

Via Email

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Asher A. Killian, Director
Legislative Counsel Bureau
Nevada Legislature, Legislative Building
401 S. Carson Street
Carson City, NV 89701-4747

Subject: Allegations R091-25 adoption approval by CICCH Commission violated NRS 223B

Dear Mr. Killian:

I am writing concerning R091-25, a proposed permanent regulation of the Commission for Common-Interest Communities and Condominium Hotels.

R091-25 was the subject of two separate proceedings noticed together and scheduled on consecutive days: a workshop on September 8, 2026, followed by a Hearing for Adoption on September 9, 2026. The proposed regulation was approved by the Commission on September 9 and, as I understand the process, will next be presented for review by the Legislative Commission.

In my view, the regulation approved by the Commission was adopted in violation of Nevada law. The Commission failed to comply with NRS Chapter 233B when it materially changed the proposed regulation during the September 9 adoption hearing and then voted to finally adopt that changed regulation.

I am asking that, before R091-25 is presented to the Legislative Commission, you review this procedural issue, advise the Legislative Commission concerning it, and ensure that this objection is included with the materials provided for its consideration. I would also appreciate being copied on any response or analysis concerning this objection.

Changes to the noticed regulation were made during the adoption hearing to Sections 2, 12, and 15. The Commission nevertheless proceeded to approve R091-25, based at least in part on repeated representations by Administrator Chandra concerning the role of Legislative Counsel after Commission approval that I believe were misrepresentations of that role. The Administrator represented that the changed language would subsequently be reviewed by Legislative Counsel and that, if problems existed, they would be addressed through that process. Subsequent comments by several Commissioners demonstrate that they relied on those representations in deciding to proceed with final approval.

That representation was especially troubling because, before the vote, I submitted in writing and raised during public comment a point of order directly addressing the statutory problem: whether

the Commission could materially change the proposed regulation during the adoption hearing and then finally adopt a form of the regulation that had not been reviewed by Legislative Counsel. Neither Division counsel nor Commission counsel corrected the Administrator's characterization, and the Commission declined to address my point of order before proceeding with the vote.

To be clear, the issue is not whether Legislative Counsel previously reviewed R091-25. It did.

The issue is whether **the regulation actually adopted on September 9 remained the regulation "in the form to be adopted" that Legislative Counsel had reviewed and that had been presented to the public. It did not. The Commission materially altered the text and in turn "form" during the adoption hearing and then immediately voted to adopt the altered version.**

NRS 233B.064 provides that an agency shall not adopt a permanent regulation until it has received from Legislative Counsel the approved or revised text **"in the form to be adopted."** NRS 233B.063 further provides that if proposed or revised text is **"changed before adoption,"** the changed text must be submitted to Legislative Counsel.

Read together, those provisions appear straightforward: the agency must have the Legislative Counsel-reviewed text in the form it intends to adopt, and if the text or form is materially changed before adoption, the changed text and form must be returned to Legislative Counsel before adoption.

The position advanced during the hearing and supported by Administrator Chandra was that deleting language did not constitute a material change requiring further Legislative Counsel review or notice before adoption. I find that distinction difficult to reconcile with NRS 233B.063, which speaks in terms of whether the proposed or revised text is **"changed,"** not whether the change consists of an addition or deletion.

In any event, the Commission did more than delete language. In Section 15, for example, it changed an operative period from 90 days to 30 days, among other edits. Once those changes were made, the regulation the Commission finally adopted was **no longer the same form** of R091-25 that Legislative Counsel had previously reviewed.

That is the statutory defect I am asking LCB and, ultimately, the Legislative Commission to address.

There is also a related public-process concern. The version of R091-25 on which the public was asked to comment was the version noticed and made available days in advance of the hearing. The substantive changes ultimately adopted on September 9 had not been incorporated into a complete revised text made available to the public. The public therefore commented on one form and text of R091-25—with many objecting to that proposed regulation—while the Commission ultimately adopted another. Owners following the hearing virtually or in person had no opportunity to review and comment on the altered form before the Commission voted to adopt it.

I respectfully request that LCB review this issue and present its legal analysis to the Legislative Commission when R091-25 comes before it for approval.

I also request that this objection and my attached written point of order be included in the materials provided to the Legislative Commission.

Thank you for your consideration.

Signed

Michael Kosor
Nevada HOA Reform Coalition