

**ADOPTED REGULATION OF THE  
COMMISSION FOR COMMON-INTEREST  
COMMUNITIES AND CONDOMINIUM HOTELS**

**LCB File No. R052-13**

Effective August 10, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1 and 2, NRS 116.615; §§3 and 4, NRS 116A.200.

A REGULATION relating to common-interest communities; adopting provisions governing motions filed after the close of a hearing before the Commission for Common-Interest Communities and Condominium Hotels; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the Commission for Common-Interest Communities and Condominium Hotels or a hearing panel appointed by the Commission to conduct hearings concerning violations of existing law governing common-interest communities, community managers and reserve study specialists. (NRS 116.665, 116.675, 116.770, 116A.200, 116A.300, 116A.400, 116A.420) Existing law further authorizes the Commission to adopt regulations to administer existing law governing common-interest communities, community managers and reserve study specialists. (NRS 116.615, 116A.200) This regulation provides that after the close of a hearing before the Commission, a party may file only a motion for a rehearing, a motion for reconsideration of the Commission’s final decision or, with leave of the Commission, any other motion requesting action or relief after the hearing. This regulation also establishes procedures for the filing and consideration of these motions.

**Section 1.** Chapter 116 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. After the close of a hearing before the Commission, a party may file only the following motions:*

*(a) A motion for rehearing.*

*(b) A motion for reconsideration of the final decision of the Commission.*

*(c) With leave of the Commission, any other motion requesting action or relief after the close of the hearing.*

*2. A motion for rehearing or reconsideration must be filed with the Commission, and a copy of the motion provided to all parties, not later than 15 days after the date on which the final decision of the Commission is served.*

*3. A motion for rehearing or reconsideration does not stay any decision of the Commission unless the Commission so orders.*

*4. A motion for rehearing or reconsideration must:*

*(a) State with particularity the point of law or fact which, in the opinion of the moving party, the Commission has overlooked or misconstrued, or the change of law or circumstances forming the basis of the motion; and*

*(b) Contain every argument in support of the motion that the moving party desires to present.*

*5. Oral argument in support of the motion is not permitted unless granted by the Commission.*

*6. A party who opposes a motion filed pursuant to this section may file an opposition to the motion within 7 days after the date on which the motion is served on that party.*

*7. The Commission may authorize the Chair of the Commission to rule on a motion filed pursuant to this section.*

*8. If:*

*(a) A motion for rehearing or reconsideration is filed;*

*(b) The Commission is not scheduled to meet before the effective date of the penalty; and*

*(c) The Commission has not authorized the Chair of the Commission to rule on the motion,*

*↳ the Division may stay enforcement of the decision for which a rehearing or reconsideration is requested. When determining whether to grant a stay, the Division shall determine whether the motion was timely filed and whether it alleges a cause or ground which may entitle the moving party to a rehearing or reconsideration of the decision.*

*9. A motion for rehearing or reconsideration may be based only on one of the following causes or grounds:*

*(a) Newly discovered or available evidence of a material nature which the moving party could not with reasonable diligence have discovered and produced at the original hearing before the Commission.*

*(b) Error in the hearing or in the decision that would be grounds for reversal of the decision.*

*(c) A change of substantive law.*

*(d) The need in the public interest for further consideration of the issues or evidence, or both.*

*10. The filing of a motion pursuant to this section does not stop the running of the 30-day period of appeal to the district court from the date of the decision of the Commission for the purpose of judicial review pursuant to chapter 233B of NRS.*

*11. If a rehearing is ordered pursuant to this section, the rehearing must be confined to the issues upon which the rehearing is ordered.*

**Sec. 2.** NAC 116.630 is hereby amended to read as follows:

116.630 A party may not request a hearing before the Commission or a hearing panel , *or file a motion for rehearing before the Commission or for reconsideration of the final decision of the Commission*, if a civil action based upon the same claim has already been initiated in any court in this State or has already been submitted to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360, inclusive.

**Sec. 3.** Chapter 116A of NAC is hereby amended by adding thereto a new section to read as follows:

*1. After the close of a hearing before the Commission, a party may file only the following motions:*

*(a) A motion for rehearing.*

*(b) A motion for reconsideration of the final decision of the Commission.*

*(c) With leave of the Commission, any other motion requesting action or relief after the close of the hearing.*

*2. A motion for rehearing or reconsideration must be filed with the Commission, and a copy of the motion provided to all parties, not later than 15 days after the date on which the final decision of the Commission is served.*

*3. A motion for rehearing or reconsideration does not stay any decision of the Commission unless the Commission so orders.*

*4. A motion for rehearing or reconsideration must:*

*(a) State with particularity the point of law or fact which, in the opinion of the moving party, the Commission has overlooked or misconstrued, or the change of law or circumstances forming the basis of the motion; and*

*(b) Contain every argument in support of the motion that the moving party desires to present.*

*5. Oral argument in support of the motion is not permitted unless granted by the Commission.*

*6. A party who opposes a motion filed pursuant to this section may file an opposition to the motion within 7 days after the date on which the motion is served on that party.*

*7. The Commission may authorize the Chair of the Commission or any other officer of the Commission to rule on a motion filed pursuant to this section.*

*8. If:*

*(a) A motion for rehearing or reconsideration is filed;*

*(b) The Commission is not scheduled to meet before the effective date of the penalty; and*

*(c) The Commission has not authorized the Chair of the Commission or any other officer of the Commission to rule on the motion,*

*↳ the Division may stay enforcement of the decision for which a rehearing or reconsideration is requested. When determining whether to grant a stay, the Division shall determine whether the motion was timely filed and whether it alleges a cause or ground which may entitle the moving party to a rehearing or reconsideration of the decision.*

*9. A motion for rehearing or reconsideration may be based only on one of the following causes or grounds:*

*(a) Newly discovered or available evidence of a material nature which the moving party could not with reasonable diligence have discovered and produced at the original hearing before the Commission.*

*(b) Error in the hearing or in the decision that would be grounds for reversal of the decision.*

*(c) A change of substantive law.*

*(d) The need in the public interest for further consideration of the issues or evidence, or both.*

*10. The filing of a motion pursuant to this section does not stop the running of the 30-day period of appeal to the district court from the date of the decision of the Commission for the purpose of judicial review pursuant to chapter 233B of NRS.*

*11. If a rehearing is ordered pursuant to this section, the rehearing must be confined to the issues upon which the rehearing is ordered.*

**Sec. 4.** NAC 116A.650 is hereby amended to read as follows:

116A.650 A party may not request a hearing before the Commission or a hearing panel , *or file a motion for rehearing before the Commission or for reconsideration of the final decision of the Commission*, if a civil action based upon the same claim has already been initiated in any court in this State or has already been submitted to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360, inclusive.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
NRS 233B.066  
LCB FILE R052-13**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapters 116 and 116A.

**1. A clear and concise explanation of the need for the adopted regulation.**

Proposed regulation LCB File No. R052-13 amends NAC 116 and 116A to add a standard procedure for a party in a disciplinary hearing before the Commission for Common-Interest Communities and Condominium Hotels (Commission) to request a rehearing, reconsideration or any other motion requesting action or relief after the close of the hearing before the Commission.

The need for the proposed regulation is to provide fairness and consistency to all parties involved in a motion for rehearing or reconsideration before the Commission. The proposed regulation clarifies how long after the order of the Commission has been made that a party can request a rehearing or reconsideration, what the motion must state, number of days that the opposing party has to file an opposition, the basis for the rehearing or reconsideration, which Commission member can decide on the motion and that the motion does not stay the thirty day period of appeal. This is a procedure that the Real Estate Division has under other regulations under the Division's authority.

**2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The agenda for the June 11, 2013 Commission meeting was posted on the Real Estate Division's (Division) website and distributed through the Division's posting list which includes industry associations and members who might be interested. The agenda indicated possible action by the Commission to discuss new language presented by the Commission regarding rehearing procedures. The draft of the proposed language was available as a handout for all in attendance to review. There was no public or small business representative input at that time. The Commission directed the Division to prepare proposed language for a workshop at the Commission's next meeting held on August 27-29, 2013. This regulation became LCB File No. R052-13.

Workshops were scheduled for August 28, 2013, February 26, 2014 and March 3, 2015 for LCB File No. R052-13. Notice of these workshops were posted on the Division's website and distributed through the Division's posting list. There was no comment from members of small businesses but members of the public requested clarification on the proposed language.

Interested persons may obtain a summary from:  
Teralyn Thompson, Administration Section Manager  
Nevada Real Estate Division  
2501 East Sahara Avenue, Suite 303

Las Vegas, NV 89104  
tlthompson@red.state.nv.us  
702-486-4036

**3. The number of persons who:**

**(a) Attended each hearing:**

August 28, 2013: 28  
February 26, 2014: 25  
March 3, 2015: 37

**(b) Testified at each hearing:**

August 28, 2013: 2  
February 26, 2014: 4  
March 3, 2015: 4

**(c) Submitted to the agency written comments: 0**

**4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit A.**

Please see attached.

**5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #2.

**6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The proposed regulation was adopted on July 9, 2015, and included changes suggested at workshops and the adoption hearing conducted.

**7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

**Business which it is to regulate**

**(a) Both adverse and beneficial effects; and**

**Adverse effects:** No adverse effect on businesses that are regulated.

**Beneficial effects:** A party who has a basis for rehearing, reconsideration or any other motion requesting action or relief after a Commission hearing will be allowed to file a motion if newly discovered evidence of a material nature, an error in the hearing or decision that would be grounds for a reversal of decision, a change in substantive law or there is need in the public interest for further consideration.

**(b) Both immediate and long-term effects.**

**Immediate effects:** LCB File No. R052-13 provides a consistent procedure for parties affected by actions of the Commission.

**Long-term effects:** LCB File No. R052-13 will ensure fairness and consistency to all who file a motion to be decided by the Commission regarding a matter previously heard before the Commission.

**Public**

**(a) Both adverse and beneficial effects:**

**Adverse effects:** No anticipated adverse economic effect to the public.

**Beneficial effects:** A party who has a basis for rehearing, reconsideration or any other motion requesting action or relief after a Commission hearing will be allowed to file a motion if newly discovered evidence of a material nature, an error in the hearing or decision that would be grounds for a reversal of decision, a change in substantive law or there is need in the public interest for further consideration.

**(b) Both immediate and long-term effects:**

**Immediate effects:** LCB File No. R052-13 provides a consistent procedure for parties affected by actions of the Commission.

**Long-term effects:** LCB File No. R052-13 will ensure fairness and consistency to all who file a motion to be decided by the Commission regarding a matter previously heard before the Commission.

**8. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for the implementation of LCB File No. R052-13.

**9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed regulation duplicates.

**10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

There are no federal regulations that apply.

**11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The regulation does not provide a new fee or increase an existing fee.