

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
MEETING
MARCH 20, 2008
DEPARTMENT OF BUSINESS AND INDUSTRY
2501 E. SAHARA AVE.
2ND FLOOR CONFERENCE ROOM
LAS VEGAS, NEVADA 89104**

**VIDEO CONFERENCE TO:
DEPARTMENT OF BUSINESS AND INDUSTRY
788 FAIRVIEW DR.
CONFERENCE ROOM
CARSON CITY, NEVADA 89701**

MINUTES

MARCH 20, 2008

9:13 A.M.

1-A) Introduction of Commissioners in attendance.

Michael Buckley, Shari O'Donnell, Marilyn Brainard, Jeannie Redinger, Senior Deputy Attorney General Nancy Savage as Commission Counsel.

1-B) Introduction of Division staff in attendance.

Ann McDermott, Administrator; Lindsay Waite, Ombudsman; Bruce Alitt, Chief Compliance Investigator; Joanne Gierer, Legal Administrative Officer; Sonya Meriweather, Program Officer; Teralyn Thompson, Commission Coordinator; Nick Haley, Education and Information Officer; Susan Clark, Licensing Manager

In Carson City: Chris Cooke, Compliance Investigator

3-Q) Discussion and possible action regarding the resale disclosure statement for condominium hotels.

Agenda item not discussed.

2) Regulation workshop on proposed regulation known as LCB File No. R 186-07.

Introduction of Commissioners in attendance:

Michael Buckley, Shari O'Donnell, Marilyn Brainard, Jeannie Redinger, Senior Deputy Attorney General Nancy Savage as Commission Counsel

Introduction of Division staff in attendance:

Ann McDermott, Administrator; Lindsay Waite, Ombudsman; Bruce Alitt, Chief Compliance Investigator; Joanne Gierer, Legal Administrative Officer; Sonya Meriweather, Program Officer; Teralyn Thompson, Commission Coordinator; Nick Haley, Education and Information Officer; Susan Clark, Licensing Manager

In Carson City: Chris Cooke, Compliance Investigator

SEE ATTACHED FOR WORKSHOP MINUTES

Workshop closed on March 20, 2008 at 10:20 a.m.

3-L) Discussion and possible action on proposed changes, additions and deletions to NAC 116, 116A and LCB File No. R186-07; including review of public comments from regulation workshop held March 20, 2008.

Chairman Buckley stated that written comments will be accepted until April 3, 2008 on the regulation and can be mailed or emailed to Teralyn Thompson.

Page 3

Chairman Buckley stated that Jon Friedrich commented that the language in sections 7(3) and 7(6) is vague but it is the existing language in NRS 116 and it makes sense to keep the language the same.

Commissioner O'Donnell stated that subsection 10 begins with "If the association does not employ a community manager" but has a number of things that the board is required to do whether they have professional management or not. Commissioner O'Donnell asked if this was sufficiently addressed anywhere else.

Ms. Savage stated that it is addressed in NRS 116A which pertains to community managers.

Chairman Buckley asked why the duties are not the obligation of all boards.

Commissioner O'Donnell stated that subsection 10 should begin "Whether or not the board employs a community manager, the board must" so that it puts the onus on the board in either case.

Chairman Buckley suggested language that states "The board must do these duties, however if the board employs a community manager, the board has satisfied its obligation if these duties have been delegated to the community manager." Chairman Buckley stated that all of the items in subsection 10(a) through (g) are duties of the board but there is an acknowledgement that these are duties that would be done through a manager if there was one.

Page 4

Commissioner Brainard agreed with Mr. McMullen's comment regarding adding 'approved' before financial records in section 7(f).

Chairman Buckley read the definition of financial records from page 2 and stated that there is a difference between financial records and financial statements. Chairman Buckley stated that since it is not a financial statement do not have to be approved.

Commissioner Brainard stated that it should state "financial records that have been accepted by the board".

Chairman Buckley asked Ms. Savage to check the Nevada Revised Statute because the Commission might already be locked into that language based on what the statute already states. Chairman Buckley asked, from a policy point of view, what type of records should be available.

Ms. Waite stated that issues regarding record requests are usually resolved once they get to the conference with her.

Mr. Alitt read NRS 116.3118(2) and stated that certain associations do not want to make their records available but once the Division steps in the homeowner is usually satisfied.

Ms. Waite stated that parts of the statute that allow an hourly or per copy charge are helpful because it limits the extent of request.

Chairman Buckley stated that it does not need to be changed because it is only dealing with records and not statements that require approval.

Chairman Buckley stated that page 4 of the CCICCH Proposed Regulation hand out added a requirement about insurance. Chairman Buckley requested that Ms. Savage make a note that after Section 7(g), there is language in the Commission's proposed regulations that deals with the obligation of the board to make sure that the association has appropriate insurance.

Page 5

Mr. Alitt stated that section 9(1) should end with "May 2007 edition" because the fees, telephone number and website address is subject to change.

Chairman Buckley stated that the Legislative Counsel Bureau required having that information added. Chairman Buckley stated to strike "within 90 days after the date of the publication of the revision" from section 9(2).

Chairman Buckley stated that Mr. Friedrich's comment regarding a person being personally liable if there is incompetence, negligence or gross negligence is already addressed in the NRS which states "if the Commission finds in a hearing that it is willful then there is personal liability".

Page 7

Chairman Buckley stated that Mr. Friedrich thought that section 14 was vague. Chairman Buckley stated that the statute is clear in regards to what types of associations must have audited financials based on the amount of the budget.

Page 9

Chairman Buckley stated that section 15(d) should be a separate section that states "The annual registration form must include:"

Chairman Buckley stated that in section 15(2) the term "association" is used but page 3 section 7(4) states "an association for a condominium hotel". Chairman Buckley stated that the terminology should be consistent throughout the regulation.

Page 10

Sam McMullen stated that NRS 116.520(12) states where interim financial statements would be used.

Chairman Buckley read NRS 116.520(12) and stated that NRS 116B.685 is the statute that references financial books and records for the hotel unit. Chairman Buckley stated that there would need to be a regulation that states where and how they are used.

Page 11

Chairman Buckley stated that Mandy Shavinsky's comment on section 20(3) which suggested adding "within the condominium hotel or the project of which the condominium hotel is a part" should be added.

Chairman Buckley answered Mr. Friedrich's comments and stated that the Commission will deal with what the statute says regarding the availability of the records. Chairman Buckley stated that the Commission would need to look at how and where the records come into NRS 116B.

Chairman Buckley read section 21(1)(a)(3) and asked Mr. McMullen what that section meant.

Mr. McMullen stated that it is probably incorrect to use the terms "applicable components". Mr. McMullen stated that the word "applicable" is replacing the word "major". Mr. McMullen stated that the words "major components" should be added back in.

Chairman Buckley read "which the major components of the shared components or major components of the hotel unit". Chairman Buckley stated that these are the statutory terms from NRS 116B.160 and NRS 116B.165.

Chairman Buckley stated that section 21(1)(d) dealt with the registration form not the audit and should have its own section.

Page 12

Chairman Buckley stated that Mr. Friedrich inquired about the bank accounts in section 22. Chairman Buckley stated that the statute deals with the records that have to be made available and some accounts might be strictly dealing with the hotel unit. Chairman Buckley stated that he would rather use the term "financial records" since it is already in the statute.

Chairman Buckley stated that adequate reserves is used in the statute and section 23 offers a safe harbor because it is impossible to define adequate reserves.

Chairman Buckley asked Ms. Savage if reserve study specialist is a defined term in section 24. Chairman Buckley stated that it should be brought to the Legislative Counsel Bureau's regulation drafter's attention that the term "reserve study specialist" needs to be defined.

Page 13

Chairman Buckley responded to Mr. Friedrich's comment regarding section 26 by stating that the dollar amounts are the same numbers that were used and derived from a public hearing a couple of years ago. Chairman Buckley stated that there was public input that reached the consensus that \$160.00 was an appropriate amount with the expedite fee. Chairman Buckley stated that "certificate" is the same term used in the statute.

Chairman Buckley stated that Jan Porter suggested adding "a hotel unit owner or his agent" to section 26. Chairman Buckley stated that he hesitates to make that change because the language is the same as Chapter 116.

Page 15

Chairman Buckley read the statement in section 31(1)(b) and asked Mr. McMullen if the CC&Rs will specifically address the use of the unit for transient rental purposes.

Mr. McMullen stated that he had discussed this with Mandy Shavinsky and the statement is disclosure prevention. Mr. McMullen stated that they felt that the statement should be understandable, readable and should alert people. Mr. McMullen stated that the statement is to inform people that if someone is not giving them this information it is because there are federal laws preventing them. Mr. McMullen stated that it does not limit any reference in the CC&Rs as to how the unit can be used.

Commissioner O'Donnell asked if the hotel operator is prohibited from discussing the frequency that owners can anticipate their unit being rented or the revenue that will be generated.

Mr. McMullen stated that it is broader than that and securities law state that there should not be information available from the person selling the unit regarding the rental program. Mr. McMullen stated that a buyer has to make a separate investment decision.

Chairman Buckley asked Mr. McMullen to talk to Ms. Shavinsky about a specific reference to NRS 116B as to what the term "herein" means.

Page 16

Chairman Buckley asked Mr. McMullen to look at section 32(1). Chairman Buckley stated that this section requires the unit owner to include a statement on whether the unit is subject to a management agreement that is legally binding upon the purchaser. Chairman Buckley stated that the purchaser would not know if the agreement is legally binding and that "legally" should be removed.

Mr. McMullen agreed with Chairman Buckley.

Page 17

Commissioner Brainard suggested changing the word "may" in section 34 to "shall". A lengthy discussion ensued.

Ms. Savage suggested keeping it as "may".

Chairman Buckley stated that section 5 should list the cautions from subsections 1-3 from section 34. Chairman Buckley stated that there will be a new section 33(6) which will be what subsection 5 stated before the language "Any supplemental disclosure statement form prepared by the Division". Chairman Buckley stated that section 34 should state "The Division may prepare a supplemental disclosure statement form encouraging prospective buyers to be informed and which addresses matters that the Division has determined to be important to prospective buyers."

Commission discussed a document that was available to the public entitled "Proposed CCICCH Regulations" that was drafted by Chairman Buckley on January 24, 2008.

Chairman Buckley stated that after the legislative session the Commission came up with a number of proposed regulations that would address some of the concerns that the legislature was trying to address.

Page 1

Chairman Buckley stated that the first section was missing his comment which said that no new audit is necessary if already done. Declarant should pay for the cost of the ancillary audit and the cost to go back to do prior audits if not previously done.

Chairman Buckley stated that the second section #3 addresses the problem that the Division has notifying board members that a complaint has been filed because the Division does not have record of current board members.

Ms. Meriweather agreed with Chairman Buckley. Ms. Meriweather stated that the Division would also like board members to give the Division their physical addresses and telephone numbers. Ms. Meriweather stated that board members usually list the address and telephone number of the management company.

Mr. Alitt stated that board member's addresses and phone numbers would be confidential.

Ms. Meriweather stated that she had language to add to the regulations regarding the addresses and telephone numbers of current board members.

Page 2

Chairman Buckley stated that there is nothing else for the Commission to do with the first section except refer it to the Real Estate Commission to review.

Page 3

Chairman Buckley stated that in the second section #17 the word "ensure" should be changed to reflect that the manager should advise the association whether the applicable types and amounts of insurance that the association maintains comply with the governing documents and NRS 116.

Chairman Buckley stated that the word "ensure" in section #18 is satisfactory.

Commissioner Brainard stated that in the second section #8 there should be a comma after the word "actual".

Chairman Buckley requested that Ms. Gierer prepare these regulations to be sent to the Legislative Counsel Bureau.

Ms. Meriweather stated that with the change in the law, master associations are required to pay the unit fees conveyed for the sub-associations. Ms. Meriweather stated that the Division is finding a discrepancy in what master associations are paying and what sub-associations are recording on the annual registration forms. Ms. Meriweather stated that master associations are supposed to submit the fees and sub-associations are supposed to submit the registration form but the numbers are not matching. Ms. Meriweather stated that sub-associations should be obligated to master associations to report the amount of units there are so that master associations can pay for the correct amount of units. Ms. Meriweather stated that the Division send master associations remittance forms 45 days before the due date and request that sub-associations let the master associations know how many units it has by the 10th day of the month in which the payment is due.

Commissioner Brainard asked why the Division was getting involved as long as the master associations pay the total amount that is due.

Ms. Meriweather stated that master associations are saying that they do not know how many units' sub-associations have. Ms. Meriweather stated that the Division will have a new process where master associations will be penalized for sub-associations lack of information.

Chairman Buckley asked Ms. Gierer to put Ms. Meriweather's proposed change with the other regulations going to the Legislative Counsel Bureau.

Ms. McDermott stated that the Division is developing the ability to process online license renewal transactions. Ms. McDermott stated that in order to carry out this function the Division would need to be able to obtain electronic fingerprints to eliminate paper submissions. Ms. McDermott stated that some regulations would need to be adopted for this requirement. Ms. McDermott stated that there would need to be a regulation for continuing education providers to provide electronic submissions of people who have attended classes.

Chairman Buckley asked Ms. McDermott to prepare the regulations and give them to Ms. Gierer so that they can be sent to the Legislative Counsel Bureau.

Ms. Gierer stated that she had a proposed regulation regarding administrative sanctions in NAC 116.351. Ms. Gierer stated that the Division would like to raise the fine amounts for the first and second offense. Ms. Gierer asked if NAC 116.351(4)(e) is correct regarding if a sanction has not been paid or education has not been completed, would the matter be

referred to the Commission for Common-Interest Communities and Condominium Hotels or would it be referred to the Real Estate Commission. Ms. Gierer stated that if the matter would not go to the Real Estate Commission NAC 116.351(4)(f) would need to be removed. Ms. Gierer stated that the first offense is \$500.00, the second offense is \$1,000.00 and there are a number of repeat offenders.

Ms. McDermott stated that the Division purposed to make the first offense a maximum of \$1,000.00 and the second offense \$2,500.00 to \$5,000.00.

Chairman Buckley stated that it should be deferred to the Division.

Commissioner Redinger stated that the Division should be stricter on supervising community managers.

Chairman Buckley stated that he agreed with \$1,000.00 or \$5,000.00 knowing that it will be up to the Division to decide the amount of a fine and that it can be appealed to the Commission.

Ms. Gierer stated that the Division would like the continuing education providers to require identification when a licensee takes a course for education.

The Commission agreed that picture identification should be required.

3-F) Discussion regarding status report on the Administrative Law Judge cases, Administrative Law Judge and Alternative Dispute Resolution programs.

Ms. McDermott stated that the Division wanted to discuss the ongoing efficiency of the Administrative Law Judge Program and the Alternative Dispute Resolution program.

Ms. Savage stated that the Division asked for an Attorney General's Opinion to look at the scope of what is encompassed in the Administrative Law Judge program because most of the disputes are related to governing documents. Ms. Savage stated that perhaps the Administrative Law Judge program could be expanded to encompass governing documents since the Commission hears Chapter 116 violations. Ms. Savage stated that the Administrative Law Judge program could be an alternative to the Alternative Dispute Resolution program so that if a case is not resolved it can go into the court system. Ms. Savage stated that none of the decisions have been appealed from the Administrative Law Judge program.

Commissioner O'Donnell stated that she is happy that cases are moving along quickly but that the Administrative Law Judge hearings are being treated like the informal conference with the Ombudsman. Commissioner O'Donnell stated that if a case comes before the Commission, the State of Nevada prosecutes the case not the complainant.

Ms. Savage stated that once the Division gets the Attorney General's Opinion, some of the Administrative Law Judge cases might be prosecuted by the Attorney General's Office.

Commissioner Brainard asked if there will be any special training for the Administrative Law Judges regarding governing documents.

Ms. Savage stated that governing documents will be included in the training process.

Chairman Buckley asked if Ms. McDermott had discussed the Division getting its own bill draft for NRS 116 with Mendy Elliott.

Ms. McDermott stated that she will be meeting with Ms. Elliott tomorrow and would like to share the Commission's input with her then.

Chairman Buckley stated that the Commission is encouraging the Division to keep the Administrative Law Judge program and to possibly hire an in house administrative law judge. Chairman Buckley stated that it is odd that the Alternative Dispute Resolution program has nothing to do with the Commission even though it has everything to do with CC&Rs.

3-U) Discussion and possible action regarding proposed statutory and regulatory changes.

Chairman Buckley stated that it is important for the Commission and the Division to change the regulation so that reserve study specialists do not have to be licensed.

Chairman Buckley stated that the Commission would be in favor of having their own bill through the Real Estate Division.

Chairman Buckley requested that the commissioners send Ms. Gierer an email regarding any legislative issues and that this is a standing agenda item.

5) Public Comment

Pat Taylor with Taylor Management asked if there was any information on the backlog of Administrative Law Judge cases that are pending the Attorney General's opinion. Ms. Taylor stated that she has a case that has been waiting 9 months. Chairman Buckley asked if Administrative Law Judge cases have come to a stand still.

Ms. Savage stated that in events where attorneys have challenged the program's jurisdiction, those cases have been stayed.

Pam Scott stated that she would like the Commission to consider bringing governing documents issues to the Administrative Law Judge program. Ms. Scott stated that there should be a way for the association to get their legal fees back because her case has been sitting on hold with attorney's fees accumulating. Ms. Scott stated that attorney's fees can be recovered through arbitration but not through hearings before the Commission or hearing panel.

Chairman Buckley stated that there needs to be an agenda item for the Commission to discuss whether the Commission supports Ms. Scott's suggestion or not.

Ms. Scott stated that she has never heard of an association that has tried to take a homeowner before the Commission. Ms. Scott stated that NRS 116.750 says that the Division can bring charges against a unit's owner.

Chairman Buckley stated that when the Commission was created there was discussion on limiting the Commission to hearing cases that only dealt with violations of the law. Chairman Buckley stated that if it is the Division's recommendation for the Commission to hear cases regarding governing documents, the Commission needs to have a discussion about it.

Michael Dixon, president of Sun City Anthem, stated that workshops are very important to large associations for gathering information. Mr. Dixon stated that his association had a workshop with the association's attorney regarding bringing the CC&Rs into conformity with current law. Mr. Dixon stated that he sent out 850 emails informing homeowners of the meeting and it was open to the public. Mr. Dixon stated that there were 20 people there and that Sun City has workshops regularly. Mr. Dixon stated that if workshops were required like board meetings, it would cost the association \$3,000.00 to \$4,000.00 for the mailing and processing which is a burden on the association.

Bob Robey, board member for Sun City Summerlin, stated that he is concerned about the association workshops because they have been abused.

Gerald Northfield commented on agenda item 3-I. Mr. Northfield suggested that the Commission ask the Ombudsman to meet with the 68 supervising community managers to discuss the aspects of experience. Mr. Northfield stated that he finds dilemmas about being able to function as a supervising community manager within a company structure. Mr. Northfield stated that provisional community managers might need direct supervision for a particular period of time.

Jan Porter, representing CAMEO, commented on agenda item 3-G. Ms. Porter stated that the organization feels that is it important that the industry has a clear path for out of state professionals. Ms. Porter stated that CAMEO respects the information that Susan Clark has provided in Ms. Clark's review of the organization's requirements. Ms. Porter commented on agenda item 3-I stating that CAMEO is concerned about the small number of people who are supervising community managers and would not like to see the bar raised too high. Ms. Porter commented on agenda item 3-K stating that CAMEO is concerned about the limited number of courses that are available and whether the same courses can be taken again after a certain amount of years.

Jan Porter, representing Sage Creek Homeowners Association, commented on agenda item 3-K stating that in the past the Commission has not provided law designation for classes that teach law outside of NRS 116. Ms. Porter stated that she would like the Commission to give consideration to expanding the language for the law class designation to those sections of law and regulation that apply to common interest community management issues.

3-G) Discussion regarding the lack of requirements for out of state professionals who may hold nationally recognized designations.

Susan Clark stated that in the interest of getting professionals from other states quickly licensed; Ms. Clark reviews their experience, national certifications, requires them to complete an 18 or 22 hour law course and pass the certification exam.

Commissioner O'Donnell asked if the problem with the availability of law classes was holding up the process.

Ms. Clark stated that it could be.

Nick Haley stated that the Division has received complaints about the availability of law classes being an issue.

3-H) Discussion regarding the Ombudsman's Office following up on anonymous complaints.

Mr. Alitt stated that the law requires that the Division see an attempt at resolution and with an anonymous complaint there is no attempt therefore the case is not opened. Mr. Alitt stated that unlicensed activity complaints are the only exceptions.

Commissioner Redinger stated that if someone is going to file a complaint, it is not fair to hide behind anonymity.

Mr. Alitt stated that if there is no attempt at resolution but the person has signed the complaint, Mr. Alitt will contact the person who signed the complaint informing them that before the complaint can be opened there has to be an attempt at resolution.

Ms. Waite stated that she gets anonymous letters and some are concerning. Ms. Waite stated that she has discussed this with Mr. Alitt and Mr. Alitt stated that unless the complaint is signed a case will not be opened.

Commissioner Brainard suggested adding in the next publication an item that states the importance of identifying yourself on complaints.

Commissioner O'Donnell asked if the person who the complaint is against needs to know the name of the person who filed it.

Mr. Alitt stated that the Attorney General's Office has told the Division that with due process the actual complaint must be sent to the respondent. A lengthy discussion ensued.

3-I) Discussion regarding the experience necessary to be credentialed as a Supervising Community Manger.

Commissioner Redinger stated that it had been brought to her attention that there are supervising community managers who do not have enough knowledge in NRS 116 to supervise. Commissioner Redinger stated that if someone is going to be a supervising community manager, they should be required to take a refresher law course and pass an exam proving that the community manager has knowledge of Nevada law.

Ms. Clark stated that one requirement for becoming a supervising community manager is that they have been in community management for at least four years. Ms. Clark stated that if the community manager comes from out of state, the applicant must have two years immediately preceding Nevada.

Commissioner Redinger stated that in northern Nevada supervising community managers only attend educational courses to get the number of credits required for renewal of their certificate. Commissioner Redinger stated that these supervising community managers are supervising future community managers and in this industry there must be professionals who understand the law and can work with homeowners.

Chairman Buckley suggested that Commissioner Redinger, Ms. Clark and Mr. Haley get together and work on a proposal.

3-J) Discussion regarding preparation of the Reserve Study Specialist application.

Commissioner Brainard stated that there was a letter that said that there are few reserve study specialists as a group and no one is providing continuing education.

Chairman Buckley stated that the statute says that a reserve study specialist must be licensed by the Division. Chairman Buckley stated that there had been a long discussion and part of the problem was trying to figure out the education requirements.

Commissioner O'Donnell stated that the Commission was proposing that a reserve study specialist be permitted and only has to register with the Division during the last legislative session. Commissioner O'Donnell stated that it eventually got vetoed.

Don Barry, representing Advanced Reserve Solutions, stated that he could not fill out the form and sign it without perjuring himself because it refers to training courses of which there are none.

Ms. Gierer stated that she received an email from the Legislative Counsel Bureau that R145-06 will be going to their subcommittee on April 16, 2008 at 1:30 p.m. and that the public can attend in Las Vegas or Carson City. Ms. Gierer stated that the regulation will become effective on April 16, 2008.

Mr. Haley stated that he compiled a list of individuals performing the duties of a reserve study specialist in Nevada and the total came to 22 people. Mr. Haley stated that he looked into organizations that provide education since the application mentions education, training and experience. Mr. Haley stated that professional organizations do not provide training but certify a number of reserve studies that have been performed by the specialist and that counts for the designation. Mr. Haley stated that he would be concerned about people who wish to become reserve study specialist in the future and who would not be able to gain the experience without the permit.

Chairman Buckley stated that the Commission has been trying to do away with the permit for a couple of years and asked Mr. Barry and Mr. Haley to get together to change the application.

3-K) Discussion regarding the continuing education requirements for community managers and the introduction of educational guidelines.

Mr. Haley stated that after the discussion at the December 10, 2007 meeting, it is possible to begin instituting some guidelines for education comparable to those that are in NRS 645. Mr. Haley stated that the Division decided to start by having the education providers' volunteer items requested by the Division.

Mr. Haley stated that the renewal requirements are 18 credits two years prior to recertification and three of the credits must be in NRS and NAC 116. Mr. Haley stated that the issue that has come before him is that there are a number of classes that are called Nevada Law which do not fulfill the requirement but have been designated as a law course. Mr. Haley stated that there needs to be more courses on legislative updates.

Commissioner O'Donnell stated that someone with a property management permit and a community manager's certification told her that there are a number of classes being offered under NRS 645 that are applicable to NRS 116 but have not been approved. Commissioner O'Donnell asked Mr. Haley if he has taken a look at them and found that statement to be true.

Mr. Haley stated that there are some classes that are currently taught to NRS 645 licensees that are in revision because the courses get into activities that are licensed under a different section of law. Mr. Haley stated that he would be concerned with presenting them as continuing education for community managers. Mr. Haley stated that there are activities that are connected to the practice of community management that are being taught in property management classes.

Commissioner O'Donnell suggested having the community manager receive less credits toward continuing education.

Mr. Haley stated that he would be concerned with education providers teaching anything that is licensed activity under a different section of law. A lengthy discussion ensued.

3-M) Discussion and possible action regarding Administrative Law Judge Case# IS-07-1396 Nancy Nolette v. S.S.L.-P.V.E. Homeowners Association.

Commissioner Redinger stated that she works for the management company managing S.S.L.-P.V.E Homeowners Association in northern Nevada.

Commissioner Brainard stated that she was concerned with page 11 paragraph 10 section 2 of the Findings of Facts. Commissioner Brainard read the decision and stated that this is not an appropriate ruling because a board can not amend CC&Rs without the vote of the unit owners.

Corey Clapper, provisional community manager with Benchmark Premier was present. Joyce Winward, supervising community manager with Benchmark Premier was present.

Ms. Clapper stated that she was notified of the outcome of the hearing and two weeks later they received notification that the Commission wanted to review the case. Ms. Clapper stated that the company's attorney advised them to wait for the ruling from the Commission before proceeding.

Chairman Buckley stated that the association can not change their CC&Rs within 30 days. Chairman Buckley stated that the Commission needed to come up with an order or letter remanding the order and asked Ms. Savage to prepare some language.

Commissioner Brainard moved that the Commission remand to the Administrative Law Judge on the basis that the association's board can not amend its CC&Rs without a vote of the unit owners. Seconded by Commissioner O'Donnell. Unanimous decision.

3-N) Discussion and possible action to approve minutes of the October 31, 2007 Commission meeting.

Commissioner Brainard stated that she had an addition on page 5 under public comments. Commissioner Brainard stated that "for condominium hotels" should be added after Mr. Haley's comment.

Commissioner Brainard stated that under agenda item 2-B, Chairman Buckley made a comment to have an agenda item regarding whether there was a need for greater supervision for self managed associations. Commissioner Brainard stated that agenda item was never added to future agendas.

Commissioner Brainard moved to accept the minutes with corrections. Seconded by Commissioner O'Donnell. Unanimous decision.

3-O) Discussion and possible action to approve minutes of the November 30, 2007 Commission meeting.

Commissioner Brainard stated on page 4 agenda item 3-B Commissioner O'Donnell requested an agenda item that was not added to future agendas.

Commissioner Brainard moved to accept the minutes with the correction noted. Seconded by Commissioner Redinger. Unanimous decision.

3-P) Discussion and possible action to approve minutes of the December 10, 2007 Commission meeting.

Commissioner Redinger stated that her name was misspelled on the first page. Commissioner Brainard moved to approve with corrections. Seconded by Commissioner Redinger. Unanimous decision.

3-R) Discussion and possible action regarding an advisory opinion on homeowner associations that do not have enough board members to meet the CC&Rs requirements to serve on the associations board and if workshops held by association boards are lawful.

Mr. Alitt stated that smaller associations who must have a three member board are having problems getting people to serve on the board.

Chairman Buckley stated that the Division could let boards know that there are provisions in NRS that allow for an appointment of a court ordered receiver.

Commissioner O'Donnell stated that it would be helpful if people could assist the Division by providing them with some estimate of cost of receivership. Commissioner O'Donnell stated that it would be helpful when the Division is advising associations because there will be real numbers to confront the homeowners with. A lengthy discussion ensued.

Chairman Buckley stated that Mr. Alitt would need to tell boards without enough board members to meet the CC&Rs requirement that if they do not find members there will have to be a receiver.

Donna Erwin asked if that was information that could be put into publication to inform people of this potential consequence. Ms. Erwin stated that self managed associations will not have the information unless it comes from the Commission.

Mr. Alitt stated that the Compliance section gets a lot of questions regarding the legality of workshops held by the association board. Mr. Alitt stated that if there is an attempt to notify the unit owners, Mr. Alitt does not see it as a violation. Mr. Alitt stated that there is no guidance in NRS 116 regarding this issue.

Chairman Buckley stated that the Commission tried to have regulations regarding association workshops but it got very complicated. Chairman Buckley stated that by doing an advisory opinion, there could be a specific example of what is allowed.

Mr. Alitt stated that if there is a gathering of the board for association business where a majority of the board is in attendance, the meeting should be noticed and opened to the members.

Commissioner O'Donnell disagreed with Mr. Alitt. Commissioner O'Donnell stated that the defining difference between a board meeting that has to be duly noticed and a workshop is that at a workshop the board can not take any actions. Commissioner O'Donnell stated that it is an information gathering and that the workshop should be closed because a decision is not being made.

Mr. Alitt stated that homeowners think things are being done in secret at the workshops. Mr. Alitt stated that it would be helpful if members could attend and not participate. Mr. Alitt stated that the issues that he hears are that workshops are being held in secret and then everything is decided at the board meeting.

Michael Dixon, president of Sun City Anthem, stated that there is a middle ground between the public and the private. Mr. Dixon stated that it is a difficult judgment call to make.

Chairman Buckley stated that a judgment call can not be written in the regulations. A lengthy discussion ensued.

Nancy Quon stated that she was asked to speak on this issue on behalf of John Leach. Ms. Quon stated that Mr. Leach is a firm supporter in having closed workshop meetings because homeowners will show up and nothing will get done. Ms. Quon stated that the object of the meeting is to get through the item, to make sense of them and the decision is made during a board meeting. Ms. Quon stated that an explanation should be given to the homeowners as to how the final decision was made at the board meeting. Ms. Quon stated that the law does not preclude having the workshops being conducted by the board.

Commissioner O'Donnell stated that the board would need to properly communicate at the board meetings. Commissioner O'Donnell stated that proper communication might be something that the Commission could help with by using an advisory opinion or an item in the newsletter.

Mr. Alitt stated that he was looking for guidance from the Commission.

John Friedrich stated that many times there will be a workshop with people who may or may not be knowledgeable in what is being discussed and the decision could be right or wrong. Mr. Friedrich stated that a homeowner is only allowed to speak in the beginning of the session but when the board is discussing other items; no one is allowed to speak.

Gerald Northfield, professional community association manager, stated that the idea of committees is to utilize volunteers who may have areas of expertise on the topic. Mr. Northfield stated that boards create committees by designing their purpose, their authority, the specifications and scope so that afterwards that committee reports back to the board of directors.

Terry Larson, vice president of the board of directors for Red Rock Country Club, stated that it has been beneficial for their board to meet as a "side bar" meeting where no voting occurs. Mr. Larson stated that it helps the board meetings to run more smoothly. Mr. Larson stated that there should be a definition.

Chairman Buckley stated that it is too multifaceted to come up with a one size fits all answer to this issue.

3-W) Discussion and possible action on date, time, place and agenda items for upcoming meetings.

The Commission set their meeting calendar for May 21-22, 2008 in the north; July 29-30, 2008 in the south; September 29, 2008 in the south and December 3-4, 2008 in the south.

3-S) Discussion and possible action regarding whether to comment on LCB File No. R183-07; pending before the Nevada Tax Commission.

Commissioner Brainard stated that she is concerned about double taxation for homeowners with common amenities and that the regulation was proposed originally by Senator Beers during the 2007 Session. Commissioner Brainard stated that the county assessor latched on and the regulation is being heard by the Tax Commission. Commissioner Brainard asked if the Commission could take a stand, ask for clarification or should one of the Commissioners attend the meeting.

Chairman Buckley stated that the statute was passed and legally the regulation can not change the statute. Chairman Buckley encouraged Commissioner Brainard to attend the meeting.

Commissioner Brainard stated that the meeting would be April 7, 2008 at 9:00 a.m. and located at the Legislative Building in Carson City and at the Grant Sawyer Building Room 4412 in Las Vegas.

Chairman Buckley encouraged the Commission to read the regulation carefully.

Commissioner O'Donnell stated that it sounded like the regulation was stating that they are assessing a taxable value of the common area and layer that value on top of the taxable value of the unit itself. Commissioner O'Donnell stated that the taxable value of the unit is already driven up by location. Commissioner O'Donnell stated that it is going to mean more taxes for everyone.

3-T) Discussion and possible action regarding community manager's home address being public information.

Commissioner Redinger stated that the community managers in northern Nevada received letters from a law firm that has community managers' home addresses. Commissioner Redinger stated that a community manager named Randy Walker and his daughter wrote letters for public comment regarding their concerns on this issue.

Mr. Alitt stated that community managers' home addresses are confidential information.

Mr. Haley stated that the CD that the Division has available for a fee only provides the names of the association that the community manager works for and the address on record for the association.

Chairman Buckley suggested calling the attorney's office to find out where they got the addresses of the community managers.

Commissioner Redinger stated that she would call the attorney's office.

3-V) Discussion and possible action regarding Commissioners' speaking engagement request.

Chairman Buckley and Mr. Alitt will speak with CAMEO on May 9, 2008.

3-W) Discussion and possible action on date, time, place and agenda times for upcoming meetings.

Chairman Buckley stated that there are two agenda items that were mentioned by Commissioner Brainard from previous meetings. Chairman Buckley stated that the first was regarding self managed associations and the issues of good standing for board elections. Chairman Buckley stated that statutory issues will be a standing agenda item and there may be an adoption hearing for R186-07.

4) Education

Mr. Haley stated that he set a policy that education providers schedule dates for the classes before they are submitted to the Commission for approval.

4-1) Feinberg, Grant, Mayfield, Kaneda and Litt

“Summary of NRS 116”

Request: 3 hours NRS 116 Classroom

Mr. Haley stated that he does not have any concerns regarding this course and there is a need for it. Mr. Haley stated that he put the designation as NRS 116 because of the confusion regarding law and what fits that definition. Mr. Haley stated that this class does fit the definition of a law course and it is taught in a classroom. Mr. Haley recommended approval.

Commissioner Redinger moved to approve. Seconded by Commissioner Brainard. Unanimous decision.

4-2) Wolf, Rifkin, Shapiro and Schulman

“Condo Hotel Management”

Request: 6 hours Law Classroom

Mr. Haley stated that this course was carried over from a previous meeting but the course was sent back to the provider because certain aspects of condominium hotel law had not been clear. Mr. Haley stated that the course does not fit the definition of law. Mr. Haley recommended this course for general 6 hours of credit. Commissioner Redinger moved to approve this course as 6 hours of general education. Seconded by Commissioner Brainard. Unanimous decision.

4-3) Nevada Association of Community Managers

“Ethics of Nevada Community Association Managers”

Request: 3 hours General Classroom

Mr. Haley stated that this course was previously brought to the Commission and it was sent back for revision because the course previously contained information about a private organization. Mr. Haley stated that the Commission asked the provider to remove that information and to make it more specific. Mr. Haley stated that the provider added case studies to the material and is more pertinent to a community manager.

Commissioner Brainard stated that there should be longer than 5 minutes designated for conflicts of interest. Commissioner Brainard stated that there are many kinds of conflicts of interest that should be specifically addressed.

Mr. Haley asked if the Commission would like to approve based on the designated time for conflict of interest being increased.

Chairman Buckley stated that it could be 20 minutes designated to conflict of interest.

Mr. Northfield stated that he would be happy to change the amount of time designated to conflict of interest.

Commissioner Brainard moved to approve the course with changes. Seconded by Commissioner O'Donnell. Unanimous decision.

4-4) Draeger Construction
“The ABC’s of Contracting Contractors-Series I”

Request: 3 hours General Classroom

Mr. Haley stated that the series idea is that every community manager eventually becomes a contract manager for the association with a contractor. Mr. Haley stated that this course prepares a community manager to serve as a contract manager in that capacity.

Mr. Haley stated that Series I is an overview of the idea of managing a contract with a contractor but Series II and Series V are more specific.

Commissioner Brainard asked if Mr. Northfield had considered bringing someone from the Nevada State Contractors Board to co-instruct the class.

Mr. Northfield stated that he contacted the State Contractors Board and could not get assistance.

Commissioner O'Donnell suggested that Mr. Haley contact the Contractors Board. Commissioner O'Donnell stated that she is concerned about the sponsor being a particular general contractor because it seems like a marketing value. A lengthy discussion ensued.

Commissioner O'Donnell moved to approve on the condition that Mr. Haley contact the Contractors Board to get a representative of the Contractor’s Board involved in the presentation as a guest speaker. Seconded by Commissioner Brainard. Unanimous decision.

4-5) Draeger Construction
“The ABCs of Contracting Contractors-Series II”

Request: 3 hours General Classroom

Commissioner O'Donnell moved to approve on the condition that Mr. Haley contact the Contractors Board to get a representative of the Contractor’s Board involved in the presentation as a guest speaker. Seconded by Commissioner Brainard. Unanimous decision.

4-6) Draeger Construction
“The ABCs of Contracting Contractors-Series V”

Request: 3 hours General Classroom

Commissioner O'Donnell moved to approve on the condition that Mr. Haley contact the Contractors Board to get a representative of the Contractor’s Board involved in the presentation as a guest speaker. Seconded by Commissioner Brainard. Unanimous decision.

4-7) Grand Canyon Seminars
“Fair Housing in the New Millennium”

Request: 3 hours General Classroom

Commissioner Brainard moved to approve. Seconded by Commissioner Redinger. Unanimous decision.

**4-8) Quon Bruce Christensen Law Firm
“ABCs of Construction Defects”**

Request: 3 hours General Classroom

Mr. Haley stated that he had not recommended approval or denial. Mr. Haley stated that ordinarily he would be skeptical about this topic from the sense of whether it is within the scope of work of a community manager. Mr. Haley stated that in the past the Commission has approved instruction on NRS 40 in the context of developer transition. Mr. Haley stated that this class is primarily about NRS 40.

Nancy Quon stated that the course covers NRS 40 and NRS 116. Ms. Quon stated that the course is important because associations are in charge of maintaining, repairing and enhancing the value of the property which is done through the management company. Ms. Quon stated that there are a lot of problems that arise when managers are not aware of the laws that relate to construction defects matters.

Commissioner O’Donnell stated that she is concerned with the first topic that states “Construction Defect Defined” because NRS 40 does not offer a definition of construction defect. Commissioner O’Donnell stated that there are no precautions for what the board and manager should protect themselves against.

Commissioner O’Donnell suggested that there should be a topic on the importance of preserving a relationship with your developer and involving the developer and subcontractor in an investigation.

Commissioner O’Donnell stated that there is value in the information being offered by this course but it needs to be presented in balance and it has not been. Commissioner O’Donnell stated that this is the type of class that she would like to see fully developed within the Real Estate Division and placed on a CD so that there is control over what’s being communicated.

Mr. Haley stated that he presented this course to seek guidance to figure out how the Commission wishes to take this course as a policy position. Mr. Haley stated that other law firms would like to reintroduce developer transition courses. Mr. Haley stated that when another course came to the Commission in October 2006, Gail Anderson expressed concerns regarding potential conflict of interest and the course was revised into the context of developer transition.

Chairman Buckley stated that it would be helpful to know how other providers put these courses together.

Chairman Buckley stated that there should be construction defect and developer attorneys participating in the course.

Commissioner Brainard moved to approve with having a balance that would require having an attorney experienced in representing developers in construction defect NRS Chapter 40 issue. Seconded by Commissioner Redinger. Unanimous decision.

3-A-8) Personnel

Ms. McDermott stated that the Division has hired Victoria Broadbent for the Alternative Dispute Resolution Program Officer position. Ms. McDermott stated that she has received notification of the Accountant member position being filled on the Commission and that Ms. Gierer or Ms. Thompson will send that announcement to the Commission.

3-W) Discussion and possible action on date, time, place and agenda items for upcoming meetings.

Chairman Buckley asked if there will be any disciplinary cases coming before the Commission.

Ms. Savage stated that there should be cases by the May 21-22, 2008 meeting.

3-X) Commissioner Comments

Commissioner Brainard stated that she had the latest Zogby Survey about homeowners’ satisfaction routed to the Commission. Commissioner Brainard stated that the Commission had discussed doing another survey in Nevada but the funds are not available for that purpose. Commissioner Brainard stated that the survey showed a percentage decline in overall satisfaction by homeowners with their community managers.

Commissioner Brainard stated that she attended a distance education seminar sponsored by ARELLO yesterday at the University of Nevada-Reno and that it was a great presentation.

5) Public Comment

Pam Scott stated that she would like to comment on agenda item 3-T. Ms. Scott stated that she contacted one of the solicitors who sent a letter to her home address and they stated that they got a list of community managers from the public list from the Real Estate Division.

Chairman Buckley requested that Ms. McDermott look into this issue. Chairman Buckley requested that this be kept on the agenda for a report back

Gerry Northfield stated that on May 16, 2006 he came to a Commission meeting as a witness and his name was misspelled.

3-A-1) Intervention Program

Agenda item not discussed.

3-A-2) The number and types of associations registered within the State

Agenda item not discussed.

3-A-3) The Alternative Dispute Resolution Program and Subsidy Report

Agenda item not discussed.

3-A-4) Notice of Sales by associations

Agenda item not discussed.

3-A-5) Ombudsman's Conferences

Agenda item not discussed.

3-A-6) Licensing Statistics for Community Managers

Agenda item not discussed.

3-A-7) Update on the Common-Interest Community educational videos

Agenda item not discussed.

3-B) Discussion regarding Attorney General's case status report

Agenda item not discussed.

3-C) Discussion regarding Disciplinary Report

Agenda item not discussed.

3-D) Discussion regarding Administrative Sanction Report

Agenda item not discussed.

3-E) Discussion regarding the Compliance Section's current caseload report.

Agenda item not discussed.

6) Adjournment

Meeting adjourned on March 20, 2008 at 4:53 p.m.

Respectfully Yours,

Teralyn Thompson
Commission Coordinator