FILED

SEP 0 8 2026

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Maria Gallo

From: Michael Novak <mnovak@cia.mba>
Sent: Monday, September 7, 2026 4:28 PM
To: Maria Gallo; Kelly Valadez
Subject: Written Public Comment — LCB File No. R091-25 (Reserve Study Provisions); Regulation Workshop of September 8, 2026 and Adoption Hearing of September 9, 2026

Dear Chair and Members of the Commission:

I had intended to appear and offer comment in person and am unable to attend. I respectfully request that this letter be entered into the record for both the workshop and the adoption hearing, and be made available to the Commission members in advance of their deliberations.

By way of background: I am a certified public accountant licensed in Illinois, and I hold the CMA and CFA designations. I held a Nevada CPA license until December 31, 2025, when I voluntarily surrendered it upon relocating my nationwide practice to Illinois. My practice is forensic accounting for common-interest communities, and it has been for more than two decades. In that time I have reviewed several hundred reserve studies across multiple states, including Nevada. I have no client interest in this rulemaking and I am not appearing on behalf of any association, management company, or reserve study provider. My interest is in whether the reserve disclosures Nevada requires are capable of telling an owner what the owner needs to know.

I write in support of Section 6, with one gap I would ask the Commission to close, and in qualified support of Section 7, with a proposed modification.

I. Section 6 — Eliminating Baseline Funding

I support the elimination of baseline funding from NAC 116.425.

Baseline funding sets the objective at keeping the reserve cash balance above zero. In practice that is not a funding plan; it is a deferral schedule. An association can satisfy it indefinitely while its components age toward simultaneous failure, and the owners who bear the resulting special assessment are frequently not the owners who benefited from the years of suppressed contributions. The Division's own current training material describes baseline funding as the most dangerous of the three funding types and observes that it typically leads to special assessments. I agree, and I think the Commission is right to remove it.

My concern is with what Section 6 leaves behind.

If baseline funding is eliminated, threshold funding becomes the only elective objective available to a board that does not wish to fully fund. And threshold funding, as Nevada law presently stands, is a term with no content.

NAC 116.425(1)(m) requires the reserve study to include a general statement describing the objectives of the funding plan and the methods used in projecting the 30-year funding plan, "using the following terms and discussing, where applicable: (1) Full funding; (2) Threshold funding; and (3) Baseline funding." The regulation names all three terms. It defines none of them. Neither does NRS 116. Neither does any other provision of NAC 116 of which I am aware.

The practical consequence is this. Threshold funding is defined by the threshold. A plan targeting a 70 percent floor and a plan targeting a 20 percent floor are both, without qualification, "threshold funding." They describe radically different financial conditions and radically different risk to the owners. Yet a reserve study may identify its funding objective as threshold funding and stop there, and nothing in the regulation requires it to state the threshold selected — in dollars or as a percent funded — or to identify who selected it.

This is not a hypothetical drafting concern. Among the studies I have reviewed that identify the funding method as threshold funding, the substantial majority disclose neither a dollar threshold nor a percent-funded threshold. The owner reading that study learns the name of a method and nothing about the standard the board has actually adopted on the owner's behalf.

I would ask the Commission, in the same rulemaking that removes baseline funding, to add two requirements:

First, that "threshold funding" be defined in NAC 116.425 as a funding objective under which the reserve balance is maintained at or above a stated percent-funded floor specified in the funding plan.

Second, that where the funding plan adopted is threshold funding, the reserve study state the threshold expressly, as both a percent funded and the corresponding dollar amount, for each year of the 30-year schedule.

Neither addition imposes new analytical work. A specialist who has selected threshold funding has necessarily already selected a threshold; the requirement is only that the number be written down where the owner can see it. And the Commission would not be inventing a definition. The Division's current Reserve Studies course — the material revised this past May and being taught now — already supplies one, describing threshold funding as maintaining the reserve balance above a specified percent funded amount and offering 75 percent as its example. That definition is attributed on the slide to NAC 116.425, which does not contain it. I raise that not as a criticism of the training staff, whose material is otherwise careful, but because it illustrates the problem precisely: the Division is already teaching a definition the regulation does not supply. Codifying it would align the regulation with the instruction rather than the reverse.

II. The Measurement Problem Underlying Both Sections

I ask the Commission to consider a related matter, because it bears on whether any threshold disclosure requirement it adopts would be administrable.

Percent funded is not defined anywhere in NRS 116 or NAC 116. It nonetheless appears on Form 609 and, in my experience, becomes an important question in Commission disciplinary proceedings. Nevada currently has at least two official formulations in circulation, and they do not agree.

Form 609 derives the ratio from a projected reserve balance over the fully funded balance. The Division's current Reserve Studies course, at the slide addressing how well-funded the reserve account is, instead defines percent funded as the actual current fund balance — determined by bank statements — divided by the amount the reserve study predicted would be sufficient for that year. Those are different numerators and different denominators. An actual balance is not a projection. The amount predicted sufficient for a single year is not the fully funded balance, which under NAC 116.425(1)(l) is computed at current replacement cost across the full component inventory and compared year by year across a 30-year table.

The same course, at the slide enumerating what the 30-year schedule must contain, lists the beginning balance, projected expenditures, and projected ending balance, and omits subsection (1)(l) — the fully-funded-balance comparison — altogether. Subsection (1)(l) is the only provision in Nevada law requiring the fully funded balance to be computed at all, and it is the figure on which Form 609 depends.

I raise this because a threshold-disclosure requirement stated in percent funded will only be as reliable as the definition of percent funded. I would encourage the Commission to define the term in NAC 116.425, specifying the numerator and the denominator, and to conform Form 609 and the Division's training materials to that definition. If the Commission believes that is beyond the scope of this rulemaking, I would ask that it be placed on a future agenda.

III. Section 7 — The Reserve Study Interval

I support the Commission's attention to this provision, and I would ask it to go further.

Under current law the five-year cycle runs from the date the on-site inspection of major components begins. The difficulty I encounter repeatedly is the gap between the site visit and the board's adoption of the resulting study. A specialist inspects in one year; the draft is delivered; the board reviews, defers, requests amendments, changes composition, and adopts the study a year or more later. The study that governs the association's funding plan can therefore rest on field observations that are already substantially stale on the day it takes effect, and the components it describes have continued to age throughout.

I would ask the Commission to consider requiring that a reserve study be adopted within three years of the last on-site inspection of major components. Three years is not an arbitrary figure. It corresponds to the currency standards Fannie Mae and Freddie Mac apply in project eligibility review, and aligning to it would spare Nevada associations the situation — increasingly common since 2021 — of holding a study that satisfies state law while failing the review that determines whether units in the building are financeable. Owners bear that mismatch directly, in the form of units they cannot sell.

IV. Conclusion

Section 6 removes a funding objective that should not have survived this long, and I commend the Commission for it. My request is that the Commission not leave threshold funding standing as an undefined term doing the work that baseline funding used to do. Defining it, and requiring the threshold to be stated, costs the regulated community almost nothing and gives owners the one number that tells them what standard their board has chosen.

I would be glad to provide the Commission with any of the underlying material referenced here, including the specific provisions and training materials cited, and to appear at a future meeting if that would be useful.

Thank you for your consideration and for the opportunity to comment.

Respectfully submitted,

Mike

Michael J. Novak, CPA (Illinois), CMA, CFA
Co-Founder and Co-Managing Partner
Common Interest Advisors, LLC
Email: mnovak@cia.mba
Web: www.cia.mba

Schedule a consultation: https://calendar.app.google/Dx3t7T5QPeXhSqLU7