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NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

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CICCH Commission meeting public comment, by Mike Kosor

December 3, 2024

Subject: NRED and Ombudsman dereliction of mission

My reason for speaking this morning is unchanged from the many times I have come before you over the years. The Nevada Real Estates Division (NRED) continues to turn a "blind eye" to its regulatory mandate. My allegation is serious and comes with evidence the Commission should not ignore or dismiss - as you have for years. The Division under Administrator Chandra is "captured" by the industry it is tasked to regulate. **I ask for an investigation.**

I requested the Ombudsman respond, in person or in writing, to a few clear and direct questions- all related to NRS 116. I have provided the email exchange and ask it be included in the minutes. The Ombudsman rejected my request. She not only refused to speak but also refused to answer my questions. Her representative writes "most of your questions either implicate, or directly pose legal questions that exceed the scope of the Ombudsman/NRED's ability to assist..."

"No ability to assist" in responding to *What action should an elected director take if the majority of directors refuse to comply with NRS (Question #3) or what provision of NRS grants the board authority to act to remove and/or declare void the position of an elected director (Question #5)?* It exceeds the scope of the Ombudsman or NRED's ability?

No Commissioners, the Ombudsman is **knowingly engaging in concealment.** The exchange evidence the Ombudsman's knowing refusal to act ironically on what it acknowledges is a core mission- "assist owners in common-interest communities to understand their rights and responsibilities".

End your persistent deaf ear. The most casual of observer will recognize as wrong and likely illegal what the Division ignores and your inaction conceals. The Division is turning a blind eye despite knowing:

- An elected HOA director is unilateral removed by the unelected appointed board majority, then denied access to re-election for nothing more than seeking a court interpretation of an HOA statute, exercising a fiduciary duty, upon believing the board is violating Nevada law.
- An association brings litigation against an owner, seeking punitive damages, for simply applying for election to his/her governing board.
- The Ombudsman refuses owner requests for assistance, asserting a strawman the questions posed exceed its scope of assistance.
- A developer retains control of a large HOA for over a quarter century despite the Division possessing evidence, reported by the HOA annually, declarant control terminated long ago and rejecting formal requests by owners to investigate and/or provide an explanation?

There is a huge chilling effect in permitting the above. What owner is going to seek a position on his/her board if seeking election can result in litigation (even if clearly frivolous) by the association alleging damages? Inaction on this issue and others is having a significant adverse material effect on not only my community but all Nevadans who reside in HOAs.

I have appeared before you for years. My long history of pleading for your cooperation, an investigation, or a simply agenda topic based on my many allegations have proven futile. Nonetheless, I will continue my efforts to bring light to the obstructionist actions of the Division and this Commission until a review of my allegations by this Commission, the courts, and/or the press are concluded.

Atch: Sep 2024 email exchange w/Ombudsman seeking assistance

RE: Speak to the Ombudsman

From: Shareece N. Bates (sbates@red.nv.gov)

To: [REDACTED]

Date: Wednesday, September 18, 2024 at 05:26 PM PDT

Good afternoon Mr. Kosor,

Based on your previous interactions with the office and your multiple presentations during the public comment period of the CIC commission, it is evident that you have a good understanding of the statutory authorities underpinning the questions you are posing. The Ombudsman Office's mission to "assist owners in common-interest communities to understand their rights and responsibilities" does not extend to offering legal advice, and, unfortunately, most of your questions either implicate, or directly pose, legal questions that exceed the scope of the Ombudsman/NRED's ability to assist, and/or concern issues raised either in prior litigation or current, pending litigation. Instead, you should seek legal counsel for specific answers to these questions.

Thank you for your time.

Shareece

**Shareece Bates**

Administration Section Manager  
3300 W. Sahara Avenue, suite 350  
Las Vegas, NV 89102  
702.486.4036 (phone)  
702.486.4275 (fax)  
[sbates@red.nv.gov](mailto:sbates@red.nv.gov)



**Nevada Real Estate Division**

Nevada Department of Business and Industry  
"Growing business in Nevada"

From: Michael Kosor [REDACTED]  
Sent: Friday, September 13, 2024 9:28 AM  
To: Shareece N. Bates <[sbates@red.nv.gov](mailto:sbates@red.nv.gov)>  
Subject: Re: Speak to the Ombudsman

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Shareece

Please confirm you have received the email below.

Any idea when I might hear from the Ombudsman?

Thanks

Mike Kosor

On Thursday, September 12, 2024 at 10:39:05 AM PDT, Michael Kosor [REDACTED] wrote:

Shareece

OK- lets see if I get timely assistance.

I ask the Ombudsman and/or other applicable section(s) of the Division as may be necessary, to assist me in understanding my rights and responsibilities as an owner and assist me as an elected board member in carrying out my duties by responding to the following six related questions and providing other assistance has deemed necessary/available:

My association governing documents (adopted prior to 2015) provide the following: "The power reserved to declarant in this Section 4.2 to appoint or remove a majority of the Board ("Declarant Control Period") shall terminate on the earliest of: (i) sixty (60) days after conveyance by Declarant of seventy-five percent (75%) of the Units That May Be Created; (ii) five years after Declarant has ceased to offer any Units for sale in the ordinary course of business; or (iii) five years after any right to annex any portion of the Annexable Area was last exercised by Declarant."#

The Maximum Units per the association's CC&Rs (as amended by the Declarant), is 10,400. The association has years reported annually to the Division over 8,000 units annexed. A declarant has no interest in any of the annexed units. The association has more than a 1,000 units.

**Question #1- Has the period of declarant's control terminated?**

**Question #2- Should the association's board have conducted an election of the appointed directors IAW NRS 16.31034?**

**Question #3- What action should an elected director take if the majority appointed directors refuse to comply with NRS 116.31034 or any other provision of NRS?**

**Question #4- What action should an elected director take if the majority directors refuse to comply with a provision of the governing documents?**

My association governing documents provide the following: "Any Director may be removed from the Board, with or without cause, as set forth hereunder. Upon receipt of a written petition requesting removal of any Director, signed by such Members as are required for the calling of a special meeting of the Members [...] the Board shall present said petition to the Members for vote. By a two-thirds vote of all Members present and entitled to vote at any duly noticed meeting of the Members at which a quorum is present, the Members may remove, with or without cause, any Director, other than a Director appointed by Declarant."

**Question #5- Assuming the association failed to comply with the above provision of its governing documents, what provision(s) of NRS, if any, grants the board authority to act to remove and/or declare void the position of an elected director?**

**Question #6- What provision(s) of NRS, if any, grants the board authority to unilaterally exclude an elected director from any deliberation(s) of the board?**

I can provide additional information and/or clarification if necessary upon request. I hope to receive a prompt response.

Thank you

Mike Kosor

Las Vegas HOA owner

~~XXXXXXXXXX~~

#The association's governing documents defines Declarant Control Period as follows:

**"Declarant Control Period":** *The period of time during which Declarant is entitled to appoint and remove the entire Board of Directors (or a majority thereof). The Declarant Control Period shall terminate upon the first to occur of the following:*

- (a) *60 days after Declarant has conveyed 75% of the Maximum Units;*
- (b) *five years after the Declarant has ceased to offer Units for sale in the ordinary course of business; or,*
- (c) *five years after Recording of the most recent Annexation· Notice or Supplemental*

*Declaration to add any additional property to the Declaration as provided in Section 1 0.1. Nothing in this Section shall preclude Declarant, in its sole discretion, from voluntarily*

*relinquishing control of the Board earlier than required by this Section, and in such event, Declarant reserves the right to veto actions of the Association as provided in the bylaws until such time as*

*the Declarant Control Period would have otherwise expired under this Section. Within 30 days after Owners other than Declarant are entitled to elect a majority of the Directors pursuant to this*

*Section, the Declarant shall deliver to the Association all personal property of the Owners and the Association which Declarant holds or controls including such items as are specifically required to*

*be delivered under NRS § 116.31038.*

On Wednesday, September 11, 2024 at 05:56:56 PM PDT, Shareece N. Bates <[sbates@red.nv.gov](mailto:sbates@red.nv.gov)> wrote:

Good afternoon Mr. Kosor,

To assist you regarding your request pertaining to the statutes listed below, as you have done in the past, please provide the Division, in writing, any questions or clarifications you are seeking. This will remove the need to drive to our office to obtain such information.

Upon receipt, the Division will respond accordingly.

Thank you

Shareece

**Shareece Bates**

Administration Section Manager

3300 W. Sahara Avenue, suite 350

Las Vegas, NV 89102

702.486.4036 (phone)

702.486.4275 (fax)

[sbates@red.nv.gov](mailto:sbates@red.nv.gov)



**Nevada Real Estate Division**

Nevada Department of Business and Industry

"Growing business in Nevada"

**From:** Michael Kosor <[REDACTED]>

**Sent:** Wednesday, September 11, 2024 11:22 AM

**To:** Shareece N. Bates <[sbates@red.nv.gov](mailto:sbates@red.nv.gov)>; CICOMBUDSMAN  
<[CICombudsman@red.nv.gov](mailto:CICombudsman@red.nv.gov)>

**Cc:** Charvez Foger <[cfoger@red.nv.gov](mailto:cfoger@red.nv.gov)>; Terry Wheaton <[TWheaton@red.nv.gov](mailto:TWheaton@red.nv.gov)>

**Subject:** Speak to the Ombudsman

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Help Requested Please

I just called the Ombudsman's office requesting to talk to the Ombudsman. I was told it was not possible to schedule a meeting or call. My only option, according to the lady who answered the phone was to walk in anytime and someone will speak to me.

Really? Is this how the office " Assist[s] owners in common-interest communities to understand their rights and responsibilities..."?

I will walk in tomorrow if nothing else can be arranged. Hopefully someone can assist me so as my trip will not be for nothing. I have listed subjects I wish to office help me understand below:

NRS 116.4117 \*

NRS 116.31032

NRS 116.31034(10)(a)(2) and (13)

Regards

Mike Kosor

