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August 16, 2026

Commission for Common-Interest Communities
c/o Nevada Real Estate Division
Nevada State Business Center
3300 W. Sahara Avenue, Suite 350
Las Vegas, NV 89102

Re: Opposition to Section 4 of Proposed Regulation R091-25

Dear Commissioners:

I respectfully oppose Section 4 of proposed regulation R091-25 because it would formalize a confidential enforcement process that allows Division interpretations of Nevada HOA law to become controlling in practice without public Commission review.

The Division currently possesses the ability to recommend corrective action to avoid a formal complaint. If the respondent refuses to take the corrective action suggested by the Division, the Division may proceed with a formal complaint and place the matter before the Commission.

What is troubling about Section 4 is what happens when the respondent agrees.

The Division could determine that an association violated the law, privately recommend corrective action, obtain compliance, and close the matter without filing a formal complaint. The Commission would never determine nor ever know under a violation actually occurred or was "determined". The owners—and potentially even the complainant—would never know what the Division concluded or what corrective action, if any at all, it recommended.

That creates more than a transparency problem.

In practice, the Division's confidential determination becomes the operative interpretation of the law for that matter. The Division may tell an association what it must do to comply with Nevada law even though no formal complaint has been filed and the Commission has never determined that the conduct violates the law.

Section 4 therefore risks allowing the Division to accomplish privately what would otherwise require a formal complaint and a Commission determination.

That is particularly concerning because these informal compliance "suggestions" may never be exposed to public scrutiny, Commission review, or comparison with the Division's treatment of similar cases.

The potential for abuse should be apparent.

The Division could determine, for example, that an association represented by persons having a close or friendly working relationship with the Division violated Nevada law. It could privately advise that association how to correct the violation, obtain compliance, and close the matter. Owners would never know their association had been found out of compliance. The Commission would never review the Division's interpretation of the law and associated resolution. And the public would have no way to determine whether another association—or another complainant—would have been treated the same way.

The opposite problem is equally important and, I respectfully suggest, is already having detrimental effects.

The Division may decide that challenged conduct does **not** violate the law and close the complaint. Because no formal complaint is filed, the investigative materials—and, under the Division's current interpretation, even the substance of the outcome—remain confidential.

That means the Division's interpretation can influence how it handles future complaints even though the Commission has never considered or ruled on the issue. The result is an **effectively operative interpretation of Nevada HOA law that develops in secret, while complainants, owners, and the public are left in the dark.**

Over time, these confidential determinations can become a body of unwritten regulatory law. Associations and their counsel may learn through their dealings with the Division what the Division will or will not accept. Division investigators may rely upon prior internal determinations when evaluating later complaints. Yet owners and the public have no comparable ability to know what standards are actually being applied.

That produces an obvious imbalance.

A regulated association that repeatedly interacts with the Division may develop substantial knowledge of the Division's informal interpretations and enforcement practices. An individual homeowner filing a complaint does not have access to that accumulated institutional knowledge because the underlying determinations remain confidential.

The Commission should also consider the effect on its own role.

If significant questions of statutory interpretation are repeatedly resolved through confidential Division investigations and informal corrective measures, those questions never reach the Commission. The Commission therefore loses the opportunity to decide them publicly, establish consistent standards, and provide guidance to associations and homeowners statewide.

The Division's interpretation then becomes influential precisely because the Commission has never had the opportunity to review it.

That is the opposite of transparent administrative regulation.

There is nothing inherently objectionable about the Division resolving minor matters informally. Voluntary correction can conserve resources, avoid unnecessary litigation, and promptly remedy problems.

But efficiency cannot justify a system in which the substantive interpretation and enforcement of Nevada HOA law increasingly occurs outside public view.

If the Division concludes that conduct violates the law and corrective action is necessary, there should ultimately be transparency concerning the legal standard being applied. Likewise, when the Division repeatedly concludes that particular conduct does **not** violate the law, the public should not be required to discover that interpretation indirectly—or never discover it at all.

At minimum, any informal resolution process should include sufficient public reporting to disclose, in redacted form if necessary:

- the statutory or regulatory provision at issue;
- the nature of the alleged conduct;
- whether the Division concluded corrective action was warranted;
- the general nature of any corrective action taken; and
- the legal basis for closing the matter without a formal complaint.

Such disclosure would not require revealing confidential investigative information or personally identifying information. It would simply prevent substantive regulatory interpretations from disappearing entirely behind the confidentiality provisions governing Division investigations.

Imagine if allegations of misconduct before other Nevada regulatory agencies were handled this way: agency staff privately determine what the law requires, privately tell the regulated party how to comply, obtain compliance, and close the matter without the public ever learning what legal standard was applied. Or, conversely, agency staff privately conclude that questioned conduct is lawful and that interpretation then guides future enforcement without ever being publicly reviewed.

The public would reasonably question such a system.

HOA regulation should be no different.

The issue before this Commission is therefore not whether the Division should be permitted to recommend voluntary corrective action. It already does so.

The question is whether Nevada should now formally institutionalize a process under which substantive interpretations of HOA law and resulting compliance requirements can be developed, applied, and repeated in secret without a formal complaint, Commission review, or meaningful public disclosure.

I respectfully submit that it should not.

Section 4 should either be rejected or revised to ensure that informal resolutions do not create a body of effectively operative, but undisclosed, Division interpretations of Nevada HOA law.

Respectfully submitted,

Michael Kosor

Nevada HOA Reform Coalition