

HOA probably should not use homeowner's electricity

Q: Can my homeowners association tap into my electrical system of my house to power some outside lights for guest parking without my permission?

A: You need to check the governing documents or any resolutions passed by the board that a homeowner's electricity could be used for the lighting of the common area.

Generally, the answer is no. If the association is using the homeowner's electricity, in any event, the association needs to compensate that homeowner.

Q: I am the treasurer of our HOA board. We are avid readers of your weekly columns in the Las Vegas Review-Journal.

Our bylaws allow the board to appoint a member to the board even if they are not an owner of a unit here. Last year, we invited a worthy candidate who lives in the unit that is owned by her absentee brother, who is in real estate in New York City. He has provided written instructions to our management company that she is representing his ownership on matters regarding his unit and is authorized to vote regarding his unit. She is a very conscientious resident, and for that reason accepted the board's unanimous invitation to become a director on our board last year. Our board works very well with each other, has spirited discussions and makes invaluable decisions about our respective properties. When she came aboard, it eliminated the possibility of a 2-2 tie vote on important board matters. Her position is solely as a board director.

All worked well for six months, but two weeks ago, our management company suddenly cited Nevada Revised Statutes 116.31034 & 116.31036 that this newest member of the board cannot hold an office as

president, secretary or treasurer *and* cannot vote as a member of the executive board.

Her brother (the property owner) has such confidence in her abilities that he purchased the unit sight-unseen several years ago, and has never set foot on the property

A possible solution was my suggestion that her brother include her as a co-owner of the unit, but she is extremely reluctant to go in that direction. If she cannot vote on matters, she will likely resign as a board member, but continue as a resident of our wonderful complex.

We'd hate to lose her. Are there other provisions that would allow us to retain her as a voting member? We had to really struggle to add a fifth board member after many years. We usually have only one or two residents attending our quarterly meetings. I take that as an indication that the property owners are generally satisfied with the manner in which the board is conducting business.

A: NRS 116.31034 pertains to the election of the board members and officers. There are exceptions where non-owners can serve on the board.

Per subsection 1, unless the governing documents provide otherwise, the officers of the association are not required to be unit owners.

Under subsection 14, an officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the board. In all events where the person serving or offering to serve as an officer of the association or a member of the board is not the record owner, the person shall file proof in the records of the association that the person is associated with the corporate owner, trust, partnership, limited-liability company or estate and identifies the unit or units owned by them.

NRS 116.31036 is irrelevant as it pertains to the removal of a board member and not the procedure of electing or appointing a board member.

Your board and this particular board member have two possible avenues for being able to serve on the board as

indicated by these sections of NRS 116.31034.

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