Via Electronic Mail

April 12, 2026

Nevada Common-Interest Community Task Force
c/o Nevada Real Estate Division Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels
3300 W. Sahara Avenue, Suite 350
Las Vegas, Nevada 89102
sbates@red.nv.gov
publiccomments@red.nv.gov,

Re: **Agenda Item 4.A.1,** CIC Task Force, April 14, 2026 Meeting- Public comment

Agenda Item 4.A.1 is deeply troubling. Frankly, the recommendations, as framed by what I must assume was the Nevada Real Estate Division, read less like a good-faith effort to implement legislative intent or propose real reform than like an effort to avoid it. There is little genuine confusion about the narrow circumstances in which board business may occur outside the ordinary meeting structure. Lawmakers have rightly made clear that board governance is to occur through a noticed meeting process, and any departure from that structure is narrow and exceptional.

The unresolved issue is that "meeting" remains undefined, allowing some to shift the substance of board governance into workshops, email voting, and other efforts to avoid owner examination. This agenda item does not confront that problem. It is framed to avoid that issue and to enlist the Task Force in an effort to move Nevada HOAs away from their recognized quasi-governmental nature and toward a far more corporate, less transparent, and less accountable model — precisely the direction Nevada lawmakers have been steering away from since 2003.

The recommendation's statement, "Instead of a definition, clarify which categories of actions boards may take without a meeting," is extraordinarily blatant. It openly substitutes a different question for the controlling one. Had lawmakers intended HOAs to be run exclusively like corporations, they would not have enacted NRS 116.31083 and given owners rights to notice, an agenda, and an opportunity to be heard. They would simply have relied on NRS 82, as is now being shamelessly suggested. That is not neutral analysis or a regulator acting in good faith to clarify a statute. It is loophole preservation. It is also difficult to square with NRED's own Advisory Opinion 11-01, which warned that "a vote via email or possibly another method may not satisfy the fiduciary duty of a board member," making such methods "greatly disfavored." Having already recognized those fiduciary concerns, the Division should be closing the loophole by defining "meeting" — something it has long had authority to do as a regulator — not attempting to work around the issue by legitimizing categories of governance outside the meeting structure.

The recommendation also invokes "unbudgeted costs" — a classic industry move. It is unsupported, one-sided, and transparently designed to make statutory accountability sound fiscally irresponsible. It further ignores the obvious: defining "meeting" is a regulatory task that

requires no legislative amendment at all. I submitted a formal NRS 233B petition nearly nine months ago requesting precisely that action. It remains without action. The cost of open meetings is not a defect in Chapter 116. It is part of the Legislature's design. What the recommendation never counts are the costs imposed on owners by secrecy, mistrust, and regulatory slow-rolling.

The statute is built on the meeting of executive board members, not merely on their final acts. Lawmakers understood the importance of owners seeing how board governance occurs, not simply being told afterward what was decided. Yet the so-called recommendation ignores director deliberation altogether while offering little more than a smokescreen that "transparency is key."

Email voting is not transparency. The statute already contains a narrow emergency exception, and "clarifying categories" outside meetings is not transparency either. It is a way to avoid defining "meeting" because defining it would end the game.

Secret workshops are not transparency. Nor are they a harmless preparation device when they become the place where a quorum hashes out policy, finances, budget priorities, contracts, or enforcement positions before the formal meeting begins. In that setting, the public meeting becomes theater: owners see the vote, but the real deliberation has already occurred elsewhere. Workshops may indeed help boards prepare and shorten formal meetings. They should not, however, be used in secret. When directors gather together in workshops, or under whatever substitute label is imagined, to discuss matters of the association, owners must be allowed to observe. Trying to sell that practice as improving transparency and reducing owner frustration is an insult to the intelligence of homeowners and anyone reading the recommendation in good faith. It is clear advocacy disguised as analysis.

Off-meeting governance outside owner view is understandably attractive to some because it spares directors the inconvenience of confronting the people they govern. But directors, even if unpaid volunteers, are not entitled to a version of office stripped of accountability. They seek election to represent others, and that necessarily means facing controversy, scrutiny, and the obligation to explain decisions in public. The law should not be bent to protect directors from the ordinary friction of democratic governance. Unlike corporate shareholders, HOA owners cannot simply sell their shares and exit the relationship.

Governance is not merely the final act of decision. It includes how decisions are developed, discussed, narrowed, and reached, and by whom. Owners are entitled to know how the sausage was made, not merely be told afterward what was decided. What makes this agenda item's framing especially troubling is the appearance that NRED is not trying to clarify the statute, but to avoid clarifying it.

Defining "meeting" would close the loophole. This recommendation appears designed to preserve it. If the Task Force is serious about this issue, it should begin by defining "meeting," because without a definition the statute remains vulnerable to the very workarounds that have undermined owner-facing transparency.

Proposed definition

“Meeting” means any assembly, gathering, or series of communications among a quorum of the executive board, whether in person, electronically, or by any other means, during which association business, including operations, finances, enforcement matters, or policy issues, is deliberated, discussed, or otherwise considered.

Such gatherings are subject to the notice, agenda, and owner-participation requirements of NRS 116.31083, regardless of whether formal action is taken.

This definition is carefully tailored to:

- focus on substance rather than label or format;
- cover serial, electronic, and email-based deliberations, not just real-time gatherings;
- make clear that governance includes discussion and deliberation, not merely final votes;
- preserve owner access without unduly burdening boards; and
- close a longstanding transparency loophole that has undermined confidence in association governance.

Sincerely,

/s/ signed

Mike Kosor
HOA homeowner and Founder
NVHOAReform.com

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Re: Agenda 4.A.2, CIC Task Force, April 14, 2026 Meeting — Public Comment

The suggested amendment language in Item 4.A.2 is convoluted, ambiguous, and an unexplained departure from Advisory Opinion 16-01. I also challenge as a procedural element, the agenda's assertion that any amendment language was previously "generally agreed upon" by the Task Force.

Over a decade ago, NRED offered a much cleaner formulation. Advisory Opinion 16-01 and subsequent Division training materials "considered a capital improvement for an association as and expense for the acquisition or construction of new common-element components." If the Task Force is serious about clarity, it should begin there. Instead, the proposed language introduces ambiguity where the Division's own prior guidance was more direct.

I suggest that "capital improvement" be defined simply as: **an expense to expand, construct, or situate a building or structure, or a project that exceeds a [defined] percentage above the approved budgeted total operating expenses.** This approach follows Advisory Opinion 16-01, uses the phrasing of NRS 116.345(3), and incorporates the Task Force's suggested cost-threshold concept in subsection (c).

I see the suggested language presented in the agenda materials Part (a) as flawed, defining a capital improvement as something "distinct from existing reserve-funded major components." Part (b), then provides that repairs and replacements of existing common-area components intended to preserve, restore, or maintain original function- reserve funded components- are not capital improvements. I do not see why there should be any meaningful distinction here. Existing reserve-funded major components are themselves existing components subject to repair, replacement, and restoration. The proposal therefore appears to create two categories that substantially overlap. That is not clarity. It is confusion dressed up as definition.

At the same time, incorporating the subsection (c) cost-threshold concept would address another real problem: board abuse through reserve funding of high-cost projects without meaningful owner notice. Owners should be explicitly informed of all high-cost board-approved projects, even if funded from reserves — for example, recurring and expensive community street asphalt overlays or major landscape renewals. The fact that a project may be reserve-funded should not automatically remove it from meaningful owner visibility.

More importantly, Agenda 4.A.2 fails to confront the threshold problem facing owners: **consent, not just notice**. A true capital improvement should not be reduced to a 21-day notice issue. If the project is genuinely new and substantial, the more natural question is why owners are not being asked to approve the obligation at all.

NRS 116.345(3) requires written consent of a majority of the owners and residents within 500 feet of the proposed location of a new undisclosed building or structure, but it says nothing about obtaining approval from the broader membership for the financial obligation itself. That drafting gap can produce inequitable results. It provides some protection to nearby owners, while leaving the larger community exposed to significant board-imposed obligations.

That concern is especially serious because declarations are drafted by and for declarants, and Nevada law provides too few real restraints on board authority to commit owners to materially new obligations and is absent any meaningful regulatory review. The declarant has every incentive to write broad authority into the declaration while under control, and very little incentive to cabin future board power in ways that protect owners after turnover. That language is never negotiated and often treats membership project approval as the exception rather than the rule. Once the declarant is gone, the broad language remains, but the declarant bears none of the later financial or governance consequences. If a board seeks to add a new or substantially different amenity or structure — for example, a child care center on common property — owner consent should, at a minimum, be required. It also squarely raises the harder question of how far a majority may go in obligating a dissenting minority to fund a materially new community undertaking.

Lastly, I question the agenda's statement that certain blue italicized language reflects "generally agreed upon new language from the prior meeting." I do not recall a formal vote or a clearly established consensus placed on the record regarding that language. My recollection of the discussion under Agenda 5.2, and the draft minutes I have seen, do not support that characterization. The minutes reflect discussion of capital improvements, repairs and maintenance, cost thresholds, and a possible guidance pathway. That is not the same as a recorded agreement on specific text. As such, the phrase "generally agreed upon" is misleading. It gives the impression that the Task Force has already settled key language when that does not appear to be the case. If the language is only tentative, it should be described as tentative. If there was no vote and no clearly established consensus, the agenda should not imply otherwise.

Sincerely,

/s/ signed

Mike Kosor
HOA homeowner and Founder
NVHOAReform.com

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Re: Agenda Item 4.A.3, complaints placed on agenda, CIC Task Force, April 14, 2026 Meeting — Public Comment

The suggested amendment language in Item 4.A.3 should not be adopted as drafted. The proposal does not clarify NRS 116.31087. It narrows an owner right the statute was enacted to protect.

I also question the agenda's suggestion that any proposed amendment language was previously "generally agreed upon" by the Task Force. My recollection of the prior discussion, supported by the draft minutes in attached materials, does not support that characterization. I do not recall a formal vote or a clearly established consensus placed on the record regarding this language. If there was no vote and no clearly established consensus, the agenda should not imply otherwise.

The core purpose of NRS 116.31087 is straightforward. When a unit owner submits a written complaint alleging that the executive board violated Chapter 116 or the governing documents, the statute gives the owner the right, upon written request, to have the subject of that complaint placed on the agenda of the next regularly scheduled board meeting. The intent was to inform all owners by forcing alleged board violations into the board's formal governance process and onto the record. The problem is that the statute does not expressly require the board to state its position on the alleged violation once the matter reaches the agenda. The Legislature did not create that right so boards could absorb the complaint, acknowledge its receipt, and then avoid meaningful owner-facing accountability.

Alternative suggested simple amendment (*blue bold italics*)

*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**, at which meeting the board's position regarding all alleged violations of this chapter and relevant provisions of the governing documents alleged violated in the complaint must be stated.***

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The principle is simple: acknowledgment plus agenda placement is not enough; the board must address its position. A board obviously can protect privilege. It simply cannot invoke privilege as a pretext for refusing to state its position to the owners to whom it owes a fiduciary duty. This approach also avoids unnecessary new language about retaliation or Ombudsman process. It makes legislative intent clear: silence is not compliance.

That is why proposed subsection (2) is the most troubling part of the amendment. It states: "Nothing in this section compels the board to engage in public dialogue regarding matters that are reserved for executive session

NRS 116.31085…" That language creates a new escape hatch. It invites boards to characterize complaints as executive-session subject matter and then avoid meaningful owner engagement altogether. A complaint can be placed on the agenda in form, yet the board can still refuse to substantively address it before owners. That is not clarification. It is a narrowing of the collective owners' statutory right.

The danger is obvious. An owner invokes NRS 116.31087 because informal efforts have already failed. By that stage, the owner is not looking for acknowledgment of receipt. The owner is invoking an owner accountability mechanism. The proposed language instead moves the statute back toward controlled private handling by allowing the board to avoid substantive owner response whenever it can connect the complaint, however loosely, to executive-session subject matter. In practice, it is swallowing the rule. A board may simply say the matter involves legal advice and then decline to engage owners at all.

That is not what the statute was for. A board may properly protect privileged advice and confidential details. But that is very different from saying no meaningful response before owners is required. The board should still be required to acknowledge the complaint before owners, identify the general subject matter, and provide a substantive non-privileged explanation of its position and the basis for its action or inaction. Otherwise, agenda placement becomes procedural theater: the complaint appears on the agenda, but neither the owner nor the membership learns anything of substance.

I also attach and incorporate by reference my December 16, 2025 comment letter on NRS 116.31087. That letter appears to have been ignored without meaningful Task Force discussion. That matters because the issue now being advanced is not new. The Task Force has previously considered NRS 116.31087, and the August 2020 minutes are instructive. During that discussion, the industry council representative asserted that allegations of statutory or governing-document violations are "compliance issues" that belong in executive session, on the theory that discussion with owners could expose boards to liability. That position is difficult to reconcile with the Legislature's 2009 amendment, which deleted the qualifying phrase "if action is required by the executive board," thereby removing board discretion over whether alleged violations would be addressed and requiring public, on-the-record accountability instead. Legislators deliberately chose accountability over silence by those exercising governing authority.

The August 2020 minutes also reflect industry counsel suggesting that "other reasonable opportunities" exist for boards to address alleged violations outside the agenda-placement process. In practice, when a board elects silence, none remain. The owner is left only with regulatory escalation or litigation — outcomes the Legislature sought to avoid by mandating agenda-level accountability. If adopted, the current proposal would move the statute in exactly that direction by converting an owner accountability mechanism enacted by the Legislature into a secret process controlled by the board.

At that same 2020 meeting, however, the Division articulated a materially different understanding of the statute's purpose, stating that its vision was to give the respondent association a reasonable opportunity to review and address alleged violations before an owner came to the Ombudsman's Office and filed a formal complaint. The Division's current proposal departs from that earlier position. It now appears aligned with the industry position expressed in 2020 rather than with the statute's owner-accountability purpose.

The proposed language also shifts the statute in the wrong direction by treating a later written response as the practical substitute for owner accountability. A written response may be useful, and in some cases necessary, but it should supplement owner accountability, not replace it. The Legislature chose agenda placement because it wanted alleged violations brought into the board's formal process before owners. If the board can avoid real engagement and then send a controlled written statement afterward to a singular owner, the statute is reduced to form without substance.

The anti-retaliation language is appropriate and should be supported. Owners should not be harassed, intimidated, or retaliated against for filing complaints or requesting agenda placement. But adding anti-

retaliation language does not cure the deeper flaw in proposed subsection (2). The central problem remains that the amendment gives boards a clearer path to avoid meaningful owner-facing accountability.

Proposed subsection (2) is overbuilt and internally confused. The requirement that the response include "standard language" about seeking next steps from the Ombudsman's Office is undefined and belongs, if anywhere, in the complaint process under NRS 116.760, not in a statute whose purpose is to require owner-facing board accountability through agenda placement. It is a placeholder for future bureaucracy. Likewise, the added anti-harassment and anti-retaliation language is unnecessary. NRS 116.31183 and NRS 116.31184 already address those subjects directly. Repeating them here does not clarify the owner's right. It distracts from it and reinforces the larger problem with this proposal: instead of strengthening owner-facing accountability under NRS 116.31087, it layers on vague boilerplate, complaint-channel signaling, and redundant prohibitions while giving boards a broader path to avoid meaningful owner engagement.

Boards should not be confused about their duty to acknowledge complaints, despite the framing used in the agenda material. The issue is that boards can comply procedurally to the current and proposed language while refusing substantive engagement. The answer is not to codify another route to silence. The answer is to require that once a qualifying complaint is placed on the agenda, the board must substantively address the allegation either through owner-facing discussion or through a written response available to all owners.

The Task Force should therefore reject proposed subsection (2) as drafted. The statute should strengthen the owner's right to a meaningful owner-facing accountability process, not provide a new mechanism for boards to evade it.

Sincerely,

/s/ signed

Mike Kosor
HOA homeowner and Founder
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Attachment: December 16, 2025 Comment Letter Regarding NRS 116.31087

Via Email: publiccomments@red.nv.gov, Leticia.Chavez@business.nv.gov

Dec 16, 2025

Re: Agenda Item 4.2 — NRS 116.31087, Right of Units' Owners to Have Certain Complaints Placed on Agenda of Executive Board

To: Members of the CIC Task Force

I submit this letter in opposition to the Division's proposed approach to Agenda Item 4.2 concerning NRS 116.31087. These comments are submitted for the Task Force's consideration and inclusion in the record.

1. The Division's Premise Is Incorrect: The Division asserts that "the current statutory language allows some boards to interpret subsection (2) as inapplicable." A plain reading does not support that assertion. Subsection (2) imposes a clear mandatory duty on the association to acknowledge receipt of a written complaint *and* to notify the unit owner of the right to request agenda placement. Boards that fail to do so are not exercising interpretive discretion; they are failing to comply with the statute. In practice, this failure has coincided with little observable compliance action, leaving owners too often without any substantive response at either the association or Division level. Recasting noncompliance as statutory ambiguity misidentifies the problem and diverts Task Force attention from enforcement shortfall and/or education involving an existing legal obligation.

2. Unintended Loophole: The flaw in NRS 116.31087 is not ambiguity, but an unintended loophole that permits a board to place a complaint on the agenda and then refuse to engage at all—a result not contemplated by the Legislature. This allows compliance in form while defeating the statute in substance. The vast majority of boards act in good faith as the law intended; the issue is what the statute permits when a board chooses, or is advised, to avoid engagement. A governance framework must function as intended even in those circumstances.

3. Legislative Intent Was Public Accountability (SB 182, 2009): In 2009, the Legislature amended NRS 116.31087 through SB 182 specifically to require agenda placement of alleged violations, reflecting a deliberate choice to prioritize transparency and on-the-record accountability to the membership rather than continued private or informal handling. An owner's first interaction with the association is rarely a formal agenda request; it typically follows unsuccessful efforts to obtain an explanation or response. By the time a unit owner invokes this statutory right, earlier informal efforts have typically failed, making public placement within the association's formal governance process both necessary and intentional. The Division's proposed approach would move the statute in the opposite direction.

4. The Task Force Record Reflects a Shift in the Division's Position: The Task Force has previously considered NRS 116.31087, and the August 2020 minutes are instructive. During that discussion, the industry council representative asserted that allegations of statutory or governing-document violations are "compliance issues" that belong in executive session, on the theory that public discussion could expose boards to liability. That position is difficult to reconcile with the Legislature's 2009 amendment, which deleted the qualifying phrase "if action is required by the executive board," thereby removing board discretion over whether alleged violations would be

addressed and requiring public, on-the-record accountability instead. Legislators deliberately chose to prioritize accountability over silence by those exercising governing authority.

The August 2020 minutes also finds industry counsel suggesting that "other reasonable opportunities" exist for boards to address alleged violations outside the agenda-placement process. In practice, when a board elects silence none remain; the owner is left only with regulatory escalation or litigation, outcomes the Legislature sought to avoid by mandating agenda-level accountability. If adopted, the proposal would convert a public accountability mechanism enacted by the Legislature into a private process controlled by the board.

At the same meeting, however, the Division articulated a materially different understanding of the statute's purpose, stating that its vision was to give the respondent association a reasonable opportunity to review and address alleged violations before an owner comes to the Ombudsman's Office and files a formal complaint. The Division's current proposal departs from that earlier position. The Divisions proposal now aligns with the industry's position expressed in 2020.

5. The Larger Intervention Affidavit Process Issue: Withholding a substantive response is not limited to board meetings. Before filing a formal Intervention Affidavit, owners must submit a written demand proposing steps to resolve the issue. In too many cases, owners receive no response or no substantive explanation of the association's justification for its action or inaction. Thus, despite having satisfied all procedural prerequisites, owners can be left without any articulated position from the board or the Division if the IA is not advanced or is closed by the Division.

6. Administrative Law Rejects Procedural Limbo: Nevada administrative law is structured to avoid a system in which petitions are acknowledged but never substantively resolved. NRS 233B requires a written disposition for that reason. Associations exercising statutory governance authority under NRS 116 should be held to the same standard when allegations of legal or governing-document violations are formally placed before the executive board. NRS 116.31087 should not permit procedural compliance without substantive accountability.

7. Task Force action is warranted, but not for the reason suggested by the Division; the issue is not statutory ambiguity or confusion over notice requirements, but a loophole that allows boards to satisfy NRS 116.31087 procedurally while avoiding a substantive explanation of their actions. As the Task Force considers recommendations for statutory change, the correction should be narrow and targeted: once a qualifying complaint is placed on the agenda, the executive board should be required to substantively address the allegation—either through discussion or a written statement explaining the board's position and the basis for its action or inaction. A response that merely acknowledges receipt or provides no explanation should not be treated as compliance.

I submit these comments for the Task Force's consideration and inclusion in the record.

Respectfully,

Mike Kosor
Founder, NVHOAReform