

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

**VIA IN PERSON AND WEBEX VIRTUAL MEETING  
JUNE 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 9:06 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: Deputy Attorney General Matthew Feeley.

**B) Swearing in of new Commissioner**

Chairman Tomasso swore in reappointed Commissioner, James Bruner.

**C) 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; Shalayna Thayer, Compliance Audit Investigator; Kelly Valadez, Commission Coordinator; Maria Gallo, Commission Coordinator; Phil Su, Senior Deputy Attorney General; Christal Keegan, Deputy Attorney General and Attorney General Intern Arjan Luhar.

**2) Public Comment**

Mike Kosor stated he has appeared in front of the Commission for many years, and he hopes the Commission will act in the capacity they are allowed. Mr. Kosor stated NRED is not operating in the best interest of the homeowners. Mr. Kosor stated he has been saying that point for years in the hopes that someone from the Commission will reach out to him and ask questions. Mr. Kosor stated NRED is captured by the agencies it is intended to regulate. Mr. Kosor stated he has made that comment to Dr. Kristopher Sanchez who is the Director of Business and Industry (B&I) at a meeting that lasted for 2 ½ hours. Mr. Kosor stated that Dr. Sanchez indicated that

several Divisions within B&I were likely captured by the agencies they regulate. Mr. Kosor stated the rules in NRS 116 are there to safeguard the homeowners so they can participate in the governance of their community. Mr. Kosor stated in the Ombudsman's report it lists the top three allegations in the South, one is "election of members of executive board and officers of association" and another is "power of executive board to act on behalf of association" i.e. fiduciary failures on the part of the Board. Mr. Kosor stated the report lists 130 cases over the past three quarters and 98 of them were "closed", what were the results of those cases. Mr. Kosor stated reporting allegations and then closing them is not the objective, the objective is to find out what happened and hopefully correct it. Mr. Kosor stated some cases went to compliance, some when to a hearing and some were issued Letter of Instruction (LOI's). Mr. Kosor stated several of the cases were classified as "unsubstantiated" or "resolved". Mr. Kosor stated he has a hard time figuring out what all the different classifications of the outcomes really mean. Mr. Kosor stated if the homeowners are complaining of violations the Commission should ensure the violations are run aground. Mr. Kosor stated he lives in a community with nearly 10,000 homes and the Declarant has had control of the community for 25 years. Mr. Kosor stated that the Declarant has two appointed Board Members that work for him and the management company is owned by the Declarant. Mr. Kosor asked where the fiduciary for the homeowner is if the board or the management company acts inappropriately? Mr. Kosor stated the Division is aware of all these issues. Mr. Kosor stated in his CC&R's, which were constructed in 1998, they state when 75% of all the units are conveyed, control will change from the Declarant to the unit owners. Mr. Kosor stated that in the 25 years the Declarant has not achieved this goal, however in reports that are filed with the Division over 80% of the units have been conveyed. Mr. Kosor asked why the Declarant has not turned over control to the unit owners. Mr. Kosor stated in 2015 the law was changed to 90% of the units must be conveyed and that is when control will change, however the community CC&R's still list the lesser amount of 75%. Mr. Kosor stated this issue has not been addressed and resulted in unnecessary litigation, because this Commission and NRED have failed to act as the legislature intended, to bring complaints before the Commission so the parties can get a resolution. Mr. Kosor asked if his assertion that the Division is captured by those it regulates is true. Mr. Kosor stated he is looking to the homeowner representatives of the Commission and asking is his assertion true, because the other members of the board are part of those of whom the Division has captured.

Loren Pierce stated he wanted to piggyback on Mr. Kosor's statement. Mr. Pierce stated a homeowner submitted a complaint, the complaint was "unsubstantiated" but when an attorney wrote and submitted the exact same complaint, the complaint was now "substantiated". Mr. Pierce stated when a homeowner sent in a complaint about a former board member, the response from the Division referenced a stipulation order that the complaint had nothing to do with, which was the Division's excuse to dismiss the complaint. Mr. Pierce stated now homeowners do not want to file a complaint because they do not want to take the time and effort only to be told to "sit down and shut up" by the compliance section. Mr. Pierce stated he would like to see the homeowner members of the Commission review the complaints that are not brought forward by the compliance section, to be looked over as a Board's point of view instead of compliance's point of view.

Michael Novak stated he is a co-founder and co-manager of a company and has a concern with a nationally traded company that holds significant influence within our State. Mr. Novak stated an

investigation uncovered troubling revelations about the company's violations of law in Illinois. Mr. Novak stated these findings raise serious concerns about its conduct and practices in our state. Mr. Novak stated the Commission is entrusted with protecting homeowners and community associations and he implores the Commission to give immediate attention and take decisive action in response to these violations. Mr. Novak stated that a thorough investigation should be conducted into the company's transgressions within the State, because we need to safeguard the rights and interest of our citizens. Mr. Novak stated that fines, penalties or sanctions need to be imposed to ensure accountability for its actions. Mr. Novak stated that homeowners and community associations have a right to know if a management company they trust has engaged in unlawful behavior. Mr. Novak stated that clear and accessible information must be provided through public announcements, press releases and updates on official platforms. Mr. Novak stated that it is essential to conduct a review and strengthen our own regulatory oversight process to prevent similar incidents from occurring in the future. Mr. Novak stated that every effort must be made to mitigate harm done to homeowners and associations by this management company's violations must be prioritized. Mr. Novak stated the gravity of this management company's misconduct cannot be overstated and as a state regulatory authority you must take a decisive action to protect the rights and interests of our citizens.

Written public comment was submitted by Maria Mathews and Susan Russell.

**3) FOR POSSIBLE ACTION: DISCUSSION AND DECISION REGARDING RESPONDENT'S PETITION FOR REHEARING OF DISCIPLINARY ACTION:**

**A) NRED v. Stanford Square, John Fragola, Erich Breisacher, and Daniel Tepper, for possible action.**

**Case No. 2023-35**

**Type of Respondent: Board Members**

**4) FOR POSSIBLE ACTION: DISCUSSION AND DECISION REGARDING RESPONDENT'S PETITION FOR AN EXTENSION OF FINE DUE DATE:**

**A) NRED v. Stanford Square, John Fragola, Erich Breisacher, 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 Association Manager (CAM), was present virtually.

Erich Breisacher, Board Member, was present virtually.

John Fragola, Board Member, was present virtually.

Preliminary Matters

Mr. Su stated this was a case that was brought to the Commission at the last meeting, nobody appeared on behalf of Stanford Square, and the case proceeded as a default case. Mr. Su stated a petition was filed by the Board Members and the Management Company asking that the default be set aside and that the case be heard at the next Commission meeting.

Commissioner Bruner asked why the Association did not show up at the last meeting.

Mr. Breisacher stated there was a management change and, in the end, the new management company did not go and pick up the registered mail at the post office. Mr. Breisacher stated between a CAM change, the mail mix-up, the community cannot afford to pay the fine for something the homeowners did not intentionally do. Mr. Breisacher stated with the new management company's help they have become compliant with the issues stated in the complaint.

Mr. Fragola stated that Mr. Breisacher was correct in his assessment of the situation.

Ms. Wolfe stated there has been some changes and she just took over this Association in September. Ms. Wolfe stated that her office was short-staffed, and the certified mail notice was overlooked, so that is why they are requesting a re-hearing. Ms. Wolfe stated several of the violations in the complaint have been remedied and are being addressed. Ms. Wolfe stated the Secretary of State has officially released the administrative hold, the association is now active and in good standing. Ms. Wolfe stated the last item to address is to update the registered agent, which the paperwork was faxed over. Ms. Wolfe then stated the Board has conducted one meeting this year after 5pm and the July meeting is also scheduled after 5pm.

Mr. Su stated the Division followed statutory requirement to serve the community association manager. Mr. Su stated the Division is not opposed to a re-hearing so the Commission can hear the case on its merits.

Commissioner Lighthart stated she wanted clarification that if the Commission were to hear the case, that would put those original fines on hold, however the Commission may still impose those same fines at the re-hearing.

Mr. Su stated if the Commission approved the petition for re-hearing that would set aside the default discipline, and the case would be heard as a contested case unless the parties agree to a settlement before the next Commission meeting.

The Commissioners discussed whether to approve or deny the respondent's petition for re-hearing and extension of the fine due date.

Chairman Tomasso moved that the Commission approve the petition for re-hearing and there be an abeyance of all fees. Seconded by Commissioner Gilliam. Motion carried

**5) DISCIPLINARY ACTION: HEARING AND POSSIBLE ACTION BY THE COMMISSION:**

**A) NRED v. St. James's Village, for possible action**

**Case No. 2023-591**

**Type of Respondents: Homeowners Association**

**Parties Present**

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

Doug Brown Esq., representing the Respondent, was present virtually.

Ms. Keegan stated a settlement has been reached between the parties.

Ms. Keegan read a summary of the case into the record.

Ms. Keegan read the settlement into the record as follows: In an effort to avoid the time and expense of litigating these issues before the Commission, the RESPONDENT does not contest the violations alleged, and the parties desire to compromise and settle the Division's findings of violation of law in Case No. 2023-591 upon the following terms and conditions:

- RESPONDENT agrees to tender control of the Association to the homeowners pursuant to NRS 116.31038 through NRS 116.3104 by no later than June 1, 2024.
- RESPONDENT further agrees to not take any action to the detriment of the homeowners during the turnover process.
- RESPONDENT shall pay to the Division a total amount of \$3,615.80. This total amount reflects no administrative fines for the above-stated violations of law, but \$3,615.80 for the Division's costs and attorney's fees, which are actual, reasonable and necessary, to be paid within thirty (30) days of entry of order.

Commissioner Gilliam stated the NRS 116 outlines the transition requirements. Commissioner Gilliam asked if those requirements have been satisfied by the Developer?

Mr. Brown stated the requirements are referenced in NRS 116.31038. Mr. Brown stated that all the common areas have been tendered over to the Association, there is a signed deed that has not been recorded which has been given to the Association's Counsel for approval. Mr. Brown stated the reserve study and financial audits, should be completed within 30 days. Mr. Brown stated all other property that the Developer had has been turned over to the Association. Mr. Brown stated that the Developer has been cooperating with the management company and Association throughout the handover process.

Commissioner Sweetin moved to approve the settlement. Seconded by Commissioner Morse Jarman. Motion carried.

#### **E) NRED v Keith Dempsey, for possible action**

**Case No. 2023-552**

**Type of Respondent: Board Member**

#### Parties Present

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

Vivienne Rakowsky Esq., was present representing the Respondent.

Keith Dempsey, Respondent, was present virtually.

Mr. Su stated a settlement has been reached between the parties.

Mr. Su read a summary of the case into the record.

Mr. Su read the settlement into the record as follows: By entering into the settlement agreement, the RESPONDENT does not admit the factual and legal assertions as set forth in the Division's First Amended Complaint, but for the sole purpose of this settlement will not contest the above violations. In an effort to avoid the time and expense of litigating these issues before the

Commission, the parties desire to compromise and settle this Case No. 2023-552 upon the following terms and conditions:

- RESPONDENT shall relinquish his board member position with Admiral's Point Homeowner's Association as of the effective date of this Order.
- RESPONDENT shall not seek any election, or accept any appointment, to become the board member of any common interest community board, as set forth in NRS 116, for a period of three (3) years from the effective date of this Order.
- RESPONDENT shall pay to the Division a total amount of \$4,324.07. This total amount reflects no administrative fine for the above-alleged violations of law, but \$4,324.07 for the Division's pre-hearing costs and attorney's fees, which the Division maintains is actual, reasonable and necessary. This amount will be paid within thirty (30) days of the effective date of this Order.

Commissioner Sweetin moved to approve the settlement. Seconded by Commissioner Lighthart. Motion carried.

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

**Case No. 2021-161**

**Type of Respondent: Homeowners Association**

Parties Present

Phil Su, Senior Deputy Attorney General was present representing the Division. Patrick Orme Esq., was present representing the Association.

Preliminary Matters

Mr. Su stated that this case was last heard in December of 2023 and the Association was Ordered to provide an update at the this (June) meeting. Mr. Su stated the Association provided financial records and proposals for maintenance of the common areas.

Mr. Orme stated per the financials that were provided, the reserve account and operating account funding is up, so the Association's financial problems are improving. Mr. Orme stated that at the December meeting, there were a few homes that were set for sale because they had not paid their assessment fees. Mr. Orme stated those owners have either caught up on their assessments or are on a payment plan, so the Association did not have to force a sale of their homes. Mr. Orme stated there are 7 homeowners that have a lien on their house and 12 other homeowners are one month behind on their assessments. Mr. Orme stated because it is a small association that makes 30% of the homeowners' delinquent. Mr. Orme stated the proposals for maintenance, that were provided to the Commission are a year old and the CAM is reaching out to the companies to see if the bid amounts are still valid, because the Association could not afford to do the work last year. Mr. Orme stated he would like to request to give another update in 6 months.

Commissioner Bruner stated at a previous meeting there was talk of demolishing the clubhouse and filling in the pool. Commissioner Bruner asked if the pool was back open.

Mr. Orme stated because the funding issue is improving there is hope to repair the clubhouse and

pool.

Commissioner Bruner asked if the Association is current on all their utility bills.

Mr. Orme stated that the Association is current on their utility bills.

Commissioner Heydarian stated there is a balance on the “due to/from” that has been on the balance sheet since January. Commissioner Heydarian stated she would like an update to clear up that amount on the balance sheet, because it looks like something was paid out of the operating account for a reserve account item. Commissioner Heydarian stated those balances should be cleared up on a regular basis.

Mr. Orme stated he would research the “due to/from” issue.

The Commissioners discussed the timeline and the items to be provided at the next meeting.

Commissioner Gilliam moved that the Association come back for an update in 6 months and provide an update on the clubhouse, updated financials and the required audit for 2023. Seconded by Commissioner Sweetin. Motion 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.

Loren Pierce, Board Member, was present virtually.

Pauline Murray, Board Member, was present virtually.

Preliminary Matters

Mr. Su stated the Association is here for a status check for the repairs to the roads in the Association.

Mr. Pierce stated the Association has had 4 contractors show up for the bid meeting and they walked the property. Mr. Pierce stated water was still flowing in the ditches but off the road, so the contractors were able to get a good view of the work that needed to be done. Mr. Pierce stated the bid deadline is June 21<sup>st</sup> and an emergency meeting will be held to open the bids for board approval. Mr. Pierce stated with the workload of the contractors that the roadwork would not be feasible until early Fall.

Commissioner Gilliam asked how long the road project will take to complete.

Mr. Pierce stated he did not know how long it would take, guessing it would take 30 days to complete.

Commissioner Gilliam asked if the funds have been set aside to fund this project.

Mr. Pierce stated there has been money set aside but he doubts it will be enough to fund the complete project and they were waiting to find out what it would cost to complete the project and if needed implement a special assessment to fund the project.

The Commissioners discussed the timeline and the items to be provided at the next meeting.

Mr. Pierce asked if their CC&R's or bylaws do not state anything about financing a special project, can they finance the special project and use the special assessment payments that come in to pay back the loan?

Chairman Tomasso stated the Commission could not give legal advice and that Mr. Pierce should consult their Association's attorney for an answer to that question.

Commissioner Sweetin moved to continue the case until the next Commission meeting in September and provide an update on the bid process, details of the special assessment including financing if relevant and an update if any work has commenced. Seconded by Commissioner Bruner. Motioned carried.

**K) NRED v Diana D. Stegeman, for possible action**  
**Case No. 2023-886**  
**License No. CAM.0009065 – Revoked**  
**Type of Respondent: Community Association Manager**

Parties Present:

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

Preliminary Matters:

Ms. Keegan stated she would like to proceed with a default case.

Ms. Keegan gave an update of the case.

Ms. Keegan stated Mr. Luhar would provide proof of service and mailing.

State's Witness

Ms. Gallo testified to proof of service and mailing.

Mr. Luhar moved to admit the proof of mailing into the record.

Chairman Tomasso admitted the proof of mailing into the record.

Mr. Luhar moved that the State has provided sufficient service of notice to the Respondent.

Chairman Tomasso admitted into the record that the State has provided sufficient service of notice to the Respondent.



Mr. Luhar stated the per NAC 116A.590 the Commission can accept the factual allegations and violations of law as true.

Mr. Luhar read a summary of the case into the record.

Ms. Keegan asked the Commission to accept the factual allegations and violations of law as true.

Commissioner Sweetin moved to accept the factual allegations and violations of law as true. Seconded by Commissioner Bruner. Motion carried.

Ms. Keegan stated the recommended discipline is \$5,000 per violation and there are seven (7) violations of law, uphold the current revocation of license, and the Division's reasonable, necessary and actual costs and attorney's fees. Ms. Keegan stated because the restitution amount is inconclusive, she cannot recommend an amount.

Ms. Gallo testified to the reasonable, necessary and actual fees of the Division's investigation is \$3,141.82

Commissioner Gilliam asked if the Association was unable to provide bank statements to come up with an amount that Ms. Stegeman overpaid herself.

Ms. Keegan stated in the complaint there was only a range given in the amount of overpayment.

The Commissioners discussed the disciplinary action to take against the Respondent.

Commissioner Sweetin moved that the following discipline be authorized, the maximum fine of \$35,000, revocation of license is upheld, the Division's costs and attorney's fees of \$3,141.82 and restitution be paid to the Association in the amount of \$11,726.80, payable within 30 days. Ms. Stegeman may seek a reduction in the amount of restitution to be paid by the Commission within 12 months of the entry of the order. Seconded by Commissioner Bruner. Motion carried.

#### **D) NRED v. Yun (Jack) Lin, for possible action**

**Case No. 2023-227**

**Type of Respondent: Board Member**

##### Parties Present

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

Yun Lin, Respondent, was present.

Linni Matsuo, interpreter, was present.

##### Preliminary Matters

Mr. Su stated this case was continued from the last hearing due to the commitment issues of the interpreter. Mr. Su stated that the interpreter issue has been resolved and there was an additional agreement that no new evidence could be introduced. Mr. Su stated he was in the middle of his case and had finished questioning Investigator Khalid Tatum, however Mr. Tatum is no longer available, and Investigator Christina Pitch will appear in his stead. Mr. Su

stated it is now time for Mr. Lin to question Ms. Pitch.

Ms. Gallo reminded the Commission that the State's documents and audio recording was previously admitted into the record.

State's Witness

Ms. Pitch was cross-examined by Mr. Lin.

Ms. Pitch was re-examined by Mr. Su.

Ms. Pitch was re-cross-examined by Mr. Lin.

Ms. Pitch was dismissed.

Mr. Su stated there are some errors in the complaint in paragraph 16, it should say February 21, 2023, instead of February 21, 2022.

Mr. Su played the audio recording from the February 21, 2023, board meeting.

Respondent's Witness

Bryn Freeman testified.

Han Shi testified.

Jeremiah Kim testified.

Mr. Kim was cross-examined by Mr. Su

Closing Statement

Mr. Su gave a closing statement.

Mr. Lin gave a closing statement.

The Commission questioned Mr. Lin and Mr. Su.

Commissioners discussed the disciplinary action to take against the Respondent.

Factual Allegations

Commissioner Sweetin moved that factual allegation #1 has been proven. Seconded by Commissioner Bruner. Motion carried.

Commissioner Sweetin moved that factual allegations #'s 2-7 have been proven. Seconded by Commissioner Morse Jarman. Motion carried.

Chairman Tomasso moved that factual allegations #'s 8-13 have been proven. Seconded by Commissioner Sweetin. Motion carried.

Chairman Tomasso moved that factual allegations #'s 14-19 have been proven. Seconded by Commissioner Sweetin. Motion carried.

Violations of Law

Chairman Tomasso read violation of law # 20 into the record.

Commissioner Heydarian moved that violation of law #20 has been proven. Seconded by Commissioner Bruner. Motion carried 4:3 with Commissioners Sweetin, Lighthart and Chairman Tomasso opposed.

Chairman Tomasso read violation of law #21 into the record.

Commissioner Bruner moved that violation of law #21 has been proven. Seconded by Commissioner Heydarian. Motion carried 6:1 with Commissioner Sweetin opposed.

Chairman Tomasso read violation of law #22 into the record.

Commissioner Bruner moved that violation of law #22 has been proven. Seconded by Commissioner Gilliam. Motion carried.

Chairman Tomasso read violation of law #23 into the record.

Commissioner Sweetin moved that violation of law #23 has NOT been proven. Seconded by Commissioner Morse Jarman. Motion carried.

Chairman Tomasso read violation of law #24 into the record.

Chairman Tomasso moved the violation of law #24 has been proven. Seconded by Commissioner Heydarian. Motion carried 6:1 with Commissioner Sweetin opposed.

Mr. Su stated the recommended discipline is that no administrative fine is to be levied and is recommending only to recoup the Division's costs and fees of the Division's investigation in the amount of \$9,977.83 within twelve (12) months, Respondent is to be removed from their position on the board and is barred from serving as a board member in any Nevada Common-Interest Community for a period of ten (10) years.

The Commissioners discussed the disciplinary action to take against the Respondent.

Commissioner Heydarian moved that the Respondent pay the fees and costs of the investigation in the amount of \$9,977.83 due within 12 months of the order, the Respondent is immediately removed from their board position and can no longer serve on any board in the state of Nevada for a period of ten (10) years. Seconded by Commissioner Sweetin. Motion carried.

**8) Public Comment**

Ericka Rose provided written public comment.

**9) Adjournment**

Meeting recessed at 4:11 PM

Minutes prepared by: \_\_\_\_\_  
Maria Gallo  
Commission Coordinator

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CONDOMINIUM HOTELS MEETING MINUTES JUNE 12, 2024**

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Las Vegas, Nevada 89102

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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 9:02 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: Deputy Attorney General Matthew Feeley.

**C) 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; Shalayna Thayer, Compliance Audit Investigator; Kelly Valadez, Commission Coordinator; Maria Gallo, Commission Coordinator; Phil Su, Senior Deputy Attorney General; and Christal Keegan, Deputy Attorney General and Attorney General Intern Arjan Luhar.

**2) Public Comment**

None.

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

L) **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.  
Tiffany Stanfill, Community Association Manager (CAM), was present.

### Preliminary Matters

Ms. Keegan stated the Association has admitted to the Division's factual allegations and the Respondent has some issues with the violations of law. Ms. Keegan stated she would like to call the Division's Investigator to provide limited testimony to the violations of law. Ms. Keegan stated the Association has a funding plan it plans to present. Ms. Keegan stated that the Respondent has also stipulated to the Division's documents and would like to have those documents CICC 1-57 admitted into the record.

Mr. Leach stated the only violation in question references NAC 116.415 because budgets are based on past expenses of the Association. Mr. Leach stated the problem with that is that the Association's insurance premium bill arrives in the middle of the year and in many instances has doubled or tripled and that new amount was not in the budget that was put together at the beginning of the year. Mr. Leach stated the Board was not violating the Code because the Board did not know or did not anticipate a major increase in their insurance. Mr. Leach stated that a shortfall in the budget in a calendar year is not because of bad budgeting.

Ms. Keegan stated the limited testimony by the Division's Investigator would show that the Association has indeed violated NAC 116.415 by continually not funding the reserves properly. Ms. Keegan stated there are still other violations of law that the Association has committed, and if Mr. Leach wished to stipulate to them then we can proceed to their funding plan.

Mr. Leach stated there were some violations that were rectified between the time the Division received the complaint and when the complaint was filed. Mr. Leach stated since those violations were resolved, the Association believed they were in compliance and did not address them in the Association's Answer to the Division's Complaint to shorten the process.

Ms. Keegan stated that Mr. Leach has stipulated to two (2) of the three (3) violations of law and the violation concerning NAC 116.415 is a technical denial. Ms. Keegan stated she has 3 questions for the Investigator for that violation. Ms. Keegan stated because yesterday was a long day she would defer to the Commission if they wished to hear testimony, or if the Commission is comfortable with what the attorney has presented and move forward with the funding plan.

Chairman Tomasso stated the Commission would like to hear testimony from the Division's Investigator.

Ms. Keegan stated before she started questioning the Division's Investigator that the Commission move to admit State's documents CICC 1-57.

Chairman Tomasso moved to admit State's documents CICC 1-57 into the record.

### State's Witness

Investigator Vanessa Ward testified.

Ms. Ward was cross-examined by Mr. Leach.

Ms. Ward was re-examined by Ms. Keegan.

Ms. Ward was re-cross-examined by Mr. Leach.

Ms. Ward, Ms. Keegan and Mr. Leach were questioned by the Commission.

Ms. Ward was dismissed.

Mr. Leach stated he had no witnesses and that he would like to present to the Commission a funding plan and let the Commission decide if the plan is acceptable and adequate. Mr. Leach stated that when the Answer to the Complaint was filed, they did not include a spreadsheet that would make it easier than reading the plan.

Ms. Keegan stated she had no objection to the funding plan being presented to the Commission.

Mr. Leach stated that when the complaint was filed, and they began looking into the financials of the Association there is a rebate of \$75,000 for the turf conversion that has been placed into the reserve account. Mr. Leach stated the city of Henderson is trying to acquire a small piece of land owned by the Association, which was recently appraised, and the Association is in negotiations with the city regarding this piece of land. Mr. Leach stated with the sale of this land the Association will be able to add to their reserve account, however in the funding plan those monies are not considered because it would be just a guesstimation at this point in time. Mr. Leach stated that if this land transaction took place that would have an impact on the funding plan.

Mr. Leach went over the proposed funding plan to adequately fund the reserve account.

Ms. Keegan stated she would defer to the Commission with Mr. Leach's proposed funding plan, however, there does need to be an aggressive plan to raise assessments to cover all the reserve expenditures in the reserve study. Ms. Keegan stated the selling of the property to the city of Henderson may not go through and asked how likely will the homeowners approve raising their annual assessments to cover all the future reserve expenditures. Ms. Keegan stated the CC&R's need to be amended to be in line with state statutes so the Association can better fund their financial obligations. Ms. Keegan stated she would like the Commission to know that that Division expended resources to investigate this case and would like the Association to pay the Divisions costs and fees of investigating this case.

Mr. Leach stated that changing the CC&R's is difficult because usually homeowners do not show up to vote on a pending Association matter. Mr. Leach stated there is a plan to submit to the homeowners an amendment to change the CC&R's to modify the maximum annual increase to be more in line with what is in practice now, which is a 20-25% increase. Mr. Leach stated the Association has not raised the regular assessments and that has been part of the problem.

The Commission questioned Mr. Leach over the proposed funding plan.

Tiffany Stanfill testified to how often the board meets and when the next board election will be held.

Commissioner Lighthart moved to accept the Association's funding plan into the record. Seconded by Commissioner Morse Jarman. Motion carried.

Ms. Keegan stated that there was an update to the reserve study in 2023, and the last time a full reserve study had been done was in 2017, so a full reserve study was required to be done in 2022.

Mr. Leach stated his funding plan goes into the year 2028 and the Association would be required to have another reserve study completed before then.

Chairman Tomasso stated that there is a lot to think about with the proposed funding plan and it looks like it could succeed with the parameters that would be set forth in an Order from the Commission.

Commissioner Gilliam stated the massive increases in HOA insurance are hitting all Associations, there are steps that need to be taken and there needs to be a status update to show that certain milestones have been met.

Chairman Tomasso stated the status update would happen in September and that date would be after their next board election.

Commissioner Bruner stated he would like to have the (new) board president and the CAM present at the September meeting.

Commissioner Sweetin stated he agrees with Commissioners Tomasso and Bruner on a status update and the Commissioners should assess the fees and costs of the Division because they did violate provisions of law.

Commissioner Lighthart stated there should be an update to the sale of the property to the city of Henderson in the September update. Commissioner Lighthart stated at the September meeting the Association should have the current insurance premium amount and that can be factored into the proposed funding plan.

Commissioner Heydarian stated a lot of communities are proud that they have not raised assessments in years, however by not raising assessments in a timely fashion they have violated the law by not properly funding their reserve account. Commissioner Heydarian stated that the Commission is setting a standard today by what is expected by the Division and the Commission by asking for a funding plan from the Association. Commissioner Heydarian stated that just filling in an amount on the Division's required forms is not enough information. Commissioner Heydarian stated that the laws are already on the books and continuing to operate associations in



this matter is in violation of the law. Commissioner Heydarian stated future associations must have a plan on how they can get themselves out of their financial situation.

Commissioner Morse Jarman stated it needs to be pointed out what the penalties are for being in violation of the law and associations have gotten away with it for many years. Commissioner Morse Jarman stated the Commission is going to set a precedent today that associations must comply with the law

Chairman Tomasso moved that factual allegations #'s 1-11 have been proven. Seconded by Commissioner Sweetin. Motion carried.

Chairman Tomasso read violation of law #12 into the record. Commissioner Heydarian moved that violation of law #12 has been proven. Seconded by Commissioner Morse Jarman. Motion carried 5:2 with Commissioners Sweetin and Gilliam opposed.

Chairman Tomasso read violation of law #13 into the record. Commissioner Sweetin moved that violation of law #13 has been proven. Seconded by Commissioner Bruner. Motion carried.

Chairman Tomasso read violation of law #14 into the record. Commissioner Sweetin moved that violation of law #14 has been proven. Seconded by Commissioner Bruner. Motion carried.

Ms. Keegan stated this case should be a status check case because the Association has a lot of work to complete. Ms. Keegan stated that the State expended resources and time and request that the Association pay those fees and that any items the Commission wants to be included in the status update be clearly outlined.

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

Ms. Gallo stated the reasonable, necessary and actual costs to investigate the case was \$4,771.89.

Commissioner Lighthart moved that the Association provide the following at the September meeting: the status on their board elections, a draft budget for 2025, the status of the funding plan, the status on the sale of the property, the status on the transfer accounts, the status on the collections with a financial statement ending July 31<sup>st</sup> 2024, the Board President should be present, the Association pay the Division's fees and costs in the amount of \$4,771.89 within 60 days of the Order and provide an update on the insurance premiums. Seconded by Commissioner Sweetin. Motion carried.

**M) 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 Association Manager (CAM), was present.  
Francesca “Frankie” Stevenson, Supervising Community Association Manager (CAM), was present virtually.  
Gary Renis, Board Member, was present.

#### Preliminary Matters

Ms. Keegan stated the Association has admitted to the factual allegations and 2 of the 3 violations of law in the filed Answer from the Association. Ms. Keegan stated she would like to give an expedited presentation of the case because the Association is contesting the violation of law pertaining to NRS 116.31151 (1)(a) or (1)(b) because it is not prima facie evidence. Ms. Keegan stated she would like to call the Divisions Auditor as a witness, the Association’s attorney can cross-examine, then brief closing statements and then the Association’s attorney can present their funding plan. Ms. Keegan stated the Association has also stipulated to the Division’s documents CICC 1-198 and would like to get those admitted into the record.

Chairman Tomasso admitted the Division’s documents CICC 1-198 into the record.

#### Opening Statements

Mr. Leach gave a brief opening statement.

#### State’s Witness

Auditor Noel Thornton testified.

Ms. Thornton was cross-examined by Mr. Leach.

Ms. Thornton was questioned by the Commissioners.

Mr. Leach stated there is not a statute that adequately addresses the taking from one account and transferring to another account “due to/ from” issues of this Association and there needs to be legislative action to clarify the issue. Mr. Leach stated that most homeowners do not understand what the financial information means when it is provided. Mr. Leach stated they have admitted they have an underfunded reserve account; however, it is hard to accept that they are in violation of state statute when the statute is not clear. Mr. Leach stated he wants the Commission to be involved with legislation to fix the statutes that are not clear. Mr. Leach stated the Association is underfunded and they are prepared to offer a funding plan that addresses all the issues to the Commission.

Commissioner Heydarian stated there is no guidance for CAM’s on fulfilling financial obligations and they hear opinions and best practices however there is no bright line when it comes to the “due to/ from” budget issues. Commissioner Heydarian stated associations are supposed to follow a plan, but the Reserve Study Specialist tells them it is a guide. Commissioner Heydarian stated if associations are going to be held accountable to the reserve study, then the law should say “must follow”, because it is up in the air as to what associations and managers are supposed to do.

Ms. Thornton was dismissed.

Ms. Keegan stated she would like to comment on Mr. Leach's statement if the Commission would allow.

The Commission agreed to hear Ms. Keegan's comments.

Ms. Keegan stated NRS 116.31151(1)(b) we hear in Mr. Leach's cross-examination of Ms. Thornton he asked her "did the Association budgets comply with 1 (b)(1)" and she answered "No". Ms. Keegan stated through testimony the violation of law was proven.

Commissioner Sweetin asked that Ms. Thornton be recalled clarifying her testimony.

Ms. Thornton testified.

Mr. Leach went over the proposed funding plan to adequately fund the reserve account.

The Commission questioned Mr. Leach over the proposed funding plan.

Gary Renis stated there was some monies left over from the construction defect settlement, some of the money went to new defects and they do not know the total cost yet. Mr. Renis stated if there are any monies left over then he will suggest the monies be added to the reserve fund.

Mr. Leach stated that after 18 years the money from the defect settlement should have been spent and any money left over moved to a board approved expenditure.

The Commission continued to question Mr. Leach over the proposed funding plan.

Commissioner Lighthart moved to accept the Associations funding plan into the record. Seconded by Commissioner Sweetin. Motion carried.

Mr. Leach stated he hopes the Commission will accept the funding plan and if necessary, the Association is willing to come back and give the Commission any updates they deem necessary.

#### Closing Statements

Ms. Keegan gave a brief closing statement.

Mr. Leach gave a brief closing statement.

Ms. Keegan stated she would like the Commission to know the Division expended resources to bring this case to the Commission and would like the Association to pay the Divisions costs and fees of investigating this case.

Ms. Gallo stated the reasonable, necessary and actual costs to investigate the case was \$5,022.71.

Commissioner Sweetin stated given the stipulated violations and the ultimate result the funding

plan is appropriate, unless other members of the Commission have problems with the plan. Mr. Sweetin stated the laws and regulations are not always clear and the government should not go after assumed or implied wrongs. Commissioner Sweetin stated the Commission should take those opportunities to seek clarification through regulation or if a statute is necessary. Commissioner Sweetin stated if the Association complied with the technical rules that should be sufficient to the Division.

Commissioner Lighthart stated she shared some of the concerns of the auditor of the “due to/from” accounting and budgeting. Commissioner Lighthart stated the budgets that were prepared did not show a deficit. Commissioner Lighthart stated there needs to be improvements in how the budget was prepared, and she does not think there was deliberate underbudgeting done by the Board Members.

Chairman Tomasso moved that factual allegations #1-14 have been proven. Seconded by Commissioner Sweetin. Motion carried.

Chairman Tomasso read violation of law #15 into the record  
Commissioner Sweetin moved that violation of law #15 has NOT been proven. Seconded by Commissioner Heydarian. Motion carried 6:1, Commissioner Bruner opposed.

Chairman Tomasso read violation of law #16 into the record.  
Commissioner Sweetin moved that violation of law #16 has been proven. Seconded by Commissioner Bruner. Motion carried.

Chairman Tomasso read violation of law #17 into the record.  
Commissioner Sweetin moved that violation of law #17 has been proven. Seconded by Commissioner Bruner. Motion carried.

Ms. Keegan stated the proposed discipline recommended is for the Respondent to pay the fees and costs of the investigation in the amount of \$5,022.71 and that they return for an update at the next commission meeting in September.

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

Commissioner Lighthart moved that the Association appear for a status report at the September Commission Meeting and provide updates on the funding plan, “due to/ from” accounting, the construction defect account, submit a draft budget for 2024 and pay the Division’s fees and costs of \$5,022.71 within 60 days. Seconded by Commissioner Morse Jarman. Motion carried.

#### **D) 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.  
Jon Margalit, Complainant, was present virtually.

### Preliminary Matters

Chairman Tomasso stated to Ms. Keegan that the Commission would like to continue this case until the next meeting and would she have any objections to this request.

Ms. Keegan stated she intended to present this in an expedited manor because the Respondents have stipulated to the factual allegations and violations of law and have resolved most of their issues. Ms. Keegan stated the point is to close the case and resolve the matter.

Chairman Tomasso stated it was not the Respondent that requested the continuance, it was the Commissioners that are requesting it. Chairman Tomasso stated there is some data they would like to review before the case.

Commissioner Sweetin asked if the cases was stipulated to and resolved or is it like the previous cases that had limited testimony.

Ms. Keegan stated the case will be different than the previous case because the Association is not contesting the violations of law, however the Complainant Jon Margalit wishes to make a statement if the Commission will allow. Ms. Keegan stated that if the Complainant speaks Mr. Kim may want one of the Board Members to speak as well.

### Opening Statements

Ms. Keegan gave an opening statement.

Mr. Kim gave an opening statement.

Chairman Tomasso asked clarifying questions about Mr. Kim's opening statement about the community's common area being the front gate and the surrounding landscaping.

Mr. Allen stated the Association pays \$1,500 a year to a landscaping company to maintain the palm trees and other assorted plants that surround the community.

Commissioner Gilliam asked what the hesitation is with performing a reserve study.  
Commissioner Gilliam stated with limited common elements the cost to have a reserve study done would be nominal.

Mr. Kim stated because this community has only 12 units and the cost of the reserve study would require the Association to impose a special assessment on the homeowners, and the Association has been operating fine for years without having done a reserve study. Mr. Kim stated it would be an unnecessary cost for the Association because they only have 2 common areas. Mr. Kim stated the Association was interested in hiring someone who could provide a reserve study at a lower cost than someone who was licensed as a Reserve Study Specialist.

Commissioner Gilliam asked what the yearly assessments were.

Mr. Allan stated the yearly assessments were \$600 a year per home.

Commissioner Gilliam asked if the Association had a person in mind to conduct a reserve study.

Mr. Kim stated that Mr. Allan was wanting to go to the Real Estate Division to inquire about conducting a reserve study or if the Division could recommend someone to conduct a reserve study. Mr. Kim stated the Association did not have a person in mind, however if the board found someone who they thought was qualified that was not licensed it might be cheaper than someone who was licensed.

Commissioner Gilliam asked if the Association submitted a budget for the Commission to review.

Mr. Kim stated they have submitted the financial statements based on the bank records for the past two years. Mr. Kim stated by looking at the bank records the Association does not have a lot of expenses. Mr. Kim stated the board is in the process of preparing a budget however if the Commission would like a status check at the next Commission meeting the board could supply one at that time.

Commissioner Heydarian stated she understood that the Association has been progressing through the years, she asked what happens if a few homeowners do not pay their assessments. Commissioner Heydarian stated that would have a financial impact on paying the Association's bills. Commissioner Heydarian stated by not having money set aside or not knowing how much money to set aside is risky because the Association does not have a safety net. Commissioner Heydarian stated the streets are a significant component in a gated community and one of the biggest expenses Associations have. Commissioner Heydarian stated the Association needs to understand the repair and replacement costs of private roads within the community. Commissioner Heydarian asked why the Association would ask for an exemption to conduct a reserve study without even consulting a Reserve Study Specialist and know how much a study would cost.

Mr. Kim stated that the board is operating with a surplus because their yearly expenses are only \$3,000 a year and they collect roughly \$6,000 through regular assessments. Mr. Kim stated if one or two units stop paying that is not going to affect the operation of the community.

Commissioner Morse Jarman asked if any significant repairs have been completed and if not, something is bound to break.

Mr. Allen stated repairs have been done to the gate and to the directory in the last seven years and they community has funded those repairs from the regular assessments.

Commissioner Morse Jarman asked if they had streetlights within the community.

Mr. Allen stated there are streetlights on the main street into the community and the palm trees have "up" lights.

Mr. Kim stated Mr. Allen does the general maintenance within the community to save money.

Commissioner Morse Jarman asked what the ages of the homeowners within the community are.

Mr. Allen stated the ages are from 40-70.

Chairman Tomasso asked if they have ever had to slurry the streets.

Mr. Allen stated they had to do a topcoat a couple of years ago and they implemented a special assessment when the homeowners wanted to have it done. Mr. Allen stated because the community is small the community does not receive a lot of traffic in and out of the community.

Chairman Tomasso stated rather than a reserve fund everyone chips in when major work needs to be done within the community.

Mr. Allen stated the homeowners are given ample time to contribute to the project before it is completed.

Mr. Kim stated he misspoke when he stated there are 12 units in the community, there are only 10 units in the community.

Commissioner Bruner stated he wanted some clarity about the streets. Commissioner Bruner asked if there are curbs within the community and asked about their utility bills.

Mr. Allen stated there is curbing and no sidewalks within the community and their utilities are the electric, water and telephone.

Commissioner Bruner asked if there has ever been an asphalt replacement done in the community.

Mr. Allen stated “no” the asphalt has not been replaced and further stated the cul-du-sac road is not in disrepair.

Commissioner Sweetin asked if Del Rey Estates was a “limited purpose” association?

Mr. Kim stated he did not know if Del Rey Estates was a limited purpose association.

Ms. Keegan stated she did not believe that Del Rey Estates was a limited purpose association.

Commissioner Sweetin stated through regulation the Commission can allow an exemption for a limited purpose association.

Mr. Kim stated he had a conversation with Ms. Keegan regarding the basis for asking the Commission for an exemption from conducting a reserve study. Mr. Kim stated there is nowhere in NRS that he can point to that gives the Commission the authority to grant such an exemption. Mr. Kim stated the Association’s position is that the Commission has broad authority under the

statutes and thereby has the authority to authorize an exemption.

Commissioner Gilliam asked the current balance of the operating account.

Mr. Allen stated the current balance of the operating account is \$1,400 and that is an estimate, and regarding the question of homeowners not paying, there is a homeowner that has not paid for two years because of a financial hardship. Mr. Allen stated they do not run a high balance; they start with \$6,000 and they pay the Associations bills with that amount throughout the year with some left over and carried over to the next year. Mr. Allen stated the Association has not had to ask the homeowners for any more money to cover any additional repairs.

Commissioner Gilliam asked how long have the assessments remained at \$600 a year?

Mr. Allen stated they have been that way for 24 years.

Commissioner Morse Jarman asked for something in writing that shows a balance sheet or account forms for some hard numbers. Commissioner Morse Jarman stated she is having a hard time with the numbers he is throwing out and she needs more concrete information regarding what has been spent and what is left over for reserves.

Commissioner Heydarian asked if the Commission can rule on some of the violations and make a ruling later regarding the request for an exemption from performing a reserve study.

Chairman Tomasso stated they can start deliberating about the case if they have finished questioning the Respondent.

#### Closing Statements

Ms. Keegan gave a closing statement.

Mr. Kim gave a closing statement.

The Commissioners deliberated if they would allow Jon Margalit (the complainant) to make a brief statement.

Mr. Margalit stated there was no meeting minutes, no financials, or no notice that Mr. Allen has been elected as the President of the Association. Mr. Margalit stated Mr. Allen is responsible for the problems that are in his 7-page complaint. Mr. Margalit stated that Mr. Allen and the other individual have run this Association for the past 25 years and that must change to bring about new change. Mr. Margalit stated Mr. Allen misrepresented most of what he said and the numbers to not add up. Mr. Margalit stated he had video and pictures showing the road in the cul-du-sac is in disrepair. Mr. Margalit stated the homeowners were bullied by the past board members (Mr. Allen included) and that is why there has not been any issues for the past 24 years. Mr. Margalit stated he has been thanked by other homeowners for filing the complaint. Mr. Margalit stated he found out that the Association was never registered with the Division. Mr. Margalit stated the previous board members attested to the homeowners that the Association was exempt from filing with the Division and that is not the case. Mr. Margalit stated he had to register the Association with the Division before he could file his complaint. Mr. Margalit stated



he did not think Mr. Allen is fit to be on the board and to run the Association. Mr. Margalit stated Mr. Allen did not show up to the Commission meeting prepared with a budget or financial statements and Mr. Allen stating that the Association has a surplus is false, when a letter was recently sent saying the account balances are low. Mr. Margalit stated there are major safety issues that the past board ignored. Mr. Margalit stated Mr. Allen is trying to run the Association as a dictatorship and he does not understand the statutes. Mr. Margalit stated the homeowners have never received a copy of the financials. Mr. Margalit stated he attempted to pay his assessments and Mr. Allen returned his check back to him. Mr. Margalit stated the Association is in disrepair and if Mr. Allen is running the Association he should have come prepared.

Chairman Tomasso stated the issues Mr. Margalit mention are not in the complaint and could not be addressed at this time.

Mr. Kim stated he would like to rebut Mr. Margalit's statements that no notice was given regarding the most recent board election, those documents were in his exhibits that were provided to the Commission.

Ms. Keegan stated the Association is not contesting the factual allegations and violations of law and are looking to the Commission on how it wants to resolve the issues because the Division could not settle the matter. Ms. Keegan stated there are still items the Association is not in compliance with.

Chairman Tomasso moved that factual allegations #1-22 have been proven. Seconded by Commissioner Bruner. Motion carried.

Chairman Tomasso moved that violations of law #23-28 have been proven. Seconded by Commissioner Sweetin. Motion carried.

The Commissioners discussed the discipline to impose upon the Respondent.

Ms. Keegan stated the recommended discipline is for the Association to perform a reserve study, the Association pay the division fees and costs of the investigation, and the Association report back at the September Commission meeting for an update.

Ms. Gallo stated the reasonable, necessary and actual costs to investigate the case was \$3,818.34.

Commissioner Lighthart moved that the Respondent Association perform a reserve study by a licensed Reserve Study Specialist, give a status check at the next Commission meeting in September, provide bank statements from December 2023 and August 2024, draft budget, tax returns from 2022 and 2023, all 3 board members must be present at the next Commission meeting, pay the Division's fees and costs of \$3,818.34 within 60 days and if the Association determines that they are a limited purpose association any potential actions that would not otherwise apply to them are stayed until the September meeting. Seconded by Commissioner Gilliam. Motion carried.

**F) NRED v. Bordeaux Homeowners Association, 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.  
Tamara Nelson, CAM was present representing the Respondent.

Preliminary Matters

Mr. McKelleb stated that all board members were present earlier but had to leave because of previous engagements and they wanted the Commission to know that they realize the seriousness of the complaint. Mr. McKelleb stated the Ms. Nelson was not the CAM at the time outlined in the complaint, however Ms. Nelson is helping the board overcome their problems.

Ms. Keegan stated she thought they could get through this case in an expedited manner, the Association is not contesting the Divisions factual allegations or violations of law, and they have presented a proposed resolution in their Answer and the Division does have some questions that the Association's attorney can address, and the Division's Auditor is available for the Commission if needed.

Ms. Keegan stated the Association has presented unapproved draft copies of the CPA audits from 2021 and 2022. Ms. Keegan stated the Association just submitted their 5-year reserve account funding plan. Ms. Keegan stated because this plan was provided in an untimely manner, the Division's Auditor has not had time to review to see if the funding plan is in compliance with the law. Ms. Keegan stated the Board is now issuing checks with two Board Member signatures and that clears up a violation of law stated in the complaint. Ms. Keegan stated the Commission may issue subpoenas to compel the former management company to produce the missing reports, however the Division does not have an active case against the CAM and issuing a subpoena might be problematic if they are not a respondent in an active case. Ms. Keegan stated there may be options for the Board to recreate the missing reports and those avenues should be investigated by the Association. Ms. Keegan stated she recommends that the Association give an update at the September meeting and that they pay the Division's fees and costs of the investigation.

Mr. McKelleb stated the Association had already begun to address these issues listed in the complaint before the complaint was received. Mr. McKelleb stated the Association suffered through 4 management changes within 2 years and that is why they are in the shape they are in. Mr. McKelleb stated the board was told that the CPA audits were being conducted and they were not, the draft CPA audits from 2021 and 2022 are on the July agenda to be approved by the board. Mr. McKelleb stated the Association expects the 2023 CPA draft audit any day now. Mr. McKelleb stated the past management company had an improper check procedure and when the board realized it was an improper process they ceased and began to have two signatures on Association checks. Mr. McKelleb stated they will send out another letter to the past management company requesting past meeting minutes, and if that does not work the Board Secretary has agreed to listen to the past meeting recordings and recreate the meeting minutes for approval. Mr. McKelleb stated the low reserves problem has been in the making for a decade,

with prior boards favoring low assessments over funding the reserve account. Mr. McKelleb stated because this Association is old, they have had reserve repairs that have needed to be completed much sooner than expected, so when the expected repairs needed to be completed, the cost of the repair doubled. Mr. McKelleb stated they have done a special assessment of \$2,000 that is due at the end of this year. Mr. McKelleb stated the funding plan was submitted to the Division yesterday, and that repairs that were recently budgeted for have not come in near what the actual cost was.

Chairman Tomasso asked Ms. Keegan if she was opposed to accepting the funding plan into the record.

Ms. Keegan stated that although the submission of the plan was untimely, she does not oppose it if it will help the Commission be informed in their decision making.

Chairman Tomasso moved to accept the Association's funding plan into the record.

Mr. McKelleb went over the proposed funding plan to adequately fund the reserve account.

Chairman Tomasso moved that factual allegations # 1-19 have been proven. Seconded by Commissioner Sweetin. Motion carried.

Chairman Tomasso moved that violations of law # 20-25 have been proven. Seconded by Commissioner Sweetin. Motion carried.

Ms. Keegan stated the Division is recommending the Association pay the fees and costs of the investigation and thanked Mr. McKelleb for his help in resolving the issues of the Association.

Ms. Gallo stated the reasonable, necessary and actual fees and costs of the Division's investigation is \$3,929.98.

The Commissioners discussed the discipline to impose upon the Respondent.

Commissioner Lighthart moved that the Respondent Association pay the Division's fees and costs in the amount of \$3,929.98 within 30 days, the Respondent Association must provide a status check at the next Commission meeting in September, provide an update on the draft CPA 2021 and 2022 audits, update on the 2023 CPA audit, status on the missing meeting minutes and update of the funding plan that was submitted to the Commission. Seconded by Commissioner Sweetin. Motion carried.

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

**Case No. 2023-713**

**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

Preliminary Matters

Mr. Su stated he was under the impression that this case would be a default case, however Mr. Loizzi reached out this morning to say that his firm has been retained to represent the Association. Mr. Su stated he believes that Mr. Loizzi is going to request a continuance.

Mr. Loizzi stated he was just retained, and he was going over the documents that were provided to his office and realized there was a couple of documents missing and reached out to the Division. Mr. Loizzi stated at that time he found out that the case was on the agenda to be heard and is thankful he was able to come before the Commission and request a continuance instead of proceeding as a default case. Mr. Loizzi stated he has reviewed the Complaint and would be able to provide an answer quickly and believes that the case could be settled instead of having a contested hearing. Mr. Loizzi stated he would like to request a continuance for this case.

The Commission had no objections to continue this case until the September meeting and granted Mr. Loizzi's request for a continuance.

**G) NRED v Chestnut Hill at Providence Community Association., for possible action  
Case No. 2024-154**

**Type of Respondent: Homeowners Association**

Parties Present

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

Katie Austin, CAM, was present representing the Respondent.

Lisa Sweeney, Board Member was present virtually.

Preliminary Matters

Mr. Su stated this Association did not have 3-board members after the investigation the CAM reached out and stated that a third member was appointed, and the Association has now come into compliance. Mr. Su stated the facts and violations can be stipulated to and it would then be up to the Commission to impose disciplinary action if they see fit.

Ms. Sweeney and Ms. Austin stated they stipulate to the factual allegations and violations of law.

Chairman Tomasso moved that factual allegations # 1-8 has been proven. Seconded by Commissioner Heydarian. Motion carried.

Chairman Tomasso moved that violation of law #9 has been proven. Seconded by Commissioner Sweetin. Motion carried.

Mr. Su stated the recommended discipline is that the Association pay the fees and costs of the Division's investigation.

Ms. Gallo stated the reasonable, necessary and actual fees and costs of the Division's investigation is \$1,961.13.

Commissioner Lighthart moved that the Respondent Association pay the Division's fees and costs of \$1,961.13 within 30 days. Seconded by Commissioner Morse Jarman. Motion carried.

**H) NRED v Yvonne A. Culliver, for possible action**

**Case No. 2024-50**

**License No. CAM.0007452 - Suspended**

**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 she would like to proceed as 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.

Chairman Tomasso moved to accept the factual allegations and violations of law. Seconded by Commissioner Sweetin. Motion carried.

Ms. Keegan stated the recommended discipline to impose against the Respondent is the maximum fine of \$5,000 for each of the 8 violations of law, revocation of CAM license and pay the Division's fees and costs of the investigation.

Ms. Gallo stated the reasonable, necessary and actual fees and costs of the Division's investigation is \$3,739.98.

Chairman Tomasso moved that the Respondent pay \$40,000 in fines, her CAM license be revoked for 10-years, and all monies owed to the Division must be paid before the Respondent

can apply for a license and pay \$3,739.98 and all monies are due within 30 days. Seconded by Commissioner Morse Jarman. Motion carried.

**6) Commission/Division Business**

**A) Administrator's Report**

Sharath Chandra stated the IT upgrade is progressing and with regards to CIC, the Division wants to improve the annual registration process by providing a portal to pay the fees and submit the forms required. Mr. Chandra stated the IT upgrade would benefit all other departments within the Division. Mr. Chandra stated the goal is to have it go live a year from now as some of the money allocated will sunset and will no longer be available. Mr. Chandra stated the Division is looking to help the Ombudsman's Office with an inhouse attorney position, to assist with various legal matters and further support the assistance of the AG's office. Mr. Chandra stated it is still a general proposal and will have to go thru a budgetary process. Mr. Chandra stated the Division is making great strides to fill vacancies within the Division. Mr. Chandra stated there still is a regulation workshop to propose because there is a big piece of unfinished business in NAC 116 with the health and safety issue. Mr. Chandra stated the Division wants to tweak the ADR process. Mr. Chandra stated Business & Industry only receives a few BDR requests, the Division needs to find a different way to introduce bills legislatively.

Charvez Foger stated the Division was down 10 positions and the Ombudsman Office specifically did not have an Education Section. Mr. Foger stated the Ombudsman Office now has a complete Education section. Mr. Foger stated the Division prides itself on promoting from within however when one person gets promoted their position is now open. Mr. Foger stated positions are being filled.

**B) Ombudsman's Summary Report**

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

Ayana Band, Education and Information Officer, introduced herself to the Commission.

Rhonda Galvin, ADR Facilitator, gave a report that was provided to the Commission in the meeting packet.

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

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

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

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

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

Chairman Tomasso stated she has reached out to former Commissioner Niggemeyer, and she does have some information if Commissioner Morse Jarman would like to reach out to the Controller's Office regarding the debt collection process. Chairman Tomasso stated she would

like to keep this item on the agenda.

Mr. Chandra stated the Controller's Office has taken over the collection process and to reverse it back to the reporting agencies is not conducive at this time. Mr. Chandra stated he spoke with Commissioner Morse Jarman about contacting the Controller's Office and establishing a contact person to start a conversation regarding their collections process. Mr. Chandra stated if a person owes money to the State, they cannot receive any license (business, occupational etc.) so there is a check and balance there to try and collect monies owed to the State.

Commissioner Morse Jarman asked if the Division knew how many other agencies rely on the Controller's Office for debt collections?

Mr. Chandra stated Business and Industry (B&I) is in the process of consolidating all their Boards and Commissions and have a streamline process for all of them and part of that could be the collection of monies owed to each of the agencies. Mr. Chandra stated he could have a conversation with the Deputy Director and say that collecting money imposed by the Division is a concern for our Commissions.

Commissioner Morse Jarman stated she is very passionate about this issue because people that commit crimes against their Association need to be held accountable for their actions. Commissioner Morse Jarman stated there are no repercussions for owing the Division a large sum of money, the Division/Commission does not have any teeth to pursue the delinquent Respondents.

Chairman Tomasso stated until recently Nevada was the only state with Homeowner Association's (HOA's) now it is spreading nationwide. Chairman Tomasso stated if a CAM loses their license in Nevada, it will hopefully be noted across the country. Chairman Tomasso stated states may regulate HOA's in the future as they become more popular among homebuilders.

Commissioner Morse Jarman stated she has been a part of legislation that Nevada was the cornerstone to, and that legislation was adopted nationwide.

Commissioner Morse Jarman stated she wanted to put on the agenda for the Commissioners to talk about tightening legislation within provisions of 116. Commissioner Morse Jarman stated that regulations do not have the teeth like legislation does.

Mr. Chandra stated they could have "potential legislative ideas" as an agenda item, because they get inquiries from legislatures about what is the current hot topics for HOA's.

Chairman Tomasso stated the regulations are the clarifications of the statutes, and the Commission cannot make new laws.

Commissioner Morse Jarman stated the Commission can make suggestions to the legislatures to make new laws.

Chairman Tomasso stated she would like to start with the health and safety issue first because

communities need clarification in this area.

Mr. Chandra stated B&I is not into policy making and they rely on lawmakers to make big changes and have those big policy discussions, our role is to provide feedback.

Commissioner Morse Jarman stated she just learned that B&I has a Public Information Officer (PIO) and wanted the PIO to do a press release announcing the cases and outcomes of the Commission's disciplinary cases.

Chairman Tomasso stated that information used to be available to the public in a quarterly newsletter.

Mr. Foger stated that newsletter will be back in circulation now that the Division has a fully staffed Education Section.

**G) Discussion and decision to approve minutes of the March 5, 2024, Commission meeting**

Commissioner Sweetin moved to approve the March 5, 2023, meeting minutes. Seconded by Commissioner Gilliam. Motion passed.

**E) Discussion regarding Commissioner's speaking engagement requests**

None

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

September 10-12, 2024.

**7) Public Comment**

Mike Kosor stated he wanted to commend this Commission for paying attention during the meeting. Mr. Kosor stated he was struck by the level of disagreement in the Commissioners understanding of the rules and statutes. Mr. Kosor stated the Commission controls the rules and the Commission is responsible for the regulations being approved. Mr. Kosor stated the last time the Commission did that was in December of 2022 and those rules are not yet codified. Mr. Kosor stated the average board member is not going to be aware of these regulation changes. Mr. Kosor stated he wanted to jump on what Mr. Leach said when he urged the Commission to get active to address regulations and statutes. Mr. Kosor stated the CIC Taskforce has gone completely unused and must come back and is the solution to many of the regulatory issues. Mr. Kosor stated the legislative process is dominated by the interest groups and many legislatures do not want to get involved with HOA issues because it is a volatile issue. Mr. Kosor stated he wanted the Commission to do something to clarify the laws and regulations.

Michelle Goodell stated she is a supervising community association manager. Ms. Goodell stated she wanted the Commission to get the 2023 legislative changes and the 2022 regulations into the online version of the statutes and regulations, so the public is aware of the new statutes and regulations.



**8) Adjournment**

Meeting adjourned at 4:51 PM

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

Maria Gallo  
Commission Coordinator

**FILED**

JUN 11 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

*meallo*

**Ombudsman Assistance Report**  
Report Date: 07/01/2023 - 04/30/2024

**Statistics**  
Walk-in: 197  
Phone: 221

**General** 58  
**2023 Carry Overs** 4  
**Intervention Affidavit (IA) Filed** 120

**Top 3 Allegations in the South**

- NRS 116.31034 Election of members of executive board and officers of association
- NRS 116.3107 Upkeep of common-interest community
- NRS 116.3103 Power of executive board to act on behalf of association

**Top 3 Allegations in the North**

- NRS 116.3103 Power of executive board to act on behalf of association
- NRS 116.31035 Publications containing mention of candidate or ballot question
- NRS 116.31026 Solicitation of bids for association project

Ombudsman Review

ADR 4

Ombudsman to Compliance 48

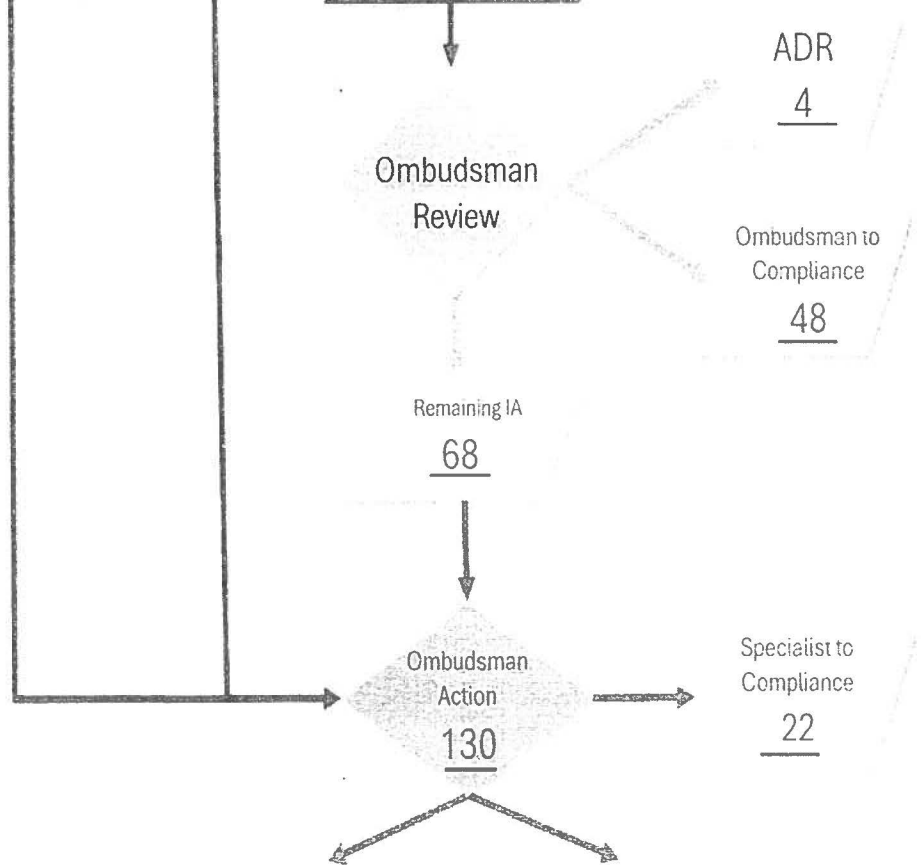
Remaining IA 68

Ombudsman Action 130

Specialist to Compliance 22

Open cases 10

Closed cases: 98  
• Conference: 62  
• NRED Letter: 36



Complaint against the office of the Ombudsman - File # 2024-120

Mills M. <[REDACTED]>

Sat 5/4/2024 5:45 PM

To: Maria Gallo <mgallo@red.nv.gov>

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MAY 07 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

*mgallo*

**WARNING** - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good afternoon,

I have a complaint against the CICO Ombudsman.

I filed a complaint with the office of the Ombudsman (form 530) against the HOA of my community for a violation of NRS116.3103.

I have the community Manager, on the record at a homeowner's meeting stating: that they were told to pass a resolution to amend the rules of this community under the directive of the office of the Ombudsman.

There's only one problem with that:

The HOA board only have jurisdiction over use of " common areas".

Based on the HOA board's assurance that they have the right to amend the rules, the Ombudsman have closed the case. The Community manager teaches classes at the Division and is well connected. However, the office of the Ombudsman is supposed to be impartial and not aid the individuals who have broken state law on how bypass the law.

I will be taking this matter to my senators in Nevada, the Governor, the Secretary of State and any other government official including the press, because the Office of the Ombudsman is supposed to be impartial but instead are siding with the HOA's.

Maria Mathews

[REDACTED]  
Las Vegas Nevada

Sent from [Mail](#) for Windows



**COMMON  
INTEREST  
ADVISORS, LLC**

**FILED**

JUN 11 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

*mgallo*

**VIA EMAIL**

June 11, 2024

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

Maria:

Below is my public comment for today's CCICCH Meeting that I am providing for the Commission's review and, if possible, for entry into the record.

Good morning distinguished members of the Commission:

My name is Michael Novak, Co-Founder and Co-Managing Director for Common Interest Advisors, LLC. Today, I address you with a deep sense of concern regarding recent developments involving a nationally traded international management company that holds significant influence within our state.

Our meticulous forensic investigation onsite all last week has uncovered troubling revelations about this company's violations of loan covenants and laws in Illinois. These findings raise serious questions about its conduct and practices right here in our own jurisdiction.

As stewards of this Commission, entrusted with the well-being and protection of homeowners and community associations across our state, I implore you to give immediate attention and take decisive action in response to these violations.

First and foremost, it is imperative that a thorough investigation is conducted into the extent of the company's transgressions within the state of Nevada. We cannot afford to overlook any potential violations of laws or regulations designed to safeguard the rights and interests of our citizens.

Furthermore, swift and decisive enforcement actions must be taken if your investigation uncovers evidence of misconduct. This may involve imposing fines, penalties, or sanctions against the company to ensure accountability for its actions.

Equally crucial is the need for transparency and communication with regulatory counterparts in Illinois, where these violations originated. Collaboration with other regulatory authorities is essential to address this issue comprehensively and ensure that appropriate measures are taken. Unfortunately, the chairperson of the Illinois Community Association Manager Licensing and Disciplinary Board is part of management senior leadership in Illinois.

Moreover, it is paramount that the public is kept informed about these developments. Homeowners and community associations have a right to know if the management company they trust with their properties has engaged in unlawful behavior. Clear and accessible information must be provided through public announcements, press releases, and updates on official platforms.

Additionally, it is essential to conduct a thorough review and strengthening of your own regulatory framework and oversight processes to prevent similar incidents from occurring in the future. This may involve implementing stricter monitoring measures and enhancing cooperation with law enforcement agencies to ensure compliance with the law.

Lastly, every effort must be made to mitigate any harm caused to homeowners or community associations as a result of the management company's violations. Whether through providing guidance on legal recourse or facilitating dispute resolution mechanisms, their interests must be prioritized.

In conclusion, the gravity of this management company's misconduct cannot be overstated. As custodians of our state regulatory authority, you bear the responsibility to take decisive action to protect the rights and interests of our citizens. Thank you for your attention to this matter.

Respectfully submitted,

*Michael*

**Michael J. Novak, CPA, CMA, CFA**  
Co-Founder and Co-Managing Partner  
Common Interest Advisors, LLC  
Nevada • Illinois • Florida

Pronouns: he / him

FILED

JUN 11 2024

NEVADA COMMISSION FOR  
COMMON INTEREST COMMUNITIES  
AND CONDOMINIUM HOTELS

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**Maria Gallo**

**From:** Erika Rose [REDACTED]  
**Sent:** Monday, June 10, 2024 2:58 PM  
**To:** Maria Gallo  
**Subject:** SV1

**WARNING** - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good afternoon,

I have a couple of concern how the board members and the Management company running their business, financial, maintenance etc. in our community.

Marc 1, 2022 HOA Management ( Kim Kallfelz ) Take over because the privies Company SMG terminated our contract effective 02/28/22.

**SMG: " We provided a new termination notice based on the actions of certain current / new board members who will remain nameless,wich are all too much of liability and frankly, no worth it for me or my staff to continue to manage the account.**

**The same year at 2022 the board had been called by the Real estate Office .** We as a homeowners never knew why , of Cours it was confidential, but the lawyer fee had been paid from the Association account.

The board was fairly new October 2021- in December we didn't have a new election according the board it was not necessary . Shortly after they took their position fired most of the Vendors and contracts. Budget for 2022 made by the Board of Directors started minus \$ 40.000.00.

Marc 1,2022 hired a new Landscape Company and 2 month later sign a contract approximately \$ 200.000.00 turf removal, brand new company we didn't know anything about them. We don't have that kind of money in our Operating budget and that wasn't an Emergency or listed on The Budget ( we still have 2 years ) so they pull out money from the Reserve account . No bid nothing even homeowners requested, Management and Board sad NO need too. So they started work on our community, first day ROUND UP ( the homeowners 100% agains it ) spray- board hired an armed security guy watch over or protecting the Landscape crew ???

Unfortunately this Landscape Company still work for us!!!! Homeowners requested many many times to look for an other one. Answer from the board NO we like them.??????????

February 2022 they didn't spray the Olive trees because health concern dangers chemical (comment coming from the President) but few month later Landscaper spray ROUND UP all over the community. The hole Community be came a big mess Olives all over- Homeowners were constantly complain-but the board respond - removed 21 Olive trees and there plan to remove 11 more this year. No any expert advice ( tree doctor ).

Since Marc 1, 2022 we don't have any other meetings only ZOOM what I said- you can't express your opinion because if they don't wanted to hear or listen to you concern -you have been MUTED.Queterly meeting really doesn't work for us and because of that, the board simply ratify all the expenses on the meeting.

Last year around December the Board decided replacing light post around the community. No 3 bids Never have been mention on any meeting or listed on the Agenda. They listed \$10.500.00 electric on the budget no specific explanation.

So they already replace the majority it doesn't matter if is good or bad or practical -they do what ever wanted to do. We don't know how much did it cost it is time to realize SV1 doesn't belong to 3 member of the board - it belong 59 homeowners .

Our fascia is rotten, falling apart, irrigation doesn't work properly plant is dying, our street is falling apart pot holes on the street and they replacing working street lights ?

Spending the Association money without let the homeowners, know or simply discuss ?????????? I believe the homeowners have a right as well not just obligations paying the monthly HOA fee.

HOA Board of Directors have a fiduciary responsibility to the management, maintenance and financial stability of the community.

Thank you for the opportunity to listen my concern about our community and looking forward a better future for SV1

Sincerely,

Erika Rose SV1 homeowner

My name is Susan Russell and I live in Sunrise Villas I. The CAM is Kim and Lonnie Kallfelz 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.

**FILED**

JUN 07 2024

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*mgallo*



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.

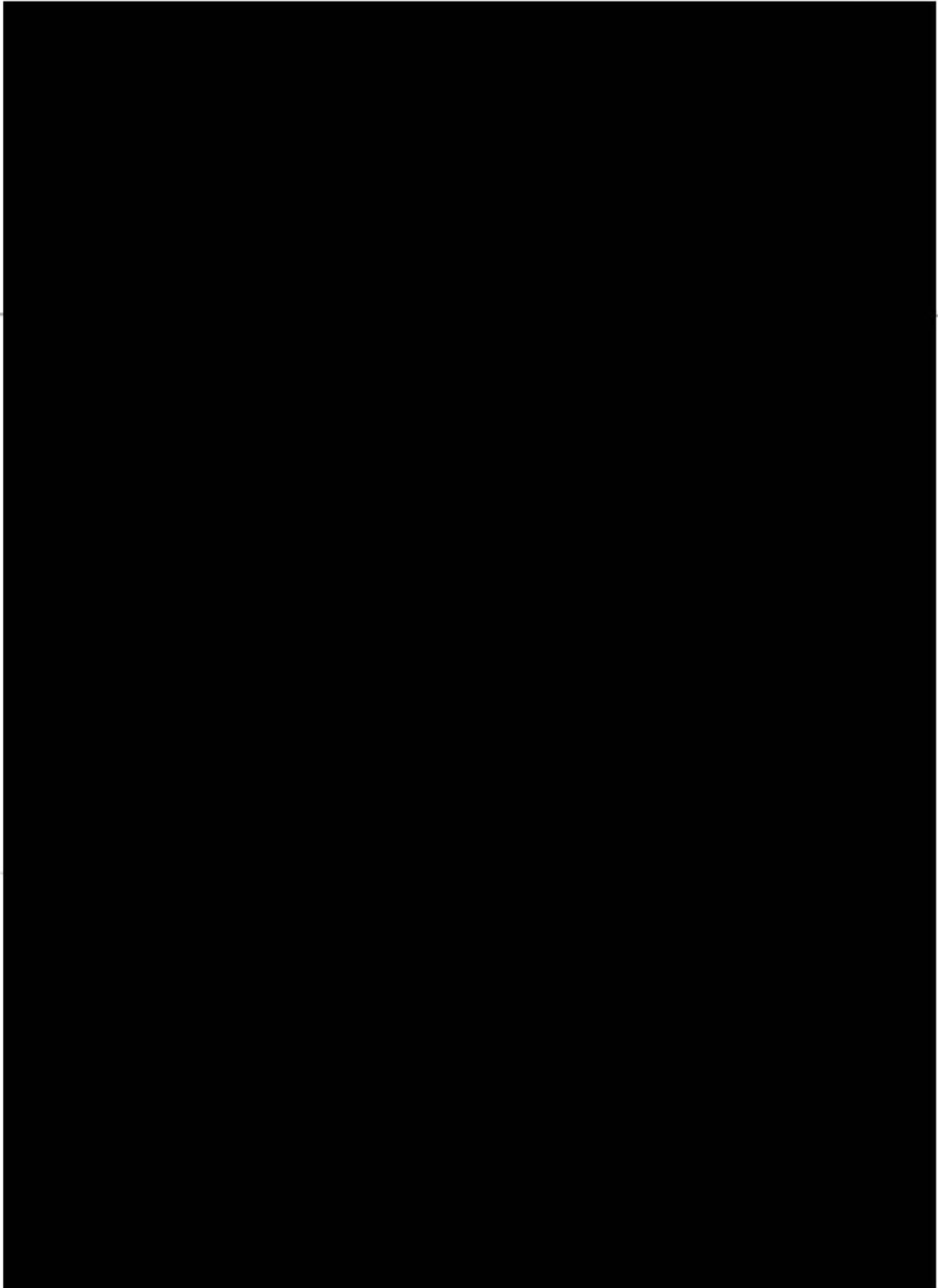
I respectfully request the Ombudsman reopen my complaint and investigate why the board took money from the reserve budget for a non-emergency, creating this escalation of this issue now affecting real estate transactions. Also, to make sure the board understands what they need to do to get the fascia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

Sincerely,

Susan Russell

**2024 BUDGET FOR THE RESERVES OF SUNRISE VILLAS I HOA**

The schedule for 2024 includes:



Sunrise Villas I Homeowners Association

Annual Budget Report

