

BDR By Colonel Robert E. Frank, USAF (Ret.), Sun City Anthem, 2374 Sandstone Cliffs Dr, Henderson, NV 89044 & Homeowner Representative Member, Commission for Common Interest Communities & Condominium Hotels (CICCH)
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Bill Draft “**To Enhance HOA Property Values**” by:

- Guaranteeing all NRS116 and subordinate homeowner governance contracts fully support all United States and Nevada Constitutional provisions and protections.
- Guaranteeing equal rights, equal justice and all other Constitutional provisions for each and every Nevada common interest community property owner, resident and citizen.

DISCUSSION:

- Historical studies about US Common Interest Communities (CICs), or home owner associations (HOAs), have reported the original purpose was often to **circumvent laws** that prohibited discrimination against people of race, religion, and other criteria.¹ While NV has made progress in recent decades, the State still has much to do to implement equal justice under the Constitutions and to be much more effective to anticipate, cut and control mismanagement and corruption in Nevada’s 3,000 HOAs.
- While HOA statutes and governing rules are neither a pure contract nor a part of local government, HOA statutes and governing contracts have evolved during the past century to **include blended concepts incorporating both government and corporate provisions**.² While HOA unit owners are taxed and assessed multiple times for the blends of services received, they never receive full or equal value as compared to non-HOA property owners.
- One major cause of unit owner injustice is that HOA governance systems are initiated and managed under one-sided, “**contracts of adhesion**”. These HOA contracts are severely imbalanced in favor of developers, management companies and professional consultants. These adhesion contracts (normally called “CC&Rs”) deny the unit’s Constitutional rights.
- If associations were sued, some believe that HOA agreements could be **declared “unconscionable”** by a judge. But, unit owners rarely discover the bad news about having lost their basic rights until after they are unfairly mistreated by their board.

¹ http://en.wikipedia.org/wiki/Homeowner_association

² http://en.wikipedia.org/wiki/Homeowner_association and <http://www.evanmckenzie.com/>

- Another cause of HOA management problems is that **prospective unit buyers are informed about the physical property elements** and on the association balance sheet. **But, buyers are not informed on past financial problems of the HOA.** Potential buyers are also not told about past board misconduct and any liability that might accrue. Such failures of disclosure should be considered **violations of the legislative intent.** If such full disclosures were required to be made about HOA board mismanagement, the causes of board failures would **tend to get fixed in a short time.**
- NRS116 and related regulations for HOAs in the past decade were based on recommendations from the [Uniform Law Commission](#) (ULC, also known as the **National Conference of Commissioners on Uniform State Laws**). ULC was established in 1892 to provide states with candidate legislation.³ As a result, the ULC “uniform” HOA language appears to have created some of the causes for NRS116 Constitutional violations.
- When NV became a State in 1864, the mandate to support and defend the US Constitution was **embedded in the enabling legislation.** Since **NV is permanently bound to fully and completely comply with the US Constitution,** the State cannot grant the authority to HOA corporations to fail to enact all provisions of the US Constitution. In other words, **NV HOA Statutes and administrative regulations must be quickly upgraded** to fully comply with US Constitutional provisions because **no State can grant to a corporation formed under its laws any power that the State does not itself have.**
- There is growing evidence that **NV HOA property values may be degraded below national averages** due to expanding global knowledge of the FBI’s massive, long-term NV HOA fraud case. It can be claimed that the **best way to deal with the possibility of such long-term, declining HOA property values** is for the Legislature to quickly make vital changes to NRS116 to correct major HOA system faults. Perhaps this could be followed by a **marketing campaign** to promote NV as the **“homeowner friendly place for HOA investments”?**

BDR ACTION REQUESTED:

1. Move quickly to resolve the Constitutional deviations in NRS116, related regulations, and community governance contracts. Begin with approving a preamble or similar introduction to NRS116 so there can be no chance that implementing regulations and community governance rules can circumvent the US and NV Constitutional provisions for American citizens.
2. Follow up with chartering a NV Governor-led Special Task Force or Committee to identify the offending HOA system faults at all levels and establish a process for ensuring that the state-wide purging process is completed before the 2014 election.

³ <http://www.uniformlaws.org/Default.aspx>