

1  **CAI Programs Committee Presents:**

Who Does What?

Moderated by Anne Calarco, CM, CMCA, AMS

2  **Who Does What?**

1. Who is responsible for soliciting bids for service contracts & capital improvements, signing their contracts, and verifying contractor documentation?

3  **A Little Bit of Both!**

Executive boards, under NAC statutes, are responsible for duties listed in question, but may delegate this duty to their community manager. Managers should obtain three bids, whenever practicable, especially on capital improvements. They should also verify service provider license & insurance (especially limits of license and insurance) if the board delegates this duty and that duty is included as part of the management services as listed in the management agreement.

NAC 116.300 - (16) states that the manager is responsible for soliciting bids for capital improvements.

NAC 116.400 (5) states that the executive board obtains bids from properly licensed service providers and three bids are required when practicable.

4  **Who Does What?**

2. Who presides over budget ratification meeting?

5  **The Board!**

The executive board is responsible to provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified. As the executive board is responsible to set and notify owners of the meeting, they should preside over it, but they may delegate that responsibility to the manager.

6  **Who Does What?**

3. Who is responsible for filling unexpired vacancies on the board?

7  **The Board!**

The Board is ultimately responsible. Be sure to check with NRS116 and HOA governing documents, particularly By-Laws, as to appointment or election of board members to an HOA, these documents should determine who fills these vacancies.

NRS 116.31032 states "During period of declarant's control of association; representation of units' owners on executive board. 1. states except as otherwise provided in this section, the declaration may provide for a period of declarant's control of the association, during which the declarant, or persons designated by him, may appoint and remove the officers of the association and members of the executive board. Sections (a), (b) and (c) of that statute provide for further date and timeline of homeowners elected to executive board and ultimately 100% homeowner board at 75% of units conveyance."

8  **Who Does What?**

4. Who decides what happens to the association if there are no volunteers for the

board?

9  **Who Does What?**

The Court

NRS 116.790 (2) (c) states that the Commission, or the Division with the approval of the Commission, may apply to a court of competent jurisdiction for the appointment of a receiver for an association after notice and a hearing.

Management should send out a final letter to the homeowners indicating the consequences of not electing a homeowner board of directors.

If still no response, Management should write a letter to the Chief Compliance Investigator at NRED requesting the Division, with the approval of the Commission, apply to a court of competent jurisdiction for the appointment of a receiver to carry out the affairs of the association.

Management should also consult with an HOA attorney.

10  **Who Does What?**

5. Who decides if an association is bankrupt?

11  **Who Does What?**

The Executive board, as they receive and must review financials every 90 days as per NRS 31083 (6.)

The statute states that unless the HOA's declaration or By-Laws require more stringent standards, the executive board shall review the following financial information at one of their meetings: (a) a current YTD financial statement of the HOA and (b) a current YTD schedule of revenues and expenses for the operating and reserve account, compared to the annual budget for those accounts.

Further, the executive board should consult with their CPA for an expert opinion. The CPA should offer advice on the HOA's financial state and advise a possible consultation with a bankruptcy/HOA attorney.

12  **Who Does What?**

6. Who is responsible for accuracy concerning community property, i.e. number of fire hydrants, light poles, parking spaces, etc.?

13  **Who Does What?**

The CAI Nevada Chapter's Education Committee's opinion is that the Declarant is responsible for turning over all records, as per NRS 116.31038 and the Executive board is ultimately responsible for receiving the records. Of course a good manager, upon acquiring the HOA, would familiarize themselves with the association and take inventory of the transitioned list of files/docs/maps/etc., and check the most current reserve study for listed and quantified items of the association.

14  **Who Does What?**

7. Who is responsible for and who makes the decision to foreclose on a property within an association?

15  **Who Does What?**

The association may foreclose its lien by sale, as per NRS 16.31162(1.)

The executive board, as per NRS 116.3013 (1.) Except as otherwise provided in declaration, by-laws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. The executive board may act within the guidelines of the NAC statute 116.400 (g) as enforcement of HOA's collection policy.

The executive board, usually the President, signs any Notice of Default, Election to Sell and Notice of Sale. No sale by foreclosure should take place without the authorization of the executive board of an HOA. A good manager knows not to sign any document that takes this action against an owner's property.

16  **Who Does What?**

Thank you for your participation in this presentation.

The Programs Committee would like to send a special thank you to the Education Committee for assisting us with this program.