delaying the case until the December meeting, however there was a delay in compiling all the documents because they had to contact 5 management companies and request documents. Mr. McKelleb stated he would like to review the case because the Board would like some guidance on the meeting minutes. Mr. McKelleb stated they have recreated the minutes from past meeting recordings, and they do have the unsigned minutes from the board meeting packets.

Ms. Keegan stated she did skim the Respondents' documents; however, she reached out to Mr. McKelleb in August and early September to work with the State to submit the status update documents in a timely manner and did not hear anything until he filed his documents the day before the meeting. Ms. Keegan stated for the State to be helpful to the Commission, she recommends hearing this case last so she can review the documents and offer a recommendation to the Commission at that time. Ms. Keegan stated she believes this case will need to come back to give another status update, and the Commission should state in their Order that the Respondents must submit their documents within a specified time of 10 working days ahead of the meeting, so all parties can review the documents.

Chairman Tomasso stated the Commission should review the documents because the Commission requested the data.

Commissioner Morse Jarman stated the case should be continued until the December meeting, and further Order that the Commission will not accept documents beyond the 10-day mark before a meeting. Commissioner Morse Jarman stated the Commission needs time to adequately review the documents and the day before a meeting is not acceptable.

Chairman Tomasso stated she would like to continue this case until the December meeting and in the future, it will be made clear to the Respondents that all documents Ordered by the Commission must be submitted within 10 days before a meeting.

Mr. McKelleb stated he wanted to know if it is okay with the Commission to adopt the meeting minutes that were in the board packet and given that the Commission is continuing the case until December, he will withdraw the report that was submitted and will resubmit a new report well within the 10-day requirement and include the meeting minutes that were in the board packet. Mr. McKelleb stated the new report will make it easier for everyone to review it.

Ms. Keegan stated if the law was followed by the Board and all the preceding management company's reconciled the records within 30 days as required by law, the Association would not be in the position they are in currently. Ms. Keegan stated that because of the missing or lost records that it put the Association at risk for fraud. Ms. Keegan stated she would defer to the Commission about the Association's request to adopt the previous meeting minutes.

Commissioner Gilliam asked if the meeting minutes were executive or open meeting minutes.

Mr. McKelleb stated there was one (1) open meeting and the rest were executive meetings.

Commissioner Gilliam stated the executive sessions are not recorded so how would those minutes be recreated?

Mr. McKelleb stated they have the proposed minutes that the community managers wrote out at the time of the meeting and put in the Board Packet for approval, and through other meeting minutes the record states that those previous meeting minutes were approved. Mr. McKelleb stated they do not have the signed minutes from the management company. Mr. McKelleb stated the way that file handoffs are completed from one management company to another is appalling and the Commission needs to start holding people accountable for that through regulations.

Commissioner Bruner stated the Commission should not give an opinion about the minutes because that might lead to falsifying some documents and it should be the Board's responsibility to determine the veracity of the minutes they are approving.

Commissioner Sweetin stated he did not see anything in the statutes regarding the approval of the meeting minutes if the Board wants to attest to the validity of those minutes or if Ms. Keegan has time, before the December meeting, to get an opinion on that issue. Commissioner Sweetin stated he did not want the Commission to endorse a practice without a strong legal opinion.

Commissioner Lighthart stated some clarity from the Attorney General's Office about the board approving past meeting minutes is needed.

Commissioner Heydarian stated that signed minutes are best, if you have it documented that they were approved and get that into the record that those minutes are the official meeting minutes.

Commissioner Morse Jarman made a motion to continue this case until the December meeting. Seconded by Commissioner Sweetin. Commissioner Sweetin made a motion for an amendment to request an opinion from the Attorney General's office on the meeting minutes issue that was raised. Seconded by Morse Jarman. Motion carried.

Commissioner Morse Jarman asked if the Commission needed a motion to solidify the 10-day deadline for all submitted documents.

Chairman Tomasso stated she is not sure if they can require it of the Respondents if the law states 5-days.

Mr. Chandra stated it is a reasonable request that when the Commission writes the Orders, they can specify the deadline for documents submission for that specific meeting.

Chairman Tomasso stated that through regulation they could change the deadline for documents.

Commissioner Morse Jarman stated 5 days is not always enough time to review all the documents.

Commissioner Sweetin stated there is wide latitude given to Commissions when they are requesting documents through an Order.

**B) NRED v. Del Rey Estates Homeowners Association, for possible action  
Case No. 2023-929**

**Type of Respondent: Homeowners Association**

Parties Present

Christal Keegan, Deputy Attorney General, was present representing the Division.  
Henry Kim, Esq. was present representing the Respondent.  
Dean Allen, Board Member, was present.  
Gren Norris, Board Member, was present.  
Anthony Marks, Board Member, was present.

Preliminary Matters

Ms. Keegan stated she wanted the Commission to know that the Respondents attorney submitted their status report late Thursday afternoon and is not sure the Commission feels comfortable moving forward. Ms. Keegan stated if the case is continued to the December meeting that the Commission is within their authority to Order documents be submitted well before the meeting date. Ms. Keegan stated the Respondents can take the Commission through their status report and decide if the Respondent has complied with the Commission's Order from the July meeting

Mr. Kim stated the timing of the submission of the status report, Ms. Keegan emailed stating they had to submit their documents within 5 days of the meeting and Mr. Kim took that as not applying to their status check and it only applied to disciplinary hearings. Mr. Kim stated further deadlines for documents be explicitly stated within the Commissions Orders. Mr. Kim stated the Respondents Order from the previous meeting states the Respondents are to provide a status update "at the September meeting". Mr. Kim stated he did not want to provide the documents on the day of the meeting, and he did submit the documents with enough time for the Commission to review them ahead of the meeting. Mr. Kim stated the Association has complied with the Order for the July Commission meeting, they have paid their fee owed to the Division, a reserve study has been conducted and the board just recently received a first draft of the study, the Board has established a reserve account, bank statements and a 2025 draft budget has been provided, the Association does not have any tax returns to provide to the Commission because the Association has never filed a tax return, and they have provided other financial documents the Board has prepared for the Commission to review. Mr. Kim stated he believes the Association has sufficiently complied with the Commission's Order.

Ms. Keegan stated she wanted to go over the Order to see if the Association has fulfilled every part of the Commission's Order. Ms. Keegan stated the Association has complied with some of the Commissions Orders, however they have not complied with others. Ms. Keegan inquired why a draft of the reserve study was not supplied to the Commission, the draft budget submitted does not comply with the NAC, and their questions about one of the line items in the budget.

Commissioner Gilliam asked if the Board Members had a copy of the draft reserve study with them at the meeting and if so, what is the recommended reserve balance for 2025.

Mr. Marks stated he had a copy of the reserve study draft, and the recommended reserve study balance is \$96,000. Mr. Marks stated the Board wanted to thoroughly review the study, because

at first glance the amount suggested does not correlate with past maintenance expenditures of the Association.

Commissioner Gilliam stated that the draft budget does not include any reserve account transfers.

Mr. Allen stated the reserve study will be discussed with the unit owners.

Commissioner Gilliam stated that maintenance of some of the common elements is not accounted for in the 2025 budget. Commissioner Gilliam stated there was a transfer of \$2,882.04 into the reserve, how was that amount determined.

Mr. Kim stated the payments of the Division's fees and costs were paid by a special assessment to the unit owners, that fee was then paid by the Associations insurance company. Mr. Kim stated the board members asked the unit owners what they should do with the funds and the unit owners stated they wanted that money to go towards the reserve account. Mr. Kim stated the Board intends to have a fully funded reserve account.

Mr. Allen stated the Board wants to meet with licensed professionals and the reserve study specialist regarding the items in the reserve study and how to properly fund the expenditures.

Commissioner Gilliam asked if the Board is anticipating implementing a "special assessment" for 2025.

Mr. Allen stated the Board will go over the 2025 budget with the unit owners and from that point give the unit owners a recommended assessment for the reserve account.

Commissioner Gilliam asked if the Association has begun working with a CPA to file the tax returns that were requested, and has the Association considered hiring a management company?

Mr. Allen stated the Association does not have any tax returns and has not consulted a CPA about filing tax returns, they have not considered hiring a management company because they are a very small community, and the board members have been able to keep up the community and have low assessment fees.

Commissioner Bruner stated he does not think the board understands why the Commission wanted the Association to come back for a status update. Commissioner Bruner stated the Association is missing a lot of pieces of the puzzle of running an association like a reserve study and tax filings. Commissioner Bruner stated the draft reserve study needs to be taken seriously because it considers future maintenance of common elements within the community.

Mr. Marks stated he thought the draft reserve study had a lot of generalities in it and may not pertain to a small community like Del Rey Estates.

Commissioner Bruner stated the items in the draft budget may be under estimations of the true amount and that is what a reserve study will help you budget for.



Commissioner Lighthart asked when the board would hold a meeting to go over the budget with the unit owners.

Mr. Allen stated they are looking to hold a meeting before the next Commission meeting in December.

Commissioner Lighthart asked why the Association has never filed a tax return and what is their tax status.

Mr. Allen stated the association was created in 1995, and to his knowledge they have never filed a tax return, and the Association is a non-profit company.

Commissioner Morse Jarman asked if it was their understanding that the Association did not need to hire a community manager because they were doing just fine without one and following all the laws and regulations.

Mr. Allen answered "Yes".

Commissioner Morse Jarman stated that if the association had a community manager, they would have filed the taxes for you and made sure you were following the laws and regulations. Commissioner Morse Jarman asked if the association is now thinking about hiring a community manager because for the past 25 years the community has not been following the laws and regulations.

Mr. Marks stated they will bring this issue of hiring a community manager to the unit owners.

Commissioner Morse Jarman stated that her concern is that tax returns have not been completed.

Mr. Kim stated the association is a domestic non-profit organization not a federal 501(3)C. Mr. Kim stated there was a previous board that was responsible for running the association for a much longer term than the three current board members that are here now. Mr. Kim stated the Order from the July Commission meeting stated "if any" tax returns were filed the Commission wanted a copy, and the association was frank and saying there were no tax returns filed for 2022 or 2023, and he does not know if the previous board ever filed any tax returns.

Commissioner Morse Jarman stated a licensed community manager would have been able to tell the association if a tax return was required or not, would have been able to tell the association that a reserve study is required every 5 years and then reviewed every year when drafting a budget, and none of this was done. Commissioner Morse Jarman stated she commended the board members for volunteering, and going forward it is not adequate that the board members also try to be community managers. Commissioner Morse Jarman stated that having a licensed community manager may prevent this association from having to come before the Commission in the future because the Association will now be in full compliance with the laws and regulations that govern Common-Interest Communities.

Ms. Keegan stated at the time of the July meeting the respondent's attorney never raised any

issues with the Commission stating in their Order that the tax returns were being requested for the years 2022 and 2023 and it is not prefaced with the language “if any” and the State has not reviewed the recording for that because up until now that has not been a point raised by attorney Kim. Ms. Keegan stated the State’s recommendations are for the Association to come back in December because they have not fully complied with the Commission's Order and may also need to consider hiring a community manager to help run the community.

Commissioner Heydarian stated the Association should consult with a CPA and see if they are required to file tax returns and if so, remedy that, because the community is obligated to defer to experts.

Commissioner Gilliam moved that the Association provide a status update that includes the approved reserve study, the adopted budget for 2025, determine with a CPA if tax filings are required if so, provide a copy of the tax return filings for 2022 and 2023, and consideration of hiring a community manager and submitting that information within 10 days before the December meeting. Seconded by Commissioner Bruner. Commissioner Sweetin moved for an amendment to submit proof if tax filings are not required by the Association. Seconded by Commissioner Bruner. Motions carried.

### **C) NRED v Sierra Ranchos Property Owners Association, for possible action**

**Case No. 2018-1663**

**Type of Respondent: Homeowners Association**

#### Parties Present

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

“BJ” Brown, Community Manager, was present virtually representing the Respondent.

#### Preliminary Matters

Ms. Brown stated the Association had a board meeting and the board approved a bid for the roadwork on Panhandle and Wrangler and they approved a special assessment for 18 months to pay for the roadwork. Ms. Brown stated the company that was hired to complete the roadwork will allow the Association to make payments over time. Ms. Brown stated the roadwork will commence in October and end in December and they are on track.

Mr. Su stated there was an additional request from the Board President Loren Pierce, he was worried about the next board election in November. Mr. Su stated Mr. Pierce wanted the Commissions next Order to state that no changes may be made to this plan without Commission approval.

Commissioner Bruner asked if all the Associations fines and fees owed to Washoe County have been paid and have all the proper permits been pulled for the roadwork project.

Ms. Brown stated all fines and fees have been paid to Washoe County and all the proper permits have been issued for the roadwork.

Commissioner Bruner asked if other roadwork and drainage projects are being done in phases.

Ms. Brown stated other roadwork is being done in phases on the other roads in the Association. Ms. Brown stated maintenance is being done on the roads in the community and the roads are passable.

The Commission deliberated what items they will Order the Association to provide for a status report at the December Commission meeting.

Mr. Su stated he wanted a report reflecting the special assessment funding progress.

Commissioner Sweetin moved that the Association provide a status update at the December Commission meeting and provide an update on any work that has been performed, a report on the funding efforts and if applicable any future board members that would like to seek any modifications to the Order they must seek Commission approval first and all relevant documents be submitted to the Commission 10-working days before the December meeting. Seconded by Commissioner Bruner. Motion carried.

**O) NRED v. Regency Village Owner's Association., Ralph Glover, Kari Cramer and Yolanda McAnnaly, for action**

**Case No. 2023-771**

**Type of Respondent: Board Members**

Parties Present

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

Steve Loizzi Esq., was present representing the Respondent.

Ralph Glover, Board Member, was present.

Yolanda McAnnaly, Board Member, was present.

Preliminary Matters

Mr. Su stated this case stems from a NRED audit, the Respondent has stipulated to the facts and has taken steps to resolve the violations.

Mr. Su read the violations of law into the record.

Mr. Su stated violations 2 and 4 are lumped together. Mr. Su stated the Association has yet to adopt a petty cash policy, Mr. Loizzi is in the process of drafting a policy and a reserve study has yet to be adopted by the Board.

Mr. Loizzi stated the Board has a draft that will be reviewed and revised if necessary and then go through an adoption process by the Board.

Mr. Su stated some issues have been resolved and some have not, the facts and some violations have been stipulated to and it would be for the Commission to decide if any penalty or fine is warranted. Mr. Su stated the State has discipline recommendations and requests a status update on the unresolved issues.

Commissioner Sweetin asked how long it will take to remedy the unresolved issues and is it reasonable to expect a full resolution by the next Commission meeting.

Mr. Loizzi stated the petty cash policy can be drafted in two weeks and the reserve study can be addressed next month at the next board meeting.

Mr. Su stated that after those issues are resolved the Commission may want to have further status updates because there will be a reserve funding issue, and special assessments may have to be implemented.

The Commission deliberated what action to take against the Respondent.

Commissioner Bruner moved to defer the case until the December Commission meeting. Seconded by Commissioner Sweetin. Commissioner Sweetin amended the motion to also include that any relevant documents be submitted no later than 10 business days before the next Commission meeting. Seconded by Commissioner Bruner. Motion and amendment carried.

**D) NRED v. Tropicana Square Homes Association, for possible action**

**Case No. 2023-846**

**Type of Respondent: Homeowners Association**

Parties Present

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

John Leach Esq., was present representing the Respondent

Kimberley Sand, Community Manager, was present virtually.

Linda Fendzlau, Board Member, was present virtually.

Preliminary Matters

Mr. Leach stated this is a status update to go over what was Ordered by the Commission at the June meeting. Mr. Leach stated the Association paid the fee that was assessed by the Commission, there were no new Board Members elected, the 2025 budget has not been prepared as of today, however it will be presented at the September Board meeting, and it will be following the funding plan that was discussed at the June Commission meeting. Mr. Leach stated the Association did receive an offer from the city of Henderson to buy a piece of land the Association owns for \$180,000. Mr. Leach stated the board has approved the sale of the land however, the approval must also come from the unit owners and a letter has gone out to the unit owners and the board is waiting for those results. Mr. Leach stated the close of escrow is slated for December 2, 2024. Mr. Leach stated if the unit owners approve the sale of the land the Association will have a substantial amount to put in the reserve account that was not accounted for in the original funding plan. Mr. Leach stated the Association will have to then come back to the Commission with an adjusted funding plan that softens the financial blow to the unit owners. Mr. Leach stated he has looked at the reserve study to see how much the reserve account should have. Mr. Leach stated the Aging Report has private information on it, and he did not feel comfortable handing that over to the Commission. Mr. Leach stated many of the delinquencies are due to the special assessment that was levied for the increase in the Association's insurance premium. Mr. Leach stated Ms. Keegan noticed that the Association's crime insurance was less than it should be, and the Community Manager (CAM) is working on notifying the insurance company to up the crime insurance amount. Mr. Leach stated if the Commission is going to bring the Association for a status update that they wait until the March 2025 meeting because

that will give time for the sale of the property to finalize and at that time the Association will have an adjusted funding plan that considers the monies that were added to the reserve account from the sale of the property.

Ms. Keegan stated she wanted to go over the Order from the June meeting. Ms. Keegan stated the Association has paid the fee assessed by the Commission, the Association provided a status report in a reasonable time, the election occurred, however the Division asked the Respondent attorney of the Association if they would file the required forms demonstrating there was no change to the Board make up and the attorney stated the Association has never not filed the form on time, however the form 562 was due by August 30. Ms. Keegan stated the Association has only paid the door fees and has not submitted the required form and at the June meeting Tiffany Stanfill was their CAM, now Kimberely Sand is the CAM and the form notifying the Division of these changes has not been submitted. Ms. Keegan stated because of the timing of the sale of the land, having the Association come back in March of 2025 would be better and that would allow time for the Association to draft an adjusted funding plan. Ms. Keegan stated she does understand that having counsel is an added expense to the Association and the State is not opposed to a Board Member or the CAM presenting the next status update. Ms. Keegan stated she has not seen the ageing report because of the confidential information in the report and asked if the Commission would like to look at it. Ms. Keegan stated that Division staff noticed that the Crime Insurance was not at the correct limit and is now satisfied that has been remedied. Ms. Keegan stated the Association still requires oversight to make sure all items that were Ordered have been fulfilled.

Mr. Leach asked if form 623 is the form to change the CAM and form 562 is the form to reflect that an election had been held.

Ms. Keegan stated she had been informed that form 623 has been filed with the Division, so that form is no longer needed.

Commissioner Lighthart stated the ageing report should have information on it about various accounts. Commissioner Lighthart asked if that information could be provided to the Commission and the private information about the unit owners redacted.

Mr. Leach stated he could redact the unit owner information and show the ageing account information for the Commission to review before the March 2025 commission meeting.

Commissioner Lighthart moved that they continue this status check to the first meeting in 2025, specifically sections 2b, 2d, provide an update on the sale of the property, an ageing report and a revised funding plan submitted no later than 10 business days before the March 2025 meeting. Seconded by Commissioner Sweetin. Motion carried.

**E) NRED v Villagio Community Association., for possible action**

**Case No. 2023-38**

**Type of Respondent: Homeowners Association**

Parties Present

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

John Leach Esq., was present representing the Respondent.  
Jennifer Thompson, Provisional Community Manager, was present.  
“Frankie” Stevensen, Supervising Community Manager, was present virtually.  
Barbel Warren, Board Member, was present.  
Gary Renis, Board Member, was present.

#### Preliminary Matters

Mr. Leach stated the Association paid the fee that was assessed by the Commission, the Association is following the funding plan, the “due/to from” accounts are being addressed and paid incrementally per the funding plan.

Ms. Keegan stated the terms ordered by the Commission are satisfied or are on the right track. Ms. Keegan stated the Association is following the funding plan and because there are large upcoming reserve expenses in 2025 and 2026, the reserve funding balance is low for those respective years. Ms. Keegan stated she would recommend that the Association come back for a status update in 2026 to ensure that the Association is on track with its funding plan and no maintenance is being deferred because of the lack of funding.

Commissioner Lighthart asked if the Commission has ever set a status update so far out.

Commissioner Gilliam suggested the Association come back in a year for a status check.

Commissioner Bruner asked when the next election will be held and will those new board members follow the funding plan.

Ms. Thompson stated the next election will be sometime in December, two (2) board seats are open, and they are 2-year terms.

Mr. Leach stated any future Board that does not follow the Commission approved funding plan is in violation of the Commission’s Order.

Commissioner Lighthart moved that the Association provide a status update at the September 2025 meeting and the status update be provided not later than 10 business days before the meeting. Seconded by Commissioner Sweetin. Motion carried.

#### **L) NRED v Mantova Community Association, Charles Wright, Pamela Lowry and Tricia Yost, for possible action**

**Case No. 2023-384**

**Type of Respondent: Board Members**

#### Parties Present

Phil Su, Senior Deputy Attorney General, was present representing the Division.  
John Leach Esq., was present representing the Respondent.  
Michelle Wolven, Community Manager, was present.  
Charles Wright, Board Member, was present.

#### Preliminary Matters

Mr. Su stated this investigation was initiated by an NRED audit. Mr. Su stated the Association has failed to conduct a reserve study in the time prescribed by law and file the proper form with the Division. Mr. Su stated the Association has failed to have a properly funded reserve account, has also failed to prepare a budget to meet the Association's operating expenses and they utilized gift cards to pay for Association expenses. Mr. Su stated the Association has resolved some of the violations, however the Association should come back in December for a status check.

Mr. Leach stated there are 6 violations of law and the Association does stipulate to them except one. Mr. Leach stated unlike the other cases the Board had already imposed a large special assessment to address the short fall in the reserve account. Mr. Leach stated he has put together a funding plan that spans over 4 years and will get the Association reserve fund account to 66.5% funded in 2028. Mr. Leach stated the one lagging issue is the gift card use that occurred in 2021 and that policy has not been repeated since. Mr. Leach stated the Association bought \$1200 in VISA gift cards to be used for supplies and there are receipts for \$1070. Mr. Leach stated there is \$130 worth of receipts that are unaccounted for. Mr. Leach stated the Association could come back and give a status update about the funding plan and the 2025 budget in December. Mr. Leach stated he did not know what to do about the \$130 in missing receipts.

Commissioner Gilliam asked how the collection is going of the large special assessment.

Ms. Wolven stated less than 10% have not paid the lump sum payment for various reasons, and several unit owners have paid the special assessment amount in whole.

Commissioner Gilliam asked if the board members could sign an affidavit for what the expenditures were for.

Mr. Leach stated 2 of the current board members were board members at the time of the gift card use and could submit an affidavit stating the VISA gift cards were only utilized for "association purposes only".

The Commission deliberated what discipline to impose on the Respondent.

Commissioner Sweetin moved to continue this matter to the December meeting. Seconded by Commissioner Gilliam. Motion carried.

#### **N) NRED v Montara Homeowners Association, for possible action**

**Case No. 2024-169**

**Type of Respondent: Homeowners Association**

##### Parties Present

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

John Leach Esq., was present representing the Respondent.

Rhiannon Rogers, Provisional Community Manager, was present virtually.

Crystal Curcio, Supervising Community Manager, was present virtually.

##### Preliminary Matters

Ms. Keegan stated this is not a contested case and moves for an abbreviated presentation of the

case. Ms. Keegan stated that the Association does not contest the factual allegations and violations of law, and the parties can address the Commission as far as to what needs to happen next. Ms. Keegan stated the parties have stipulated to each other's documents and would ask that the Commission move to accept those documents.

Chairman Tomasso moved to accept the State's and Respondents documents into the record.

Ms. Keegan stated the State cannot read "exhibit 1" and believes that document shows that the board took action to fill the vacant board seat. Ms. Keegan stated the Association could submit form 623 to the Division and that submitting that form would verify compliance, and the Association still has time to file that form to be in compliance with the law. Ms. Keegan stated she is glad the Association has a meeting scheduled in the future because a unit owner meeting had not been held since 2022. Ms. Keegan stated it is up to the Commission whether they want to further monitor this Association or if the Commission does not feel that monitoring is necessary then fees and costs of the investigation should be assessed to the Association.

Mr. Leach apologized for the unreadability of "exhibit 1". Mr. Leach stated there was unanimous consent to appoint a 3<sup>rd</sup> person to the board.

Maria Gallo, Commission Coordinator, testified that the Division's reasonable, necessary and actual fees and costs are in the amount of \$1,815.45.

The Commission deliberated what discipline to impose on the Respondent.

Commissioner Sweetin moved to impose the fees and costs in the amount of \$1,815.45 payable within 60 days. Seconded by Commissioner Morse Jarman. Motion carried.

**H) NRED v Clearacre Condominium Homeowners Association, for possible action  
Case No. 2024-137**

**Type of Respondent: Homeowners Association**

Parties Present

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

Sophie Karadanis Esq., was present virtually representing the Respondent.

Barbara Poole, Board Member, was present virtually.

Yau Lau, Board Member, was present virtually.

Will Roberts, Board Member, was present virtually.

Maria "Judy" Pinto, Community Manager, was present virtually.

Joel Lopez, Director of the Management Company, was present virtually.

Preliminary Matters

Ms. Keegan stated the Association has stipulated to the factual allegations and they take issue with 2 of the violations of law, 40 & 41. Ms. Keegan stated the parties will be limiting their presentation to those two violations of law, and the parties have also stipulated to each other's documents and would like to move to get those documents into the record.

Chairman Tomasso moved to accept the State's and Respondents documents into the record.



### Opening Statements

Ms. Keegan gave an opening statement.

Ms. Karadanis gave an opening statement.

Ms. Keegan and Ms. Karadanis discussed what documents the Association could submit that would satisfy the State that they have come into compliance with violations of law 40 and 41.

The Commission questioned Ms. Keegan and Ms. Karadanis.

The Commission deliberated what discipline to impose on the Respondent.

Commissioner Sweetin moved that a decision be deferred until the December meeting and either party is free to continue with the hearing or parties could work towards a settlement to present at the December meeting. Seconded by Commissioner Gilliam. Motion carried.

### **J) NRED v High Noon at Arlington Ranch Homeowners Association, for possible action Case No. 2024-618**

#### **Type of Respondent: Homeowners Association**

#### Parties Present

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

Daniel Hansen Esq., was present representing the Respondent.

Megan Miller, Community Manager, was present virtually.

#### Preliminary Matters

Mr. Su stated this is a 3-board member case and the Association has now come into compliance and Attorney Hansen has copies of a signed stipulation for the Commission to review.

Mr. Hansen stated the board will pay the Divisions fees and costs, the board has come into compliance with the 3-board member law and Ms. Miller has submitted to the Division form 623 identifying the 3-board members.

Chairman Tomasso asked what was done in the community to get the Association into compliance.

Mr. Hansen stated during a span of time there would be 3 board members, then a member would resign, then they would appoint someone and then another member would resign. Mr. Hansen stated even though there are 342 units within the Association, however a majority of the units are rental units and the owners do not live in the community. Mr. Hansen stated they had to really push to make unit owners aware of this issue of noncompliance and to get people to volunteer to be board members. Mr. Hansen stated another issue is that some unit owners are not in good standing with paying their assessments so therefore they cannot serve on the Board.

Chairman Tomasso asked if there had been multiple management companies during this time.

Mr. Hansen stated there had been management turnover, and the current management company has been managing the Association since 2022.

Chairman Tomasso asked if the Community Manager (CAM) made the community aware they must always have 3 board members.

Mr. Hansen stated the current CAM did make an extra effort to make the community aware, however what was most effective was a letter to the unit owners from an attorney stating, “the Association was not in compliance with NRS 116”, then they were able to secure a 3<sup>rd</sup> board member.

Commissioner Sweetin moved to approve the settlement that was presented to the Commission. Seconded by Commissioner Bruner. Motion carried.

**P) NRED v Rio Vista Homeowners Association, for possible action**

**Case No. 2024-638**

**Type of Respondent: Homeowners Association**

Parties Present

Phil Su, Senior Deputy Attorney General, was present representing the Division.  
Autumn Pacheco, Community Manager, was present virtually.  
Patti Domingo, Board Member, was present virtually.

Preliminary Matters

Mr. Su stated this case is a 3-board member case, however the Association has not secured a 3<sup>rd</sup> board member as of today, but the Association has 3 nomination forms from unit owners wishing to serve on the board. Mr. Su stated the Respondent has stipulated to the facts of the case and would like to move to have the State’s and Respondent’s documents entered into the record.

Chairman Tomasso moved to accept the State’s and Respondent's documents entered into the record.

Mr. Su stated the Respondent has submitted as part of their documents 3 nomination forms and after the election is completed the Association will have 3-board members in place.

Commissioner Gilliam asked when the next election will take place and how many seats are up for election.

Ms. Pacheco stated there will be a meeting on October 09, 2024, and there are three (3) vacant board seats, and 3 nomination forms have been turned in and if any more nomination forms are submitted, they must hold an election.

Mr. Su stated it might be better to continue this case until the December meeting.

Chairman Tomasso asked Ms. Pacheco how long the Association has only had 2 board members.

Ms. Pacheco stated the Association only has had 2 board members since July 2023.

Chairman Tomasso asked how the Association received interest in this election when there has been a vacancy for over 1 year.

Ms. Pacheco stated a “scary letter” was sent to the unit owners stating Receivership might be a possibility if they did not come into compliance with the 3-board member statute.

Mr. Su stated that after the election has occurred the Community Manager (CAM) should file the appropriate forms with the Division and the CAM and any or all of the board members should attend the Commission meeting in December.

Commissioner Sweetin moved to continue this case until the December meeting to allow the Association time to seat 3 board members and to file the appropriate forms with the Division and any documents should be submitted at least 10 days before the meeting in December. Seconded by Commissioner Lighthart. Motion carried.

**I) NRED v Jamie Evans, for possible action**

**Case No. 2024-327**

**License No. CAM.0001457-SUPR - Inactive**

**Type of Respondent: Community Association Manager**

Parties Present

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

Preliminary Matters

Ms. Keegan gave a summary of the case.

Ms. Keegan stated because the Respondent is not in attendance and has not submitted an Answer to the Complaint, she would like to proceed with a default hearing.

State’s Witness

Maria Gallo, Commission Coordinator, testified regarding service of complaint

Ms. Keegan moved to admit certificate of mailing and proof of mailing into the record.

Chairman Tomasso admitted certificate of mailing and proof of mailing.

Ms. Keegan moved that the State has provided sufficient service of notice to the Respondent.

Chairman Tomasso moved that the State provided sufficient service of notice to the Respondent.

Ms. Keegan stated per NAC 116A.590 the Commission can accept the factual allegations and legal violations as true and adopt the recommendation for discipline which the State will present on behalf of the Division.

Ms. Keegan read the Complaint into the record.

Commissioner Gilliam asked if any other Association has been victimized by the Respondent.

Ms. Keegan stated under the statute they cannot confirm or deny that any other Association has been a victim of the Respondent.

Commissioner Morse Jarman asked if the State works with the IRS in cases of embezzlement.

Ms. Keegan stated there is not a process for the State to report anyone to the IRS, however there is not any reason that an Association, Board or an Attorney could not report the Respondent to the IRS. Ms. Keegan stated in cases of embezzlement Divisions could file a case with the Attorney General's Criminal Section, to investigate the case.

Commissioner Morse Jarman asked in egregious cases of embezzlement, could there be a process for notifying the IRS.

Charvez Foger, Deputy Administrator, stated that question has been asked by other Commissions, but the Division would have to work with other entities, and they could discuss this off the record.

Commissioner Morse Jarman stated she would like to be part of that discussion.

Commissioner Sweetin asked if the board members might be complicit in the embezzlement of the funds.

Ms. Keegan stated she could not speak to the Division's investigation, or if any other complaints have been filed in relation to the case against the Respondent.

Commissioner Morse Jarman asked why it took 4 years to notice the embezzlement of the funds and questioned why this wasn't caught through an audit by either the Association or the Division.

Sonya Meriweather, Ombudsman, stated Association's self-report and often Associations will report the numbers they want the Division to see and therefore it is not always recognizable when someone is embezzling money. Ms. Merriweather stated that no red flags were raised because no one was calling the Division and complaining. Ms. Merriweather stated that the Division only has one auditor for 3800 communities, and steps are being taken to change that. Ms. Merriweather stated that Associations are required to self-audit depending on their circumstances.

Chairman Tomasso stated this Association had stopped having meetings for years, so the Board was not on top of the day-to-day operations of the Community.

Commissioner Morse Jarman stated this type of circumstance is a haven for bad characters and year after year this is allowed to go on without anything changing and she would like to be the champion of that change, so this sort of thing no longer happens to HOA's.

Ms. Keegan moved to admit the State's documents CICC 1-2227 into the record.

The Commissioners deliberated over admitting the State's documents into the record.

Commissioner Morse Jarman stated the public and law enforcement agencies should be made aware of the people who are taking advantage of HOA's.

Joseph Ostunio, Commission Counsel, stated there are confidentiality rules and the Commission should not involve themselves in the criminal process.

Chairman Tomasso stated for law enforcement to get involved a report must be filed by the aggrieved party and the Commission or Division is not the aggrieved party the Association is, and they need to be the one to file with law enforcement.

Commissioner Morse Jarman stated the way things are being handled is not effective and there is a flaw in the system.

Commissioner Heydarian stated nothing is being mentioned about the board members having a fiduciary responsibility to review the financials. Commissioner Heydarian stated Community Managers must make sure board members are reviewing the financial statements.

Ms. Keegan stated the recommended discipline is the maximum fine of \$5,000 per violation and there are 10 violations of law, revocation of license, and pay restitution in some amount to the Association and pay the costs and fees of the Division. Ms. Keegan stated per NAC 116A.590 the Commission can accept the factual allegations and legal violations as true.

The Commission deliberated what discipline to impose on the Respondent.

Commissioner Sweetin moved to accept the findings of facts and conclusions of law. Seconded by Commissioner Heydarian. Motion carried.

Ms. Gallo testified that the Division's reasonable, necessary and actual fees and costs of the hearing are in the amount of \$6,890.73.

Commissioner Sweetin moved that the Respondent pay a fine of \$50,000, pay the cost and attorney's fees of \$6,890.73, revocation of license, the Respondent is not eligible for any training or education and the Respondent pay restitution to the Association in the amount of \$576,272.50 plus \$2,906.52 within 30 days. Seconded by Commissioner Gilliam. Motion carried.

#### **6) Public Comment**

Alisa Ann from Cambria Colinas HOA stated it will be difficult for the board to represent themselves because the agenda items were not called in order. Ms. Ann stated board members would have been able to tell their side of the issue and may not get the chance to if the case is called tomorrow.

#### **8) Adjournment**

Meeting adjourned at 4:19 PM

Minutes prepared by: \_\_\_\_\_

Maria Gallo  
Commission Coordinator

To Be Approved By Commission

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND  
CONDOMINIUM HOTELS MEETING MINUTES SEPTEMBER 11, 2024**

**VIA IN PERSON AND WEBEX VIRTUAL MEETING  
SEPTEMBER 11, 2024**

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

VIDEO CONFERENCE TO:  
Nevada Division of Insurance  
1818 East College Parkway  
Suite 103  
Carson City, Nevada 89706

**1) COMMISSION/DIVISION BUSINESS:**

A) Chairman Tomasso called the meeting to order at 9:03 A.M. and led in the Pledge of Allegiance.

Introduction of Commissioners in attendance: Phyllis Tomasso, June Heydarian, James Bruner, Kim Lighthart, Patricia Morse Jarman, and Sara Gilliam, a quorum was established. Commissioner Robert “Bob” Sweetin was absent.

Commission Counsel: Joseph Ostunio, Deputy Attorney General.

**B) Introduction of Division staff in attendance**

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Sonya Meriweather, Ombudsman; Shareece Bates, Administration Section Manager; Terry Wheaton, Chief Compliance Audit Investigator; Kelly Valadez, Commission Coordinator; Maria Gallo, Commission Coordinator; Phil Su, Senior Deputy Attorney General; and Christal Keegan, Deputy Attorney General.

**2) Public Comment**

Mike Kosor stated he spoke yesterday about how the Division is abusing its discretion and letting down homeowners that live in Nevada homeowners’ association’s (HOA’s). Mr. Kosor stated he will provide support for that position. Mr. Kosor stated he served as an elected Director in his declarant-controlled Association in May of last year, the majority board without authority and in coordination with NRED ousted him as a board member. Mr. Kosor stated there was no recall election and, in his opinion, they had no authority to do what they did. Mr. Kosor stated he applied to be reelected in October of last year and that application was rejected. Mr. Kosor stated in April of this year his board, without the authority of the homeowners filed a lawsuit against him seeking attorney’s fees and damages. Mr. Kosor stated he was accused of simply applying to be on the board, and was also accused of being uninsurable, therefore not eligible to run, and for failing to disclose that he had a potential conflict of interest with his

HOA. Mr. Kosor stated he has been coming in front of the Commission for 6 years describing a conflict with his association's board and has made it clear on a website what his position is, and that information is available to the public. Mr. Kosor stated he made it clear on his application he had litigation against the board and had had numerous conflicts with them, and that did not make a difference because they are still suing him. Mr. Kosor stated he believes the litigation is unsupported and will work its way out. Mr. Kosor stated he now must defend himself against the litigation. Mr. Kosor stated that NRED is silent through this whole process. Mr. Kosor stated the attorney that is leading the lawsuit is well known to the Commission and represents several hundred HOA's in the community. Mr. Kosor stated if this is allowed to continue, imagine the intimidation faced by homeowners, that they may face litigation by simply applying to be on the board. Mr. Kosor stated the Commissioners and NRED know how to reach him. Mr. Kosor stated the manager of his association that has been a part of all this, is one of the Commissioners.

**3) DISCIPLINARY ACTION: DISCUSSION AND POSSIBLE ACTION BY THE COMMISSION:**

**R) NRED v. Turnberry Towers East Unit-Owners', Tony Rector, James Orr, Lawrence (Larry) Karp, Manu Sethi and Tamra Trainer, for possible action.**

**Case No. 2023-309**

**Type of Respondent: Board Members**

Parties Present

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

Preliminary Matters

Chairman Tomasso stated this case has been granted a continuance and will be heard at the December meeting.

**G) NRED v. Cambria Colinas Homeowners Association, for possible action**

**Case No. 2024-634**

**Type of Respondent: Homeowners Association**

Parties Present

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

"Shi" Davis, Community Manager, was present virtually representing the Respondent.

Preliminary Matters

Ms. Keegan stated the parties have reached a settlement agreement.

Ms. Keegan stated the complaint listed William LaFrance as the Associations Community Manager; however, the Association filed the required document with the Division listing Shi Davis as the new Community Manager.

Ms. Keegan read the settlement agreement into the record.

Ms. Davis stated the board members wanted the Commission to know they did try for several years to get a third board member, and it was only until a "scary letter" was mailed out that they finally were able to get a third board member.



Commissioner Lighthart moved to accept the terms of the settlement agreement. Seconded by Commissioner Bruner. Motion carried.

**S) NRED v Via Valencia / Via Ventura Homeowners Association, for possible action**

**Case No. 2024-624**

**Type of Respondent: Homeowners Association**

Parties Present

Christal Keegan, Deputy Attorney General, was present representing the Division.  
Felicia Norris, Community Manager, was present virtually representing the Respondent.

Preliminary Matters

Ms. Keegan stated the parties have reached a settlement agreement.

Ms. Keegan read the settlement agreement into the record.

Commissioner Bruner moved to accept the terms of the settlement agreement. Seconded by Commissioner Gilliam. Motion carried.

**F) NRED v. Briar Hill Park Homeowners Association, for possible action**

**Case No. 2024-156**

**Type of Respondent: Homeowners Association.**

Parties Present

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

Preliminary Matters

Mr. Su stated that the Community Manager Crystal Kaufman should be present online.

The Commission agreed to table this case until the end of the meeting stack so Ms. Kaufman can be present.

**K) NRED v. Highlands Ranch North Landscape Maintenance Corporation, A Nevada Non-Profit Corporation, for possible action**

**Case No. 2024-636**

**Type of Respondent: Homeowners Association**

Parties Present

Phil Su, Senior Deputy Attorney General, was present representing the Division.  
Felicia Norris, Community Manager, was present virtually.

Preliminary Matters

Mr. Su stated the Association came into compliance and they now have a third board member.  
Mr. Su stated the Respondent has stipulated to the facts and violations.

Ms. Gallo stated the Division's reasonable, necessary and actual costs are \$1,215.81.

Commissioner Gilliam moved for the Respondent to pay the Division's fees in the amount of \$1,215.81 within 30 days. Seconded by Commissioner Bruner. Motion carried.

**M) NRED v Mesa Verde Community Association., for possible action**

**Case No. 2024-112**

**Type of Respondent: Homeowners Association**

Parties Present

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

Kellea Smith, Community Manager, was present virtually representing the Respondent.

Preliminary Matters

Ms. Keegan stated the State does not have a settlement agreement in hand because the violations of law are still pending. Ms. Keegan stated Ms. Smith has been working to resolve the outstanding violation. Ms. Keegan stated the Respondent has stipulated to the facts and the violations of law. Ms. Keegan stated the State's recommendation is that the case comes back for a status update at the December meeting to confirm that the reserve study was adopted and that the Respondent pay the Division's fees and costs of the investigation.

Ms. Smith stated the board meeting has been set for October 7, 2024, and on the agenda is adoption of the reserve study. Ms. Smith stated they should be compliant by the December meeting.

Commissioner Bruner asked if the reserve study is in line with the finances of the community or will a special assessment have to be imposed.

Ms. Smith stated they will not have to impose a special assessment because the Association will be between 97 and 104% funded.

The Commissioners discussed the proposed discipline to impose on the Respondent.

Maria Gallo, Commission Coordinator, testified that the Division's reasonable, necessary and actual fees and costs are in the amount of \$2,005.45.

Commissioner Lighthart moved that the Respondent pay the Division's fees and costs of \$2,005.45 within 30 days and for the Respondent to come back for a status update at the December meeting. Seconded by Commissioner Heydarian. Motion carried.

**Q) NRED v Stanford Square, John Fragola, Erich Brisacher and Daniel Tepper, for possible action**

**Case No. 2023-35**

**Type of Respondent: Board Members**

Parties Present

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

Chera Wolfe, Community Manager, was present virtually representing the Respondent.

Preliminary Matters

Mr. Su gave a summary of the case.

Mr. Su stated he recommends no administrative fine and for the Respondent to pay the Division's fees and costs of the investigation.

Ms. Gallo testified that the Division's reasonable, necessary and actual fees and costs are in the amount of \$4,364.01.

Commissioner Bruner moved that Respondent pay the Division's fees in cost of \$4,364.01 within 30 days. Seconded by Commissioner Heydarian. Motion carried.

**F) NRED v. Briar Hill Park Homeowners Association, for possible action**

**Case No. 2024-156**

**Type of Respondent: Homeowners Association.**

Parties Present

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

Crystal Kaufman, Community Manager, was present virtually representing the Respondent.

Preliminary Matters

Mr. Su gave a summary of the case.

Ms. Gallo testified that the Division's reasonable, necessary and actual fees and costs are in the amount of \$1,158.70.

Commissioner Lighthart moved that the Respondent pay the Division's fees and costs of \$1,568.70 within 30 days. Seconded by Commissioner Gilliam. Motion carried.

**4) Commission/Division Business**

**Administrator's Report**

**A.1) Division Update**

Sharath Chandra stated the IT upgrade is progressing with the goal of the Division improving the annual registration process by providing a portal to pay the fees and to also submit the required forms electronically. Mr. Chandra stated the IT upgrade would benefit all other departments within the Division and hope to have some development by the end of June or the beginning of July. Mr. Chandra stated he is waiting for the Governor's Office to work through the Division's budget. Mr. Chandra stated adding an attorney position is part of the proposed budget along with a goal to boost the CIC audit program and provide more services.

**A.2) Somerset Park Homeowners Association**

Mr. Chandra stated this Association has been in the news and as far as this Commission is concerned the Commission has brought discipline against the Community Manager. Mr. Chandra stated the Community Manager managed multiple communities, and they still have a case open with the Division. Mr. Chandra stated the city of Henderson is very involved in this situation. Mr. Chandra stated the city of Henderson sent out a letter to the unit owners saying they were going to shut off the water because of health and safety violations. Mr. Chandra stated since the letter was sent the city has worked with the community and is going to front the cost of the repairs to the water system to the community. Mr. Chandra stated the city is going to utilize their authority and lien the units for the cost of the repairs and some other details are being worked out between all concerned parties. Mr. Chandra stated Sonya Merriweather, the

Ombudsman, has attended these meetings working with the community and engaging them to find out what their issues are and to tell them what NRED offers. Mr. Chandra stated the Commission will be updated on the issue, but he cannot go into detail at this time because there is an open investigation.

Commissioner Lighthart asked Mr. Chandra to expand upon boosting the audit program.

Mr. Chandra stated the Division Auditor is developing a program, and the Division is looking into seeking outside help. Mr. Chandra stated that budgeting for expanding the audit program will be in the next legislative session not this one. Mr. Chandra stated an RFP might be offered for more in-depth audits. Mr. Chandra stated the Auditor has reached out to local CPA agencies to see what services they offer, and the Division may also investigate utilizing national agencies as well. Mr. Chandra stated the goal is to create an internal audit department, with the goal of catching things early and avoiding some of the issues that have come before the Commission recently. Mr. Chandra stated the goal is to educate the communities that need guidance and to support the communities that are run by good boards and managers.

Commissioner Lighthart asked if budgeting for the audit department is in the current budget.

Mr. Chandra stated funding for the auditing program will have to wait until the next legislative session, because the priority for this legislative session is getting the attorney position funded.

Commissioner Gilliam asked if the new software update will be able to flag associations for an audit.

Mr. Chandra stated the new software update will have some of that built-in and through the years of association submitting their reports electronically, the auditor will now be able to look at the data over the course of time and be able to see something that might be an issue.

Commissioner Morse Jarman asked if the Division only has 1 auditor for 3800 associations, and why did the Division not investigate expanding the department earlier because 1 person is not adequate to find the “fox in the chicken house”.

Mr. Chandra stated historically the Division did not have an auditing program and in 2017 it was brought to the legislature. Mr. Chandra stated that someone within the Division had auditing experience and then audits became the focus. Mr. Chandra stated HOA’s have rapidly grown in Nevada due to the limited resources of the counties and the cities. Mr. Chandra stated the one auditor is not enough with the growth of HOA’s, but we are stuck with a 2-year legislative/budget cycle and we have had COVID and a recession. Mr. Chandra stated audits have been a priority for a couple of years and what the Commission is seeing now is the fruit of those audits. Mr. Chandra stated Nevada licenses community managers and that protects the associations a little more, however, there will always be a few bad apples in the bunch. Mr. Chandra stated the intent is to always get better and all the priorities of the Division will take time and becoming self-funded will help with the goals of the Division.

Commissioner Morse Jarman asked if collecting the fines will become a priority if the Division

becomes self-funded and what is the point of levying the fine if nobody is collecting them.

Mr. Chandra stated that collecting fines is not how the Division wants to build an agency, fines are a form of discipline and will go to the general fund. Mr. Chandra stated the goal of agencies is to be self-sufficient and not rely on fines to fund the agency. Mr. Chandra stated that being self-funded will allow the agency to keep some of the money that goes to the general fund so we can then put money into our priorities, legislatively the Division can request from a committee some of the fine monies that were collected, however that is a procedure that the Division does not utilize. Mr. Chandra stated the collection process is dictated by the Controller's Office. Mr. Chandra stated the licensees cannot get any other license with the State if they owe money to the Division.

Commissioner Morse Jarman asked if there is a national database for community managers and how many other states license their community managers.

Mr. Chandra stated there is not a national database and currently there are a very small number of states that license their community managers.

Commissioner Gilliams stated the law allows for up to \$5.00 per unit fee, is there a plan to go up to that amount or does the Division have to go back to the legislature.

Mr. Chandra stated the Division does have some budgetary controls, the CIC does have a reserve amount in their budget, and we do not want to ask for more money if there is not a plan in place. Mr. Chandra stated the Division does not want to grow unnecessarily without any new programs to offer.

Commissioner Lighthart asked if the Auditor could make recommendations about the new software to help her with the audits.

Mr. Chandra stated the goal is to get the staff involved that will utilize the new technology.

Commissioner Morse Jarman stated she wanted to commend Mr. Chandra and the staff for all they do with their limitations, however when there is a problem, she wants it solved now, not 3-5 years from now. Commissioner Morse Jarman stated at the end of her 6 years on the Commission she did not want to have not offered her help to the Division in any way possible.

### **B) Ombudsman's Summary Report**

Sonya Meriweather presented this report that was provided to the Commission in the meeting packet.

The Commissioners questioned Ms. Meriweather about this report.

Kathryn Null, Program Officer, presented a report that was provided to the Commission in the meeting packet.

**D) Education and Information Officer Report**

Ayana Band presented this report that was provided to the Commission in the meeting packet.

The Commissioners questioned Ms. Band about this report.

**C) CIC Compliance Caseload Report and Summary**

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

The Commissioners questioned Mr. Wheaton about this report.

**E) Licensee and Board Member Discipline Report**

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

Commissioner Robert “Bob” Sweetin has now joined the meeting.

**F) Discussion regarding Commissioner’s speaking engagement requests**

None

**G) Discussion regarding the State of Nevada Controller’s Office debt collection process for fines issued by the Commission**

Commissioner Morse Jarman stated she does not have an update but hopes to have one for the March 2025 meeting.

**H) Discussion and decision to approve minutes of the June 11-12, 2024, Commission meeting**

Commissioner Heydarian moved to approve the June 11-12, 2024, meeting minutes. Seconded by Commissioner Morse Jarman. Motion passed.

**I) Discussion, nomination, and election of officers for FY '25 pursuant to NRS 116.610**

Commissioner Sweetin moved to keep the officers the same. Seconded by Chairman Tomasso.

Commissioner Tomasso – Chair

Commissioner Morse Jarman – Vice Chair

Commissioner Heydarian - Secretary

**5) FOR POSSIBLE ACTION: FOR DISCUSSION AND DECISION ON DATE, TIME, PLACE, AND ITEMS FOR UPCOMING MEETING(S) INCLUDING SETTING THE MEETING FOR CALENDAR 2025.**

Chairman Tomasso stated she wanted to table setting the 2025 meeting calendar to the December meeting.

The Commissioners discussed items for upcoming meetings.

**6) Public Comment**

None

**7) Adjournment**

Meeting adjourned at 11:13 AM

Minutes prepared by: \_\_\_\_\_

Maria Gallo  
Commission Coordinator

To Be Approved By Commission

FILED

Susan Russell

SEP 09 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS



September 9, 2024

In addition to what I reported last meeting, I wanted to expand how the lack of help from the Nevada Real Estate Division with the situation in Sunrise Villas 1 could very easily turn into a similar situation to **SUMMERSET PARK in HENDERSON** because of the issues I filed complaints about in 2022.

The corrupt landscape conversion took place in fall of 2022. Most of the new 1-gallon plants that replaced the grass died the following summer of 2023, along with many mature shrubs.

This year, the second year after the corrupt conversion, we have lost 40 +/- mature shrubs and many trees are struggling. We have lost many more 1-gallon plants that were the replacements to the 2023 one-gallon plants that died.

We have leaks and nonfunctioning feeding tubes all over the grounds with water running down the streets, and the shrubs and trees are dying from no water.

The grounds in Sunrise Villas 1 are so dry. The unplanned and unbudgeted landscape conversion done behind everyone's back using reserve money that was not budgeted was done very hastily and has caused many issues. The 50-year-old irrigation probably should have been repaired first.

**We have a lot of tree roots that break the 50-year-old pipes on a regular basis, but now with this lack of water feeding the trees and shrubs for several years in a row, we fear the vulnerable pipes will start breaking all over as trees and large shrub roots search for water.**

**We do not have enough money in reserves to pay for emergencies a 50-year-old property should anticipate, in addition to not having enough money to pay for regular maintenance, or anything on the reserve studies for the last three years this board has been in place and used all the money on two bad contracts, one of which violated the Nevada Revised Statutes and was reported to the NRED.**

We fear the roots are searching for the 50-year-old underground pipes carrying the water. Once we saw the news and what happened at Summerset Park, we were more afraid that this could become a reality at Sunrise Villas 1 very soon.

The homeowners should not have to try to figure out how to resolve issues when there is an incompetent board in place. The Real Estate Division should be here for us since the board has an attorney to represent them in their (in my opinion) gross negligence.

When every precious drop of water should be protected, this board is watering suckers on olive trees that should be removed, and not trimming trees because they do not have money for maintenance because of they blew the money on non-budgeted items.

This is creating a secondary issue of water waste in a city that is trying to conserve water.

Had the Real Estate Division stepped in to help us when the board hired someone to do the conversion without being on the agenda, without discussing in the February 2022 board meeting when he was hired and



when the board took money from reserves to do the conversion that was not budgeted and was not an emergency, we would not be facing serious issues of no money to repair the rotten fascia affecting the homeowners' roofs (we maintain our own roofs), the grounds dying and wasting precious water.

Not only is this an underground pipe concern, this is a major water waste concern. We have watered these mature shrubs and trees for decades only to be lost to a poorly planned and executed conversion that has left the plants and trees without enough water to survive.

It is the homeowners that could suffer just as the homeowners in Summerset Park are suffering.

Once the board took reserve money that was not budgeted, and used it for a conversion that was not on the agenda and not disclosed in a board meeting when he was hired in February 2022, the rest of the property started to fall apart because nothing is being maintained as it should be.

Every year this board has been in place they have said the homeowners cannot afford to have the dues raised and increase only \$10.00, instead of meeting and matching the actual maintenance needed as illustrated in the 2022 budget when the board ratified a budget with close to \$50,000.00 deficit, and then overspent the budget in many areas. Once I made a complaint about budgeting, they did raise major the dues \$50.00 but we are still broke with tons of deferred maintenance, especially the fascia which affects the homeowners owned and controlled roofs. The HOA fascia is affecting the homeowners' roofs.

It is so unfair that the board and management can screw up and do horrible things and gets an attorney to defend them, paid for by those they are hurting, and the homeowners in Sunrise Villas 1 cannot get any help at all.

We have a new CAM and hopefully they will recognize everything and listen to the homeowners, which the last CAM did not and I am sure was never on the grounds in three years! Fingers crossed they are better than the last, but that still leaves Sunrise Villas 1 so vulnerable to the same issues as Summerset Park in Henderson, and vulnerable to continuing to fall apart with pools that rarely operational, and a tennis court closed 17 years, fascia that is rotted and could affect homeowners' assets of their own roof, and landscape that is taking us down all because the board violated NRS and the NRED did not help us.

We have tried to remove board members but the former manager would send these crazy letters to the homeowners saying that everything is fine, the board is great and interfere with every election, while the board members would go door to door and also send crazy emails to the homeowners with lies.

The board and manager then made all decisions outside of board meetings and showed up to a quarterly Zoom meeting to ratify everything they did which a complaint is forthcoming even though I expect it to be received the same as the complaints I filed, where the investigators tell me I am the issue, no one else is complaining, and to find the corresponding statute myself! I take the abuse and maintain a fat paper trail.

I wonder, is this how homeowners were treated at Summerset Park? I question what the long-term issues will be for the 82 complaints made in 2022 that were not sent to commission. I think our long-term issue could be broken underground pipes as a major catastrophe in Sunrise Villas 1.

Thank you very much for your time and consideration. Please help us.

**Submitted June 11, 2024**

My name is Susan Russell and I live in Sunrise Villas I. The CAM is Kim and Lonnie Kalfelz of HOA Management. John Leach has served as the HOA Attorney defending the board in my complaints.

The majority board in 2024, are the same board members who I filed complaints against in 2021-2022.

In 2021, the board ratified an almost \$50,000.00 deficit budget for no obvious reason, and I believe intentionally underestimated actual costs in the budget causing overspending of the already deficit budget including the legal category, and that compelled me to come to the Ombudsman in complete frustration looking for help.

Of the many complaints I filed, most all of them are still issues in Sunrise Villas I. But one is escalating to the point of affecting real estate sales.

The previous complaint I filed stated that in February 2022, the board hired a landscaper specifically for landscape conversion, without placing that on the agenda, without discussing it in an open board meeting, without getting three bids and by spending a majority of the reserve money without the project being budgeted and taking money from projects that had been deferred many years and actually rotting, such as the fascia. Landscape conversion was not an emergency as conversion does not have to be completed until 12/31/26.

I read and re-read NRS and worked with the VERY AMAZING Gary Little in making sure I was making a valid complaint. But my complaints were all dismissed. The NRED Investigator and homeowners are no match for the best HOA attorney in Nevada. It is an uneven playing field with veiled threats of being accused of practicing law without a license and not interpreting the law.

Two years later, the board has not made any effort to replace the reserve money they took that was not budgeted for conversion. The deferred maintenance and neglected issues that should have been addressed per the 2019 reserve study and provided for in the reserve budget that was instead used for landscape conversion, have never been repaired.

Two years after I filed the complaint with the ombudsman, the roofers are still telling the homeowners that because the HOA has neglected to repair the fascia, the homeowners roof warranty may be voided. HOA is responsible for fascia; homeowners are responsible for roofs.

But even more concerning is that the government appraisers for FHA loans are stopping the sale of homes if the fascia is not repaired, forcing the homeowner to repair the HOA fascia in order to sell their home. The HOA is not taking responsibility for this repair and the seller has no choice but to repair it themselves if they wanted to sell their home. Then the board will not reimburse the homeowner.

This will more than likely happen many times over with other loans as well, such as VA. The appraisers ensure that the property is maintained and safe, and in Sunrise Villas I, they are the only entity concerned with the neglect.

As 2468 El Paseo Circle was offered for sale, the seller received an FHA offer and chose to accept it. The FHA appraiser said the fascia has to be repaired, or the FHA government backed loan would not be granted to the buyer. The buyer, in a panic, called the manager Kim Kallfelz and asked if they would fix it, she told him they would fix the fascia in a few months (which the escrow could not wait) and the buyer said Kim Kallfelz said that she would not buy that house! Days from closing!

The seller called Kim Kallfelz asking to repair the fascia, and she questioned the seller why she would accept an FHA loan! As a former Realtor, I believe Kim Kallfelz should anticipate that government backed loans are very desirable in this market because the down payment is low, and that more of these situations are going to happen, and that the board needs to have a plan to address this and repair the fascia, not try to kill the escrow to avoid it!

Several board members told the seller she would be reimbursed. Now, the president of the association, Doris English, is telling homeowners that are concerned for that seller, they will not reimburse the seller (yet another NRS violation) for the HOA neglected repair of which they spent the reserve budget on the landscape conversion.

The board is risking real estate transactions because they took money from the reserves that was not budgeted for landscape conversion, neglecting the deferred maintenance of the rotten fascia that was in the budget. The manager is risking real estate sales by suggesting to buyers and sellers not to move forward. The homeowners are still paying out of pocket for HOA repairs (another complaint I made). I think the better choice is to fix the fascia.

The board brought this issue on by rushing to do a deal behind the homeowners back that was not on the agenda, not discussed in a board meeting, and took money that was not budgeted for conversion that is not due until 12/31/26. The ombudsman ignored these NRS violations. I have never understood why the ombudsman let this go.

In the 2024 budget, the board assessed all 62 homeowners \$600.00 in telling us that in 2024, they would repair the fascia, and paint the 50-year-old buildings which have never been painted before. However, the board recently showed up to our Homeowner Forum meeting (we cannot show up to the board meetings), and they said they do not have enough money to replace or repair the rotten, deferred repair of the fascia. Kim said the fascia would be fixed in a few months. Not according to the board.

I have asked the board and management if they are holding the \$600.00 per house assessment for fascia repair not to be used for anything else, or did they use it for other cosmetic purposes such as new lamp posts, but they will not answer if, or where, our assessments are being held.

The board has to have a plan to maintain the many deferred maintenance issues including a tennis court closed 16-18 years, pools that are closed more than open, fascia rotted and starting to slip off the building, broken irrigation, cracked perimeter walls, and so much more. That is why I went to the ombudsman for help 2-3 years ago, and since then, the situation has only gotten worse.

The board has to make fascia a high priority which it was before this board chose to make all these sneaky moves to get a landscaper that we never heard of in here to do the conversion in such a hurry,

that even the Southern Nevada Water Authority questioned why they did not address the 50-year-old irrigation first and as a priority and now there are leaks and issues everywhere.

If the Ombudsman would have addressed my complaint in 2022, this would more than likely not be continuing or escalating to affect real estate sales. **I respectfully ask that the Ombudsman reopen my complaint and investigate this thoroughly.**

As a result of the board not being reprimanded for taking the reserve budget money for the landscape conversion that was not due to be completed until 12/31/26, the board and manager were emboldened to violate NRS regularly. I am filing a new complaint at the NRED showing the Ombudsman that the board is meeting privately and making decisions and spending money in those meetings, showing up to a quarterly Zoom meeting to "ratify" the decisions they made outside of board meetings and the money they spent outside of board meetings, leaving the homeowners concerned and clueless as to what is going on. The question is, what will the ombudsman do about this violation?

Will this new valid complaint be one of the 82 complaints that are ignored in 2024, to the point that in 2026 that I come back to the NRED to say this issue has escalated?

The fact that valid complaints are ignored and now are affecting real estate sales should be a valid enough reason to help the homeowners of Sunrise Villas I with the original complaints.

I believe that of the 84 complaints made in 2022 there were more than two that deserved to be investigated, my complaints included, as evidenced by the current situation. Everyone should have anticipated that FHA and VA loans would be affected by negligence to the property.

I respectfully request the Ombudsman reopen my complaint and investigate why the board took money from the reserve budget for a non-emergency, creating this escalation of this issue now affecting real estate transactions. Also, to make sure the board understands what they need to do to get the fascia repaired and to understand NRS and their responsibilities as board members.

Sincerely,

Susan Russell

SEP 09 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS*mgallo*CIC Commission Meeting Open Forum 9/10/24  
Talking Paper – Mike Kosor**1- NRED has abused its discretion and CIC Commission does nothing:**

- Division is captured by the industry it is tasked to regulate. Owners have no voice. (see #1)
- What the Division and Commission fail to do have unintended negative consequences.
- Heavy resistance by NRED to owner access to Commission hearing process (NRS 116.765(5))
  - Excessive use of “unsubstantiated” investigation findings with no recourse defeats the clear legislative intent the Commission hearing process provide alternative to litigation.
  - Purpose- “put aggrieved party in as good a position as if [performance] occurred.”
  - Special or punitive damages “may not be awarded except as specially noted...” NRS 116.1114.
- Ombudsman directed to assist owners in understanding rights...(NRS 116.625(4)(b)) and dispute resolution efforts (NRS 116.765(2))-but the office does not act accordingly.
- Administrator refuses valuable petitions for declaratory orders, advisory opinions (NRS 116.623), and/or other actions to provide clarity. Some recent examples:
  - NRS 116.31032- Declarant Control Termination (see attached #2)
  - NRS 116.30134(10)- “stand to gain personal profit or compensation” (see attached #3)
  - NRS 116.31034(8)- board candidate disclosures (see Opinion 10-04, 2009)
- Result- unnecessary litigation greatly favoring deep pockets.
- HOA’s using the purse of owners to chill opposition
  - Allegations of noncompliance with either NRS or governing documents combined with threats of litigation by association is incredibly chilling (see NRS 116.4117- paper #4)).
    - Seeking attorney fees “against public policy” (see Opinion 12-01-16)
  - Owner litigation opens door to counterclaims -never intended.
    - My experience – sued for simply applying to be a board candidate.
    - My experience- sued when HOA determines “inadequate” disclosure.
  - “Actual damages” are required to bring an action- in theory. But the mere threat of counterclaim/litigation is nonetheless chilling.
  - Was it intended HOAs could bring litigation without a vote of owners and sidestep NRED/Commission jurisdiction? (see #4)
  - Easily abused under declarant control. Advances self-interests of some developers, management companies, and attorneys.
- ADR program is broken despite good intentions. My experience, it is little more than an added barrier for deep pockets to silence owner voices.

**2- Ideas to advance the voice of owners presently muted and address abuses:**

- CIC Taskforce best option-
  - Legislative compromise (SB 392(2019)) to a truly independent Ombudsman.
  - B&I Director chairs- but used only twice, last in 2020, then abandoned.
  - Provides a forum for all stakeholders, particularly owners, to raise legislative reform.
    - Span beyond regulatory – into proposed legislative action vetted and packaged in a manager legislators can digest/consider.
    - Ongoing forum for all stakeholders.
- Commission conducts formal reviews of the above, plus other abuses. Some examples:
  - NAC 116.405(8)(d)- “obtain at least three bids”, Opinion not enforced
  - NRS 116.31085- Requirement for “meeting” and “workshops” abused, Opinion 11-01
  - NAC 116.405(4)(d) amended in R-129-21 (2022) but as yet is unpublished.

#1

Senator Schneider in 2009 sponsored a landmark HOA reform bill in the wake of the FBI investigation into attorney directed abuses of HOAs. He made the comment below concluding his presentation before the Committee. His words are still applicable today.

**"Let me conclude by observing that the developers of HOAs, the HOA boards, the attorneys and community managers who run the HOAs, and many others with interests in the management of these communities, ALL have powerful lobbying groups here in the Capital. The homeowners have no lobbyists. In effect, we are their representatives and we have a duty to voice their needs and address their concerns. "**

I suggest the "we" Senator Schneider refers to, includes not just elected representatives, but you, the entire Commission, and NRED.

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**Statute required owner resale disclosure (NRS 116.41095)**

**There is no government agency in this state that investigates or intervenes to resolve disputes in homeowner's associations.** (Deleted in 2005, by SB 325(2005))

Applicable portion of current required disclosure.

If you have a dispute with the association, its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, the Nevada Real Estate Division and the Commission for Common-Interest Communities and Condominium Hotels. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim (underline added).

**NRS 116.31032 Period of declarant's control of association; representation of units' owners on executive board.** (underline added)

1. Except as otherwise provided in this section, the declaration may provide for a period of declarant's control of the association, during which a declarant, or persons designated by a declarant, may appoint and remove the officers of the association and members of the executive board. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period and, in that event, the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Regardless of the period provided in the declaration, a period of declarant's control terminates no later than the earliest of:

(a) For a common-interest community with less than 1,000 units, 60 days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant;

(b) For a common-interest community with 1,000 units or more, 60 days after conveyance of 90 percent of the units that may be created to units' owners other than a declarant;

(c) If the association exercises powers over a common-interest community pursuant to this chapter and a time-share plan pursuant to chapter 119A of NRS, 120 days after conveyance of 80 percent of the units that may be created to units' owners other than a declarant;

(d) Five years after all declarants have ceased to offer units for sale in the ordinary course of business;

(e) Five years after any right to add new units was last exercised; or

(f) The day the declarant, after giving notice to units' owners, records an instrument voluntarily surrendering all rights to control activities of the association.

**Key components of statute**

- Control threshold moved to 90% from 75% in AB 192(2015)
- "Regardless," of CCR's threshold control terminates "no later than" 90%
- Declaration (CC&Rs) may provide of a different (lessor) period of control

**My position**

- CC&Rs of my HOA provide for 75% threshold- established in 1998
- If Legislators had wanted to void existing CC&Rs it would have said so.
- NV Appeals Court in 2021 (*Kosor v NRED*) found 75% is the threshold for my association

**HOA's position**

- Statute changed threshold to 90%
- CC&Rs of HOA were voided pursuant to NRS 116.1206 as conflicting with governing documents.

**NRED Administrator's** response in 2017 and again in 2022 to request for opinion/advisory (NRS 116.623)

- Rejected twice- 2017 letter Administrator writes: "opinion would not be appropriate. I do not find the [the statute] unclear.
- "Nothing in AB 192(2015) makes the change retroactive..."

### #3

**NRS 116.31034 Election of members of executive board and officers of association; term of office of member of executive board; staggered terms; eligibility to be candidate for or member of executive board or officer of association; required disclosures; procedure for conducting elections; certification by member of executive board of understanding of governing documents and provisions of chapter.**

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10. Except as otherwise provided in subsections 11 and 12, unless a person is appointed by the declarant:

(a) A person may not be a candidate for or member of the executive board or an officer of the association if:

(1) The person resides in a unit with, is married to, is domestic partners with, or is related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association;

(2) The person stands to gain any personal profit or compensation of any kind from a matter before the executive board of the association; or

(3) The person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

//////

13. If a person is not eligible to be a candidate for or member of the executive board or an officer of the association pursuant to any provision of this chapter, the association:

(a) Must not place his or her name on the ballot; and

(b) Must prohibit such a person from serving as a member of the executive board or an officer of the association.

#### Key components of statute

- Person who stands to gain personal profit or compensation may not be a candidate of the board
- A conflict of interest requires disclosure and recusal, but is not disqualifying (see Advisory Opinion 10-4)

#### My position

- Litigation seeking declaratory relief and no damages does not fit the definition of profit. Owner cannot "profit" (revenue less expenses) or be "compensated" (existing contract) seeking dec relief.
- "Pecuniary" interest- defined as related to or consisting of money (even if "of any kind")- is not what the Legislature intended, or they would have said so.
- What does a minority director do if he/she believes a board is violating the law?
- My candidacy was approved by the board the year prior. They have no authority to remove me.
- HOA is conflating conflict of interest (disclosure) with the statute prohibition (profit/compensation).
- Huge chilling effect if simply applying to be a directors could result in you being a target of litigation

#### HOA's position

- Litigations of any kind constitutes a violation
- Removed by "operation of law"- following a determination by the board

#### NRED

- Silence despite aware of the controversy and related ADR efforts



**NRS 116.1114 Remedies to be liberally administered.** The remedies provided by this chapter must be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. Consequential, special or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law. (underline added)

**NRS 116.4117 Effect of violations on rights of action; civil action for damages for failure or refusal to comply with provisions of chapter or governing documents; members of executive board not personally liable to victims of crimes; circumstances under which punitive damages may be awarded; attorney's fees.** (underlines added)

1. Subject to the requirements set forth in subsection 2, if a declarant, community manager or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

3. Members of the executive board are not personally liable to the victims of crimes occurring on the property.

4. Except as otherwise provided in subsection 5, punitive damages may be awarded for a willful and material failure to comply with any provision of this chapter if the failure is established by clear and convincing evidence.

5. Punitive damages may not be awarded against:

(a) The association;

(b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

6. The court may award reasonable attorney's fees to the prevailing party.

#### **Key components of statute**

- NRS 38 ADR mandatory prerequisite to litigation if governing documents involved
- NRED/Commission as regulatory body has exclusive jurisdiction of NRS 116
- Intended to limit litigation by first, filing administrative complaint, second, only after ADR, and third, only where actual damages shown and fourth, a willful and material failure to comply.
- Preclude special or punitive awards related to HOA disputes.

#### **Questions**

Was the intent an association could bring litigation without a vote of owners?

Was the intent to allow an HOA bypass NRED/Commission jurisdiction? Administrative exhaustion.

Was the intent to exempt all parties from damage awards except owners?

FILED

SEP 10 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIE  
AND CONDOMINIUM HOTELS

*mgallo*

***September 10, 2024 Presentation – CICCH/HOA Meeting, Public Comment***

My name is Heather Scherloski. I am a homeowner and live full-time and permanently at Boca Raton Condominium Community Association here in Las Vegas.

When my husband and I purchased our unit in 2011, we were told that the unsold units of this 2007 condo HOA would eventually be individually sold when the housing market recovered. Our HOA would become a real HOA controlled by homeowners. Our HOA has never become a real HOA and our non-profit HOA has been allowed by NRED and this Commission to be hijacked by for-profit apartment rental businesses run by out-of-state investors whose motives are profits at any and all costs. You have allowed majority investors to control our HOA board when homeowners were to have control of the board in 2013 according to even NRED.

As mentioned to you in March, the combining of a Non-Profit Condo HOA with a For-Profit Apartment Rental Business is an abject failure. What I will tell you, again, is that Boca Raton Condominium Community Association is the third major HOA scandal in the Las Vegas Valley in the last 20 years, and, that the chickens have finally come home to roost. As my husband and I predicted in some of the 10 complaint submissions and numerous other correspondence to NRED and this Commission in 2018 and 2019, homeowners like us have been “left holding the bag”. The “bag” is that \$11M was stolen from our HOA; we have an underfunded Reserve Fund because of the stolen \$11M; we have major infrastructure and other problems; and, homeowners now have to pay special assessments of \$3,868, \$5,477, or \$7,583 because NRED and this Commission let \$11M be stolen from our HOA – specifically stolen from the minority owners.

You will hear today from other homeowners about \$2M in large expenditures that are now required. In addition, carpet and wallpaper replacement is planned but these are being prioritized to make the majority owner competitive in the apartment rental industry.

Minority owners have difficulty selling their units and it's impossible to get a conventional mortgage because of the majority owner's apartment rental business.

The mandate of the Department of Business and Industry includes the objective: "to ensure the legal operation of business in order to protect consumers". The Boca Raton nightmare is well-documented and minority owners continue to live this nightmare every day. If NRED and this Commission had prevented the theft of this \$11M when we came to you in 2018, or subsequently ensured the recovery of this \$11M by enforcing NRS116.31038, these large special assessments of up to \$7,583 would not be happening. All the minority owners at Boca Raton have been failed by NRED and this Commission and the chickens have finally come home to roost.

Thank you for your time.

*Heather L. Scherloski*

SEP 10 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

mgallo

**September 10, 2024 Presentation – CICCH/HOA Meeting, Public Comment**

My name is Wagner Chaves, and I am a homeowner at the Boca Raton Condominium Community Association in Las Vegas.

Boca Raton is far from a typical HOA. Instead of the usual issues between individual owners and the board or management company, we face scandal after scandal. Not only does Boca Raton have one of the highest HOA fees in the valley, but the root of these problems lies in investor-controlled boards and illegal apartment rental businesses. Here are some of the major issues:

- **Stolen funds:** \$11 million, including construction defect settlement funds, have been misappropriated.
- **Budget shortfalls:** Our HOA faces significant financial gaps despite having one of the highest fees in Las Vegas.
- **Lack of transparency:** There have been failures to complete required audited financial statements and to properly update minority owners on our financial situation.
- **Underfunded Reserve Fund:** Major special assessments are needed to address various issues, ranging from \$3,868 to \$7,583 depending on the unit size. Many minority owners fear this year's assessment won't be the last.
- **Lawsuits:** Since 2019, there have been three lawsuits involving former and current majority owners, including illegal apartment rentals that violate our governing documents and Clark County zoning laws.

Secrecy, conflicts of interest, and dishonesty have plagued our HOA. The for-profit goals of the apartment rental business conflict with our HOA's non-profit legal requirements, leading to repeated failures under both former and current majority owners.

Some minority owners have faced unresolved issues with parking spaces, storage units, and deeds since Boca opened in 2007. These problems persist because the apartment rental business prioritizes its tenants' needs.

The board and management often ignore or hide problems that could negatively impact the majority owner's rental business, including squatters, homeless people on the premises, thefts, and violations of our CC&Rs.

From 2007 to November 2018, homeowners were denied representation on the board, despite being entitled to control it by 2013. As of June 2021, homeowners held two of the five board seats, but the majority owner took one away in June 2022. Following the June 2024 election, minority owners now have no representation on the board. The management company consistently prioritizes the majority owner's interests over those of minority owners.

The ongoing issues at Boca Raton demonstrate that combining a non-profit HOA with a for-profit apartment rental business is unsustainable and fraught with conflict.

**NRED should immediately intervene in our HOA Board and give control to the homeowners of Boca as it was supposed to be done since 2013 and stop the corruption of the Board Members employed by the rental investor.**

Sincerely,  
Wagner Chaves  
Owner, Unit 3-209  
Boca Raton Luxury Condominiums



SEP 10 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

September 10, 2024 Presentation – CICCH/HOA Meeting, Public Comment

My name is **Alex Zenkin**.

I permanently live at Boca Raton Condominium Community Association, and I am the owner of the unit.

I often stay in California since my employer is in San Jose.

I took time off work today and flew in to be here for this meeting.

I attend Boca Raton board meetings when I can get off work and ask as many questions as I am allowed to. Unfortunately, many of the responses I receive from management are very concerning, and, board members rarely speak, never attend meetings in person, and no board member lives at Boca Raton. Minority owners are not provided adequate information about bidding on big dollar contracts.

I have firsthand information about a condo near Boca Raton and a condo in San Jose. And I should say, there is no comparison in how badly Boca Raton is governed by the Board of Directors and managed by this current Management Company. Since purchasing at Boca Raton, we have had six different management companies and a dozen different managers.

The common theme.... a majority owner that controls the board, runs an illegal apartment rental business and is only concerned about his bottom line at the expense of minority owners. It is not fair that minority owners have to pay for excessive wear-n-tear caused by the majority owner's high renter turnover.

Our complex has not been properly maintained over the years in many ways. For example, minority owners were not aware that there was a plumbing system that required special maintenance. One would think that when the current majority owner purchased in 2018, from the former majority owners, that this very important information would have been conveyed. Now our HOA must pay upwards to \$1M to repair the damage and negligent lack of maintenance. This is not the fault of minority owners who were kept in the dark.

We are being told that windows in almost all units are at risk of falling out. Is this true? Can we believe our board and management? What will this cost.... Another \$1M?

IF, a total of \$11M had not been allowed to be stolen from our HOA, there would be plenty of Reserve Fund and other monies to pay for these estimated \$2M in unexpected costs. Some owners were told that wrong adhesives had been used when the windows were originally installed and there had been defects in how the plumbing was installed.

IF, the \$3.1M in unspent Construction Defect monies had not been allowed to be stolen, there would be lots of money to address some of these window and plumbing problems—but sadly for minority owners the monies are gone.

Our HOA fees are already very high, approximately \$0.65 per sq.ft., ( Panorama Towers, a high-rise just off the Strip, have \$0.70 sq.ft. for comparison) And now I have to pay a \$7,583 special assessment, which targets approximately 60% of our annual budget. That would not be required if the above-mentioned millions of dollars had not been allowed to be stolen from minority owners such as myself.

Thank you.

Unit #929



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SEP 10 2024

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*September 10, 2024 Presentation – CICCH/HOA Meeting, Public Comment*

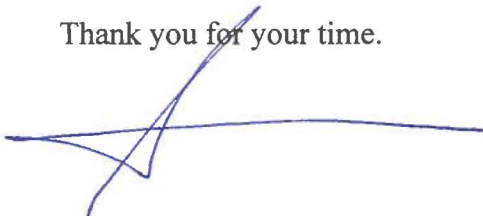
My name is Benjamin Wiebers. I am a homeowner and live full-time and permanently at Boca Raton Condominium Community Association here in Las Vegas. *mge110*

When my wife and I purchased our unit in 2011, we were told that the unsold units of this 2007 condo HOA would eventually be individually sold when the housing market recovered. Our HOA would become a real HOA controlled by homeowners. Our HOA has never become a real HOA and our non-profit HOA has been allowed by NRED and this Commission to be hijacked by for-profit apartment rental businesses run by out-of-state investors whose motives are profits at any and all costs. NRED and this Commission allowed majority investors to control our HOA board when homeowners were to have control of the board in 2013 according to even NRED.

As we mentioned at the March 2024 meeting, the combining of a Non-Profit Condo HOA with a For-Profit Apartment Rental Business is an abject failure. You do not, and I do not, have the time today to explain all the reasons of which there are many.... MANY. What I will tell you, again, is that Boca Raton Condominium Community Association is the third major HOA scandal in the Las Vegas Valley in the last 20 years, and, that the chickens have finally come home to roost. As my wife and I predicted in some of the 10 formal complaint submissions and numerous other correspondence to NRED and this Commission in 2018 and 2019, homeowners like us have been "left holding the bag". The "bag" is that \$11M was stolen from our HOA; we have an underfunded Reserve Fund because of the stolen \$11M; we have major infrastructure and other problems; and, homeowners now have to pay special assessments of \$3,868, \$5,477, or \$7,583 because NRED and this Commission let \$11M be stolen from minority owners of our HOA. The rights of minority owners were trampled on.

I refer you to the mandate of the Department of Business and Industry, as stated on your website, which includes the objective: "to ensure the legal operation of business in order to protect consumers". The nightmare that has transpired is well-documented. Minority owners continue to live this nightmare every day. To make matters even worse, although \$1.55M was recovered by lawsuit settlements, this amount only covered legal costs. If NRED and this Commission had prevented the theft of this \$11M when we came to you in 2018, or subsequently ensured the recovery of this \$11M by enforcing NRS116.31038, these large special assessments of up to \$7,583 would not be happening. All the minority owners at Boca Raton have been failed by NRED and this Commission and the chickens have finally come home to roost.

Thank you for your time.





# COMMON INTEREST ADVISORS, LLC

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SEP 10 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

*mgallo*

VIA EMAIL

September 10, 2024

Maria Gallo  
Commission Coordinator  
Nevada Real Estate Division  
[mgallo@red.nv.gov](mailto:mgallo@red.nv.gov)

Maria:

I hope this message finds you well. Please find below my comment for today's CCICCH Meeting. I would appreciate it if you could, if possible, enter it into the record.

**Public Comment:**

Good morning, distinguished members of the Commission:

My name is Michael Novak, Co-Founder and Co-Managing Director for Common Interest Advisors, LLC.

In my previous address to the Commission, I raised serious concerns about a nationally traded management company's violations of loan covenants and regulations. Today, I must bring to your attention a new issue involving a different major national management company, which like the previous one, manages a significant number of community associations in Nevada.

Our recent forensic investigation, completed last Wednesday, focused on an HOA in Chicago with approximately \$10 million in annual revenues and over 700 condominiums. The HOA is governed by a 48-member board of directors and was referred to us by owners, not management, and also has \$22 million in reserves.

Our findings revealed several critical issues:

1. **Governance and Oversight Failures:** The Board consistently failed to follow established governance practices. Unauthorized decisions made by Board presidents and significant decisions made without the required majority approval. This failure extended to financial oversight, including inadequate handling of budgets and tax filings. These issues represent a systemic failure in transparency and adherence to protocols.
2. **Financial Mismanagement and Compliance Issues:** Serious financial mismanagement was uncovered, including false tax returns and improper handling of reserve funds. These discrepancies pose significant legal and financial risks, potentially burdening homeowners with the fallout from mismanaged funds and legal liabilities.
3. **Lack of Transparency and Accountability:** The investigation revealed a troubling pattern of unilateral decision-making and restricted access to essential HOA records. This lack of transparency undermines homeowners' trust and their right to information and participation in governance.
4. **Legal and Compliance Risks:** Violations related to tax filings, budget management, and reserve fund requirements expose the HOA to potential regulatory sanctions, litigation, and reputational damage. Addressing these issues promptly is crucial to preventing further legal and financial repercussions.
5. **Ethical and Legal Implications:** Our findings also suggest unethical practices, including unauthorized payments totaling over \$446,000 in raises and bonuses for management staff, as well as conflicts of interest. These lapses in ethical standards could lead to significant legal liabilities and damage stakeholder trust.
6. **Financial Management Concerns:** Our investigation revealed inadequate monitoring of investment performance, resulting in significant financial losses for the HOA. The HOA's reserve fund, totaling \$22 million, is affected by a 3.30% gap between the assumed investment return of 0.20% and the inflation rate of 3.50%. This discrepancy translates into a substantial loss in the reserve fund's purchasing power, totaling \$48,710,716 over a 30-year period. On average, this equates to a loss of \$69,388.48 per homeowner. This shortfall highlights critical deficiencies in the HOA's investment strategy and financial management practices.

In conclusion, the gravity of this management company's misconduct underscores the urgent need for decisive action to protect the rights and interests of our citizens. I urge the Commission to address these issues with the seriousness they warrant.

Thank you for your attention to this matter.

*Michael*

**Michael J. Novak, CPA, CMA, CFA**

Co-Founder and Co-Managing Partner

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Pronouns: he / him