From:	Mike Kosor
To:	Kristopher Sanchez
Cc:	Shareece N. Bates; Sharath Chandra; Leticia Chavez
Subject:	CIC Task Force Review — NRS 116.757 and Investigative Confidentiality
Date:	Thursday, October 22, 2026 5:00:28 PM

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Director Sanchez,

I am writing to request that the Common-Interest Communities Task Force examine NRS 116.757, particularly the scope and application of investigative confidentiality by the Nevada Real Estate Division (NRED), both during investigations and after complaints are closed without referral to the Commission for formal disciplinary proceedings. You may recall that, during our last conversation, you expressly invited my input on matters warranting Task Force consideration.

The issue is not whether confidentiality serves legitimate purposes during an investigation. It does. The question is whether the Legislature intended the present consequences of that confidentiality—and whether those consequences remain consistent with the objectives of Nevada's HOA regulatory system.

Under NRS 116.757, as interpreted and applied by the Division, the affidavit initiating a complaint, all supporting documents, and information compiled during the investigation are treated as confidential unless a formal complaint proceeds to the Commission. When an investigation concludes without a formal complaint—as I understand is the case for the majority of NRED investigations—those materials remain confidential, even when NRED has identified concerns or obtained corrective action.

Consequently, a large number of complaints are being investigated, deficiencies addressed privately, and matters closed without homeowners knowing what occurred, what standards NRED applied, or whether the association took corrective action when warranted. The Commission may never consider these matters, and the resulting interpretations or applications of the law remain unavailable to other homeowners and associations confronting similar circumstances.

This raises several questions that warrant examination by the Task Force.

First, what purpose does continued blanket confidentiality serve after an investigation concludes?
Confidentiality during an investigation protects legitimate interests, including privacy, reputations, and the integrity of the investigative process. But those interests do not necessarily justify withholding every category of information indefinitely. Public disclosure is not an all-or-nothing proposition. The Task Force should consider whether closed investigations warrant different levels of access, including public summaries, redacted findings and dispositions, redacted investigative records where appropriate, and, importantly, sufficient access for the Commission to fulfill its statutory responsibilities.

NRS 116.665(2) expressly requires the Commission to collect and maintain accurate

information concerning violations of Chapter 116 and its regulations, as well as other issues the Commission determines are of concern to homeowners, associations, community managers, developers, and others affected by common-interest communities. How can the Commission fulfill that responsibility when much of the information concerning the Division's investigative findings and dispositions remains unavailable to it?

Second, how should NRS 116.757 be reconciled with NRS 116.760(2)?
Before filing an affidavit, the complainant must provide the respondent written notice describing the alleged violation in reasonable detail and an opportunity to correct it. Thus, the Legislature expressly requires disclosure of the allegations to the respondent before the investigative process begins. The complainant and respondent already know the substance of the dispute, and each other's identities. Nevertheless, once the affidavit and supporting materials enter NRED's investigative process, NRS 116.757 imposes confidentiality on those records. This distinction is particularly important when confidentiality is defended as a means of preventing retaliation. The statute's notice requirements already expose the complainant to that possibility before NRED begins its investigation. Continued secrecy surrounding the disposition does not necessarily resolve that risk.

The Task Force should examine what additional interests are protected by maintaining confidentiality after an investigation concludes, particularly when the underlying allegations were already disclosed to the respondent.

Third, can the Commission fulfill its statutory mandates under NRS 116?
NRS 116.750 assigns investigative jurisdiction to the Division and Ombudsman, while reserving jurisdiction to take appropriate action against persons who commit violations to the Commission and its hearing panels. When NRED resolves complaints administratively, the Commission has no opportunity to examine recurring statutory questions, the consistency of interpretations, or remedies negotiated privately between investigators and associations. The latter raises an additional concern: At what point does an administrative resolution involving negotiated corrective action effectively exercise authority the Legislature assigned to the Commission?

I am not suggesting that every informal resolution requires a formal disciplinary proceeding. The Division needs some level of discretion to investigate complaints and determine when further action is warranted. Rather, the Task Force should examine where the Legislature intended to draw the boundary between investigation and enforcement, whether current practices respect that boundary, and whether additional statutory limits or clarification are needed.

The Task Force should also consider whether the Commission's current access to Division investigations—not necessarily every document—is sufficient to identify systemic concerns, evaluate the application of governing law, and determine whether legislation or regulation is warranted. Based on my examination of NRED's complaint-handling practices, I question whether the Commission presently receives sufficient information to fulfill these responsibilities.

Fourth, what are the consequences for public confidence and legislative oversight?
Homeowners, journalists, legislators, and even Commissioners cannot meaningfully evaluate how the law is being administered when the underlying reasons for closing investigations remain confidential. A complaint closed without formal charges does not necessarily mean

that the alleged violation was unfounded. Corrective action may have occurred, an association may have changed its practices, or the Division may have determined that further proceedings were unwarranted. These are materially different outcomes. Without meaningful disclosure, the public cannot distinguish among them. Nor can Commissioners or legislators readily determine whether statutory protections are working as intended, whether comparable complaints receive consistent treatment, or whether recurring problems warrant legislative attention.

The concern extends beyond transparency. It is whether the Legislature and the Commission have sufficient information to evaluate the effectiveness of the regulatory system they are responsible for overseeing.

Finally, what did the Legislature intend, and do the present consequences warrant reconsideration?
I am not suggesting that the wording of NRS 116.757 is unclear or that lawmakers made a drafting error. The Legislature enacted the confidentiality provisions in 2005 and strengthened them in 2009, after establishing the Commission's statutory responsibilities. The question is whether the Division's current application of those provisions is consistent with the Legislature's intent, particularly concerning the Commission's ability to fulfill its responsibilities under NRS 116.665. The Task Force was established to examine matters affecting Nevada's common-interest communities and recommend legislative or regulatory improvements. This is precisely the type of systemic issue that merits its independent consideration.

I respectfully request that the Task Force place NRS 116.757 and post-investigation confidentiality on its agenda, examine the legislative history and current administrative practices, and determine whether changes are warranted to preserve legitimate confidentiality interests while providing meaningful regulatory transparency, Commission oversight, and accountability.

Sincerely,

Mike Kosor
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