

Via Email

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Administrator, Nevada Real Estate Division (NRED)
Department of Business and Industry
3300 W. Sahara Ave., Suite 350
Las Vegas, NV 89102

July 28, 2025

Re: Petition for Rulemaking — Regulatory Clarification of NRS 116.757 and Post-Investigation Transparency

Dear Administrator Chandra;

Pursuant to NRS 233B.100, I respectfully submit this petition requesting the Division in coordination with the Commission for Common-Interest Communities and Condominium Hotel (CICCH Commission) initiate interpretive rulemaking to clarify the scope and application of NRS 116.757. Specifically, this petition proposes a regulation that distinguishes between confidentiality protections during active investigations and the public's right to know after an investigation has concluded.

I. Background

NRS 116.757 imposes strict confidentiality on all materials collected during the Division's investigations of alleged violations of NRS Chapter 116. As currently interpreted, the statute bars disclosure of any information—regardless of whether an enforcement action was taken, and even after the investigation is closed. This blanket approach exceeds what is necessary to protect parties and obstructs public accountability.

The requested regulation would preserve necessary confidentiality during open investigations but would require the Division, in support of administration objectives and upon request to issue redacted summaries after a matter is closed. This would improve transparency, support oversight, and better align the statute with Nevada's constitutional and legal standards favoring public access to government records. Absent such a regulation, the Division remains a self-policing gatekeeper. It may choose not to investigate, may decline to act, and may close a complaint without explanation—all shielded by a blanket of confidentiality. This undermines the legislative purpose of NRS Chapter 116, which is to ensure accountability and fairness in the governance of common-interest communities. The requested rulemaking is both a corrective and a constitutional imperative.

Under current practice, NRED interprets NRS 116.757 as barring all disclosure unless a formal enforcement hearing is initiated. This interpretation allows the Division to dismiss or close complaints without explanation and without any form of public disclosure—even to the person who filed the complaint. Under its interpretation of NRS 116.757, this means that even after an investigation is concluded, homeowners are denied access to any information—not even a summary of what was alleged, reviewed, or resolved. As a result, complainants receive no

indication of whether their concerns were taken seriously, whether an investigation occurred, or why no action was pursued. This approach diminishes public trust and allows the Division to act without meaningful accountability or oversight.

II. Existing Practices Undermine the Division's Interpretation

Despite claiming it cannot release information under NRS 116.757, the Division routinely provides summary-level reports at public meetings of the CICCH. These reports summarize complaint volumes, case categories, enforcement activity, and outcomes. This practice demonstrates that redacted, post-investigation summaries are both possible and lawful. Yet, homeowners, the public, and CICCH Commission still cannot obtain even a basic understanding of how or why individual complaints are resolved. The absence of a formal regulation ensures this inconsistency continues.

III. Legal and Constitutional Considerations

The Nevada Supreme Court has repeatedly affirmed that public records are presumptively open and that confidentiality must be narrowly tailored. In *Reno Newspapers v. Gibbons*, 127 Nev. 873 (2011), the Court held: "A statute that categorically exempts all records... without consideration of content or context, cannot be said to be narrowly tailored." NRS 116.757 is just such a statute. It imposes blanket secrecy on all records "compiled as a result of an investigation," without exception or review—even where no privacy concern remains. The Division's continued use of this provision as a shield from public scrutiny violates the spirit, if not the letter, of this constitutional standard.

IV. Practical Impact on Complainant Rights and Trust

Before accepting a complaint, NRED requires homeowners to notify the alleged violator directly and submit proof of that notification. This means that any confidentiality between the parties is already waived at the outset.

Despite this, NRED later cites "confidentiality" as its reason for refusing to explain to complainants - outside the use of vague and often ambiguous terminology- why their case was dismissed or resolved. This contradiction frustrates complainants and erodes trust. If complainants are forced to disclose their identity and allegations to the opposing party before filing, then it is illogical to later cite party confidentiality as a justification for complete secrecy. This selective invocation of confidentiality protects the Division, not the parties, and encourages complainant disengagement—undermining the transparency and fairness promised under NRS 116.

V. Requested Rulemaking

Petitioner respectfully requests that the Division adopt a regulation that:

1. Requires the release of a redacted summary upon request of each complaint once it has been closed—regardless of whether a formal enforcement hearing occurred;
2. Establishes clear standards for the format and scope of disclosure, including (a) nature of complaint, (b) investigatory disposition, and (c) general rationale for outcome;

3. Clarifies that confidentiality cannot be used to justify limited communication with complainants or other parties after a matter is resolved.

VI. Conclusion

This petition does not seek to eliminate confidentiality protections during active investigations. Rather, it seeks a narrowly tailored regulation that distinguishes between the need for privacy during investigative stages and the public's right to know after matters are closed. This rulemaking is necessary to correct an imbalance in Nevada's HOA regulatory structure. It offers a minimal, practical reform—one that preserves investigatory integrity while honoring the public's right to know. A regulatory agency entrusted with protecting homeowners must not operate in secrecy. The Division already discloses enforcement data selectively; it is time to formalize and extend that transparency equitably to all stakeholders.

Thank you for your consideration.



Mike Kosor

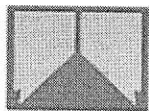
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