

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

LCB File No. R066-14

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

AUTHORITY: NRS 116.615

A REGULATION relating to common-interest communities; allowing the Commission for Common-Interest Communities and Condominium Hotels to consider whether the executive board has taken material action on behalf of the association outside of a properly noticed meeting; allowing the Commission for Common-Interest Communities and Condominium Hotels to consider whether the executive board has communicated with other board members regarding material matters and failed to disclose the details of the communication at the executive board's next properly noticed meeting; and adding a definition of "material".

Section 1. NAC 116.405 is hereby amended to read as follows:

NAC 116.405 Executive board: Determination by Commission of whether members have performed their duties. (NRS 116.3103, 116.615) In determining whether a member of the executive board has performed his or her duties pursuant to NRS 116.3103, the Commission may consider whether the member of the executive board has:

1. Acted outside the scope of the authority granted in the governing documents;
2. Acted for reasons of self-interest, gain, prejudice or revenge;
3. Committed an act or omission which amounts to incompetence, negligence or gross negligence;
4. Except as otherwise required by law or court order, disclosed confidential information relating to a unit's owner, a member of the executive board or an officer, employee or authorized agent of the association unless the disclosure is consented to by the person to whom the information relates;

5. Impeded or otherwise interfered with an investigation of the Division by:
 - (a) Failing to comply with a request by the Division to provide information or documents;
 - (b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or
 - (c) Concealing any facts or documents relating to the business of the association;
6. Kept informed of laws, regulations and developments relating to common-interest communities;
7. Cooperated with the Division in resolving complaints filed with the Division; ~~and~~
8. Caused the association to:
 - (a) Comply with all applicable federal, state and local laws and regulations and the governing documents of the association;
 - (b) Uniformly enforce the governing documents of the association;
 - (c) Hold meetings of the executive board with such frequency as to properly and efficiently address the affairs of the association;
 - (d) Obtain, when practicable, at least three bids from reputable service providers who possess the proper licensing before purchasing any such service for use by the association;
 - (e) Consult with appropriate professionals as necessary before making any major decision affecting the association or the common elements;
 - (f) Deposit all funds of the association for investment in government securities that are backed by the full faith and credit of the United States or in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Securities Investor Protection Corporation or a private insurer approved pursuant to NRS 678.755;
 - (g) Maintain current, accurate and properly documented financial records;
 - (h) Establish policies and procedures for the disclosure of potential conflicts of interest and the appropriate manner by which to resolve such conflicts;
 - (i) Establish policies and procedures that are designed to provide reasonable assurances in the reliability of financial reporting, including, without limitation, proper maintenance of accounting records,

documentation of the authorization for receipts and disbursements, verification of the integrity of the data used in making business decisions, facilitation of fraud detection and prevention, and compliance with the applicable laws and regulations governing financial records;

(j) Prepare interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of the association is fairly presented in accordance with the provisions of NAC 116.451 to 116.461, inclusive;

(k) Make the financial records of the association available for inspection by the Division in accordance with the applicable laws and regulations of this State;

(l) Cooperate with the Division in resolving complaints filed with the Division; and

(m) Adopt and fairly enforce the collection policies of the association ~~H~~; *and*

(n) Adopt written investment policy and procedures.

9. Taken material action on behalf of the association outside of a properly noticed meeting in accordance with NRS 116.31083 and NRS 116.31085; and

10. Communicated with other board members regarding material matters and failed to disclose the details of the communication at the executive board's next properly noticed meeting.

Section 2. Add definition of "material":

As used in this section, "material" shall refer to more than modest, ministerial, or day-to-day action.

Section 3. Add language to NAC 116.405:

Evidence to support a potential violation of NAC 116 in whole or in part shall be cause for the Division to investigate and bring a complaint to the Commission for administrative action in accordance with NRS 116.770 through and including 116.790.