

Sharath Chandra
Administrator
Nevada Real Estate Division
Common-Interest Communities and Condominium Hotels
schandra@red.nv.gov

Re: Request for Reconsideration — May 31, 2026 Petition for Rulemaking Regarding Timely Access to Records Related to Board Agenda Items

August 11, 2026

Dear Administrator Chandra:

I respectfully request reconsideration of the Division's June 29, 2026 denial of my May 31, 2026 Petition for Rulemaking.

The denial appears to rest on a characterization of the Petition that is broader than what I requested. The Division states that the Petition “requests statutory amendments to NRS 116.31175 and NRS 116.31083.” **It did not.**

The Petition requested that the Division and Commission *initiate rulemaking to address an identified gap in the administration of existing statutory rights*. It expressly stated:

“This is not a request to create a new owner right. The owner already has a statutory right to notice of board meetings and a statutory right to inspect association records. The requested rulemaking would clarify how those rights operate together when a requested record is materially related to a pending board agenda item.”

The two-business-day period and board-deferral provisions appearing later in the Petition were proposed regulatory language for consideration, not an assertion that those requirements already appear in statute and not a request that the Division amend a statute. The purpose of a petition under NRS 233B.100 is to ask an agency to consider adoption of a regulation. Nothing in the Petition suggested that the Division was required to adopt the proposed language verbatim. NRS 233B.100 expressly authorizes an interested person to petition for adoption of a regulation and directs the agency either to deny the petition with reasons or initiate regulation-making proceedings.

If the Division believes that a particular element of the proposed language—such as the two-business-day period or deferral of board consideration—would exceed the Commission's regulatory authority, that may provide a basis for declining that particular formulation. It does not answer the separate question presented by the Petition: whether the Division and Commission may address the underlying timing gap through a regulation that remains within their statutory authority.

That distinction is particularly important because Nevada law already imposes standards requiring association records to be made available.

NRS 116.31175(1) provides that, upon written request, the executive board “shall ... make available” the books, records and other papers of the association for review. NRS 116.3118(2) separately requires that all financial and other association records be “made reasonably available” for an owner's inspection, examination, photocopying and audit. Except for the specific copy requirement applicable to certain records under NRS 116.31175(2), neither provision establishes a general numerical deadline defining when those obligations have been satisfied.

That absence of an operational timing standard is precisely the issue the Petition asked the Division and Commission to consider.

I also respectfully request that the Division reconsider its statement that “NRS 116.31175 does not distinguish agenda-related records.” The statute expressly does so in subsection 4(c).

NRS 116.31175(4)(c) excludes from the subsection 1 disclosure requirement certain documents that are both:

1. in the process of being developed for final consideration by the executive board; **and**
2. have not been placed on an agenda for final approval by the executive board.

Thus, the Legislature itself made placement of a document on an agenda for final approval relevant to the availability of that record.

The Petition therefore did not invent the relationship between agenda status and records access. That relationship already appears in NRS 116.31175. The unresolved question is what the statutory commands to “make available” and to make records “reasonably available” require once an otherwise reviewable record is connected to imminent board consideration.

The Division's response also observes that NRS 116.31083 does not provide that a pending records request automatically operates as an injunction against board action. I agree that the statute contains no such express automatic injunction. But that does not resolve the records-access question. Whether a board remains legally authorized to proceed with a meeting and whether an association has satisfied its independent statutory obligation to make records reasonably available are separate issues.

For example, an association could arguably remain authorized to conduct a properly noticed meeting while nevertheless failing to comply with NRS 116.31175 or NRS 116.3118 by unreasonably withholding an available record until after the board has acted. The absence of an automatic statutory stay does not establish that post-meeting production necessarily satisfies the records statutes.

I therefore respectfully ask the Division to reconsider the Petition on the question it actually presented:

Whether rulemaking should be initiated to establish an administrable standard for timely access to otherwise reviewable association records when those records are materially related to an item already scheduled for executive-board consideration.

If the Division concludes that the particular two-business-day or board-deferral language proposed in the Petition exceeds its regulatory authority, I ask that it separately determine whether a narrower regulation is authorized—for example, one defining the circumstances relevant to whether records have been “reasonably available,” establishing a response or scheduling requirement, defining unreasonable delay, or addressing records that have been placed on an agenda for final approval within the meaning of NRS 116.31175(4)(c).

The Division's present response does not appear to address that narrower question. Instead, it treats rejection of the proposed mechanism as establishing that the underlying subject necessarily requires statutory amendment.

Finally, I recognize that NRS 116.623 concerns petitions for declaratory orders and advisory opinions rather than the rulemaking procedure itself. The rulemaking request was made pursuant to NRS 233B.100. To the extent my citation to NRS 116.623 created ambiguity, I am not asking the Division to treat that provision as an independent grant of rulemaking authority. I cited it because the Legislature has expressly assigned the Division a role in addressing questions concerning the “applicability or interpretation” of Chapter 116.

Accordingly, I respectfully request that the Division reconsider its June 29 denial and determine:

1. whether the Petition actually requires a statutory amendment, as opposed to presenting proposed regulatory language for consideration;
2. whether NRS 116.31175(4)(c) already makes agenda status relevant to records availability;
3. whether the Commission may, within its existing authority, give administrative meaning to the statutory requirements that records be “made available” and “reasonably available”; and
4. if the specific solution proposed exceeds that authority, whether a narrower regulation addressing the identified timing gap should be initiated.

If the Division's position remains that no regulation whatsoever may define or implement the timing requirements inherent in “make available” or “reasonably available,” I respectfully request that the Division state that conclusion expressly and identify the statutory basis for it. That would clarify whether the Division's position is that the identified problem can be addressed only through legislative amendment.

Thank you for reconsidering the Petition.

Respectfully,

Sign

Mike Kosor