

2025 CIC TASK FORCE

4) DISCUSSION AND POSSIBLE ACTION ITEMS:

1. **Capital Improvement - NRS 116.3115 (9) (NRS 116B.590) Assessments for common expenses; funding of adequate reserves; collection of interest on past due assessments; calculation of assessments for particular types of common expenses; notice of meetings regarding assessments for capital improvements.**

(9) The association shall provide written notice to each unit's owner of a meeting at which an assessment for capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Suggested Discussion – Associations are legally obligated to maintain, repair, and replace common areas, but capital improvements go beyond ordinary upkeep. In reality and day-to-day practice, it can be unclear whether an expense - like adding solar panels or upgrading a pool - is a maintenance item or a capital improvement that could require the unit owners' approval and a required 21-day written notice before a meeting. A clear understanding protects both the board and unit owners by identifying when a project crosses into capital improvement territory and triggers voting or notice requirements.

Issue - The issue with the current statute is that some boards interpret the language to mean they don't have to give unit owners written notice at least 21 days before a meeting on proposed improvements if the board:

- Has authority to make improvements,
- Isn't requesting owner funds; and
- Doesn't classify the project as capital improvement, but maintenance or upkeep instead.

Without clarification, boards can add common elements and spend association operating funds to implement projects without notifying unit owners at least 21 days before the date of the meeting or obtaining approval from the unit owners. Whether the board funds projects through new assessments or use existing operating funds, the financial impact on owners is the same - unit owners fund the improvement. Addressing this gap helps manage expectations, provides transparency, and reduces disputes between the boards and unit owners over spending authority.

2. Complaints placed on agenda - NRS 116.31087 (NRS 116B.510) - Right of units' owners to have certain complaints placed on agenda of meeting of executive board

1. If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association, the executive board shall, upon the written request of the unit's owner, place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board.

2. Not later than 10 business days after the date that the association receives such a complaint, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that, if the unit's owner submits a written request that the subject of the complaint be placed on the agenda of the next regularly scheduled meeting of the executive board, the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.

Suggested Discussion – The Division would like to see the consolidation of the language in subsections (1) and (2) into a single provision that provides clear guidance to the board on handling alleged violations of NRS 116 or governing documents, and that requires the board to provide the owner an opportunity for discussion with the board regarding the allegation once placed on the agenda at the next regularly scheduled executive board meeting.

Issue - The current statutory language allows some boards to interpret subsection (2) as inapplicable when a unit owner does not request in their written complaint under subsection (1) to have the subject of the allegation placed on the agenda at the time of notification of the allegation. In practice, some boards fail to inform unit owners of this right as required in subsection (2). Additionally, when allegations are properly included on the agenda, some boards are advised not to engage in discussion due to concerns about self-incrimination or legal exposure without counsel. As a result, boards may place the subject of the complaint on the agenda, call the agenda item, no discussion takes place by the board, and proceed to other business with no opportunity for discussion with the unit owner. Unit owners view this practice as a formality, rather than fostering open dialogue and the potential of an early resolution, thus requiring them to seek other alternative methods for resolution.

Suggested language : *“Not later than 10 business days after the date the executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that, if the unit's owner submits a written request that the subject of the complaint be placed on the agenda of the next regularly scheduled meeting of the executive board, the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.”*

3. Reasonable Time to Prohibit Use of Common Element - NRS 116.31031(1)(a)(b)
(NRS 116B.430)

NRS 116.31031 Power of executive board to impose fines and other sanctions for violations of governing documents; regulations; limitations; procedural requirements; continuing violations; collection of past due fines; statement of balance owed.

1. Except as otherwise provided in this section, if a unit's owner or a tenant or an invitee of a unit's owner or a tenant violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

*(a) **Prohibit, for a reasonable time**, the unit's owner or the tenant or the invitee of the unit's owner or the tenant from:*

*(1) **Voting on matters** related to the common-interest community.*

*(2) **Using the common elements.** The provisions of this subparagraph do not prohibit the unit's owner or the tenant or the invitee of the unit's owner or the tenant from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.*

Suggested Discussion – The Division would like to see clear and precise language written into law to ensure both compliance and transparency i.e. specify what amount of time would be considered reasonable when a board imposes sanctions regarding use of the common elements and/or voting because of a violation of the governing documents.

Issue – The Division has observed that some boards are prohibiting unit owners' access to common areas (such as the clubhouse, pool, etc.) and/or suspending their voting rights for up to a year due to infractions like using profanity in these spaces, and at times deeming the action as health, safety and welfare. Prohibiting the use of the common elements and voting on matters related to the community are required by law to be reasonable; however, the term *reasonable* is not defined leading to inconsistent interpretation and application by boards. It would be helpful to identify what is "reasonable" in this context and as used in this section for consistency and accountability within the communities.