

LCB File No. R183-07

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted. Material in *italics* is *additions* and material in ~~underlined brackets~~ is material to be omitted from the ~~date~~ workshop.

AUTHORITY: NRS § 361.233

A REGULATION relating to the taxation of property: governing the assessment of ad valorem taxes and special assessments upon the common elements in a common interest community.

Section 1. Chapter 361 of NAC is hereby amended by adding the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. *Sections 2 to 14, inclusive, of this regulation apply to the assessment of common elements within a common-interest community provided for in chapter 361 of NRS.*

Sec. 3. *As used in sections 2 to 13, inclusive, of this regulation, the words and terms defined in sections 4 to 6, inclusive, of this regulation have the meaning ascribed to them in those sections.*

Sec. 4. *“Common element” has the meaning ascribed to it in paragraph (b) of subsection 3 of NRS 361.233.*

Sec. 5. *“Common-interest community” has the meaning ascribed to it in paragraph (c) of subsection 3 of NRS 361.233.*

Sec. 6. *“Community units” has the meaning ascribed to it in paragraph (e) of subsection 3 of NRS 361.233.*

Sec. 7. *Each community unit shall be separately valued and a tax assessed to the owner of the community unit.*

Sec. 8. *The common elements shall be separately valued and a tax assessed to the owners of the community units as provided in Sections 13 through 18 inclusive.*

Sec. 9. *If a parcel includes both a community unit and a common element, the improvements and land needed to support the community unit shall be separately valued and assessed to the owner of the community unit. The improvements and land needed to support the common element shall be valued and assessed as provided in sections 13 through 18, inclusive.*

Sec. 10. *Sections 11 to 15, inclusive, of this regulation provide the methodology for determining if the value of common elements has been included in the assessment of the community units and, if not, the portion of the value of the common elements to be included in the assessment of each community unit.*

Sec. 11. *The value of the common elements is included in the value of the community units if:*

a. (1) the vacant or improved sales used in the valuation process are properties from common-interest communities with similar common elements; and

(2) in determining the base lot value for the community units, no adjustment was made in the valuation process to deduct the value attributable to the right of the owners of the properties to the use and enjoyment of the common elements; or

b. (1) the vacant or improved sales used in the valuation process are not properties from a common interest community or the common-interest community that they are from does not have similar common elements; and

(2) in determining the base lot value for the community units, an adjustment was made in the valuation process to add the value attributable to the right of the owner of the community unit to the use and enjoyment of the common elements.

Sec. 12. *If it is determined that the value of the common elements is included in the value of the community units because the test in either Section 11(a) or 11(b) has been met, no additional value shall be added to the community units.*

Sec. 13. *If it is determined that the value of the common elements is not included in the value of the community units because the tests in both Section 11(a) and 11(b) have not been met, the common elements shall be separately valued and a portion of the value, determined pursuant to Section 14, shall be included in the assessment of each community unit within the common-interest community.*

Sec. 14. *The taxable value of common elements within a common-interest community to be added to the value of the community units within the community pursuant to Section 13, is calculated by multiplying the taxable value of all common elements within the common interest community by a fraction, the numerator of which is one and the denominator of which is the total number of community units in that common-interest community unless the recorded document specifies ownership of the common elements to be allocated on an ownership basis other than that stated in NRS 361.233, then the common elements shall be allocated on the prorated share as indicated in such ownership document.*

Sec. 15. *1. If the information necessary to determine the portion of the value of common elements to be included in the assessment of each community unit is not ascertainable from the public record, the Assessor shall send a request in writing to the owner or owners of the common elements for a list of the assessor's parcel number or other identifying information*

for each community unit in the common-interest community, the total number of community units in the common interest community, the assessor's parcel number or other identifying information for each common element in the common-interest community or such other information as may be necessary to make the determination pursuant to section 14.

2. The owner or owners shall provide the information necessary for the assessor to make the determination pursuant to section 14 within 60 days of receipt of the request. In the case of a common-interest community which is then under development, the owner or owners shall provide the total number of planned community units to be constructed and that number shall be used as the denominator in the calculation provided for in section 14. The taxable value of the common elements to be added to the value of the community units shall be added to each of the planned community units and the tax assessed to the current owner of each respective community unit, including the owner or owners of the planned units which are not yet identified by a separate assessor parcel number.

3. If the owner or owners fail to provide the information to the Assessor within 60 days of receipt of the request, the Assessor shall allocate the value among those community units within the common-interest community which are ascertainable based on the information then available to the Assessor.

4. If all community units within the common interest community cannot be identified, the value of the common elements shall be assessed to the owner or owners of the common elements.

5. The Department of Taxation will provide a standard form for common interest communities to report the required allocation information.

Sec 16. *Any common element improvements that would have been abated beginning July 1, 2005, shall be recalculated using the ratio of abatement applied to primary residences and distributed to the applicable community units by applying the appropriate formula. That value will be classified as “new improvement” value beginning July 1, 2008, and shall not be abated for that fiscal year. Thereafter, that value will be incorporated into the base value of the community unit when calculating the abatement.*

Sec 17. *If the common element improvements were included in the valuation of the community unit for the 2004-2005 tax year, the allocated value will be added to the community unit value based on the allocation in Section 7, however it will not be added as “new improvement” value.*

Sec 18. *Beginning July 1, 2008, all common element improvements that did not exist in the 2004/2005 fiscal year shall be calculated from the year of existence forward and distributed using the “new improvement” calculation provided in Section 9 and will be incorporated into the base value the subsequent fiscal year, for the purposes of calculating the abatement.*