

NRED could disqualify botched HOA election



Dawn Bauman

NOTE: The Community Associations Institute, the leading voice for the \$12 trillion national homeowners association housing sector, has named Dawn Bauman as its new CEO. She steps into the role as 77 million Americans live in homeowners associations, condominiums and housing co-ops, which represent 33 percent of all United States housing. With more than 25 years at CAI, Bauman brings deep expertise and perspective on what's next for this rapidly evolving segment of the housing market.

Q: I am writing to you because you have helped me in the past with regard to parking on a public street in our community.

On May 17, we had our election for two seats that were up for re-election, and myself and another neighbor ran against the incumbents for those two seats. It was a mess. First of all, when we got our ballots in the mail,

my last name was spelled incorrectly, and on the back of the ballot, it said that the meeting was to be held in our community park at 9:30 p.m., which was another error. Apparently no one proofreads anything.

It also was stated that if you mailed in your ballot, it had to reach management by 5 p.m. on May 16, or you could bring your ballot to the meeting in the park on May 17 at 9:30 a.m. before the meeting starts.

An employee of management was at the park for the election. As the meeting started, people started saying that they never received a ballot in the mail. Management was to issue 110 ballots in the mail, because that is the number of homes in our complex. The management employee then handed ballots to these people without even finding out whether they were eligible to vote. The original ballots that were sent in the mail were yellow, and the ones she passed out were white. How do we know these people were not renters who are ineligible to vote, because nobody checked and that's why they didn't get a ballot. The owner of the property gets the ballot. Also, while some of these people were filling out their ballots, the incumbent president was standing over them. So who do you think they voted for. Your guess is as good as mine.

As always, thank you for your advice.

A: It is possible that the Nevada Real Estate Division may not require the association to redo the election because of the 9:30 p.m. error when the correct information was also listed as 9:30 a.m., working on the assumption that homeowners would call the management company for clarification.

There is definitely a problem when the employee handed out ballots to those homeowners who claimed that they never received the original ballot without confirming that these individuals were actually eligible to vote. Per Nevada Revised Statute 116.31034 (1), only unit owners shall elect the board of directors. Without confirming these individuals as eligible voters, their votes should not have been included with the counting of the ballots.

Under NRS 116.31034 (15) (f), the incumbent members of the board and each person whose name is placed on the ballot as a candidate may not possess, be given access to or participate in the opening or counting of the ballots. The action of the president standing over those homeowners who were voting may not have explicitly violated this section of the law. However, the president's action did violate the spirit of the law.

You do have a viable complaint and should contact NRED asking them to disqualify the election and require the association's board to hold another election.

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