

NRS 116 contains uncodified language stating the basic principles of democracy found in the US Constitution are to be followed. I believe this is very important when considering legislation concerning HOAs.

Fundamental principles of the US Constitution include the three branches of government - legislative, executive and judicial - AND, very important, the separation of powers as a check and balance to protect the people.

HOAs do not have three branches of governance; they only have one - the executive board. Some might see that as similar to an oligarchy.

Without the protections created by the three government branches, the state is obligated to assure proper safeguard of the people, the units' owners in the case of a HOA.

I believe protections are critical when matters concerning the power of the executive board to impose punishments on units' owners are considered and written into NRS 116. Such powers must be carefully evaluated and appropriately limited to assure the rights of units' owners are adequately protected.

There are no qualifications for board members concerning education, training, experience, skills, or anything else. Their ability to fairly and properly determine the guilt or innocence of anyone is dubious at best. Such determinations should be limited to matters of fact such as did or did not the units' owner pay their assessments, did or did not the units' owner landscape their property, etc.

When issues go beyond simple matters of fact I hope you will be very careful to protect the rights of units' owners. Please keep in mind penalties can be very severe involving thousands of dollars and even the loss of the units' owner's property.

When matters of law, determinations of the meaning of the law, and judgments concerning violation of the law are involved such as "Misconduct", "Willful misconduct", "Negligence", "Gross negligence", etc. the average board is not qualified. The State should provide, through NRS, for reasonable venues beyond the executive board to consider such matters in order to assure both the rights of individual units' owners and the rights of the association are honored.

I urge you to review and consider Amendments V, VI, VII, VIII, IX and XVI to the US Constitution. I urge you to work with the sponsors of proposed legislation and the LCB to assure language in any bill relating to HOAs considers the rights and protections guaranteed by the US Constitution. For example, wording such as when a fine may imposed vs. when an assessment may be imposed can be critical concerning the jeopardy of the unit's owner.

If a matter is serious enough for the board to pursue, it should be done in a manner that respects the rights and protections guaranteed to every US citizen and resident.

Thank you for your consideration of my comments,

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