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Hayward

Talking Points

1. My name is Glenn Hayward. I am the President of Sun City Summerlin Community Association. I presently serve on the Board of Directors of the Association.
2. There are 7,500 homes in the Association. The required quorum for a meeting of the Association is 50% of the members. In my experience at the Association, we have rarely or never reached quorum for the purposes of holding a member's meeting.
3. I have had an opportunity to review certain sections of SB 100. Specifically, I have reviewed the proposed amendment to NRS 116.3115 which are contained in section 53 of SB 100.
4. NRS 116.3115, as it presently exists, causes our Association numerous issues. Specifically, the law presently appears to state that except when the Association is suing to collect an assessment, to enforce the governing documents, to proceed with a counterclaim or to protect the health, safety and welfare of the members, the Board needs to obtain a majority vote of all the owners of the Association. It is unlikely that we could obtain the majority vote of the owners on any issue, especially in a timely fashion, to pursue a third party for our rights.
5. There are numerous situations in which we need the right to pursue third parties without having to obtain the vote of the owners. The circumstances which have arisen previously or which could arise are those situations in which we need to pursue a vendor for breach of contract or a third party who is unrelated to the Association who might cause damage to the Association.
6. The Association's annual budget exceeds \$13 million dollars. There are numerous vendors to whom the Association pays substantial amounts to provide services to the Association, including, but not limited to, landscapers. Additionally, the Association owns and operates a number of golf courses which are part of the Association. If the Association had to obtain the vote of the owners to pursue any vendor who violates a contract with the Association, the Association would be at a distinct disadvantage. We not only believe that the law should not be changed as proposed, but we believe that there should be exemptions for the Board to pursue third parties who damage the Association or breach contracts, without the duty of seeking the vote of the homeowners.
7. In our situation, if a vendor were to breach a contract and cause substantial damage to the Association, which could be as much as \$50,000 - \$100,000 in a short period of time, it would be impossible for the Board to fulfill our fiduciary duties to pursue such third party.

8. We presently have a situation at the Association where a number of owners have sued the Association for an alleged interference with their view. The Association believes that it is not responsible for the views or for any alleged interference with the views. However, if the Association were to lose the lawsuit, it would certainly want to seek indemnification against certain third parties. Pursuant to the way the law is written, the Association has no right to seek such indemnification in a separate suit unless it obtains the vote of a majority of the owners of the Association. As stated above, that is an impossibility for our Association.

I respectfully suggest that the committee carefully review the language of SB 100 relating to the limitation to bring civil law suits to protect an Association. We will be unable to fulfill our fiduciary duties as Members of the Board of Directors if we are handcuffed. It may be that the committee needs to consider different rules for different sized associations. However, we cannot run to the members of the Association each time we need to make a decision. I believe that the remedy for members who do not like the way their Board is behaving is to vote in new Board members or remove the Board members.

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