

## Attachment 3: Unresolved HOA Rulemaking and Clarification Requests under NRS Chapter 116,

Released 2/3/2026

The following matters are offered as a menu of issues for phased Task Force consideration. They identify areas where Nevada law or regulation may be ambiguous, inconsistently applied, or in need of clarification. Formal petitions under NRS Chapter 233B have been submitted on many of these topics, as noted (\*).

1. **Review the use of “workshops.”** Clarify whether and under what conditions board gatherings constitute “meetings” under NRS 116.31083, and whether additional safeguards are needed to ensure owners can observe board deliberations on community business and be physically present when governance matters are discussed so owners may participate collectively.\*
2. **Review virtual-only meetings.** Clarify the meaning of “place” in NRS 116.31083(5) and whether physical attendance must remain available when boards meet. Consider whether any authorization of virtual-only formats should be paired with enhanced transparency requirements (see Issue Paper, Attachment 2).\*
3. **Clarify director eligibility and conflict-of-interest rules.** Address ambiguities in NRS 116.31034 and NRS 116.31084, including recusal standards and protections for directors serving during declarant control.\*
4. **Consider prohibiting** declarant-controlled boards from contracting with affiliated service provider (NRS 116.31086). Declarant-controlled boards cannot negotiate arm’s-length contracts with affiliated vendors. This is especially impactfully when the affiliate is the community manager leaving owners with no true fiduciary oversight of the community's governance.\*
5. **Address the tension in NRS 116’s director duty standards:** Executive board members are subject to the business-judgment rule (NRS 116.23102(1)(a)), are fiduciaries, (NRS 116.3102(1)), while American Law Institute’s Restatement (2000) (§ 6.14) and UCIOA’s (§ 3-103(a)) explicitly embed heightened trustee standard- the most demanding fiduciary obligations recognized under law- for declarant-appointed directors, while non-developer-appointed directors subject to exercising a degree of care and loyalty required of officers or directors of a nonprofit corporation- a lesser standard than under NRS 116. Consider codifying (or via regulation, if available) Delaware’s framework *MFW*-based (Kahn v. M & F Worldwide Corp safe harbor) fairness review for conflicted transactions and *Zapata*-based oversight for construction defect decisions.
6. **Clarify termination of declarant control.** Review application of NRS 116.31032 (“no later than” termination of declarant control) and NRS 116.2105(1)(d) statements of maximum units to prevent uncertainty or inflation of potential unit counts.\*
7. **Review confidentiality provisions.** Review NRS 116.757 in light of *Reno* (NSC 2011) and the Division’s application of complaint confidentiality, and consider whether greater transparency is appropriate to inform owners and support accountability in enforcement outcomes.\*
8. **Clarify competitive bidding requirements.** Review application of NRS 116.31086.\*

9. **Address board action by email outside meetings.** Clarify interaction between NRS 116.31085 and corporate statutes (e.g., NRS 82.276) where boards approve contracts outside noticed meetings and later “ratify” those actions.\*
10. **Protect candidate communication rights.** Request Task Force review of NRS 116.31034 to determine whether its current language or application results in unintended restrictions on a candidate’s ability to communicate campaign materials directly to owners.\*
11. **Clarify fiduciary duty enforcement standards** under NAC 116.405. Review whether the regulation’s current language and application provides clear and consistent standards for determining fiduciary breaches by executive board members.\*
12. **Clarify board meeting agenda notice requirements.** Review the requirements of NRS 116.31083 to determine whether the statute’s language provides sufficiently clear and consistent standards for agenda notice, including what items must be included and the level of detail required given general application practices. \*
13. **Review the HOA budget adoption process.** Evaluate whether post-adoption owner “approval” procedures under NRS 116.31151 function as intended and whether additional owner input opportunities should be considered.
14. **Review Nevada’s dispute resolution systems.** Consider reforms involving both administrative (NRS 38) and governing document disputes (see policy paper *Reforming Nevada’s CIC Dispute Resolution Systems*).
15. **Review declarant removal of owner-elected directors.** Clarify statutory language permitting a declarant to remove an owner-elected director during declarant control (NRS 116.31032 & 116.089).\*
16. **Define allowable common expenses.** Clarify NRS 116.019 to distinguish shared property obligations from discretionary lifestyle programming tied to mandatory assessments.\*
17. **Consider safeguards for declarant-affiliated contracting.** Review circumstances in which declarant-controlled boards contract with declarant-affiliated management companies (NRS 116.31086) and consider whether additional structural conflict-of-interest protections are appropriate during the period before owner control
18. **Owner communication rights.** Consider requiring associations provide a reasonable method for owners to communicate with one another and the board (similar to provisions in the 2008 UCIOA amendments not adopted in Nevada).
19. **Reserve expenditure transparency.** Consider requiring line-item disclosure of planned reserve expenditures as part of the annual budget under NRS 116.31151.
20. **Declarant control timeline disclosure.** Consider requiring declarants provide at least annually, and to prospective buyers, a good-faith estimate of when control of the CIC is anticipated to terminate.
21. **Limits on reserve special assessments.** Consider whether statutory limits or owner-approval requirements should apply.
22. **Electronic access to supporting documents.** Consider requiring electronic access for owners to supporting documents (budgets, contracts, etc.) at the time agendas are released where board action is possible (with an exception for very small associations).
23. **Owner notice of statutory changes.** Consider adopting rules that require owners be informed of changes enacted to NRS that may directly impact them.

24. **Declarant annexation notice.** Consider mandatory notice when a declarant adds acreage to an association (NRS 116.2105).
25. **Independent oversight of HOA elections.** Consider independent oversight mechanisms for executive board elections, given that elections are often administered by vendors hired by the incumbent board.
26. **Clarify repose period for declaration amendments.** Clarify application of the repose period under NRS 116.2117(2) and whether it applies to all amendments or only those adopted by the association.

**Prepared by:**

Mike Kosor

Founder, Nevada HOA Reform Coalition

[NVHOAReform.com](http://NVHOAReform.com)