

Policy Framework for Nevada Common-Interest Communities

(Task Force Summary Edition as Requested by Director)

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I. Introduction

Nevada already possesses one of the most complete statutory frameworks for common-interest communities in the nation. What has failed is not the law's design but its operation. The Task Force's purpose is to diagnose why Nevada's administrative system no longer functions as intended and to propose reforms that restore its capacity.

II. The Systemic Failure

The Legislature intended a self-contained and evolving governance ecosystem:

- **NRED** to educate, investigate, and administer programs such as ADR;
- **The CICCH Commission** to adjudicate disputes, interpret law, and refine policy through rulemaking.

Together, they were meant to provide low-cost, accessible, and adaptive administrative justice outside the civil courts, funded by the annual per-unit fee paid by each association.

That framework now falters—rulemaking is dormant, enforcement inconsistent, and public confidence eroded. Legislative micromanagement has substituted for adaptive rulemaking.

III. Foundational Principle

CC&Rs are adhesive contracts—despite the legal fiction of mutual assent. HOAs are not ordinary corporations. Together, they exercise quasi-governmental powers within a private shell. The American Law Institute's *Restatement (Third) of Property: Servitudes* § 6.13 cmt. b describes associations as practical devices for administering shared property interests—*private governments of limited jurisdiction*. The Nevada Supreme Court has likewise affirmed this functional reality.

Any credible reform effort must therefore align HOA accountability with public-like standards of due process, transparency, and fairness. Contract law and civil adjudication are ill-suited to these functions. Nevada's reform challenge is not to change the form, but to make its quasi-governmental system function with the legitimacy and checks expected of any government-like body.

IV. Suggested Core Focus Areas for the Task Force

The Task Force should begin its work in three foundational domains that together define whether the state's regulatory system functions as lawmakers intended.

1. **Dispute Resolution** — Why has administrative justice failed to provide owners affordable, accessible resolution? Examine ADR's effectiveness, confidentiality rules, and access to remedies.

2. **Enforcement** — Why does regulatory oversight lack independence, transparency, and consistency? Explore NRED’s authority, clarity of investigative standards, and publication of outcomes.
3. **Rulemaking** — Why has the interpretive process stagnated? Evaluate why statutory ambiguities persist and how the Commission can use rulemaking to create coherent, accessible standards.

Each domain touches the others: enforcement gains legitimacy from clear, consistent rules, and rulemaking gains relevance from real enforcement experience.

V. Structural Issues Requiring Broader Review

Beyond these three functions, the Task Force should address deeper imbalances shaping Nevada’s HOA landscape—both as they exist today and as they will evolve with the growing prevalence of HOA governance statewide, particularly given these entities’ inherent vulnerability to monetization and financial capture (*accumulated capital flows—assessments, data, and vendor contracts*).

- **Declarant Control:** How developer control can be extended beyond intended limits.
- **Commercialization and Vendor Capture:** How management and legal firms dominate decision-making and enforcement, and the implications of that dominance.
- **Financial Integrity:** Whether reserve standards and reporting systems ensure fiscal responsibility. Recent failures in Florida underscore the risks. The Task Force might consider limited “receivership-like” authority for the CIC Commission in cases of chronic fiscal neglect.
- **Transparency and Accountability:** How owners and the public can access governance and enforcement information. A “report-card” style public dashboard—similar to federal hospital transparency models—could serve as a template.

These areas reveal where form and function diverge—where the law contemplates balance, but practice favors control.

VI. Specific Review Areas

The following issues, organized by status, identify current and potential areas where administrative or legislative reform is warranted.

(Additional supporting analysis is available at NVHOAREform.com.)

A. Administrative Rulemaking Petitions Submitted and Pending Review

1. Make complaint findings public with redacted personal data (**NRS 116A.270(2)**).
2. Prohibit secret “workshops” and email approvals (**NRS 116.31083**).
3. Clarify director eligibility, conflicts, and fiduciary duties (**NRS 116.31034**, .31084).
4. Define limits on declarant control and affiliate contracting (**NRS 116.31023**, .31086).
5. Require independent oversight of HOA elections.
6. Establish clear standards for reserve assessments, budget transparency, and amendment challenges (**NRS 116.2117**).
7. Require public posting of board agendas and supporting documents.

8. Update enforcement standards under **NAC 116.405** related to director fiduciary duty.
9. Address board-meeting agenda-notice requirements (**NRS 116.31083**).
10. Clarify owner remedies and limitations under **NRS 116.4117**.

B. Potential Additional Areas for Rulemaking

1. **Budget Adoption Process** — Standardize procedures inviting owner engagement.
2. **ADR Program Modernization** — Adopt rules to improve the Division's alternate-dispute-resolution programs under **NRS 38**, including publication of decisions and data tracking.
3. **Conflict-of-Interest Contracting** — Prohibit boards and management companies from hiring affiliated contractors or immediate family members.
4. **Declarant Removal Authority** — Clarify that a declarant may not unilaterally remove an owner-elected director during the period of declarant control (**NRS 116.31032**, 116.089).
5. **Affiliate Management Firms** — Prohibit declarant-controlled boards from contracting with a declarant's wholly owned management company, eliminating true fiduciary oversight (**NRS 116.31086**).
6. **Owner Communication Rights** — Require associations to provide reasonable methods for unit owners to communicate among themselves and with the board.
7. **Reserve Account Transparency** — Mandate that boards provide owners with an annual list of planned reserve expenditures as part of the budget package, rather than embedding such information solely within the reserve study.
8. **Declarant Turnover Disclosure** — Require declarants to provide owners and buyers an annual good-faith estimate of when declarant control is expected to end.
9. **Special Assessment Limits** — Establish limits on the amount of reserve special assessments a board may impose without owner approval.
10. **Meeting Documentation Access** — Require that all but very small associations (under 150 units) provide owners with meeting materials and supporting documents, ideally through online posting.
11. **Expand Notice Requirements** — Require declarants to notify owners when additional acreage is added to an association (**NRS 116.2105**).
12. **Statutory Update Notice** — Require associations to inform owners of legislative changes that render material portions of their governing documents obsolete (**NRS 116.1206**).
13. **Election Integrity** — Require that HOA elections be conducted or overseen by an independent reviewer to ensure impartiality.
14. **Amendment Challenge Clarification** — Clarify **NRS 116.2117(2)** regarding the one-year repose period for challenges to declaration amendments, specifying whether it applies to unilateral declarant amendments or only those adopted by the association.
15. **Contract Approval Controls** — Address board approval of contracts or payments exceeding an aggregate amount (TBD), except in emergencies, and prohibit such actions outside a scheduled board meeting.

C. Reform Considerations Likely Requiring Legislative Action

1. Establish material pre-sale regulatory review of CC&Rs and bylaws for consumer protection.

2. Codify HOAs' "quasi-governmental" status and corresponding standards of fairness.
3. Make ADR—an alternative to civil litigation—the exclusive initial forum for HOA disputes (**NRS 38.310**) as a matter of due process.
4. Prevent local governments from mandating HOA formation as a condition of development approval.
5. Limit attorney-fee exposure and bar associations from suing owners solely to enforce statutes (**NRS 116.4117**).
6. Preclude declarants from reserving rights within declarations that extend beyond the control period (**NRS 116.211**, 116.089).
7. Prohibit unilateral declarant amendments and ensure owner consent for new restrictions (**NRS 116.2117**).
8. Consider limit on unit ownership in CICs to 25 percent (see **SB 239 (2025)**).
9. Require explicit legislative intent before statutory changes alter recorded declarations (**NRS 116.1206**).
10. Strengthen standardized reserve disclosures, independent audits, and oversight for financially distressed associations, and authorize receivership-like intervention powers at the administrative level to ensure compliance.
11. Prohibit a declarant from appointing an employee or affiliate as director after reaching a 25 percent build-out.
12. Prohibit a declarant from recording an amendment to the declaration changing any material provision without a vote of owners, addressing the recent Nevada Appeals Court ruling.
13. The Legislature should reassert its authority to clarify the jurisdictional intent of Nevada's alternate-dispute-resolution statute, **NRS 38.310**, as interpreted by the Nevada Supreme Court.

VII. Conclusion

Nevada does not need to rebuild its HOA system—it must **reactivate** it. The statutes already provide the architecture; what is missing is impartial administration and active rulemaking.

The Task Force's mission is to restore what lawmakers built:

- Rulemaking that interprets,
- Enforcement that acts,
- Dispute resolution that works, and
- Point to current and future vulnerabilities

If it succeeds, Nevada can again lead the nation in demonstrating that self-governing communities can remain private in form yet public in fairness—where accountability and legitimacy are one and the same.