

Anthem Today

[CAN A BOARD UP-DATE THE CC&Rs WITHOUT A MEMBER VOTE?](#)

by [Rana Goodman](#) on Sun Apr 03, 2011 12:02 pm

The following information was supplied by a reader to clarify the issue of the ability of a board to change or up-date an HOA CC&Rs to comply with current law:

You mentioned someone told you the board ONLY made changes to bring those documents into compliance with NRS 116. Who ever told you that is either lying to you or is extremely ignorant of the law and what really happened. Some comments like that are on another Blog - they are not correct.

The facts are there is no authority in the law for **any board to amend the governing documents for any reason**. Rather the law is very specific in denying that ability to any board. See NRS116.3103 section 2. The Declaration and the CC&Rs are the same thing.

NRS 116.3103 Power of executive board to act on behalf of association

2. The executive board may not act on behalf of the association to amend the declaration

And then consider NRS116.2117

NRS 116.2117 Amendment of declaration

The declaration, including any plats, may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the declaration specifies. - - In our case it requires a 67% approval.

Next, the changes were so significant and so far off base they actually made our CC&Rs non-compliant with NRS116. Our previous CC&RS were in compliance and the changes made them non-compliant.

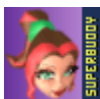
Further, go here for the opinion of the AG. Note the second paragraph on page 3. No changes to CC&Rs.

[http://red.state.nv.us/publications/AGO ... 007-41.pdf](http://red.state.nv.us/publications/AGO...007-41.pdf)

The law is clear, no amendments to CC&Rs by the board – In the 2009 legislative session someone introduced a change in the law to allow changes by a board. The law failed to pass. Once again the legislature made their position clear – no amendments to governing documents by the board, State law always takes precedent over the CC&Rs unless law states otherwise so the changes didn't need to be made anyway. (other than to increase attorney billing)

The minutes of the Feb. 26, 2009 board meeting, Agenda Item F, Action item #3.

Rana



[Rana Goodman](#)

Site Admin

Re: CAN A BOARD UP-DATE THE CC&Rs WITHOUT A MEMBER VOTE?

□by [Bob Frank](#) on Sun Apr 03, 2011 12:55 pm

For the record: Exactly what Rana posted above was provided to both the 2007 and 2008 boards. As a board member at that time, I can report that as a result of the attorney's advice, the statutes were disregarded and the attorney was paid tens of thousands of dollars for his work to revise the CC&Rs.

We can be confident that the Attorney General's representative would not have filed this very serious complaint against the Mike Dixon and Roz Berman boards without careful consideration. It took the Real Estate Division and the AG almost 3 years to complete an extensive investigation and to decide to prosecute.

I argued strongly against, and voted consistently against that board action in 2007 and 2008, but was ignored. I strongly objected then (and now) to paying Mr. Leach to do what I believe was/is self-serving advice to pay him for unjustified work at the time in 2007 when he was launching his own law firm. I believe he owes the community a big refund.

[Bob Frank](#)