

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

LCB File No. R052-13

August 26, 2013

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; establishing procedures to request a rehearing of a decision of the Commission for Common-Interest Communities and Condominium Hotels; and providing other matters properly relating thereto.

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

The following procedures are used for a rehearing in a case where the Commission has issued a decision:

- 1. A party may, within 15 days after his or her receipt of the decision, petition the Commission for a rehearing.*
- 2. The petition does not stay any decision of the Commission unless the Commission so orders.*
- 3. The petition must:*
 - (a) State with particularity the point of law or fact which, in the opinion of the petitioner, the Commission has overlooked or misconstrued, or the change of law or circumstances forming the basis of the petition; and*

(b) Contain every argument in support of the petition that the petitioner desires to present.

4. Oral argument in support of the petition is not permitted unless granted by the Commission.

5. The respondent to a petition for a rehearing may file and serve an answer to the petition within 15 days after the respondent has received service of the petition.

6. If a petition for rehearing is filed and the Commission is not scheduled to meet before the effective date of the penalty, the Division may stay enforcement of the decision for which a rehearing is requested. When determining whether to grant a stay, the Division shall determine whether the petition was timely filed and whether it alleges a cause or ground which may entitle the petitioner to a rehearing.

7. The Commission may grant a rehearing for any of the following causes or grounds:

(a) Irregularity in the proceedings in the original hearing before the Commission;

(b) Accident or surprise against which ordinary prudence could not have guarded;

(c) Newly discovered evidence of a material nature which the petitioner could not with reasonable diligence have discovered and produced at the original hearing before the Commission;

(d) Error in law occurring at the hearing before the Commission and objected to by the petitioner during the earlier hearing; or

(e) A change of substantive law.

8. The filing of a petition for rehearing, or the decision therefrom, 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.

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

116.630 A party may not request a hearing *or rehearing* before the Commission or a *hearing before a* hearing panel 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:

The following procedures are used for a rehearing in a case where the Commission has issued a decision:

- 1. A party may, within 15 days after his or her receipt of the decision, petition the Commission for a rehearing.*
- 2. The petition does not stay any decision of the Commission unless the Commission so orders.*
- 3. The petition must:*
 - (a) State with particularity the point of law or fact which, in the opinion of the petitioner, the Commission has overlooked or misconstrued, or the change of law or circumstances forming the basis of the petition; and*
 - (b) Contain every argument in support of the petition that the petitioner desires to present.*
- 4. Oral argument in support of the petition is not permitted unless granted by the Commission.*
- 5. The respondent to a petition for a rehearing may file and serve an answer to the petition within 15 days after the respondent has received service of the petition.*
- 6. If a petition for rehearing is filed and the Commission is not scheduled to meet before the effective date of the penalty, the Division may stay enforcement of the decision for which a*

rehearing is requested. When determining whether to grant a stay, the Division shall determine whether the petition was timely filed and whether it alleges a cause or ground which may entitle the petitioner to a rehearing.

7. The Commission may grant a rehearing for any of the following causes or grounds:

(a) Irregularity in the proceedings in the original hearing before the Commission;

(b) Accident or surprise against which ordinary prudence could not have guarded;

(c) Newly discovered evidence of a material nature which the petitioner could not with reasonable diligence have discovered and produced at the original hearing before the Commission;

(d) Error in law occurring at the hearing before the Commission and objected to by the petitioner during the earlier hearing; or

(e) A change of substantive law.

8. The filing of a petition for rehearing, or the decision therefrom, 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.

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

116A.650 A party may not request a hearing *or rehearing* before the Commission or a *hearing before a* hearing panel 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.