

Via Email

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Administrator, Nevada Real Estate Division (NRED)
Department of Business & Industry
3300 W. Sahara Avenue, Suite 325
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RE: Petition for Rulemaking Under NRS 233B Prohibiting Contract and Policy Approvals by Email Outside of Noticed Meetings

Pursuant to NRS 233B.100 and NRS 116.623, I respectfully petition the Nevada Real Estate Division (NRED), in coordination with the Commission for Common-Interest Communities and Condominium Hotels (CICCH Commission), to initiate rulemaking to clarify that executive boards of homeowners associations may not approve contracts, adopt policies or rules, or authorize non-emergency expenditures via email, written consent, or other informal methods outside a properly noticed meeting.

A growing number of homeowners express concern that critical HOA decisions—especially those involving vendor selection, assessment spending, and policy creation—are being made out of public view, circumventing the procedural transparency intended by NRS Chapter 116.

I. Statutory Ambiguity and Misapplication

Under NRS 116.31083, boards are required to hold regular meetings with owner notice and open access for owners. When boards deliberate and vote on material matters via email or informal channels, they deny owners the opportunity to observe, engage, and hold leadership accountable.

Although NRS 116.31083(13) provides an exception for emergencies, this does not authorize routine approvals of contracts, policy decisions, or vendor appointments outside noticed meetings. Moreover, NRS 116.31085(2) prohibits boards from taking action on contracts in executive session. Yet many boards now approve contracts privately via email, then attempt to “ratify” the decision after the fact.

This is a legal workaround that functionally subverts the open-meeting protections NRS 116 was designed to guarantee. Boards using email to approve contracts or policies effectively bypass NRS 116.31085(2)’s restrictions, even if they seek “ratification” during the next formal meeting, by conducting deliberations and votes in private.

II. Governing Documents & NRS 82.276 Do Not Override Statutory Protections

Some associations rely on NRS 82.276—which permits action by unanimous written consent under nonprofit corporate law—or cite provisions in their governing documents to justify email-based decision-making. But this position misstates the hierarchy of law.

NRS 116.1203 makes clear that the provisions of Chapter 116 prevail over conflicting provisions in other Nevada statutes. Accordingly, boards cannot invoke NRS 82 or CC&R clauses to bypass the mandatory procedural safeguards of NRS 116.31083 and NRS 116.31085.

Permitting email-based decisions on material governance issues effectively nullifies the statutory requirement for open deliberation and violates the legislative intent of NRS 116.

III. Requested Regulatory Clarification

To address this ambiguity, I respectfully request that the Commission adopt a regulation with language substantially similar to the following:

“Notwithstanding any provision in the governing documents of a common-interest community, an executive board may not outside a board meeting, approve contracts, adopt new rules or policies, or authorize non-emergency expenditures solely by email, written consent, or any non-meeting-based method. All such decisions must be taken at a properly noticed meeting subject to NRS 116.31083, and any discussion of contracts must occur outside executive session in compliance with NRS 116.31085(2).”

This rule would:

- Uphold mandatory statutory notice and deliberation requirements;
- Prevent subversion of executive session restrictions via email;
- Reinforce fiduciary accountability and owner trust; and
- Allow emergency action when legitimately necessary.

IV. Conclusion

Nevada’s common-interest community statutes are grounded in principles of notice, transparency, and owner participation. The increasing use of email to conduct board business—particularly contract approvals and rule adoption—erodes those values and circumvents legislative safeguards.

Rulemaking is necessary to close this loophole, ensure alignment with existing statutes, and restore procedural legitimacy to HOA governance.

Respectfully submitted,



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