

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

## LCB File No. R065-14

EXPLANATION – Matter in *italics* is proposed new language; matter in brackets ~~omitted material~~ is material to be omitted. Matters highlighted are changes made during the December 3, 2013 workshop.

AUTHORITY: NRS 116.615

A REGULATION relating to common-interest communities; establishing timing of notice of hearing by an association; establishing contents of notice; establishing rights of alleged violators; and providing other matters properly relating to a hearing held pursuant to NAC 116.31085

**Create a new section or amend NAC 116.31085 to add the following language:**

**Section 1. *Timing of notice of hearing: In accordance with NRS 116.31031(4)(a), a notice of a hearing setting forth the date, time, and location for the hearing and a telephone number and mailing address that the recipient may contact to request an continuance or change of hearing time or date must be sent to the record owner at the last known postal mailing address of that record owner or, if none, to the postal address to which the annual assessment notice is mailed and any other party in interest to that party's last known postal mailing address by certified mail return receipt requested not less than 30 days prior to the date of the hearing. The 30 days shall be counted starting the next business day after mailing and ending the day before the proposed hearing. Notice shall be considered sufficient whether or not the certified mailing has been claimed by the addressee, provided that the sender has the stub from the United States Postal Service showing the certified mailing number, name and address of the addressee, and payment of the required fees to the Postal Service. Personal service is not***

*required but is an acceptable alternative to mailing as set forth herein if made within the time frame specified.*

**Section 2.** *Contents of Notice: Notice delivered pursuant to Section 2 shall, in addition to the date, time and location of the proposed hearing, include a specific detailed description of the alleged violation in plain language, including but not limited to a recital of the number and language of the specific section of the governing documents alleged to have been violated and including a legible photograph of any property condition alleged to constitute the violation. The Notice must also set out the ~~maximum~~ fine for ~~such a~~ this violation then in effect in accordance with the governing documents and a reasonable time within which to cure the violation, the reasonableness of the cure time being commensurate to the magnitude and seriousness of the alleged violation. The Notice must also advise the addressee of the addressee's rights set out in Section 3 and list the members of the hearing panel with their names.~~and addresses.~~*

**Section 3.** *Rights of alleged violator:*

- 1. The property owner alleged to have violated the governing documents shall be entitled to one continuance of the proposed hearing of not more than 30 days for any reason whatsoever and any additional continuances to which all the parties agree.*
  
- 2. At any hearing, the alleged violator may be represented by legal counsel or by any other person of his or her choosing or by any person acting as officer, managing partner or trustee of the entity owning the property.*

3. *The alleged violator must be given written notice that they can request, in writing, the hearing be held in open session rather than in closed session within 5 days of the hearing.*
4. *The parties may present witnesses and all witnesses shall be subject to cross-examination by the opposing party and may not without the consent of all the parties be present when other witnesses are testifying except for the alleged violator who may be present for the entire hearing and may testify if he or she so chooses.*
5. *Any party may make an audio and/or video recording of the hearing at that party's own cost and expense.*
6. *A transcript of the hearing shall be paid for by the party requesting same or shared by the parties if both sides so request a copy.*
7. *Any party needing a language interpreter or sign language presenter may bring such interpreter and/or sign language presenter to the hearing at that party's own cost and expense.*
8. *All documentary evidence to be presented at the hearing by any party must be delivered to the opposing party not less than 5 days prior to the hearing along with a list of all proposed witnesses except that the alleged violator(s) may testify without being included on a witness list.*
9. *An alleged violator may challenge any member of the proposed hearing panel for bias or conflict of interest or for any disqualification permitted under NRS 116, but*

*must do so not less than 5 days prior to the hearing or within three days of receiving notice of any new or replacement panel member, whichever is later.*

*10. The alleged violator may make a rebuttal at the end of the presentation of all evidence and all parties shall have the opportunity to address the hearing panel with a summation at the end of the presentation of all evidence.*

*11. The hearing panel, by majority decision thereof, must render its decision within ~~1a~~ reasonable time~~1~~ 7 days after the close of the hearing, reasonableness being based upon the length of time involved in the hearing itself.*

~~12. All parties testifying are to be under oath.~~

~~13.~~ *12. The decision of the hearing panel must be mailed in writing to all parties by regular mail within ~~7~~10 days of its rendering along with an explanation as to a party's right to appeal and setting out the applicable appeal procedure.*

~~14.~~ *13. A unit owner shall be entitled to appeal a decision of the Board under the Real Estate Division's Mediation Program as per NRS 38.300-360.*

~~15.~~ *14. No additional fines shall accrue while the decision is under appeal through the Mediation Program.*

~~16.~~ *15. Each side shall be responsible for their own fees and costs.*