

**MINUTES OF THE MEETING
OF THE
ASSEMBLY SUBCOMMITTEE ON JUDICIARY**

**Seventy-Sixth Session
May 6, 2011**

The Committee on Judiciary Subcommittee was called to order by Chairman James Ohrenschall at 8:19 a.m. on Friday, May 6, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman James Ohrenschall, Chairman
Assemblyman Richard Carrillo
Assemblyman Richard McArthur

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Allison Copening, Clark County Senatorial District No. 6
Senator Mike McGinness, Central Nevada Senatorial District

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Nick Anthony, Committee Counsel
Julie Kellen, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

Eleissa Lavelle, Private Citizen, Las Vegas, Nevada

Gail J. Anderson, Administrator, Real Estate Division, Department of
Business and Industry

Garrett Gordon, representing Southern Highlands Community Association

Pamela Scott, Director, Community Association Management,
Howard Hughes Corporation

Michael Randolph, Treasurer, Paradise Greens Homeowners Association

Tim Stebbins, Private Citizen, Henderson, Nevada

Jonathan Friedrich, Private Citizen, Las Vegas, Nevada

April Minjares, Private Citizen, Las Vegas, Nevada

Rana Goodman, Private Citizen, Henderson, Nevada

Yvonne Schuman, representing Concerned Homeowners Association
Members PAC

James Reeve, President, Canyon Crest Homeowners Association

Gary Seitz, Private Citizen, Las Vegas, Nevada

Doris Vescio, Private Citizen, Henderson, Nevada

Norman McCullough, Private Citizen, Henderson, Nevada

Robin Huhn, Private Citizen, Las Vegas, Nevada

Monica Wise, Private Citizen, Las Vegas, Nevada

Heather Spaniol, Private Citizen, Las Vegas, Nevada

Robert Robey, Private Citizen, Las Vegas, Nevada

Sarah Goldstein, representing Golden Crest Property Inc.

Patricia Gaither, Private Citizen, Las Vegas, Nevada

Michele Mitemiller, Private Citizen, Las Vegas, Nevada

Patricia Grimes Davis, Private Citizen, Las Vegas, Nevada

Chairman Ohrenschall:

[Roll was called.] Senator Copenig, I appreciate your patience and for being here this morning. We will open the hearing on Senate Bill 254 (1st Reprint).

Senate Bill 254 (1st Reprint): Revises provisions relating to common-interest communities. (BDR 10-264)

Senator Allison Copenig, Clark County Senatorial District No. 6:

I am here today to introduce S.B. 254 (R1) for your consideration. This bill deals with Alternative Dispute Resolution (ADR) procedures for homeowners that live in common-interest communities (CIC).

[Continued to read from prepared testimony ([Exhibit C](#)).]

Chairman Ohrenschall:

Are there any questions? [There were none.] Please proceed with your next witness.

Eleissa Lavelle, Private Citizen, Las Vegas, Nevada

I appreciate the opportunity to speak this morning on this bill. I have been involved for more than 25 years in representing associations, homeowners, as well as developers. I am also a mediator and arbitrator through the process already established with the ADR program through the Ombudsman's Office, and also through the American Arbitration Association as a designated mediator and arbitrator. I am firmly committed to ADR for a number of reasons. I believe this bill is in line with the best possible purposes for ADR as an alternative to going to court.

Specifically, with respect to homeowners associations (HOA), disputes are very common. People disagree, with good reason, over the way their communities are sometimes run, or the way the covenants, conditions, and restrictions (CC&Rs) are enforced with respect to the way rules may be established, a number of issues that come up. There must be a mechanism by which these disputes can be resolved quickly, effectively, and with the least amount of cost. I believe this bill, as a progression of what is already in place, is doing that. Nevada has been a leader with CICs on many fronts, including dispute resolution. However, no process is perfect, and we are continually trying to address the issues we have seen in the problems that have come up with HOAs.

Primarily, these problems are twofold, and this bill is trying to fix these problems. First of all, cost is an issue. It is expensive to litigate. It is more expensive to go to court by far. By the time you pay for attorneys and all the processes that are required, court is the most expensive alternative. Many years ago, we developed the process of sending homeowner disputes to arbitration or mediation. Mediation was not required, but it was selected if both parties agreed to it. Everybody had to arbitrate. The purpose of that was to have these cases heard and resolved by individuals who were under the auspices of the Real Estate Division, Department of Business and Industry, who had been trained by the Division and had a specific knowledge in this area of homeowners' disputes because it is specialized. We believe that people who are suffering with these issues, both HOAs and the homeowners, need to have the most effective people hearing these disputes. I do not know if that has been happening. I believe it has for the most part, but that was the idea of the bill. It has been effective. Most of these cases go through arbitration, and because the quality of the arbitrators and their decisions has been very good, most of these cases do not find their way to court.

What I have seen as an arbitrator, mediator, and a representative of both homeowners and associations is that these people are not talking to one another. The disputes get out of hand because by the time you hit ADR and arbitration, people's backs are against the wall, everybody is fighting, and nobody wants to talk to each other. The purpose of this bill is to get people talking to each other as quickly as possible. They need to sit down face-to-face and work with a facilitator, a mediator, who is an impartial third party and assists the parties in communicating and reaching a mutually acceptable resolution of their dispute. A mediator does not decide or impose an outcome but simply assists the parties to communicate their positions and interests. If they do not reach a settlement, there are other methods available. They can still go to arbitration or litigate.

The effectiveness of mediation in person-to-person disputes is absolutely profound. I am also a volunteer mediator at the Neighborhood Justice Center in Clark County, and I asked that center for some statistics. For those of you who are not aware of what this program is, it is where volunteers mediate. They are trained to mediate. Most of these disputes are homeowner-to-homeowner kinds of issues, including dogs barking, trespassing, angry neighbors, et cetera. They can sometimes be more complicated than that, but in my experience dealing with these kinds of angry, unhappy disputes within people's own homes are the most complex and difficult matters to resolve. That is precisely what we are facing with HOA disputes. According to the Neighborhood Justice Center records, its overall settlement rate over the last three years is 76.5 percent. They mediate almost 1,000 cases per year. That is dramatic. Can you imagine if 76 percent of the homeowner disputes we are facing in arbitration and litigation were resolved through this mediation program? It would solve enormous problems for homeowners and associations. These communities could get back to being neighborhoods rather than war zones.

As far as a mandatory mediation program is concerned, the Nevada Supreme Court has had a mandatory settlement process. This is after a lower court has ruled. They are required to go through a settlement process at the appellate level, and even after a judge has said who wins and loses, they still settle 53 percent of the cases. The effect of mediation early and often is significant. The result is that it stays out of arbitration and eliminates cost. When cases stay out of court, it eliminates cost. Sometimes these mediations can address broader issues that will never even reach a dispute level because they can be resolved at this point.

The other track is arbitration if these cases do not resolve. The mediator will have an inside view of what the dispute is all about. Although it is absolutely confidential, the mediator can suggest to the Ombudsman that this dispute go to arbitration if it is a rules or governing documents violation. If it is a statutory violation, the mediator can suggest to the Ombudsman that the dispute go to an intervention process. You have some quicker routing in that process. In the past, there has been some confusion. This eliminates a lot of time and cost, as well. What has been proposed in the amendment to this bill is an American Arbitration Association style short-track arbitration process. Again, the purpose is to eliminate as much cost as possible. This is to the benefit of both homeowners and boards.

I have stressed the confidentiality aspect of this. I think this is very significant. Sometimes people will have their backs against the wall and simply will not speak to one another, especially if they know that what they say is going to come back to hurt them. The benefit of mediation is that people feel free to communicate with a mediator. The mediator and parties are free to creatively come up with a resolution for these disputes and, hopefully, put them to bed for a long time so there is no cost.

I am a proponent of this bill. I believe that disputes cannot be eliminated completely. For people who live in communities with rules, the rules are there for a good reason. Sometimes the rules can be unreasonable, but for the most part, these are all volunteer homeowners who are sitting on boards trying to do the best job they can to run their communities in a way that benefits everyone. There will always be conflicts, and as a result, there must be a way to quickly and efficiently manage these disputes. It will cost a lot of money to go to court, and it will cost a little less money to arbitrate. We are proposing to reduce those costs even further and get these communities back to being neighborhoods rather than fighting with each other.

Chairman Ohrenschall:

Do you have any idea what the average cost is for a mediator versus an arbitrator?

Eleissa Lavelle:

The plan for this program is that it will not be a cost to either homeowners or boards. That is the beauty of this. There is funding already available that has been in place for many years, but has simply not been utilized in the best possible way to eliminate these disputes. These funds have been earmarked for dispute resolution. The idea is that this money will be targeted to pay the cost of mediators, which will be capped and limited as part of the regulations. Homeowners and boards will not have to pay for this program, so they can get

a majority of their disputes resolved at no initial cost to them. The arbitration costs have been expensive. Arbitrators charge for their time. Many times, these parties are represented by attorneys, and they charge for their time.

An arbitration process, even the way it has been handled, is still less expensive than a court proceeding simply because there are fewer rules. The discovery is limited, and the disputes are limited. Arbitrators can be expensive, so this bill proposes a fast-track. It is a way of capping these costs early so that people go into these processes if they cannot settle them through mediation. At this point, the amount has not been established, but that can certainly be worked out through the rules.

Chairman Ohrenschall:

So the way the system works now is that a homeowner and HOA go to mediation first, and if that does not work, they go to arbitration? I just want to make sure I understand how it works now.

Eleissa Lavelle:

The claim or complaint is filed with the Ombudsman's Office. The Ombudsman will immediately direct the parties to a mediator who is going to be on an established panel of trained mediators and it is acknowledged that these mediators understand how to run these disputes and have been properly trained. The mediation must occur within 60 days.

Chairman Ohrenschall:

That is existing law right now?

Eleissa Lavelle:

No, it is not.

Chairman Ohrenschall:

That is the proposal of this bill?

Eleissa Lavelle:

Right. Under existing law, there is no requirement to mediate. Under existing law, parties can choose to mediate, but they typically do not, or they do not mediate until arbitration is practically concluded and thousands of dollars have been spent. This plan tells people to sit down immediately to try to get this resolved right away within the first 60 days after the dispute is filed. This is at no cost to the homeowners and no cost to the board. Hopefully, it will not have to go further. That is the point of this bill.

Chairman Ohrenschall:

Do you know how long these funds that are available for mediation will last?

Eleissa Lavelle:

I do not know. Ms. Anderson may be able to address that issue.

Chairman Ohrenschall:

Are there any questions?

Assemblyman McArthur:

I want to follow up. I do not see any place in the bill that said there was no cost for the mediation. Is that in here?

Eleissa Lavelle:

The idea is that it is going to be funded. I thought that it was. I will have to take a look at it again.

Assemblyman McArthur:

I understand the intent. I just did not remember seeing that in here when I read the bill.

Eleissa Lavelle:

That is certainly the intent. I think there is a provision in section 1, subsection 5 that says, "The Commission shall adopt regulations governing the maximum amount that may be charged for fees and costs of mediation and the manner in which such fees and costs of mediation are paid." That would be paid out of the funds.

Assemblyman McArthur:

It does not say that.

Eleissa Lavelle:

Not specifically. Subsection 6 states, "The Division may provide for the payment of the fees of a mediator selected or appointed" Let me address this. Unfortunately, you are going to incur costs regardless of what you do. The idea of this bill is that there is a fund available. For the first time, the Ombudsman's Office will be able to regulate what these costs are going to be. That has not happened in the past. It will happen in this bill. The objective is to get cases resolved. Unfortunately, if you are going to have professionals involved in this, there will be some payment, but it will be limited and directed by the Ombudsman's Office and there are funds available from which these disputes can be resolved.

Assemblyman McArthur:

I just think we need to clear that up and tighten it up, so we all understand that is the intent.

Eleissa Lavelle:

I understand.

Chairman Ohrenschall:

Ms. Anderson has come up to the witness stand, and I think she will be able to elaborate on that question by Assemblyman McArthur.

Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry:

The CIC fund, as Ms. Lavelle has referenced, has had an amount in the budget for use in subsidizing claims. This would open for that use. The intention, as the sponsor of the bill has worked with me on what she would like to see, is that the fund would be utilized to fast-track and assign immediate mediation to these matters. The Real Estate Division has placed a fiscal note on the bill to allow the funding to be dedicated to be used for this purpose. There is money in the fund in the CIC's reserve, which is funded by the unit owners. That would easily cover that cost. That is how this would work.

Regarding the cost control that Ms. Lavelle has referenced, the Division will need to do contracts with those that want to be on the mediation panel. Part of the contract process will be that the mediator will agree to mediate for "x" amount of dollars. The Commission on Common-Interest Communities and Condominium Hotels (CICCH) will discuss this, give guidance, and set parameters. That is how the cost will be contained. If you want to be on this mediation panel, you will agree to do the mediation for these costs so the individuals are not charged at different rates. There needs to be more of a set fee. That is the intention of how the Commission would like to review set costs on handling this, so there is not a cost up front to either the association or the unit owners.

Assemblyman McArthur:

You mentioned the funding. Is this being paid by homeowners? Is that where this funding is coming from now? Do associations pay into this?

Gail Anderson:

Correct. The unit fees fund the CIC budget account. The unit fees are paid by master associations in the state or associations in the state.

Assemblyman McArthur:

All associations are paying into this fund right now? I have not seen it broken out for something like this.

Gail Anderson:

There has been a category, but right now I cannot tell you the budget category for mediation or arbitration in that budget account that has not been fully utilized. Part of that was because of the regulation the Commission had passed at the time which said it must be binding arbitration. Parties were not interested in entering binding mediation.

Assemblyman McArthur:

We were not using it . . .

Gail Anderson:

It was probably because of the limitation. The Commission wanted a result to come out of the arbitration.

Assemblyman Carrillo:

This Neighborhood Justice Center, the first I had heard about it was at 1st Tuesday at a Metropolitan Police Department (Metro) substation. It was probably about a year ago that I first heard about it. My biggest concern is letting people know that this is out there. This mediation can be utilized. How are the property management companies going to let the homeowners know about this? It seems like the information is not getting out even though it is available and a good tool. I know it is not something we can put in statute, but if it is not utilized, it is never going to do any good. Maybe you can stress that a little bit as to how we can make this happen and try to eliminate a lot of these problems that these homeowners have. Many times people do not want to talk to each other. If this can bring neighborhoods together, I think this is great.

Gail Anderson:

I will clarify that the program that is being proposed in S.B. 254 (R1) would not be run through the Neighborhood Justice Center. It would come through the Ombudsman's Office and through a panel of mediators. I believe Ms. Lavelle can clarify. She was comparing that process to the success rate. This program would be through the Ombudsman's Office, which does deal directly with homeowner and board disputes. Once this program is in place, we can certainly communicate it. We have many means. When someone files a complaint, we will immediately put him into that process. I think through our community managers and the extensive information systems we have, people will be aware

of it. I will clarify that this is not through the Neighborhood Justice Center. I believe that was a comparison to their success.

Eleissa Lavelle:

Let me follow up. That is exactly right. I was using those statistics to let you all understand that I know there is a tremendous benefit to mediation. This program is designed to run through the Real Estate Division, and the mediators who would be selected are going to be trained and have specific information and understanding of HOA disputes. As I mentioned, these are specialized issues. Whoever is dealing with these issues must understand the way these communities work, must understand the statutes, must understand the CC&Rs, and the way all of these functions work. That is why this is going to run through the Real Estate Division and not through any other agency.

Currently, the way the statute operates is that it is in the statute. If a dispute is filed, people understand by reading the statute. If they try to file a complaint in court, the court will send it back to the Real Estate Division. That is the other way, in addition to public information, that this will be utilized.

Chairman Ohrenschall:

Ms. Anderson, you mentioned there is a fiscal note on this bill. I am not finding one on the legislative website.

Gail Anderson:

I will verify that. I believe we had submitted one to reinstate funding of \$100,000 for the mediation program. When I say reinstate, it had not been used in base, so we needed to get it reinstated. I will verify that.

Chairman Ohrenschall:

With that \$100,000, that is what would currently be available if this bill passes?

Gail Anderson:

Correct. That is what we had put forward considering the number of claims we anticipate. We anticipate 300 claims, and we estimate \$400 per claim. So, we believe around that amount would cover it.

Chairman Ohrenschall:

Do you envision having a pool of mediators available the way the Nevada Supreme Court does with the foreclosure mediation?

Gail Anderson:

That is correct. As Ms. Lavelle indicated, part of the agreement contracts we would have with the mediators is that they would have training with our Attorney General, so we are consistent in rulings and interpretation of the law as much as possible.

Chairman Ohrenschall:

Perhaps my next question is better suited for Ms. Lavelle. In section 1, subsection 7, paragraph (b), in the scenario where the mediation is unsuccessful, I want to make sure I am understanding the proposed new language correctly. The mediator would recommend the claim be referred to arbitration under *Nevada Revised Statutes* (NRS) 38.330 or back to the Division for proceedings pursuant to NRS Chapter 116. That would not be binding, correct? Or, would it be?

Eleissa Lavelle:

Let me explain how this would work. Typically, and I know what has happened because I hear it a lot from people who are in dispute resolutions, they are not quite certain if they should be requesting intervention through the Division or if they should be looking for an arbitration. Sometimes, they do not get that resolved until quite a ways down the road. It takes time and money to get there. This process proposes that the mediator will have heard the dispute, will have understood what the issues are, and based upon the training the mediator has received, will know from having heard this dispute whether it more properly relates to a dispute over enforcement of governing documents or a statutory regulation is involved. Because of that information, the mediator will direct which path it goes to. No other information the mediator has learned through that process will be disclosed. It is a way of cutting through some of the time and effort to figure out where these cases ought to be filed and directed.

Chairman Ohrenschall:

The mediator's recommendation would be binding?

Eleissa Lavelle:

Let me clarify that. If the mediator sends it to arbitration, and the arbitrator or parties believe it should not be in arbitration, there is nothing that would preclude the parties from saying, "No, this is incorrect. It should be in the other direction." This is a recommendation, and section 1, subsection 7, paragraph (b) says, "Recommend that the claim be referred" to one or the other.

Chairman Ohrenschall:

This bill proposes that the CICCH adopt regulations and set a maximum the mediators can charge. I guess this bill does not envision any kind of maximum that arbitrators can charge. Is that correct?

Eleissa Lavelle:

There is the provision in the bill for the fast-track arbitration. It would be ruled similar to those of the American Arbitration Association fast-track arbitration. Up to this point, there has been no maximum amount charged. This bill does not address that except to the effect that it will now address fast-track arbitration and caps on those fees. If the parties decide they want to go through a quick program, presumably the Commission will enact rules and regulations that will address the issue of cost because that is the whole point of doing it quickly.

Chairman Ohrenschall:

It is not mandated in this bill that the Commission promulgate those regulations, correct?

Eleissa Lavelle:

It is suggested it does.

Chairman Ohrenschall:

Can you point me to that section?

Eleissa Lavelle:

I do not have it highlighted. I can take a look at it and let you know in just a minute.

Chairman Ohrenschall:

Certainly. That will be fine. This Subcommittee has met quite a few times this session, and we did discuss trying to set a maximum on arbitrator fees. We looked at a Nevada Supreme Court rule that set it at \$1,000, with certain exceptions allowed by the Court. I do not know if that is something the Commission might consider. Do you have any idea what arbitrators charge? Do they go higher than the \$1,000 the Nevada Supreme Court set?

Eleissa Lavelle:

Mediation is a little bit different than arbitration. Mediation is going to be a set period of time in a dispute resolution. Although there is preparation, it is not quite the same. An arbitrator's fees can vary, and I am not saying that they are out of line. An arbitrator's role is somewhat different. Depending on the dispute, you may have very extensive discovery issues. I was called several

times as an arbitrator because people were fighting over the scope of depositions when they are all out of state. You may have fairly complex motions to resolve. Sometimes the hearings can go on for days. That is the issue with arbitration. You do not always know what the dispute is going to be about. I agree with you that there should be some regulation. In some part, that is why this fast-track program has been initiated. It is so people can recognize that if they do not want to put in much time or effort, there is going to be a maximum involved. To create a 100 percent rule for every dispute is problematic because disputes vary. Should there be a cap of some kind or regulation? Yes, I believe there should be. Can you mandate it at \$1,000? I do not think you will get any arbitrators of any quality to make these decisions. The purpose of the rule is, therefore, not going to be effectuated.

Senator Copening:

To answer the first question that you had, yes, in section 1, subsection 5, it says, "The Commission shall adopt regulations governing the maximum amount that may be charged for fees and costs of mediation and the manner in which such fees and costs of mediation are paid." I just wanted to get that on the record.

Chairman Ohrenschall:

I did see that. I guess the answer is that there is no direction for the Commission to promulgate regulations establishing any kind of maximum for arbitrators the way the Nevada Supreme Court has set up. It has a \$1,000 maximum with certain exceptions to be provided for by the courts.

Eleissa Lavelle:

There is. It is in section 19, subsection 5, which states, "Unless all the parties to the arbitration otherwise agree in writing . . ."

Chairman Ohrenschall:

I am sorry, could you repeat that?

Eleissa Lavelle:

It is section 19, subsection 5. This would be an amendment of NRS 38.330. It provides that:

Unless all the parties to the arbitration otherwise agree in writing, the arbitration of a claim pursuant to this section must be conducted in accordance with:

(a) The rules of the American Arbitration Association or its successor organization concerning the manner in which to provide speedy arbitration; or

(b) Other comparable rules for speedy arbitration approved by the Commission or the Division.

Right now, the Commission has no jurisdiction over NRS Chapter 38. This gives the Commission overall responsibility and authority to establish rules for both mediation and arbitration in respect to the fees and costs that are being charged.

The fast-track arbitrations under the American Arbitration Association are designed to occur with or without lawyers and without a great deal of discovery. The idea is that you can get through them very quickly. The costs may be as little as \$1,000. It is not an established amount in this rule.

Chairman Ohrenschall:

To all the audience down in Las Vegas, I would appreciate it if you would be respectful of the witness. Everyone will get the chance to make their comments, but please be respectful to anyone that is testifying. If you cannot do that, you do not belong in that room.

Ms. Lavelle, it is your feeling that section 19, subsection 5, mandates to the CICCH that they would promulgate some kind of cap by rule. Am I understanding that right?

Eleissa Lavelle:

Yes.

Chairman Ohrenschall:

Is that for all arbitrations or just for the fast-track or speedy arbitrations?

Eleissa Lavelle:

It would be the fast-track. People would immediately be routed to the fast-track unless they decide to opt out. This is not an opt in, but it will go fast-track unless the parties decide otherwise. They will get the benefit of the quicker rule.

Chairman Ohrenschall:

Thank you for clarifying that. There is a ten-second delay between Las Vegas and Carson City, so I apologize for interrupting you.

Assemblyman McArthur:

I do have a couple of questions. Senator Copening, I want to get some of this cleared up so we can get this bill through. First, is this mediation between homeowner and homeowner, or it also between homeowner and the HOA?

Eleissa Lavelle:

It can be either. Homeowners have the right to enforce the covenants and to enforce the statutes. They have the ability to bring a case if they choose to against another homeowner for enforcement issues.

Assemblyman McArthur:

Section 1, subsection 1, says, "Not later than 5 days" It does not say working days, so I assume straight days. If it is straight days, that is a pretty short time period. You can get something on a Friday, and by the end of the weekend, you must have everything done. Did you mean working days or five straight days? Do you want to leave it five days?

Eleissa Lavelle:

If you want to amend it to say business days, that would be up to Ms. Anderson. This is the Division's responsibility. We are trying to get this done quickly, but if it is more convenient for the Division to be working on this on a business day approach, that would make sense.

Assemblyman McArthur:

I am just asking so we can clarify it. We should probably put in there whether it is straight days or working days. Straight days seems kind of short.

Eleissa Lavelle:

I think that makes sense.

Assemblyman McArthur:

The reason I wanted this pay thing straightened out in section 1, subsection 5, line 23 says, ". . . the parties are responsible for the payment of all fees and costs of mediation" That is why I want the language tightened up, so we have the intent in there.

Eleissa Lavelle:

It makes sense to clarify that.

Chairman Ohrenschall:

Senator Copening, is there anyone else you would like to bring up in support of the bill?

Senator Copening:

I think there are some who would like to speak as citizens. I will remove myself to make this available.

Garrett Gordon, representing Southern Highlands Community Association:

As Assemblyman McArthur mentioned, many times this is a dispute between the HOA and the owner. It is in the best interest of all the homeowners to have a prompt, cost-effective manner to resolve disputes. In the event these things get dragged out, not only is it a burden on the complaining homeowner, but the cost of this effort is absorbed by all homeowners. We do support the program. We would be happy to work with the Subcommittee and Senator Copeney for any cleanup necessary based on comments today.

Chairman Ohrenschall:

Has your client had a lot of experience with mediation? Has it been able to prevent lengthy and costly court battles?

Garrett Gordon:

I am happy to get some specific numbers for you from Southern Highlands. From my general conversations with Angela Rock from Southern Highlands, yes, it has been a good process. Based on working with the Ombudsman's Office and the Real Estate Division, I think many of the disputes have been resolved there. Off the top of my head, I do not know how many disputes have gone to court, but I will be happy to get you that information.

Chairman Ohrenschall:

I am just trying to find out what kind of experiences your client has.

Is there anyone else in favor of the measure in Carson City? [There was no one.] Is there anyone down in Las Vegas in favor of the bill?

Pamela Scott, Director, Community Association Management, Howard Hughes Corporation:

As an employee of the developers of Summerlin, I have personally been involved in about half a dozen arbitrations. I am saying that because there have been arbitrations that have been done for very little expense because they have been quick and have lasted an hour or two and included a house visit. It went quickly and inexpensively. We have also been involved with some very expensive ones because someone has asked for depositions, and we have had to pull documents from files, and there is always an attorney reviewing all of that. There is also the arbitrator's time. Arbitrators do charge by the hour, and I would think that if there were a cap, it would need to be a cap on their hourly fee because many of the arbitrators are attorneys.

We at Summerlin are very supportive of the fast-track mediation and arbitration process. As Ms. Lavelle said, arbitration is effective and can be low-cost or free. It is confidential, and if the matter needs to go forward, what was said is not going to end up in court. The 60 days is fantastic because there have been cases that have gone on for years. The cost of arbitration can be \$20,000 or higher depending on how many depositions, discovery, et cetera. We are very much in favor of the American Arbitration Association fast-track arbitration process that limits the amount of discovery. I cannot think of any reason we would not want to support this bill or that you would not want to support this bill. It will help homeowners and associations. It will save legal fees, arbitration fees, and time.

Chairman Ohrenschall:

Are there any questions? [There were none.]

Michael Randolph, Treasurer, Paradise Greens Homeowners Association:

We are a 19-unit gated community. We are small. With the fast-track program, this will keep the cost down when there are problems and people quit talking in the community where there are issues. Instead of going to arbitration, which can run into the thousands of dollars, we can go through the mediation and get the matter resolved in a very short period of time. We love the 60-day window. This way we can keep it quick, reasonable, and inexpensive and move on with our lives.

Chairman Ohrenschall:

It sounds like you have had experience with mediation. Have you found it to be successful? We hear all these stories about HOAs that are basically at war. Have you found mediation to be successful to avoid lengthy and costly court battles?

Michael Randolph:

In the eight years that I have been on the board of the Paradise Greens Association, through mediation, we have been able to resolve all of our issues and have never had to take them to the next step of arbitration.

Chairman Ohrenschall:

How large is your HOA?

Michael Randolph:

Nineteen units.

Chairman Ohrenschall:

That is very small. Are there any questions? [There were none.] Is there anyone else wishing to speak in support of S.B. 254 (R1) in Las Vegas? [There was no one.] Is there anyone neutral to this bill in Las Vegas or in Carson City?

Tim Stebbins, Private Citizen, Henderson, Nevada:

I have some questions about the wording in S.B. 254 (R1). My focus is more on the violation or contesting of documents, but it also sucks in any alleged violation of the statute of NRS Chapter 116. It has not been done that way before. It kind of adds another layer.

Also, there seems to be a major emphasis on punishments for a party filing a bad faith, false, fraudulent, or frivolous claim.

Chairman Ohrenschall:

Can you direct me to where that is in the bill? That is in subsection 5?

Tim Stebbins:

Yes, and there are several parts that talk about frivolous complaints or bad faith complaints. It is fair enough to have that in there because we do not want that kind of thing to happen, but in the bill, there are almost no penalties for any party filing a bad faith, false, fraudulent, or frivolous response to the claim.

[Continued to read from prepared testimony ([Exhibit D](#)).]

Chairman Ohrenschall:

Are there any questions? [There were none.]

Is there anyone in opposition to the bill? I will start here in Carson City. Is there anyone in Las Vegas?

Jonathan Friedrich, Private Citizen, Las Vegas, Nevada:

Senate Bill 254 (R1) goes way beyond mediation. That has been the main subject of the discussion by the presenter up to this point. This bill is a full-employment act for mediators and arbitrators. I did send up a proposed amendment ([Exhibit E](#)), and I hope you all have it. It also has many exhibits attached to it.

I happen to have been an arbitrator with the American Arbitration Association, and in my career with them, which lasted many years, I did have one mediation case.

I take exception to a lot of what has been testified to. Under the current statute, the funds are only available for the nonbinding arbitration. As we all know, it takes the CICCH a long time to get a regulation through the process. It must be written and there are public hearings. It then must go to the Legislative Counsel Bureau (LCB) for review. It can take six months to a year before a regulation is actually adopted. This should be taken into consideration.

This bill has a tremendous number of holes in it. It is punitive, hurtful, and harmful, not only to the homeowner but to the economy of our state. Who would want to move into a community in this state where if they simply complained about an out-of-control board, they could lose their home? There is a section in here that deals with the charges. If you look through it very carefully, on page 16, section 15, lines 28 to 31, if someone does not pay the arbitrator's fees, then it becomes a common expense, which becomes a lien on the property, which can lead to foreclosure. This is very cleverly disguised.

Chairman Ohrenschall:

Could you give us that citation again? It was section 15. What subsection?

Jonathan Friedrich:

Page 16, section 15, lines 28 to 31.

Chairman Ohrenschall:

It is actually section 16.

Jonathan Friedrich:

Also, slightly above that, it talks about charges, which starts on line 21. This is a very draconian portion that is concealed and hidden in the bill. I have been a victim of arbitration costs and expenses. Arbitration is not cheap. My bill alone is over \$50,000 over the fact that a budget ratification meeting was never held. The cost of a court action was a lot cheaper. I disagree with previous testimony.

Chairman Ohrenschall:

I am looking at section 16, subsection 2, where it defines charges: "'Charges' means: (a) Any charge which an association may impose against an owner of residential property pursuant to the governing documents . . . (b) Any penalties, fines, fees and other charges" You said that you believe someone's home could be foreclosed upon for this. I am not sure I am seeing that.

Jonathan Friedrich:

On line 26, it uses the word "assessments." If an assessment is not paid, it becomes a lien under common expenses.

Chairman Ohrenschall:

I understood assessment to mean your monthly dues. Am I misunderstanding?

Jonathan Friedrich:

It goes beyond that. It also says, ". . . penalties and fines and any late charges, interest and costs of collecting the charges." That is on line 27.

Chairman Ohrenschall:

At some point, maybe after this hearing, I will consult with the Legal Division to see if they agree with your interpretation. If that is true, that is not something I can support. I cannot support someone losing his house to foreclosure because of being behind on these charges. I am not 100 percent certain that is how Legal will interpret that part of the statute.

Jonathan Friedrich:

I am not an attorney, but that is my layman's interpretation.

Chairman Ohrenschall:

I will check with Legal after this hearing. If you are correct, that is not something I can support. Thank you for bringing that to our attention.

Jonathan Friedrich:

I did propose an alternative, an amendment to this bill. Very simply, it would use the current intervention affidavit form, number 530. All parties would have to go to a conference with the Ombudsman, and this would be mandatory to try to resolve it on a very low level.

[Continued to read from proposed amendment.]

These are suggestions. A couple of other items very quickly. Right now, the way the bill is written, there is no cost funding. It says if funds are available. We have heard testimony that there is \$100,000, but right now, that money has not been allocated to this program. There are many problems with this bill as currently written. If this bill goes through, you will see many harmed homeowners who can lose their homes for complaining about an out-of-control board.

Chairman Ohrenschall:

Are there any questions? [There were none.]

April Minjares, Private Citizen, Las Vegas, Nevada:

I am against this bill. I did not used to be on the board, and I had to fight against the current board of the subassociation. I found out it was doing kickbacks with regards to parking. I had to fight like heck to get on the board. Finally, I am president of the board, and our community wants parking. We sent out a survey, and over 91 percent of the people that responded want parking. Now, the board of Southern Highlands does not want to allow for it. Out of 160 homes, it wants three-quarters of the people to have voted for it. If we were to go through this process of arbitration or mediation, and there are no caps to the cost, and if we lose, it will cost our entire community. Our budget is not that big. This is ridiculous. There is nothing reasonable about these costs. Furthermore, there is the fact that 91 percent of the homeowners want parking. A subassociation going against a master association is ridiculous. I am opposed to this bill, and there are holes everywhere to put money in the pockets of the attorneys, the CIC, and the Community Associations Institute (CAI). I would much rather go to small claims court where I know someone is not going to be biased or being paid by somebody else.

Chairman Ohrenschall:

Are there any questions? [There were none.]

Rana Goodman, Private Citizen, Henderson, Nevada:

I am going to approach my opposition to this in a slightly different way. The working group that Senator Copening put together is put together mostly with developers, attorneys, and management companies. I would like to ask you why none of these work groups show representation of homeowners? The starting point for complaints between boards and homeowners should be the homeowner versus the board. I can only speak for my HOA, which is made up of 7,144 homes. The homeowners do not get to speak to the board. We send a registered letter, and we get a very polite "Thank you for your concern" back. The next step is the Ombudsman's Office. You can file a complaint there, and you are supposed to have a meeting with the Ombudsman and the board of directors where you state your complaint. The Ombudsman is supposed to say, "Yes, you are right. No, you are wrong." This is not supposed to cost anybody anything. That is what we all pay \$3 a rooftop for. Every home in every association in Nevada pays this.

In our particular association, no director on our board has ever agreed to meet with the Ombudsman, unless he took our attorney with them for that meeting. Of course, no homeowner has ever agreed to that because we have always

resented having to hire an attorney to represent us when our dues are paying an attorney to oppose us. It does not make any sense. What happens then is that the complaint is usually withdrawn.

To go to an arbitration or mediation, which this bill calls for, when most of the homeowner complaints are simply something you have done wrong pursuant to your CC&Rs, or the board thinks you have done wrong according to the CC&Rs, like too many weeds in your yard or too many ornaments. I have an iguana on the bridge in my yard and a rabbit under my tree. The board may think that is too many. I am not going to go to arbitration and pay him to tell me I can have one ornament in my yard versus two. That makes no sense. The board should tell me how many I can have. It is a simple resident versus board dispute. It seems to me that instead of the CAI telling the boards, "Do not talk to your homeowners," they should be telling them to start talking to the homeowners and end all of this nonsense.

Instead of you, our legislators, listening to the people who are funding your campaign issues, you should be listening more to those who are voting and putting you in office. I say that with all respect. It is time that the voters are the people who are listened to.

I am tired of our associations being run by attorneys, management companies, and the collection agencies. The collection agencies are the ones that are making the money. During the last Senate hearings, I was so sickened to hear collection agencies say, "If this bill is passed as written, we will not be making a profit." That is such a joke, and I cannot believe no one laughed out loud.

Chairman Ohrenschall:

Are there any questions? [There were none.]

Yvonne Schuman, representing Concerned Homeowners Association Members PAC:

I want to thank you for this opportunity to testify against S.B. 254 (R1). As you know, there have been many bills introduced in both chambers this session that affect CICs and more particularly, homeowners.

[Continued to read from prepared testimony ([Exhibit F](#)).]

Chairman Ohrenschall:

I want to understand correctly a couple of the points you brought up. In section 5, subsection 5, your concern is that it might have a chilling effect on folks filing complaints because they will be afraid of being sanctioned?

Yvonne Schuman:

Yes, section 5, subsection 5 is the one about the chilling effect. That is the one where it contains these ambiguous terms such as "bad faith" and "reasonable cause." The Commission will be able to interpret these without any constraint. The chilling effect will come from section 10 where homeowners may be fined up to \$1,000 for filing a claim in bad faith. The purpose of delay is in section 5, subsection 5, so they are connected. When section 5 and section 10 are read together, they will have a chilling effect on homeowners.

Chairman Ohrenschall:

In section 10, can you guide me to that \$1,000 penalty? It is in subsection 8.

Yvonne Schuman:

It is on page 11, subsection 8, paragraphs (a) and (b). It is \$1,000 plus the Division's investigative cost, which is some unknown number, and that could be a very large amount.

Chairman Ohrenschall:

The last point you brought up that stuck in my mind was that when the mediation is unsuccessful, you would like to see an option for someone to be able to file a claim in state court.

Yvonne Schuman:

In small claims court.

Chairman Ohrenschall:

Are there any questions? [There were none.]

James Reeve, President, Canyon Crest Homeowners Association:

I am against this bill entirely. I think it takes away more homeowners' rights, including due process. It is greatly biased in one direction. With respect to the arbitration process, let me give you a quick example. I have heard the arbitration process is fair, quick, and inexpensive compared to court. Our experience has been just the opposite. We have had such a minor dispute, and I will give you a quick rundown on what our dispute was. Summerlin North is our master association, and the dispute was us putting up new gates. We wanted to put a little bit of scroll work in the new gates. The old gates went to the junkyard because they were damaged. Summerlin North started fighting us saying we did not meet the architectural review guidelines. The guidelines are two sentences that state, "The architectural concept must conform to the desert elegance theme. The theme includes a wide-range of architectural styles, and these styles include, but are not limited to, contemporary, Santa Fe, southern European, southwest, and Spanish."

We thought for sure that our gates fit one of those definitions. We sat down with Summerlin North and tried to work out a solution without an ombudsman. Summerlin North's position was that it decided what the definition is, and it decided that the gates must consist only of vertical and horizontal bars. Nothing else was acceptable. At tremendous expense, we would have to take the gates down, which totaled around \$20,000 because there are four gates. We said there was a misunderstanding between us, and we cannot work it out.

The only way to stop the fines, which were \$700 at that point, was to go to arbitration and get a fair hearing. The purpose of arbitration should be an inexpensive process so you do not clog the courts. This is what happened. The arbitrator strung out the decision. All he had to do was look at two sentences for the description and look at the picture of our gate. If anyone spent an hour studying it, he could make a decision on it. However, the arbitrator strung this out for six months and sent both us and Summerlin North a bill every month for approximately \$1,000. He also sent a note that said, "If you do not pay these arbitration fees within ten days, I will rule against you." If that is not extortion, I do not know what is. We paid the fees, but it went on and on. Finally, he called a meeting, and he strung this meeting out for eight hours straight with no break for lunch. He asked the same questions over and over again. His total fees came to \$10,915, and he ruled against us, and Summerlin North's lawyer fees, which we had to pay, totaled \$17,369. Besides the cost of replacing our gates, each of our homeowners had to pay around \$600. We had to spread the total amount amongst our 64 homeowners. This could have been one homeowner changing the gate to his house. He would have been stuck with \$25,000 worth of fees on such a simple thing that anyone could have worked out.

Had we gone to court, our lawyer is an arbitrator in civil court and has been for 12 years. In civil court, the fees would have been capped at \$1,000 if the dispute was for less than \$50,000. You must cap these arbitrators' fees.

I looked up Mr. Apfelberg's record, and in the last 18 cases he ruled on, he ruled 17 times against homeowners, which means 94 percent of the time he rules against homeowners.

If a homeowner has a minor disagreement with his HOA or with a master association and goes to arbitration, he will be killed with legal fees. There is no due process. Under the Real Estate Division, an arbitrator can charge anything he wants. There is no supervision. Why would there be supervision in this new bill? I have no confidence that the Real Estate Division would control these arbitrators. You must cap the arbitration fees. I think someone mentioned the bill, Assembly Bill 448, which would cap the arbitration fees. Why should

a homeowner not have the same rights in court in this arbitration process because he lives in an HOA than he would have going to a civil court?

Summerlin never loses. After I saw these legal fees, I met with Hal Block, who happens to be a member of the architectural review committee. I tried to work this out with them. I said that these legal fees are ridiculous. Our lawyer has already written to the Real Estate Division complaining about this arbitrator's fees and how he strung out the process. I asked him to also write a letter because he also sat through the meeting as well. Mr. Hal Block is a fair person. He said he would present the situation to the board. When he called back, he said the board was not willing to write a letter to complain about the fees. He said the board has a lot of arbitration cases in front of our master association. We do not want to aggravate the arbitrator community. I told him it seemed he did not mind aggravating the homeowners he represented. I can understand his position because Summerlin never loses. He said the board was not willing to reduce the lawyer's fees. His assistant called back to say that this whole thing would not have happened if you had been smart enough not to take this to arbitration. She told me that our board was stupid because we decided to do what seemed like the common-sense thing to do. I told her that I guess we need to go to court. She said that is one of your options, but if you think our legal fees are high now, wait until you go to court against us.

You must fix this system. Homeowners must have some rights. There are homeowners right now who are losing their homes. I talked to a homeowner yesterday who is facing \$20,000 worth of fees for a minor dispute like ours. You must also control these lien companies. The lien company added about \$5,000 to this homeowner in fees. He has four children and does not make very much a year. He cannot afford to pay these fees. His house is going to be foreclosed, and he will be thrown out on the streets.

Chairman Ohrenschall:

I am sorry, but we have reached the time limit for each witness. I appreciate your taking the time to testify. I think we do want to see an arbitration cap put in, just like there is at the Nevada Supreme Court.

Are there any questions? [There were none.]

Gary Seitz, Private Citizen, Las Vegas, Nevada:

I oppose the bill. I will say "me too" to cut it short. Getting back to Jonathan Friedrich's question about the charges on page 16 regarding assessments, I was looking at the proposed bill, and it says "charges" means any charge. It is very captive. It is including, but not limited to, assessments. That is a catchall regarding the fees. If you do not pay the arbitration fees,

your home can be foreclosed upon. On page 16, lines 28 through 31 say, "Any penalties, fines, fees and other charges" Those are all-inclusive, and my definition of assessments in my governing documents also includes all of this because it is very broad. I would like to point that out to the Subcommittee. The "charges" include everything.

Moving on to the prior witness referred to by Ms. Lavelle. She was comparing the 76 percent success rate with neighbor-to-neighbor. If you read the Real Estate Division articles, it is opposite. It is like 85 percent against the homeowner. She was not comparing apples with apples. The art of settlement in arbitration and mediation is a compromise. When it is neighbor-to-neighbor and each party must pay a fee, they are more willing to settle. If you take a large, multi-million dollar HOA versus the little unit owner, the unit owner is not as likely to settle. They are probably getting advice from the attorney not to settle. That will affect the success rate.

One other thing Ms. Lavelle said was that fees are sometimes out of control. You can write to the Real Estate Division and complain to whomever, but arbitrators and mediators need to be licensed and regulated by the Real Estate Division or the Attorney General, so they cannot just run amok. Even if you put a cap on it, there still needs to be some regulation. Background checks should be performed on these arbitrators and mediators.

Chairman Ohrenschall:

Are there any questions? [There were none.]

Doris Vescio, Private Citizen, Henderson, Nevada:

I am speaking against this bill. If this bill passes, many homeowners will lose their homes over trivial reasons. I had a \$100 a week fine placed against me last November. I am an elderly lady on a very limited income. I told the president that I could not pay the fines, and he would be owning my home. He told me that if I write a letter of apology, the board of directors might make some concessions. I did so under duress, as I had no other choice. The fines have been dropped temporarily, but they will be reviewed again in January 2013. The people in HOAs are constantly being fined for insignificant reasons. As the fines pile up, the homes are foreclosed on. This bill must not be passed, so we seniors can keep a roof over our heads. Think about this, Nevada foreclosures rate No. 1 in the nation.

I do want to say that I did go to arbitration, and the president refused to attend. We got nowhere on that. I do have a temporary closure on my fees until 2013. Everyday I think about that, and I worry about when that day comes.

Chairman Ohrenschall:

Are there any questions? [There were none.]

Norman McCullough, Private Citizen, Henderson, Nevada:

I am here to speak against S.B. 254 (R1). I want to point out a few things. Earlier, we heard Senator Copeney say this bill is designed to improve the law. It is not going to improve the law. We also heard testimony from Rana Goodman earlier that can be borne out by Gail Anderson. It is a known fact that every time there is a complaint against my association board, it never agrees to sit down and try to work things out.

I would also like to point out something that may have gone unnoticed. I touched my neighbor Penny on the shoulder, and my board of directors said that constituted assault and battery. I have been in a fight with them ever since. That is not assault and battery, but it is an insult to anybody to be charged with that. I am fighting today to save my good name.

I filed a complaint involving why my board of directors used the reserve money to repair identified construction defects weeks before an inspection was to be made by the builder. I could not even take you by the hand and show you those defects because they disappeared using my money and the money of more than 100 residents. Why should I be taken to court over my complaint and have to pay arbitration? It did not just involve me. It involved hundreds of homeowners. It is more of a miniclass action. I should not have to pay those fees. This is what is missing from this bill.

Chairman Ohrenschall:

Are there any questions? [There were none.]

Robin Huhn, Private Citizen, Las Vegas, Nevada:

I am against S.B. 254 (R1). I am in agreement with everyone who has spoken against this bill. My HOA sued me. I won in court, but it did not like the ruling, so it appealed to the Nevada Supreme Court. We went through mediation at the Supreme Court level, and we came to an agreement that was signed by everyone. The HOA did not follow through with its end of the agreement. Mediation does not mean there is going to be resolve.

Also, the mediators will then be paid by the Ombudsman's Office. This leads to bias. We can see that with the Real Estate Division. There was an article written in which Senator Copeney stated that it was just a few disgruntled homeowners that were complaining. There are not just a few, but thousands of homeowners. This is not just happening in Nevada, but across the United States (U.S.). I am an advocate, so I hear from these people on a daily

basis. Everyone is concerned about what we are dealing with. Please do not support this bill.

Chairman Ohrenschall:

Are there any questions? [There were none.]

Monica Wise, Private Citizen, Las Vegas, Nevada:

I have been listening to all that has been going on. I must tell you that it is lucky we have civil mediation. We can voice our concerns. Outrage by itself is not good. If we are not able to change some things, that is what it will turn into. We are not being heard as homeowners.

You are telling us that we should talk to each other. I think we should start with a draft of the bills concerning homeowners. Right now, Senator Copening has had her working group that helped draft this bill. Mr. Friedrich had asked to participate, and she denied him. There is no homeowner represented other than who is already associated with the Commission. Maybe we should start there. I do not fully agree with a lot of things said by both sides today. We must come to a medium.

To my understanding, the language is pretty nebulous. It says on page 15, line 18, "The Division may provide" It then goes on to say at line 22, "The Commission approves the payment" I just heard that the Ombudsman approves the payment. I understand that the Ombudsman is part of the Division and the Commission is part of the Division, but who does the approving? Is it the Commission or the Ombudsman? Here again, we have the bias situation. The mediators are part of the Ombudsman's Office. It has been that the results are biased toward HOAs.

I had an issue about nine years ago. We had a building issue that was cut-and-dried. There were three of us who went to an attorney. We were told \$6,000. That \$6,000 wound itself through mediation, arbitration, and finally into court. As prevailing parties, we had spent over \$65,000, but we were only awarded \$18,000 as reasonable fees. We need changes and caps. We need attorneys to get out of mediation. It should be the homeowner speaking with the mediator and the other parties involved. It is not about billing hours but about talking to one another. Unfortunately, we do not do that.

Assemblyman Carrillo:

Have you had any experience with the Ombudsman's Office at all during the time you have lived in an HOA?

Monica Wise:

Yes, I certainly have. The very first one was when I had a building issue. There were several issues actually. The second time was when we were involved with the fraudulent accounting of Irene Iwanylo. We are still waiting for that money to come back. I have preached to my board over 18 months that we had accounting discrepancies. She finally copped a deal with the district attorney or the Attorney General. While she was guilty, she realized that we all need to be made whole. Now she has lost her license, and she was not able to afford it. Her husband has received a minority grant, so they are back in business.

The third time was when I heard about the plea deal. I tried to give the board all of my documentation. In Las Vegas, everything is for sale. I purchased these things for months and months, and I had everything documented. I took it into the Ombudsman's Office because the person I talked to said I need to come with proof rather than just a complaint. I told him that I had proof. He wanted to see the issue license. She was licensed, but she was not licensed anymore at the end of her service to us. In addition to this, I tried to give all of my stuff to Sheryl, who was the investigating person of the Ombudsman's Office in this fraudulent action. I was told that she would not accept any more documents because the case was closed and was completely investigated. Yet, when I went to the CICCH hearing, it was still waiting for additional documentation. I was told it was closed already, and the office would not accept my proof. This whole system is so corrupt. We need to have some changes. Irene Iwanylo had many associations. My guesstimation was that she had \$65,000 over the period of time I could prove. We have 112 units, but sometimes only 70 or so were reported as income. When you have an account, you must have all of the units listed, whether they pay or not. They were not listed. It was a different kind of thing every time we had a board meeting. I can still produce the evidence. I have a file on Rancho Santa Fe that is unbelievable. I have over 1,000 emails. We finally settled with Jones Vargas because our law firm joined Jones Vargas. When we retained the law firm, it was not yet with Jones Vargas. It took 2 1/2 years of our lives where we had to be available at their beck and call. Two of us were still working. We had to make arrangements. I was teaching, but they said I had to be there or I would be considered uncooperative.

Assemblyman Carrillo:

I was looking for the feel of the Ombudsman's Office. You stated this in your testimony earlier, so we do not need to revert back to that. I just wanted to know your experience. I appreciate your testimony.

Chairman Ohrenschall:

Thank you for your testimony. We have reached the time limit for witnesses. I am sorry for everything you have had to go through with your HOA. Our goal this session is to try to pass legislation that will make life better in HOAs.

Heather Spaniol, Private Citizen, Las Vegas, Nevada:

First off, my daughter is autistic, and I think you introduced those bills, so I want to thank you for that. It really means a lot to me.

I have been a homeowner in Las Vegas for 11 years. The first eight years were amazing, but the last three years have pretty much been a nightmare. I have received letters about rocks and trees since I moved in. I have received pictures of houses that were not even mine attached to a violation. I called the management company, and they just retaliated against me for making those phone calls. I even went to a lawyer. He told me that I did have a strong case, but the system is biased, and I would lose. If I went to arbitration, there is an 80 percent chance that the homeowner loses. I do not have the money to take that chance, as much as I am being harassed. I cannot take that risk and take food away from my kids to fight my HOA. Any bill introduced by Senator Copening should be looked at extensively. She had a 30-person work group that came up with these bills.

Chairman Ohrenschall:

I appreciate your comments about the bill. I appreciate the struggles you are going through. We have a certain level of decorum here at the Legislature, and we do not make derogatory comments about anyone. Please keep your comments to the bill.

Heather Spaniol:

The bill scares me. It basically ties my hands. I can never fight anything. All the wrongs that have been done to me for three years, I can never fight for. I will lie down in bed. I am losing money by being here today. I am a single mother who is a homeowner. I took the day off work to come down here and beg you to not pass this bill.

Mr. Friedrich handed them a thick binder with hundreds of complaints by homeowners. She was on a television show saying there were only 20 complaints.

Chairman Ohrenschall:

We are not here to make any personal comments against anyone. I do understand what you are saying, and that you are worried about the arbitration fees.

Heather Spaniol:

I am not going to waste any more time. Everyone else already said everything. Just keep in mind that the money is going to go to the people who made this bill.

Robert Robey, Private Citizen, Las Vegas, Nevada:

I am a former board member of one of the largest associations in Las Vegas. For the last ten days, I have tried to write my opinion of this bill. Every time I got to the end, I tore it up and threw it away because I could not understand what this bill was about. One of the first things we must have in NRS Chapter 116 is the ability of the homeowner to have a chance to understand what the law says without the use of a lawyer. I really appreciate Assemblyman McArthur's comments today. I appreciate all of your questions. You dug down and tried to find the answers. I am glad you did that. I now understand why I could not get it. When I file a complaint against a violation of NRS Chapter 116 and what it says, I am now going to go into mediation against my association to get a definition of NRS Chapter 116.

I am sorry Ms. Lavelle left here. This is an anecdotal story. Several years ago, I was sitting at a board meeting, and I said this board meeting is not legal. Ms. Lavelle was sitting on my right. She had been called into this illegal meeting. Everybody on that board was astonished when she agreed with me that it was an illegal meeting. Why cannot people read and understand NRS Chapter 116? It is because of the way it is written, or they do not want to understand it. The problem with this forced mediation, whether it is an NRS Chapter 116 issue or an issue dealing with the governing documents, who says the other side is going to do it in good faith? A lawyer is getting paid by the hour. I know that.

Assemblyman Carrillo asked a question. What is my opinion of how the Real Estate Division operates? I do not have a problem with the Real Estate Division. I have a problem with the fact that the attorneys representing the associations have no obligation to operate in a speedy manner. I have two complaints that have been verified and forwarded up. One is in the Office of the Attorney General, and the other one is waiting for the Commission to hear it. I spent two and one half years on both complaints. Thank you very much for doing nothing. It is not your fault, gentlemen. It is what the system is. Neither one of those complaints will cost me a dime. They will not cost my HOA a dime. It is a simple thing to read and understand NRS Chapter 116.

I am appalled that the former senator who lives in Paradise Spa brought in an 81-year-old lady who is losing her house. The whole thing is going into foreclosure. I am sorry he is not here today. I have talked to the gentleman on the phone.

Chairman Ohrenschall:

I appreciate your testimony and the challenges you have to overcome. I want to keep the testimony to this bill with no derogatory comments towards current legislators, former legislators, witnesses, or lobbyists.

Robert Robey:

I am only saying he testified in front of the Senate Judiciary Committee. It is in the minutes and on record. He was representing people from Paradise Spa where he lives. There is nothing in this bill that will save his home or the lady's home. I hope you all watch the television reports of the people in Las Vegas who have been reported on Channel 13 and Channel 8. The houses burned down, and the insurance was not paid. The people have gate problems and wall problems. It goes on and on. In this bill, where is there a solution to HOAs bullying the homeowners? There is no answer. It goes on and on. After the mediation, they are forced into arbitration and then into bankruptcy. How is a gentleman who is making \$30,000 a year, who owns a little condo and has two children, going to afford \$1,000 to fight his HOA? He does not have the money. Please think of the little people and not those who are fortunate.

Chairman Ohrenschall:

Thank you for your comments. I think you made an excellent point. Are there any questions? [There were none.]

Sarah Goldstein, representing Golden Crest Property Inc.:

I work for a property management company that manages individual properties inside HOAs. Within the last two to three years, we have seen a troubling trend. Payments of the homeowners monthly assessments of fees are being paid, but they are not being credited. I should say they are being tendered. A check is tendered. We went through a situation where we would personally deliver a check, get a receipt, but it would not show up that the payments were made. That is then on fast-track to collections. The homeowners would be sent to a collection company. You then cannot get a statement from the HOA because it is in collections, and the HOA will not talk to us. It is a fast-track to loss of the individual's property or a very expensive resolution. This could be a payment of \$250 that turns into \$3,000. In that situation, why not go to small claims court and say, "Here, we have made these payments. Please correct your records and move on." Small claims court does not allow attorney

fees for either side, so it would seem that it is an inexpensive resolution. It is unbelievable.

Right now, we have a situation where the payments were made, and they went to a lockbox. The HOA refused to give us coupons to be attached with the check. It was on the check what the payment was for and what property. Instead, they did not credit those payments. The HOA management companies should have the lockbox or the bank should send that check back to the HOA. If they are confused, the name of our company is on the check, along with our phone number. They could call us, and it could all be resolved. Instead, it becomes a huge endeavor to go through collections. The owner gets mad at us rather than the party that has caused the problem.

This is not just one instance, it has happened over and over again. We submitted, along with a complaint, all supporting documents to the Real Estate Division. After one year and two weeks, the Real Estate Division came back and said nothing was done wrong by the HOA management company. It is a no-win situation. It needs to be stopped. I am not necessarily for or against this particular bill, but it is not covering this type of situation. It seems to be more related to disputes and conflicts between owners and the HOA. This is a financial thing where we made the payment and the payment was not credited. Let us resolve the issue, so we will go to small claims court to do that.

Chairman Ohrenschall:

If I understand you correctly, you would like to see an option, as did Ms. Schuman, that would include small claims court after mediation is unsuccessful?

Sarah Goldstein:

Yes. The one I spoke about, we tried to go to mediation, but the HOA did not go. Is it because it knew it was wrong? We were then told to file a complaint, and that complaint sat there for a year and two weeks with fees and fines continuing to pile up against this owner. Instead of maybe \$300 or \$400 being owed, it ended up totaling \$7,000. Since the Real Estate Division did not find fault with the HOA management company, the next step was that the owner needed to pay it.

I did talk to the Ombudsman directly about this, and she said the homeowner should just pay it. Otherwise, it will just keep adding up. Maybe that is something you should consider putting in this bill too. At the time there is a request for mediation, there should be a period of time in order to resolve

these things rather than the fines continuing to be added to this poor homeowner.

Chairman Ohrenschall:

Are there any questions? [There were none.]

Patricia Gaither, Private Citizen, Las Vegas, Nevada:

As a real estate professional, what would be my responsibility to new buyers? Do I tell them they have five days to read the HOA documents? Is five days going to be enough time for them to review the documents? I need to tell them that they can absolutely adhere to what the documents are saying because it will be a long and expensive process if you want something to be changed. You may not be able to answer that question. It is something we need to keep in mind. If this bill does pass, now I will have to go to my board, on the real estate side, and ask as professionals, what are we going to tell our new buyers?

Chairman Ohrenschall:

I do not see any questions. In the last couple of decades, there has been a move towards alternative dispute resolution. There is a move towards mediation as opposed to going to court. I think that is what the sponsors of the bill are trying to get at. It is in the hopes of saving people money. It looks like you do not think this will accomplish that.

Patricia Gaither:

I do not know if this bill will. We do have lots of issues, and the majority of our issues that come in front of the Real Estate Division have been HOA issues. I am not sure this bill actually covers it, but change is a necessary thing to be able to work with homeowners as well as the associations.

Michele Mittemiller, Private Citizen, Las Vegas, Nevada:

I just want to say that I am a local real estate agent, and I completely agree. I agree with every comment that has been against this bill. It is not for the homeowners, and it is tough enough to get people to move to Nevada, let alone with all of these unsettling disputes.

Chairman Ohrenschall:

As a real estate agent, does this kind of policy in this bill make it harder for you to sell a home or condominium in a CIC?

Michele Mittemiller:

Absolutely. People are requesting no HOAs when they want to buy property. Instead of saying they want three bedrooms; they are saying they want homes that are not part of an HOA. They do not want to get caught up in that.

Chairman Ohrenschall:

For the audience, we want to maintain our decorum here. There is no applauding or booing.

You had clients requesting properties not in HOAs?

Michele Mittemiller:

Yes. Nothing is ever in favor of the homeowner. The homeowner always loses because we are the little guys. The big guys always win.

Chairman Ohrenschall:

Are there any questions? [There were none.]

Patricia Grimes Davis, Private Citizen, Las Vegas, Nevada:

Having lived in an HOA has been a living hell. When you file a complaint with your HOA, and even when it goes to the Ombudsman's Office, the homeowner never comes out ahead. It is always against the homeowner. With these HOAs, there should be fair representation, and not only that, the management company of the HOA needs to be brought to the table as well. When you file a complaint, there are repercussions. I have had my dog killed, my tires slashed, et cetera. It is like nobody in the gated community knows what is going on. What is the purpose of an HOA when these types of things happen? Now, they want to keep the gate open from 7 a.m. to 7 p.m. There is a problem there. Who is governing what the HOAs do? There are many elderly people and people on fixed incomes living in HOAs who are afraid to speak up against the HOA because of what has happened to others. What happened to me is that the gardener cut the lights. I am retired, disabled, have handicapped license plates, and my vehicle is sitting in front out there. Who would think somebody would slash all four of your tires? Nobody knows who did it. My dog was killed inside of a gated community, but nobody knows who did it. If you are going to go along with this bill, then it should be fair to the homeowners as well.

Chairman Ohrenschall:

It is important to get testimony from the public about these bills. Thank you very much.

Are there any questions? [There were none.] Is there anyone else in opposition to S.B. 254 (R1)? [There was no one.]

This Subcommittee will meet next week, and we will try to iron out what we think is good about this bill and what may need some correction. Senator Copenig, if you have any final remarks, please come forward.

Senator Copening:

I know the testimony ran the gamut. Definitely some of the testimony did not have to do with the bill. There is a lot of passion out there. There are things that are not operating correctly in the HOA world, so we heard some of the issues. We know there are other bills out there covering some of those issues as well.

If for some reason it says they are not allowed to use the court system in this bill, we definitely need to change that. Anybody can file a claim in court. This bill may say that if they want to go through the Ombudsman's Office and the Real Estate Division, this is what we are suggesting. You heard testimony from people that said their cases have been delayed for months and years. This is one of the reasons behind the bill. We do not fund the Ombudsman's Office well enough to handle all of the many complaints that come through, whether it is homeowner-to-homeowner or homeowner versus association. There are just too many of them. They are not getting their issues resolved in a timely fashion. That was the reason behind this bill. It was not getting done in a timely fashion so the homeowners could not get back to enjoying their lives, and it was expensive. Going to court is expensive. You heard one person testify that she spent \$65,000 in court, and as a prevailing party, she was only awarded \$18,000. Most people do not have the money to go to court. I am in agreement about arbitration fees needing to be capped. I am not the expert on it, and that is the reason I said to put it in the hands of somebody who could determine what that is. If there is somebody out there who is an expert and can say that, we should turn to him. The idea is to get issues resolved in a timely and cost-effective fashion. That is what this bill tries to do.

There are a couple of confusing sections that are actually current law. I do not think people realize this is current law. One of the sections is on page 16. This is the one where we had heard some concerns that peoples' homes could be taken away. I think what they are talking about is if you see current law above where it has been stricken and says, "'Assessments' mean . . . ," we took that section and put it down below with the section that says, "'Charges' means" It was a clean up of the language. Assessments were not all of the things that were below. It is almost similar language, but we replaced the word "assessments" with "charges." Underneath the charges, it talks about assessments. This is current law that has been moved down below. We heard somebody with an issue with the term "irreparable harm." That is also current law. That is on line 36, ". . . where there is an immediate threat of irreparable harm" We tried to define what "irreparable harm" is because it is not defined. Below it is the definition. That is current law.

The assessments situation is also current law. We just tried to clarify it more than anything.

Chairman Ohrenschall:

As I understand, that definition of "charges" under section 16 would only apply to NRS Chapter 38. It would not apply to NRS Chapter 116. I do not believe it could lead to someone losing his home through foreclosure because of these charges for mediation or arbitration. There would only be the options in NRS Chapter 116.

Senator Copening:

You may be correct. You are the attorney. I was trying to look in here to see why "charges" had to be identified. That is what we want to try. As far as Paradise Spa and Bill O'Donnell, he and I are working very closely. He is afraid that if we take away things that are currently paid in super-priority, they are \$1 million in arrears, and he is very concerned that they will have to retain attorneys in order to get this money back. He and I worked very closely together. I am helping them with their situation. I visited them and have tried to put them in touch with attorneys. He is not involved in this particular issue, but when it comes to the collection issues, he is actually trying to get me to back into my language of Senate Bill 174 about attorneys and fees because they cannot recover it without it. We are going to work on that. I thank you for indulging me and allowing me to respond.

Chairman Ohrenschall:

We appreciate your effort to try to promote mediation, try to help HOAs become more whole, and try to resolve disputes between homeowners and their associations so you do not get this fractionalization in the CICs.

Are there any questions? [There were none.]

[[Exhibit G](#) was entered into the record.] We will close the hearing on S.B. 254 (R1).

I see Senator McGinness, so we will open Senate Bill 89 (1st Reprint).

Senate Bill 89 (1st Reprint): Revises provisions governing audits and reviews of financial statements of common-interest communities. (BDR 10-595)

Senator Mike McGinness, Central Nevada Senatorial District:

I pulled up the minutes from the hearing in the Senate Judiciary Committee, and I will quote Mr. Hansen. The Carson River Homeowners Association (HOA) consists of 31 homes covered by covenants, conditions, and restrictions

(CC&Rs). They have a small community water system, and it is regulated as any community water system is. They do not have any paid employees. They pay two independent contractors, a water systems operator and an independent bookkeeper. When they started to fill out the reports for the Ombudsman last year, they realized they needed a Certified Public Accountant (CPA) to review the financial statements. They contacted the CPA, and he indicated that the cost of doing this review would be \$7,500 because of the requirements of a CPA. The CPA indicated that a review of the books and records to the board should be sufficient. As the bill was amended, we tried to tackle this by saying that if the annual budget of an association is \$45,000 but less than \$75,000, they would not have to do that.

Chairman Ohrenschall:

Are there any questions? [There were none.] It looks like there is not too much controversy with this bill. We will discuss this bill later at our work session. We will close the hearing on S.B. 89 (R1).

We will open the hearing on Senate Bill 30 (1st Reprint).

Senate Bill 30 (1st Reprint): Makes various changes relating to common-interest communities. (BDR 10-477)

Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry:

Senate Bill 30 (R1) is an executive bill that is being brought. It is intended to be a housekeeping bill to amend *Nevada Revised Statutes* (NRS) Chapter 116 on two matters of law. The Real Estate Division and the Commission on Common-Interest Communities and Condominium Hotels (CICCH) identified two things that needed clarifying and that had to be made compatible with other existing law in Nevada.

In this bill, section 1 amends the law, and section 2 consolidates two current sections of the law into one section for purposes of intending to clarify. Section 1 of the bill amends NRS 116.31153, subsection 2. This section concerns protection of the funds of the association and the requirement for two signatures for withdrawals of funds from both the reserve and operating account. In existing law, there are already two circumstances where electronic fund transfer can occur. That is the transfer of money from the operating account to the reserve account of the association at regular intervals and to make automatic payments for utilities. Section 1 amends this to also allow for the electronic transfer to the State Treasurer, which is required to be in compliance with NRS 353.1467. This requires that all payments of money owed to a state agency of \$10,000 or greater must be made by electronic

transfer. We do have master associations in the state with more than 3,300 units that are required to electronically transmit that payment to the State Treasurer. This would be a cleanup to make that allowable.

One other section is to allow for the electronic transfer of money to the U.S. government when that is required and allowable. There is also a provision to allow the association to use electronic signatures to withdraw money in the operating account. This is not the reserve but only the operating account. That is to update payment processes but with some protections. That electronic transfer must be made pursuant to a written agreement with the association and the financial institution where the operating account of the association is maintained. Importantly, in section 1, subsection 4, paragraph (b), there is a process in place for an authorization if, "The executive board has expressly authorized the electronic transfer of money and; (c) The association has established internal accounting controls which comply with generally accepted accounting principles to safeguard the assets of the association." I would note that by adding this to the law, it does set forth a requirement that is actionable on the enforcement side of the Real Estate Division. If an association does not have written procedures of how it will authorize payments and ensure electronic signatures are applied, that allows the Division to hold it accountable for that and ensure it has that.

Section 2 of the bill incorporates two sections of the law into one. It repeals NRS 116.31177 and incorporates that into NRS 116.31175. These are two sections that seem to have a lot of misunderstanding. This pulls them together and clarifies what documents make up the books, records, and papers of the association, which must be made available to unit owners for review upon request. The other thing that was done was to incorporate the "not to exceed 25 cents per page" regarding copies of all books, records, and other papers of the association. That was in existing law. Please note that the Real Estate Division does not have an issue with what the Legislature determines to be an appropriate fee, or no fee, per page. The intention is that whatever is decided in this legislative session, that it is consistent and clear throughout the chapter, so we do not have one place saying this fee and another place that fee. That is the intention of the bill.

Again, this was brought by both the Division and the Commission to hopefully clarify and consolidate so it is easier to understand and for us to respond to questions on how to interpret.

Chairman Ohrenschall:

I have a question. Under section 1, about the electronic transfers of money to a state agency or to the federal government, by removing that signature

requirement, is there any greater danger something might go awry and money may go where it is not meant to go? Are there enough safeguards?

Gail Anderson:

I believe the concept in the existing law in subsection 3 without signatures was to allow for electronic transfers. We have put back in this concept of the procedures that must be in place for electronic signatures and authorization for payments to be made. It is certainly intended to provide accountability and to ensure that transfers cannot be inappropriately made to inappropriate places. There must be procedures in place for that.

Chairman Ohrenschall:

There would still be a provision under this proposed addition to the law of an electronic signature?

Gail Anderson:

That is correct.

Assemblyman McArthur:

I want to follow up on that. You must have an electronic transfer if it is over \$10,000. Is that already in statute?

Gail Anderson:

Yes, that is.

Assemblyman McArthur:

The only thing this does is allow the amount of money up to \$10,000 to now be electronically transferred. Before, you had to do it for over \$10,000. Now, any amount can be electronically transferred to the state.

Gail Anderson:

In subsection 3, paragraph (c), it would allow for the \$10,000 payment, which had not been specifically allowed in subsection 3 before. I believe that section 4 allows the association to use electronic signatures in other areas when there is a written agreement with the bank or financial institution and the association when the executive board has expressly authorized it. Expressly authorized was intended to be the electronic authorization or signature for a transfer to be made. That does still take a board member involved in approving a payment or transfer electronically.

Assemblyman McArthur:

I understand that. I was just talking about the \$10,000 mark. Basically, it had to be electronically transferred before in existing law. Is that correct?

Gail Anderson:

Yes, that was fairly recent. I believe that was made last session.

Assemblyman McArthur:

Really, the only change there with paragraph (c) would be the fact that now it is possible up to that \$10,000 also. Since it is already in law above \$10,000, paragraph (c) is saying it is now okay for any electronic transfer.

Gail Anderson:

I would need to verify that because NRS 353.1467 just speaks to the electronic transfer. I do not have that in front of me, so I need to verify that. I was intending that we only address the \$10,000 and above.

Assemblyman McArthur:

That was my question. The bill does not make that clear for me.

Gail Anderson:

I will verify that citation and make sure that is what it is limited to.

Assemblyman McArthur:

You still meet the recommendation of the board, correct?

Gail Anderson:

Correct, for the policies, procedures, and approval.

[Chairman Ohrenschall left the room. Assemblyman Carrillo assumed the Chair.]

Assemblyman McArthur:

One more follow-up about what you brought up before about the cost. I think we do have something else we just passed through that had to do with charges for pages, so we will double check that. I think it was 25 cents for the first ten pages and then 10 cents after that. We will have to figure out what that is, and that will be fine.

Acting Chairman Carrillo:

We are going to be at ease for a moment and wait for the Chairman to get back.

Is there anyone else who would like to testify in support of S.B. 30 (R1) here or in Las Vegas? [There was no one.] We will move to the neutral position.

[Chairman Ohrenschall reassumed the Chair.]

Jonathan Friedrich, Private Citizen, Las Vegas, Nevada:

My only concern is on page 3, paragraph (c), which states, "The association has established internal accounting controls which comply with generally accepted accounting principles to safeguard the assets of the association." What are those safeguards? I would like to see that language tightened up to safeguard it. There are very large associations that have huge budgets. We have heard testimony from Monica Wise and her management company that there had been an embezzlement of a large amount of money. It is interesting to note that last week the CICCH held a hearing against a former board president, Raymond Barr, who embezzled between \$62,000 and \$72,000 within an approximate two-month period.

Chairman Ohrenschall:

I am not sure that is appropriate for this forum. You can talk about policy, but I do not think accusing anyone of any crimes unless he has been convicted is appropriate.

Jonathan Friedrich:

The point is that this generally accepted accounting principles to safeguard money seems very loose. It does not really specify any statute or any actual safeguard. There should be one specific statement that all associations should use rather than having a variety of different safeguards. We have nearly 3,000 HOAs in this state, and if we had 3,000 different safeguards, it would be maddening.

Chairman Ohrenschall:

So, your concerns are primarily about section 1?

Jonathan Friedrich:

Yes, section 1, subsection 4, paragraph (c), lines 1 to 3. It seems very general and loose. Unfortunately, we have very dishonest people.

Chairman Ohrenschall:

Do you have any recommended substitution language?

Jonathan Friedrich:

Unfortunately, I am not a CPA, but if I can get something, I will email it to you.

Chairman Ohrenschall:

Thank you. If you could copy that email for Assemblymen Carrillo and McArthur and the Judiciary Committee Manager, Nichole Bailey, I would appreciate you.

Is there anyone else wishing to speak?

Robert Robey, Private Citizen, Las Vegas, Nevada:

I thank Assemblyman McArthur for asking the question about payments. I missed that. I am for this bill and moving into the twenty-first century. In section 3, at the bottom of page 3, where we talked about the 25 cents per page and 10 cents per page, let us not forget that in electronic format, or email, we have to mean the same thing. People can get that free of charge. It does not take long to send an email.

I would like to commend my HOA, Sun City Summerlin, for having almost everything I want on the website. If I ask for something, I receive it within 20 minutes, as a general rule. I try not to bug them because almost everything is on the website. Of course, we do have a very large association.

Chairman Ohrenschall:

I appreciate your taking the time to be here. I know you have many obstacles to overcome to get to the Sawyer Building. I apologize for earlier. I thought you were going to say something derogatory about the former state senator.

Are there any questions? [There were none.] Is there anyone else wishing to speak on S.B. 30 (R1) in favor, opposition, or neutral? [There was no one.] We will close the hearing on S.B. 30 (R1).

We have a few minutes, so we can open it up for public comment. I want to caution anyone who wants to make a public comment that the hearings on the bills are closed. We will not be talking about those bills anymore today.

Jonathan Friedrich, Private Citizen, Las Vegas, Nevada:

I had a fax sent up that was 21 pages. I want to verify that you received it. There were a couple of typos on page 1, and I submitted a corrected copy. I hope you have seen that.

Chairman Ohrenschall:

We do have that document.

Tim Stebbins, Private Citizen, Henderson, Nevada:

I want to thank the Subcommittee for having S.B. 254 (R1) first and allowing all those who wanted to talk an opportunity to do so. One thing that has come up many times is fairness. I hope the Subcommittee will take a look at that fairness for all parties involved.

Chairman Ohrenschall:

Thank you. Is there anyone else wishing to make a public comment either in Carson City or in Las Vegas? [There was no one.] We will be meeting again next week.

The meeting is adjourned [at 10:51 a.m.].

RESPECTFULLY SUBMITTED:

Julie Kellen
Committee Secretary

APPROVED BY:

Assemblyman James Ohrenschall, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 6, 2011

Time of Meeting: 8:19 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 254 (R1)	C	Senator Allison Copening	Prepared Testimony
S.B. 254 (R1)	D	Tim Stebbins	Prepared Testimony
S.B. 254 (R1)	E	Jonathan Friedrich	Proposed Amendment
S.B. 254 (R1)	F	Yvonne Schuman	Prepared Testimony
S.B. 254 (R1)	G	Senator Copening	ADR Overview