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Law in Hand

Developer Transition

Nevada law controls several aspects of the developer transition process. These statutes dictate when and how the developer (declarant) turns over control of a homeowners' association to its membership.

Period of Declarant Control (NRS 116.31032)

The declaration may provide for a period of declarant's control of the association, during which the declarant or their representative may appoint and remove the officers of the association and members of the executive board. Regardless of the period provided in the declaration, the following events must occur:

1. Not later than 60 days after conveyance of 25% of the units, at least one member and not less than 25% of the executive board members must be elected by unit owners other than the declarant.
2. Not later than 60 days after conveyance of 50% of the units, not less than 33 1/3% of the members of the executive board must be elected by the unit owners other than the declarant.
3. The declarant's control¹ of the association must end the earlier of:
 - a. Sixty days after conveyance of 75% of the units, except in a timeshare the percentage is 80% and the declarant has 120 days to turn over control.
 - b. Five years after all declarants have ceased to offer units for sale; or,
 - c. Five years after any right to add new units was last exercised.
4. A declarant may voluntarily surrender its right to appoint and remove board members, but may require, for the period of the declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

Control of Executive Board by Unit Owners (NRS 116.31034(1))

Before termination of the declarant's control, the unit owners shall elect an executive board of at least three (3) members, a majority of whom must be unit owners within the association.

¹ A declarant "controls" an association when among other things, the declarant is an officer or director of the association (See NRS 116.007).

Termination of Contracts (NRS 116.3105)

Any management contract, employment contract, lease of parking areas, contract or lease between the association and declarant, and any contract not entered into in good faith may be terminated without penalty by the association any time after the executive board elected by the unit owners takes office, with no less than 90 days notice to the other party.

Transfer of Association Property (13 Items) (NRS 116.31038)

All Association property held by the declarant must be transferred within 30 days after the unit owners elect a majority of the executive board members. A checklist of the 13 items to be transferred includes:

- The original or a certified copy of the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, CC&Rs, bylaws, minutes, rules and regulations and other books and records of the association;
- An accounting of money and financial statements prepared according to GAAP;
- A reserve study, the reserve account (containing the declarant's share of the amounts then due), and a written disclosure if the declarant has subsidized the association's dues;
- The association's money or control thereof;
- All tangible personal property that has been represented by the declarant as property of the association, and personal property that is necessary for, and has been used for the common area, and inventories of these properties (i.e. clubhouse and pool furniture);
- A copy of the plans and specifications used in the construction of the common-interest community which were completed within 2 years before the Declaration was recorded;
- All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons;
- Copies of any certificates of occupancy that may have been issued with respect to any improvements other than units in a planned community (i.e. clubhouse);
- Any renewable permits and approvals issued by governmental bodies which are in force and any other permits and approvals which are required be kept on the property;
- Written warranties of the contractor, subcontractors, suppliers and manufacturers;
- A roster of names, addresses and telephone numbers of owners and mortgagees;
- Contracts of employment in which the association is a contracting party; and
- Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.