NEVADA HOA REFORM COALITION
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Via Email
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Director Kristopher Sanchez
Nevada Department of Business and Industry

Subject: Reconsider approved Task Force recommendation to amend NRS 38

Director Sanchez,

I was encouraged that, during the April 14 CIC Task Force meeting, members unanimously approved recommending a move away from mediation as the default dispute-resolution process, replacing it with nonbinding arbitration. I read that decision as recognition of the value of an independent, written determination of a dispute—something the existing default mediation process does not necessarily provide.

However, a close examination of the draft meeting minutes (Item 4.A.5), the proposed statutory amendments to NRS 38 approved for recommendation, and their implications for Nevada's common-interest community owners raises concerns that go well beyond the choice between mediation and arbitration. Did the Task Force fully understand the scope and consequences of the statutory changes it approved for recommendation? It is my hope that you will recognize, as I do, that the issues identified in this letter warrant reconsideration of the recommendation before it advances to the Task Force's final report.

First, the proposed amendments would eliminate the existing referee program. The definition of the Division-established program in NRS 38.300 would be removed, while NRS 38.325 would be substantially rewritten to address mediation and arbitration. Yet the April presentation by Administrator Chandra did not, nor did subsequent discussion, expressly identify elimination of the referee program as part of the recommendation.

Equally important, NRED's own records document use and value of the existing referee program. The presentation did not explain why eliminating that program would benefit homeowners or associations, identify deficiencies justifying its removal, or compare its performance and costs with the proposed arbitration model. The Task Force was therefore, in effect, asked to approve a recommendation to eliminate an established dispute-resolution option, without the program's elimination being expressly identified or the justification for doing so examined during the meeting.

The proposed amendments also appear to substantially recycle the NRS 38 provisions of SB 433 from the 2025 legislative session. The April minutes note that Administrator Chandra "referenced a bill from the previous legislative session that also sought to modify NRS 38". That bill, SB 433, failed to advance beyond the Senate Judiciary Committee. Significantly, its Legislative Counsel's Digest expressly identified elimination of the Division-established dispute-resolution program as a consequence of the proposed amendments—something not expressly explained during the April Task Force presentation.

In the interest of full disclosure, NVHOAReform opposed SB 433. Moreover, while SB 433 retained the existing prohibition against awarding attorney's fees and costs under NRS 38.325, the Task Force accepted Mr. Gordon's amendment reversing that prohibition. Thus, the Task Force approved for recommendation substantially recycled statutory language, with the additional and consequential change of permitting prevailing-party attorney-fee awards. It also left open a number of subsidy adjustments related to affordability.

Second, the proposed statutory amendments contain significant internal inconsistencies. The restructuring of NRS 38.325 retains provisions originally governing the referee program but attempts to apply them to mediation and arbitration, while NRS 38.330 separately governs those procedures. Among the resulting problems are conflicting 60-day and 30-day deadlines for commencing civil actions following a nonbinding determination, overlapping hearing and decision requirements, and uncertainty concerning how prevailing-party attorney-fee awards would operate following Mr. Gordon's verbal amendment. These problems are detailed in the accompanying comparison table.

Identifying these conflicts required a careful examination of multiple statutory provisions and their interaction, including changes to the heading of NRS 38.325--from a "Program" of dispute resolution to "Processing" of dispute resolution: --not clearly identified through redlining. Importantly, absent an explicit explanation during the meeting, it is reasonable to question whether members fully understood the scope and consequences of the amendments they unanimously approved for recommendation.

Third, the written amendments appear inconsistent with Administrator Chandra's explanation of the proposed arbitration default. The April minutes describe arbitration as nonmandatory, with an opportunity for a party to opt out. Yet proposed NRS 38.330 appears to make arbitration the default when the parties cannot agree to mediation, without providing for a unilateral opt-out. That distinction affects the fundamental operation of the proposed system.

I also remain concerned about affordability beyond just open program subsidies that remain open. Administrator Chandra emphasized the need for arbitration subsidies, while the Task Force accepted Mr. Gordon's amendment authorizing prevailing-party attorney's fees and costs under NRS 38.325 absent subsequent discussion. Attorney's fees can represent a substantially greater financial risk to homeowners than the cost of the ADR proceeding itself. The proposed amendments do not clearly reconcile that potential liability with the objective of providing an affordable means of obtaining an independent determination.

My recommendation remains to make the existing referee program the mandatory default when parties cannot agree on an alternative dispute-resolution procedure. Parties would remain free to agree to mediation or arbitration instead, but neither could unilaterally avoid the referee process. Nonetheless, I respect the Task Force's decision to recommend arbitration. My concern here is not simply which procedure is preferable, but whether the statutory framework approved for recommendation is coherent and whether members were adequately aware of its consequences.

The proposed amendments require more than minor drafting corrections. A clearer understanding of arbitration costs and the subsidy arrangements discussed but not yet developed during the April meeting would also help members assess the financial implications of their recommendation.

Members should have the opportunity to examine the intended statutory structure, the rationale for eliminating the referee program, and the procedural and financial consequences of the proposed changes.

Given these substantive concerns, I respectfully ask that the Task Force reconsider its April 14 recommendation before incorporating it into the final report.

Sincerely,

Signed///

Michael Kosor
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Enclosure: Comparison of proposed NRS 38 amendments

Comparison of proposed NRS 38 amendments

The following table identifies issues with the proposed NRS Chapter 38 amendments approved for recommendation by the CIC Task Force on April 14, 2026.

Statutory provision	Proposed change / requirement	Technical consequence
NRS 38.325 — Entire section	Appears to do little more than repurpose language previously establishing the referee program, with no apparent substantive value added.	Duplicates or conflicts with procedures already addressed in NRS 38.330, without adding an identifiable independent function beyond the Division's administrative role in processing claims.
NRS 38.325(3) vs. NRS 38.330(5) — Civil action deadlines	Section 38.325(3) allows 60 days to commence a civil action, conflicting with the 30 days provided under NRS 38.330(5) following nonbinding arbitration.	Conflicting guidance on the deadline for commencing a civil action.
NRS 38.325(2) — Decisions and attorney's fees	Requires issuance of a written decision and award, although mediation is one of the procedures covered by the proposed section. Gordon's amendment additionally permits an award of costs or attorney's fees to the prevailing party.	Mediation does not produce an adjudicated award or establish a prevailing party. These requirements are inconsistent with the nature of mediation.
NRS 38.325 — Section heading	Retains language concerning the Division's authority to establish a dispute-resolution program, although that authority is eliminated by the proposed amendments.	The heading no longer accurately describes the section's statutory function and should be revised to reflect the Division's administrative role in processing claims.
NRS 38.330(2) — Informational statement	Requires the arbitrator to explain procedures, legal rights, deadlines, and potential attorney-fee exposure after the ADR procedure has been selected.	The intended value of the information is diminished when provided after the parties have selected their ADR procedure.
NRS 38.330(3) and (8) — Arbitration costs and subsidies	Subsidies depend on Commission approval and available funds; fee information is provided only upon request.	Subsidy availability and the parties' financial obligations should be determined and disclosed before ADR selection.
NRS 38.325(1) — Division referral	States that the Division may submit a claim after receiving the required claim and answer. Note: The problem arises from retaining this discretionary wording while repurposing the section from the existing referee program to the proposed default ADR framework.	Creates apparent discretion to withhold referral without identifying permissible grounds, potentially obstructing completion of the ADR prerequisite to litigation.