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Subject: please add to comment at task force meeting in March, thank you
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To the members of the CICCH Task Force,

Thank you for the opportunity to provide public comment. My testimony today concerns a structural issue that has been building for decades: the constitutional and legal limits of private HOA governance, and Nevada's growing divergence from national reform efforts. Across the country, states are beginning to confront a fundamental question: How much governmental power can a private corporation exercise before it crosses constitutional boundaries? Florida is now openly debating this issue, recognizing that HOAs have evolved far beyond their original purpose of maintaining shared infrastructure. They now wield powers traditionally reserved for government — fines, liens, and even foreclosure — without the constitutional safeguards that accompany true public authority.

This debate is not unique to Florida. It applies fully to Nevada.

1. Historical Context: How We Got Here

Modern HOAs trace their lineage to ancient property servitudes, English covenants, and 20th-century zoning law. Over time, they became a mechanism for shifting municipal responsibilities onto private associations. Nevada adopted this model enthusiastically in the 1990s through the Uniform Common Interest Ownership Act, granting HOAs:

- Rulemaking authority
- Fining authority
- Lien authority
- Foreclosure authority

These are not private contractual remedies. They are state-delegated police powers.

Yet Nevada never paired these powers with constitutional guardrails, judicial oversight, or meaningful regulatory enforcement.

2. Nevada's Pattern: Denial Until Crisis

Nevada has a long history of avoiding structural reform until a scandal forces action. We saw this with:

- The HOA foreclosure fraud ring
- The guardianship abuse crisis
- Construction defect litigation
- The unemployment system collapse

The pattern is predictable:

Nevada denies the problem, minimizes the problem, and eventually reacts only after the damage becomes undeniable.

HOA governance is following the same trajectory.

While Florida is now debating the constitutional limits of HOA power, Nevada continues to

treat HOAs as if they are purely private contracts — even though the state itself grants the enforcement mechanisms that make these contracts coercive.

3. The Constitutional Tension Nevada Must Address

Nevada HOAs exercise powers that directly implicate:

- Homestead protections
- Due process rights
- Property rights
- The prohibition on delegating core governmental powers to private entities

The Legislature has never reconciled these constitutional protections with the sweeping enforcement authority granted under NRS 116.

The result is a system where private corporations can impose escalating fines, record liens, and foreclose on homes — often for issues unrelated to safety, infrastructure, or genuine nuisance.

This is not sustainable, and it is not constitutionally stable.

4. The Path Forward: Structural, Not Procedural, Reform

Nevada does not need more procedural tweaks. It needs a structural realignment that restores HOAs to their legitimate purpose:

- Maintaining shared property
- Managing common infrastructure
- Addressing genuine hazards

To achieve this, Nevada must:

1. Limit HOA enforcement powers to matters directly tied to shared infrastructure and safety.
2. Restrict or eliminate foreclosure authority for non-assessment violations.
3. Require judicial review before any lien enforcement action.
4. Create a true oversight body with investigative and enforcement authority — not merely educational functions.
5. Align NRS 116 with constitutional protections, including homestead rights and due process.

These reforms do not weaken HOAs. They strengthen the legitimacy of community governance by ensuring it operates within constitutional boundaries.

5. Nevada Should Not Wait for Another Crisis

Florida is confronting this issue now. Other states will follow. Nevada will eventually be forced to address the same constitutional contradictions — the only question is whether we do it proactively or wait for another scandal to force our hand.

Nevada has an opportunity to lead instead of lag behind. The Task Force can begin that process by acknowledging the structural nature of the problem and recommending reforms that bring HOA governance back into alignment with constitutional principles.

Thank you for your time and consideration.

Respectfully submitted

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