



UNIT OWNERS' RIGHTS IN NEVADA'S CICs

DISCLAIMER

Before we begin, you are reminded that, as training officers, we are here to provide general information and education on NRS/NAC 116, NAC/NRS 116 A&B, and NAC 38. We do not provide legal advice, interpret the law, or give opinions on individual circumstances.

Our goal is to to help you learn, understand, and apply the relevant statutes and regulations. We want to equip you with the knowledge and tools necessary to effectively manage and live in your common-interest communities.

We will have dedicated time for questions and answers towards the end of the class. Please note that the Q&A session is intended to clarify the material covered today and not to address specific issues you might be facing. Feel free to jot down any questions regarding the class that you may have as we go along, and we will address them during the Q&A period. Thank you.

INTRODUCTION

- Although the executive board acts on behalf of the association in accordance with the governing documents and applicable law, unit owners have several rights pursuant to NRS 116 that must be upheld.
- NRS 116 supersedes provisions of an association's governing documents that violate provisions of NRS 116 (NRS 116.1206[1][b]).



ICEBREAKER



What do you think is a right that unit owners have in Nevada's CICs?

AGENDA



- 01. Icebreaker
- 02. CC&Rs & Meetings
- 03. Changes to Unit Exteriors

- 04. Finances
- 05. Records
- 06. Behavioral Prohibitions

LEARNING OBJECTIVES

By the end of this class participants will:

1. Learn the rights of unit owners as they relate to the CC&Rs, meetings, and notices.
2. Understand unit owners' rights pertaining to certain changes of a unit's exterior.
3. Learn unit owner rights as they relate to an association's finances and records.
4. Explore certain prohibited behavior along with additional rights contained in NRS 116.



PURCHASING A HOME IN A CIC



RIGHT TO RECEIVE A RESALE PACKAGE

- EXCLUDING EXEMPTIONS UNDER NRS 116.4101(2), EACH NEW UNIT OWNER WHO PURCHASES INTO AN ESTABLISHED COMMUNITY IS ENTITLED TO RECEIVE A RESALE PACKAGE CONTAINING:
 - A COPY OF THE DECLARATION (CC&RS), BYLAWS, RULES AND REGULATIONS.
 - A STATEMENT SETTING FORTH THE MONTHLY ASSESSMENT AND ANY UNPAID OBLIGATION OF ANY KIND.
 - A COPY OF THE CURRENT OPERATING BUDGET AND CURRENT YEAR-TO-DATE FINANCIAL STATEMENT.

NRS 116.4109

RESALE PACKAGE, CONTINUED

- **A RESALE PACKAGE MUST ALSO INCLUDE:**
 - **A STATEMENT OF ANY UNSATISFIED JUDGMENTS OR PENDING LEGAL ACTIONS AGAINST THE ASSOCIATION AND ANY PAST DUE AMOUNTS OWED BY THE SELLER.**
 - **A STATEMENT OF ANY TRANSFER FEES, TRANSACTION FEES, OR ANY OTHER FEES ASSOCIATED WITH THE RESALE OF A UNIT.**
 - **THE FINE/FEE SCHEDULE AND COLLECTION POLICY.**
 - **A SUMMARY OF THE STUDY OF THE RESERVES.**

PRIOR TO PURCHASING A HOME:

- REVIEW THE BEFORE YOU PURCHASE PROPERTY IN A COMMON-INTEREST COMMUNITY DID YOU KNOW (FORM 584)
 - THIS IS AN FAQ FORM FOR INDIVIDUALS PURCHASING A HOME IN A CIC, INCLUDING BUT NOT LIMITED TO:
 - RIGHT TO CANCEL
 - PROPERTY USE RESTRICTIONS
 - RISK OF FORECLOSURE
 - DISCLOSURE OBLIGATIONS
 - HOMEOWNER RIGHTS

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BEFORE YOU PURCHASE PROPERTY IN A COMMON-INTEREST COMMUNITY DID YOU KNOW ...

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. Alternatively, if you are not the original purchaser and received a resale package, you may deliver the notice of cancellation by electronic transmission to the seller within the 5-day period in order to exercise your right to cancel. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs,

DECLARED RIGHTS

CC&Rs, Amendments, and Meetings

DECLARED RIGHTS

- The recorded declaration and bylaws are a legal description of all rights, obligations and interests belonging to a unit.
- Subject to the declaration and any rules adopted by the association, unit owners have a right to use common elements for the purposes for which they were intended.



AMENDMENT RIGHTS

- a. The declaration may be amended only by vote or agreement of a majority (or any other percentage stated in the declaration) of unit owners.
- b. Not later than 30 days after the amendment is recorded, the association shall provide all unit owners a copy of the final amendment.
- c. No action to challenge the validity of an amendment may be brought more than one (1) year after the amendment is recorded.

NRS 116.2117

AMENDMENT RIGHTS, CONTINUED

To protect the rights of unit owners during the amendment process, the following must be considered:

- What notices and materials were used in the effort to persuade unit owners to amend the documents?
- How were votes obtained?
- How much time was provided to unit owners to vote?
- How were votes counted?

CHANGES TO RENTAL AGREEMENTS: "GRANDFATHERED RIGHTS"

- Unless at the time a unit owner purchased his or her unit the CC&Rs prohibited the owner from renting or leasing, or required the owner to obtain approval to rent or lease, the association may NOT prohibit or require such from that owner.
- If a declaration contains a provision establishing a maximum number or percentage of units which may be rented or leased, that provision may NOT be amended to decrease that maximum percentage.

BOARD MEETING



1. A meeting of the executive board must be held at least once every quarter, not less than once every 100 days, and must be held at a time other than during standard business hours (between 9am and 5 pm) at least twice annually.
 - a. Except in an emergency, notice must be provided not less than **10 days** before the date of a meeting of the executive board.
2. The notice must include notification of the right of a unit's owner to have a copy of the audio recording, minutes, or a summary of the minutes upon request.

- A unit owner may attend any meeting of the executive board and speak at any such meeting (other than executive session) within reasonable time limitations as determined by the board.
- A period devoted to comments by the units' owners and discussion of those comments must be scheduled for both the beginning and end of each meeting (limited to agenda at the beginning).



RIGHT TO SPEAK

NRS 116.31085

- A unit owner meeting must be held at least once each year at a time and place stated in the bylaws.
- 15 to 60 days in advance of the meeting, notice must be sent.
- Notice must state the time and place of the meeting and include a copy of the agenda consisting of:
 - A clear and complete statement of the topics scheduled to be considered (unit owners can have input).
 - A list describing the items on which action may be taken.
 - A period devoted to comments by units' owners and discussion of those comments.

UNIT OWNERS' MEETING



RIGHT TO A SPECIAL MEETING

- Unit owners constituting at least 10%, or any lower percentage specified in the bylaws, can request that the secretary call a special meeting to address a specific matter.
- This request must be in the form of a written petition, signed by the required percentage of unit owners, mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association.



KNOWLEDGE CHECK REVIEW

TRUE OR FALSE: UNIT OWNERS HAVE THE RIGHT TO SPEAK AT ANY POINT DURING AN EXECUTIVE BOARD MEETING.



KNOWLEDGE CHECK REVIEW

FALSE: UNIT OWNERS MAY ONLY SPEAK DURING THE ALLOTTED TIME AT THE BEGINNING AND AT THE END OF A BOARD MEETING.



POLICIES & PROCEDURES

DELINQUENCIES, FEES, AND CIVIL ACTION

SANCTIONS



1. To impose sanctions in accordance with NRS 116.31031, the **governing documents must provide the association the authority** to impose a fine, prohibit a unit owner from using the common elements, and/or restrict voting rights within the CIC.
 - a. The executive board may not impose a fine unless, at least 30 days before the alleged violation, the violator was provided with written notice of the applicable provisions of the governing documents that form the basis of the alleged violation.

CIVIL ACTION

1. The association shall provide written notice to each unit owner of a meeting at which the commencement of a civil action is to be considered at least 21 calendar days before the date of that meeting.
 - a. The association may commence a civil action only upon a vote or written agreement of a majority of unit owners.
 - b. If a civil action is commenced without the required vote or agreement, the action must be ratified within **90 days by a majority of votes of the members to which votes are allocated.**

CIVIL ACTION, CONTINUED

1. Approval from unit owners is NOT required for a civil action that is commenced:
 - a. To enforce the regular business of the association (assessment payments, enforcement of governing documents, or enforce a contract with a vendor);
 - b. To proceed with a counterclaim; or
 - c. To protect the health, safety and welfare of members of the association.
2. If and when applicable, the executive board shall disclose the terms and conditions of a settlement of a civil action at the next regularly scheduled meeting.

NOTICE OF DELINQUENCY



- i. An association may not send to a unit owner a notice of delinquent assessment or take any other action to collect a past due obligation unless:
 - I. At least 60 days after the obligation becomes past due, the association mails or emails to the address on file:
 - 1. A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;
 - 2. A proposed repayment plan; and
 - 3. A notice of the right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing.

NRS 116.31162

REPAYMENT PLAN

1. IF:



Within 30 days after the date on which the notice of delinquent assessment is mailed or delivered by electronic transmission, the past due obligation has not been paid in full or the unit's owner or his or her successor in interest has not entered into a repayment plan or requested a hearing before the executive board; or

The unit's owner or his or her successor in interest requests a hearing or enters into a repayment plan within 30 days after the date on which the notice of delinquent assessment is mailed or delivered by electronic transmission, as applicable, and is unsuccessful at the hearing or fails to make a payment under the repayment plan within 10 days after the due date.

i. Then the association may take any lawful action pursuant to NRS 116.31162(1) to enforce its lien.

NRS 116.31162

CAPITAL IMPROVEMENTS

- a. To initiate a capital improvement (any new common element), the authority must be granted to the executive board in the governing documents of the association.
- b. If the authority is granted, the association may NOT construct the new element unless it was previously disclosed to unit owners in a meeting, where any assessment needed from unit owners to create the new element must be discussed. The notice requirement for such a meeting is 21 calendar days.



NRS 116.345

ELECTION RIGHTS

ELECTIONS, CAMPAIGNING, AND RECALLS

- Unit owners shall elect an executive board of at least three members, all of whom must be unit owners (NRS 116.31034).
- All unit owners from all CICs subject to a master association may elect all or specified members of that master association's executive board (NRS 116.212).
- Election ballots must be opened and counted at the annual meeting of unit owners.



NRS 116.31034

CAMPAIGNING RIGHTS

- A candidate may create, to have sent with the ballot, a single-page candidate informational statement to go out to each unit owner.
 - This statement cannot contain any defamatory information.
- If an official publication of the association:
 - Contains any mention of a candidate, the official publication must, upon request, provide equal space to all candidates or representative of an organization which supports the passage or defeat of the ballot question.
 - Contains views or opinions concerning an issue of official interest, the official publication must, upon request, provide equal space to opposing views.

CAMPAIGNING RIGHTS, CONTINUED

An association **shall not adopt any rule or regulation** that has the effect of prohibiting or unreasonably interfering with a candidate in the candidate's campaign for election, except that the candidate's campaign may be **limited to 90 days** before the date that ballots are required to be returned to the association.

NRS 116.31034(16)



RIGHT TO REMOVAL ELECTIONS

- Any member of the executive board may be removed, with or without cause.
- To call a removal election, unit owners must submit a written petition, signed by the required percentage (10% or less), mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association.
- Secret written ballots for the removal election must be sent within 60 days after the date on which the petition is received.



REMOVAL ELECTIONS, CONTINUED

- Within 90 days after the petition was received, the executive board must hold the meeting to open and count the secret written ballots.
- For removal to take place, at least 35% of total voting members (take into account suspended voting rights) must vote in favor of removal, and votes cast in favor must also represent the majority of all votes cast.



NRS 116.31036

KNOWLEDGE CHECK 1

True or false: the association may adopt a rule prohibiting a unit's owner from going door to door to collect signatures for a removal petition.

KNOWLEDGE CHECK 1

False: the association may **NOT** adopt a rule prohibiting a unit's owner from going door to door to collect signatures for a removal petition.

KNOWLEDGE CHECK 2

How many days must be provided before a board meeting at which an assessment for a capital improvement is to be considered?

KNOWLEDGE CHECK 2

At least 21 calendar days must be provided before a board meeting at which an assessment for a capital improvement is to be considered.

KNOWLEDGE CHECK 3

The association must hold a _____ before it may impose a fine.

KNOWLEDGE CHECK 3

The association must hold a **hearing** before it may impose a fine.

CHANGES TO UNITS

INTERIORS AND EXTERIORS OF UNIT



RIGHTS OF ACCESS & ALTERATIONS TO UNIT

- An association may not:
- Unreasonably restrict, prohibit or impede the lawful rights of a unit's owner to have reasonable access to their unit.
- Charge any fee for a person providing services to a unit, a unit's owner, a tenant, visitor, or invitee to enter the CIC.
 - A unit's owner may not change the exterior appearance of a unit or the CIC, **without permission of the association** (unless stated otherwise in the governing docs).



NRS 116.2111

RIGHTS OF ACCESS & ALTERATIONS TO UNIT

- An association **may not**:
 - Unreasonably restrict, prohibit or impede the lawful rights of a unit's owner to have reasonable access to their unit.
 - Charge any fee for a person providing services to a unit, a unit's owner, a tenant, visitor, or invitee to enter the CIC.
 - A unit's owner may not change the exterior appearance of a unit or the CIC, **without permission of the association** (unless stated otherwise in the governing docs).



NRS 116.2111

CERTAIN ALTERATIONS TO UNIT

- An association **may not**:
 - Unreasonably restrict, prohibit or withhold approval for a unit's owner to add to a unit:
 - Improvements such as ramps, railings or elevators that are necessary to improve access to the unit for any occupant who has a disability;
 - Additional locks to improve the security of the unit.



CERTAIN ALTERATIONS TO UNIT, CONTINUED

An association may not:

- Unreasonably restrict, prohibit or withhold approval for a unit's owner to add shutters to improve the security of the unit or to reduce the costs of energy for the unit if:
 - The portion of the window, door or wall to which the shutters are attached is adjoining the unit; and
 - The shutters must necessarily be attached to that portion of the window, door or wall during installation to achieve the maximum benefit in improving the security of the unit or reducing the costs of energy for the unit.



SOLAR ENERGY IN A CIC

Any covenant, restriction or condition contained in a deed, contract or other legal instrument which unreasonably restricts the owner of the property from using a system for obtaining solar energy on his or her property is **void and unenforceable**.



DROUGHT TOLERANT LANDSCAPING

The executive board and governing documents must not prohibit a unit's owner from installing or maintaining "**drought tolerant landscaping**" in their front yard or back yard, except that:

- **Before** installing drought tolerant landscaping, the unit's owner must submit an ARC request **in accordance with the procedures** set forth in the governing documents of the association; and
- The drought tolerant landscaping **must** be selected or designed to the maximum extent practicable **to be compatible** with the style of the CIC.



SOLID WASTE CONTAINERS



- An association may not regulate or restrict the manner in which containers for the collection of solid waste or recyclable materials are stored on the premises of a residential unit with curbside service.
- An association may adopt rules, in accordance with the procedures set forth in the governing documents, that reasonably restrict the manner in which containers for the collection of solid waste or recyclable materials are stored on the premises of a residential unit with curbside service during the time the containers are not within the collection area.

SOLID WASTE CONTAINERS,



The rules adopted by an association may:

- Provide that the containers for the collection of solid waste or recyclable materials must be stored in the rear or side yard of the unit, if such locations exist, and in such a manner that the containers are screened from view from the street, a sidewalk or any adjacent property

SOLID WASTE COLLECTION



- An association may adopt rules that **reasonably restrict the conditions under which** containers for the collection of solid waste or recyclable materials are placed in the **collection area**, including, without limitation:
 - The boundaries of the collection area;
 - The time at which the containers may be placed in the collection area; and
 - The length of time for which the containers may be kept in the collection area.

DISPLAYING POLITICAL SIGNS



- The executive board and governing documents must not prohibit a unit's owner or an occupant from exhibiting one or more political signs, subject to the following conditions:
- All political signs exhibited must not be larger than 24 inches by 36 inches.
- A unit's owner or an occupant of a unit may exhibit as many political signs as desired, but may not exhibit more than one political sign for each candidate, political party or ballot question.

RIGHT TO DISPLAY FLAGS



- The executive board and governing documents shall not prohibit a unit's owner from displaying the flag of the United States or the State of Nevada.
 - In any action commenced to enforce the provisions of this section, the prevailing party is entitled to recover reasonable attorney's fees and costs.



KNOWLEDGE CHECK 4

True or false, NRS 116 protects the right of unit owners to install solar panels.

KNOWLEDGE CHECK 4

True, NRS 116 protects the right of unit owners to install solar panels.

KNOWLEDGE CHECK 5

Does NRS 116 allow a unit owner to display the U.S. flag by painting it on the side of their home?

KNOWLEDGE CHECK 5

NRS 116 does **not** allow a unit owner to display the U.S. flag by painting it on the side of their home.

ASSESSMENTS, BUDGETS, AND COMPLAINTS

FINANCES, RECORDS, AND NRED COMPLAINTS

ASSESSMENT RIGHTS



- Any common expense benefiting fewer than all unit owners may be assessed exclusively against the units or unit owners benefiting from that common element.
- If damage to a unit or other part of the community is caused by the willful misconduct or gross negligence of any unit owner, tenant or invitee, the association may assess that expense exclusively against his or her unit.

BUDGETS



- The board adopts a budget each year.
- Within **60 days** after adoption, the executive board shall provide a summary to each unit owner; budget summaries must **be mailed no less than 30 or more than 60 days** before the beginning of the association’s fiscal year.
- Unit owners will have between **14 and 30** days to review the proposed budget before ratifying it at a **unit owner’s meeting**.

SURPLUS FUNDS



- Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses and any prepayment of reserves must be paid to unit owners in proportion to their liabilities or credited to them to reduce future assessments (vacation in assessments).

RIGHT TO RECORDS



- The association shall keep financial records sufficiently detailed to comply with the requirements of a resale package.
- The executive board shall provide the following within 21 days of a **written** request from a unit's owner or the Ombudsman:
 - The financial statement of the association;
 - The budgets of the association; and
 - The study of the reserves of the association.

RIGHT TO HAVE COMPLAINT ON AGENDA



- If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of NRS 116 or the governing documents, the executive board shall, upon the written request of the unit's owner, place the subject of the complaint on the next regular agenda.
 - NOTE: the unit owner must request that the item be placed on the agenda.

RIGHT TO COMPLAIN TO NRED



- A person who is aggrieved by an alleged violation of NRS 116 must file a Form 530 complaint with the Division within one (1) year following the reasonable discovery of a violation.
- For a dispute arising from the interpretation, application or enforcement of any covenants, conditions or restrictions (CC&Rs) or any other governing documents, please file an ADR complaint Form 520.

RETALIATION

- An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:
 - Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;
 - Recommended the selection or replacement of an attorney, community manager or vendor; or
 - Requested in good faith to review the books, records or other papers of the association.

THREATS AND HARASSMENT

- A community manager, a member of the executive board, an officer, employee or agent of an association, a unit's owner or a guest or tenant of a unit's owner shall not willfully and without legal authority threaten, harass or otherwise engage in a course of conduct against any other person who is the community manager, or an agent or employee of that community manager, a member of the executive board, an officer, employee or agent of his or her association, another unit's owner or a guest or tenant of a unit's owner in his or her CIC which:
- Causes harm or serious emotional distress, or the reasonable apprehension thereof, to that person; or
- Creates a hostile environment for that person.
- A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

RIGHT TO TERMINATE A CIC



- A common-interest community may be terminated only by agreement of unit owners to whom at least 80% of the votes in the association are allocated, or any larger percentage the declaration specifies (could be unanimous).

FINAL KNOWLEDGE CHECKS

True or false, surplus funds must be returned to the unit owners regardless of provisions contained in the declaration of CC&Rs.

FINAL KNOWLEDGE CHECKS

False, unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses and any prepayment of reserves must be paid to unit owners in proportion to their liabilities or credited to them to reduce future assessments

FINAL KNOWLEDGE CHECKS

There is a _____ statute of limitation on complaints filed with NRED concerning violations of NRS 116.

FINAL KNOWLEDGE CHECKS

There is a one year statute of limitation on complaints filed with NRED concerning violations of NRS 116.

FINAL KNOWLEDGE CHECKS

True or false, a unit owner may photocopy association documents when reviewing them at the association's business office.

FINAL KNOWLEDGE CHECKS

True, a unit owner may photocopy association documents when reviewing them at the association's business office.

SUMMARY

Unit owners have the right to:

- Approve any amendments to the CC&Rs
- Attend, speak and vote at certain meetings
- Approve certain litigation
- Be heard regarding capital improvements
- Run for the board
- Elect and potentially recall/remove directors
- Know how association money is being used
- Ratify the association's budget each year
- Receive and review records of the association
- Receive notices regarding meetings and association business
- Attend hearings if the subject of the hearing
- NOT be retaliated against



BEFORE WE MOVE ON TO THE Q&A SESSION, I'D LIKE TO REMIND EVERYONE THAT WE ARE HERE TO PROVIDE GENERAL INFORMATION AND GUIDANCE. WE CANNOT GIVE LEGAL ADVICE, INTERPRET THE LAW, OR PROVIDE OPINIONS ON INDIVIDUAL CIRCUMSTANCES.

THE PURPOSE OF THIS Q&A SESSION IS TO HELP CLARIFY THE MATERIAL COVERED IN TODAY'S CLASS. PLEASE KEEP YOUR QUESTIONS FOCUSED ON UNDERSTANDING AND THE APPLICATION OF THE STATUTES AND REGULATIONS RELEVANT TO YOUR ROLES WITHIN YOUR COMMUNITY. FOR SPECIFIC LEGAL CONCERNS OR INDIVIDUAL ISSUES, PLEASE CONSULT WITH A QUALIFIED ATTORNEY.



THANK YOU



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