

A Newsletter from the Common-Interest Communities &
Condominium Hotels Program

Community Insights

Ombudsman's Huddle

Real Estate Division

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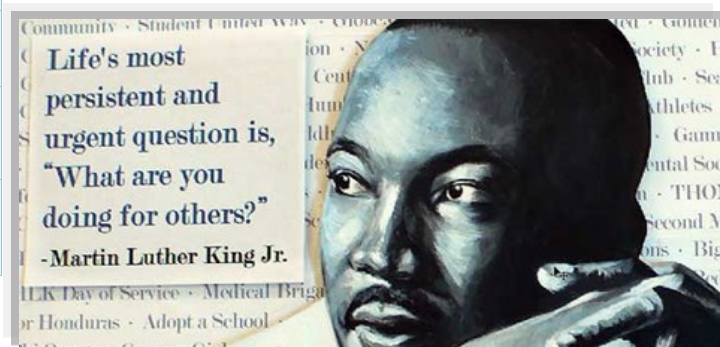
Every new year brings with it a spirit of renewal and enthusiasm regarding various aspects of our everyday lives. Due to the fact that where we live and the community around us comprises a large portion of our lives, as the Ombudsman for CICs, I hope it becomes a priority for Nevada homeowners in 2018 to take the time to read and understand the law that governs the common-interest communities of our State.

Over the past few months, I have met with over 30 association's Board of Directors and sat in on three elections in an attempt to foster improved outreach and understanding. Educating ourselves regarding the roles and restrictions of those elected to make decisions for us is important, and with advancements in

technology, gaining this knowledge has become easier than ever before.

Beginning in 2017 and continuing in 2018, the Office of the Ombudsman has made it as easy as possible for those seeking to gain information regarding their homeowner associations. The Ombudsman's Office provides outreach and educational materials to communities and groups throughout the State through the NRED website, training classes, in-person meetings, and other various digital means.

With this new year, as with every year, we can only hope for greater communication and understanding amongst opposing groups. It is up to each individual to make the effort to seek out information and use it in a positive manner. I hope that every individual living in an HOA will seek guidance from our Office when applicable, and I wish everyone a very positive, productive, and *enlightening* New Year!



- Ombudsman Charvez Foger

Budget Preparation Related to Reserves

How to use the reserve study in preparing your budget

Portions of this article by Dawn Osterode, CMCA®, AMS®, PCAM®, RS®

When looking at an association's budget, a main area to focus on is the amount of reserve money an association has versus the amount it needs to make all of the repairs, replacements, etc. necessary to keep the community updated and beautiful. Unfortunately, one of the most overlooked pieces of operating budget discussions each year is the discussion regarding the funding of the reserves. This is typically one of the largest line items and has a significant impact on the financial well-being of your community. So what should a Board of Directors look at when analyzing it's association's reserve funding?

Before the board creates a funding plan, it is important to ensure that the data included in the reserve study is up to date:

- (a) Are all major components listed correctly to reflect the common elements as they are listed in the CC&Rs?
- (b) Were project timelines restructured and forecasted for different timeframes as outlined in the study?
- (c) Were there any unforeseen reserve expenditures that impact the plan?

Most likely one of these scenarios has impacted the association's funding plan and a financial update, at minimum, may be needed to guarantee that the

board has the most accurate numbers for use in its budget planning.



As you look at the association's 30 year forecast, it is critical that the board not just focus on the next fiscal year, but takes measures to prepare the association for any future monetary increases that the reserve study calls for. For example, a large asphalt overlay or roof replacement project may be looming in the future. Such large projects can require tiered increases in the fiscal plan over a period of time to ensure funds are there when needed.

If adjustments to the funding plan are needed, it is recommended that the board contact the association's licensed Reserve Specialist before finalizing an annual budget. Anytime the board does not agree with an evaluation made by a specialist, they should have an open dialogue with the specialist and reach a mutual understanding. They should not follow the specialist's recommendations blindly, but should take the specialist's expert recommendations seriously.

Not all reserve studies are the same and no two will yield the same results. When selecting a Reserve Study Specialist, the board should ensure that he or she prepares a report that is both user friendly and relies on the information contained in their association's unique CC&Rs.



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[RESERVE STUDY SUMMARY FORM 609](#) per [NRS 116.31152](#) .

Each association is required to have a reserve study prepared at least once every 5 years.

A summary of the reserve study must be submitted to the Nevada Real Estate Division no later than 45 days after the date the executive board adopts the results of the study.

Understanding NRS 116.31152

An association's reserve study outlines, in detail, the specific amount of money that the association should have set aside in the reserve fund to repair, replace and restore major components of the common elements of the common-interest community each year.

In order to do this, the study must include:

- ⇒ a component list identifying all common elements and components that the association is responsible for per the CC&Rs.
- ⇒ the overall useful life and remaining useful life of each common area component; projecting out 30 years (manufacturer's standards can be used).
- ⇒ an estimate by the Reserve Study Specialist of the cost of maintenance, repair, replacement or restoration of each major component during and at the end of its useful life.
- ⇒ an estimate by the specialist of the total annual assessment that may be necessary to cover these costs in order to ensure that sufficient money is collected by the association to prepare for future maintenance, repairs, restorations and replacements of the common elements.

The goal of the study is to provide the board with sufficient information to create an appropriate funding plan for the association. The plan must take into consideration current funds, committed expenses yet to be paid, interest rates, inflation, any changes in assessments, etc. The board must constantly remain aware of money going into and out of the association.

At least annually, the board must review the results of the study to determine whether reserves are sufficient. If not, the board must make necessary adjustments to the association's funding plan to

ensure that enough money is available in both the operating and reserve fund.

The study of the reserves is typically conducted by a specialist who holds a permit, but no one knows your community like you do. It is important for board members to be active participants as the study is being conducted. As a board member, you should be present for the physical inspection and be active in making any necessary revisions to the study prior to adoption.



If an association is underfunded, meaning that it lacks sufficient money to provide for the upkeep of the community, the executive board can, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments against units in that common-interest community. Any such special assessments imposed by the executive board **must be based on the study of the reserves and the fact that the association is significantly underfunded.**

The board has a duty to look after the best interests of the association, and any board who does not constantly make necessary financial adjustments to the association's funding plan can be held liable for resulting damages.

Palm Trees in Nevada

Of the many different species of palms growing in California, the Queen Palm (pictured on the right) provides one of the best tropical effects, with a smooth straight trunk and soft bright graceful feather-type fronds that sway with the slightest breeze.

It is surprising, however, to find the Queen Palm, as well as other similar palm trees, being used in Nevada landscapes. Colder Nevada winter temperatures, combined with highly alkaline soils, produce less than desirable growing conditions.

Nevada's highly alkaline soils severely limit essential nutrients required for proper growth and development of many trees. Before planting, it is important to know a plant's tolerance of this specific soil type.

Some degree of damage to palm frond tissue occurs during nearly every Nevada winter. Colder temperatures often produce yellowing or browning of palm fronds and the tendency is to remove these damaged, unsightly fronds as soon as possible.

Resisting that initial urge to prune early, however, could save money and provide more attractive palms during later months. For a variety of different palm tree types, pruning in late spring or early summer, just prior to maturation of fruit, will still allow for removal of unsightly fronds, flower stalks, and fruit, and will result in only one, instead of multiple, pruning for the season.

A good landscape company not only provides this level of advice and expertise to associations, but also ensures the long term health of plants and



helps keep maintenance costs down while keeping long term property values up.

When choosing a landscape company, any association lacking a site specific landscape maintenance program or agreed upon standard level of maintenance, is dependent on each service provider to include a generic program with their bid. Bids submitted in this manner can end up spreading over a wide range of costs and inclusions, with vastly different landscaping criteria.

It is recommended that an association have an established site specific landscape plan that allows those submitting bids to the association to abide by certain specifications.



Ideally, any bids that come in should allow the association's Board of Directors to compare "apples to apples." A tree does not cost the same amount as a bush, just like desert landscaping is vastly different in cost and appearance from grass.

When discussing what type of landscape to have, the board must not only look at price, but must also be cognizant of what the association's, and perhaps Master association's, governing documents describe.

**Portions of this article by John P Smith
Horticulture Consultants, Inc.**

Henderson • Las Vegas • North Las Vegas •
Boulder City Nevada

Be Nice to Your Pavements...

Typically, paved streets and parking areas represent the single largest asset in a private community. Like our homes and automobiles, if they are not properly maintained, they will deteriorate faster and require costly rehabilitation or reconstruction well before their expected service life. As pavements deteriorate, ride quality, aesthetics, and property values will suffer, and ultimately, homeowners could be hit with a special assessment (increase in monthly dues) that may have been avoided by employing a sound, timely maintenance plan.

Once the Board of Directors makes a commitment to protect the investment in the community's pavements, the rest is easy! The board should:

- ⇒ Research historical records to gather information on original construction and past maintenance
- ⇒ Create an inventory of the pavement network
- ⇒ Conduct a survey to determine pavement distress and condition
- ⇒ Identify maintenance and repairs (M&R) and select the treatment that best suits needs
- ⇒ Develop a request for bids (RFB) that references local standard specifications
- ⇒ Distribute the RFB to qualified contractors and select the one that provides the best combination of expertise and cost
- ⇒ Develop a long-term plan to incorporate into the reserve study to ensure that funds are available for future M&R treatments

Assistance with any of the steps above can be obtained cost effectively from experienced pavement engineers.

Start being nice to your pavements and your pavements will be nice to you!



Pavement reconstruction costs about \$3 to \$4 per square foot in most residential settings.



A pavement preservation treatment (such as this rapid-set slurry seal) costs about \$0.20 to \$0.30 per square foot in a residential setting.

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 applied pavement
 TECHNOLOGY



Your Rights as a Homeowner in a HOA

Each new unit owner who purchases into a HOA should receive a resale package containing:

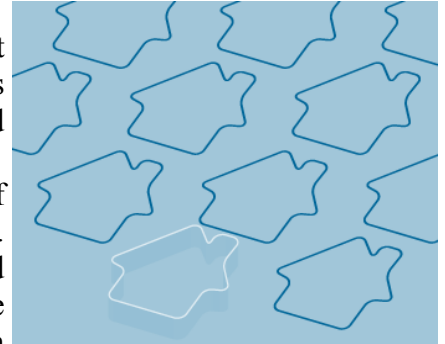
- ⇒ A copy of the association's declaration (CC&Rs), bylaws, rules and regulations
- ⇒ The monthly or yearly assessment amount
- ⇒ A copy of the current operating budget and current year-to-date financial statement
- ⇒ A statement of any unsatisfied judgments or pending legal actions against the association
- ⇒ The fine/fee schedule and collection policy
- ⇒ A summary of the study of the reserves

This information allows the purchaser to make an informed decision as to whether living in this community is the right choice (i.e. do they allow RVs, basketball hoops, parking on the street, is the community sufficiently funded, are there pet restrictions, etc.).

As a unit owner, you do have some guaranteed rights. The right to: display the flag, exhibit political signs, install drought tolerant landscaping, shutters, ramps for access, store waste containers outside of the garage; each one subject to certain stipulations of course. Subject to the provisions of the declaration, a unit owner may make any improvements or alterations to his or her unit as long as he or she receives permission from the association, in writing, first.

Unit owners have the right to be heard by their Board of Directors. They are to be noticed of association meetings where decisions impacting the association are made, have the right to have alleged violations of the association placed on the agenda, and have the right to a hearing if they are found to be in violation of the association's rules. It also takes a majority of unit owners within an association to approve any proposed amendment by the board to the governing documents.

Directors themselves must be unit owners and are elected democratically by members of the association. A petition called by 10% of the unit owners in an association can trigger a removal election of any member of the board.



Unit owners have the right to review all records of the association, aside from any information regarding another unit owner. They have the right to receive copies of the budget, reserve study, financial statements, etc. and know how association money is being used.

If a unit owner perceives a violation of NRS 116 (the law that governs HOAs), or the association's governing documents, they have a right to file a complaint with the Office of the Ombudsman within one year of discovery.

All rules and regulations must be enforced uniformly by the association's Board of Directors and unit owners have the right to not be retaliated against by the board for their actions.

For additional information regarding living in an HOA, please read Form 584, "[Did you Know](#)."

If you have any other questions pertaining to NRS 116, please send an email to CICOmbudsman@red.nv.gov.

QUESTION:

Can an association prohibit a unit owner who is currently in violation of the governing documents from voting on matters pertaining to the association?

ANSWER: Yes

Program Training

Q. When should I use the operating fund vs. the reserve fund?

A. The operating fund of an association should reflect accounting transactions surrounding the normal, **day to day maintenance and service** operations of the association. The reserve fund should reflect accounting transactions pertaining to **long-term, major repair and replacement** requirements.

Q. What are the requirements for withdrawing money by check from each account?

A. **There must always be two signatures on every check.** Money in the reserve account of an association may not be withdrawn without the signatures of at least two directors, or one director and one officer. Money in the operating account of an association may not be withdrawn without the signatures of at least two directors, one director and one officer, or one director and the community manager.

Q. What if the association is trying to pay for a new element not currently included in the reserve study?

A. A **capital improvement** is any expense necessary to create new common element components not already in existence or included in the reserve study. The board may initiate capital improvements only if authorized by the governing documents. The association shall **always** provide written notice to each unit owner of a meeting at which an **assessment** for a capital improvement is to be considered, or action is to be taken, at least 21 calendar days prior. An association may not expand, construct or situate a building or structure that is not part of any plat of the planned community unless the association obtains the written consent of a majority of the residents who own property or reside within 500 feet of the proposed structure. Ratification by unit owners of a budget which includes a capital improvement expense does not substitute notice or consent requirements.

CIC Commission 2018 Schedule

Community Managers, did you know that you can receive Continuing Education Credit for attending a Commission Meeting?

*You may receive up to 6 credit hours during a certification period for **attending a meeting of the Commission**, provided you were not affiliated with a specific disciplinary hearing. The meeting of the Commission for which credit for continuing education is being sought must last at least 1 hour.*

Remember, you must sign-in before and after the meeting.

March 6-7-9, 2018	South
June 19-20-21, 2018	South
August 28-29-30, 2018	North
November 6-7-8, 2018	South

For more details:

http://red.nv.gov/Content/Meetings/CIC_Calendar/



Have you found this newsletter useful? Let us know!

Email Ingrid at:
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Community Insights

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[CICOMBUDSMAN](#)



Nevada Real Estate Division Mission

To protect the public and Nevada's real estate sectors by fairly and effectively regulating real estate professionals through licensure, registration, education and enforcement.

Office of the Ombudsman Mission

To provide a neutral and fair venue to assist homeowners, board members and community managers in handling issues that may arise while living in a common-interest community or condominium hotel.

Community Insights is an official publication of the

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Doodle by guest artist: Keith Mallett, captures one of the major themes of King's speeches and writing: unity. "All life is interrelated," he said. "We are all made to live together."

Our office will be closed:

New Years Day
Monday, January 1, 2018

Martin Luther King Jr. Day
Monday, January 15, 2018

President's Day
Monday, February 19, 2018

