

**PROPOSED REGULATION OF THE
COMMISSION FOR COMMON-INTEREST COMMUNITIES**

LCB File No. R142-06

October 12, 2006

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

AUTHORITY: §§1-13, NRS 116.615 and 116.675.

A REGULATION relating to common-interest communities; providing for the appointment of hearing panels; providing for the procedures of a hearing; providing for the procedures for appealing the decisions of a hearing panel; providing for the procedures of a review hearing; providing for the distribution of costs for the transcription of a hearing; providing circumstances under which the Commission for Common-Interest Communities will not grant a hearing; and providing other matters properly relating thereto.

Section 1. Chapter 116 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. 1. *A hearing panel appointed by the Commission has the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter or chapter 116 of NRS.*

2. An independent hearing officer appointed to a hearing panel must be a licensed member, in good standing, of the State Bar of Nevada.

Sec. 3. 1. *The Commission or a hearing panel may, upon its own motion or a motion made by a party of record, hold a prehearing conference to accomplish one or more of the following purposes:*

(a) Formulate or simplify the issues involved in the hearing.

- (b) Obtain admissions of fact or any stipulation of the parties.*
- (c) Arrange for the exchange of proposed exhibits or prepared expert testimony.*
- (d) Identify the witnesses and the subject matter of their expected testimony and limit the number of witnesses, if necessary.*
- (e) Rule on any pending prehearing motions or matters.*
- (f) Establish a schedule for the completion of discovery.*
- (g) Establish any other procedure that may expedite the orderly conduct and disposition of the proceedings or settlements thereof.*

2. Notice of any prehearing conference must be provided to all parties of record. Unless otherwise ordered for good cause shown, the failure of a party of record to attend a prehearing conference constitutes a waiver of any objection to the agreements reached or rulings made at the conference.

3. The action taken and the agreements made at a prehearing conference:

- (a) Must be made a part of the record.*
- (b) Control the course of subsequent proceedings unless modified at the hearing by the Commission or hearing panel.*
- (c) Are binding upon all parties of record and persons who subsequently become parties of record.*

Sec. 4. In any hearing, the Commission or hearing panel may recess the hearing for a conference in order to discuss matters relating to the testimony about to be given by a witness or for any other purpose that may expedite the orderly conduct and disposition of the proceedings or settlements thereof. The Commission or hearing panel will state on the record the results of such a conference.

Sec. 5. *After a hearing, the Commission or hearing panel will, within 30 days:*

1. Prepare findings of fact, conclusions of law and a final decision on the issues presented at the hearing; and

2. Serve a copy of the findings of fact, conclusions of law and final decision upon all parties of record.

Sec. 6. *1. Pursuant to NRS 116.675, a final order of a hearing panel may be appealed and a review hearing held by the Commission. If a final order of a hearing panel is appealed, the order is stayed until the Commission issues its ruling, order or decision after the review hearing.*

2. A written notice of appeal filed pursuant to NRS 116.675 must be accompanied by an appellant's brief which must describe the basis for the appeal, cite any supporting authorities and designate any part of the record which was before the hearing panel and are relevant to the appeal.

3. A respondent may file a respondent's brief within 20 days after service of the appellant's brief.

4. An appellant may then file a reply brief within 12 days after service of a respondent's brief. The reply brief may only respond to issues raised in a respondent's brief. Any issues raised for the first time which are contained in the reply brief will not be considered by the Commission.

5. The Division may file an amicus brief which describes the Division's position on any issue raised by a final order of a hearing panel. The Division's brief must be filed within 20 days after the filing of the appellant's brief.

Sec. 7. 1. *After the date for the filing of a reply brief has passed, the Commission will set the matter for a review hearing to be conducted as soon as practicable.*

2. *The review hearing must be held at such time and place as the Commission prescribes. At least 15 days before the date set for the review hearing, the Commission will notify in writing each party of record of the date. Written notice of the review hearing may be served by delivery personally to each party or by mailing the notice by certified mail to the last known address of each party.*

Sec. 8. 1. *The Commission may, in the written notice described in section 7 of this regulation, provide for oral argument at the review hearing. The written notice must state whether the oral argument is limited to a particular issue or inquiry.*

2. *Unless extended by the Commission, an oral argument will be limited to 10 minutes.*

3. *The Commission may allow the Division to participate as an amicus party at oral argument.*

Sec. 9. 1. *The Commission will render a written decision on any appeal within 30 days after the review hearing and will notify the parties to the proceedings, in writing, of its ruling, order or decision within 15 days after it is made.*

2. *The Commission may affirm, reverse or modify a decision of the hearing panel.*

Sec. 10. 1. *If a final order of a hearing panel is not appealed to the Commission by a party, any member of the Commission may request, not later than 7 days after the date that the final order is issued by the hearing panel, that the Commission review such order.*

2. *If the Commission decides to review the final order of a hearing panel, the Chairman of the Commission will direct the Division to provide written notice to all parties of the*

intention of the Commission to review the final order within 30 days after the date that the final order is issued by the hearing panel.

3. Any final order by a hearing panel which is under review by the Commission pursuant to this section is stayed until the Commission issues its ruling, order or decision.

Sec. 11. *1. Except as otherwise provided in this section, a party which seeks a transcript of its hearing must pay the reasonable costs of transcription.*

2. If the Commission determines that the transcript is reasonably necessary for a party for a review hearing, the Commission may waive the costs for transcription.

Sec. 12. *A party may not request a hearing before the Commission or 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. 13. *A party shall not request a review hearing in bad faith or for an improper motive.*