

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Eightieth Session
May 7, 2019**

The Committee on Government Affairs was called to order by Vice Chair William McCurdy II at 8:37 a.m. on Tuesday, May 7, 2019, in Room 4100 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/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman William McCurdy II, Vice Chair
Assemblyman Alex Assefa
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Richard Carrillo
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Melissa Hardy
Assemblyman Glen Leavitt
Assemblywoman Connie Munk
Assemblyman Greg Smith

COMMITTEE MEMBERS ABSENT:

Assemblyman Edgar Flores, Chair (excused)
Assemblywoman Susie Martinez (excused)

GUEST LEGISLATORS PRESENT:

Senator Joyce Woodhouse, Senate District No. 5



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Asher Killian, Committee Counsel
Connie Jo Smith, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

John Fudenberg, Coroner, Government Affairs, Office of the Coroner/Medical Examiner, Clark County
Lisa Kremer, Director, Department of Real Property Management, Clark County
Kerrie Kramer, representing NAIOP, Northern Nevada Chapter; and NAIOP, Southern Nevada Chapter
Mary C. Walker, representing City of Carson City; Douglas County; Lyon County; and Storey County
David Cherry, Government Affairs Manager, City of Henderson
Vinson Guthreau, Deputy Director, Nevada Association of Counties
Mike Schneider, Private Citizen, Las Vegas, Nevada
Michael Brown, Director, Department of Business and Industry
Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry

Vice Chair McCurdy:

[Roll was called and Committee rules and protocol were explained.] We will begin the hearing with Senate Bill 36 (1st Reprint).

Senate Bill 36 (1st Reprint): Revises provisions governing the purchase, sale or lease of real property by a local government. (BDR 20-489)

John Fudenberg, Coroner, Government Affairs, Office of the Coroner/Medical Examiner, Clark County:

Mr. Vice Chair, if it is okay with you, I will give an overview of the bill and walk through the different sections. Senate Bill 36 (1st Reprint) in existing statute states that when counties are selling or leasing real property, they must obtain two appraisals, and they are prohibited from selling the property for less than the higher of the two appraisals. What we are trying to do is change that section to enable counties—and we have added cities as well so cities are now in this bill—to sell or lease real property for no less than the average of the two appraisals that we obtain. Our goal in making this change is that we are having problems selling real property. When we start an auction at the higher of the two appraisals, the developers are not buying those properties or participating in the auctions as they would. We feel that we would get much more participation and have a better chance of selling the property if we were able to start the auction at the average of the two appraisals that we were required to obtain. That is the crux of the bill.

The second issue that we are trying to make allowance for in this bill is to conduct these auctions on the Internet or, I believe, it says "electronic medium." We feel that if we are allowed to do that, it will extend the auction from a one-day, one-hour process to about a two-week process, which would make it more appealing to buyers, and we figure we would be able to attract more buyers and therefore sell more of the property that we are having problems selling in Clark County.

If I could bring your attention to section 3, subsection 1, paragraph (c) subparagraphs (1) and (2), on page 5, lines 36 through 39. This section states that the board of county commissioners shall not sell or lease a property for less than the average of the two appraisals, so this is the major change. Subparagraph (2) under paragraph (c) states that if only one independent appraisal was obtained, we would have to sell or start the auction at the appraised value of that one appraisal. I will talk about where that applies later in the bill.

Section 3, subsection 1, paragraph (g), subparagraphs (1) and (2), on page 6, lines 41 through 45, states that if real property does not sell during the initial offering, the board of county commissioners must obtain a new appraisal if there is a material change relating to the title, zoning, or an ordinance governing the use of the real property. So if anything changes on the property that may affect the value regarding the title, zoning, or the ordinance governing the use of the property, we then have to get new appraisals.

Subparagraph (2) talks about when the appraisals are more than six months old, we also have to get two new appraisals. That is section 3, paragraph (g).

Section 3, paragraph (h), on page 7, lines 1 through 15. This section states that if the property is not sold after the second offering, the board of county commissioners may list the real property for sale or lease at the appraised value or average of the appraised values when one or more appraisals are obtained. It goes on to say that if those appraisals are more than six months old, the board of county commissioners may list the property with a broker and obtain only one appraisal. If we do not sell it the first time or the second time and we want to list it with a broker, we then will have to get only one appraisal because, theoretically, four have already been obtained, so this would be a fifth appraisal. But at least, at a minimum, two would be obtained if they are within six months and, more than likely, if we obtain two appraisals and the property does not sell, it will likely be more than six months, therefore, requiring a third and fourth appraisal, and then this would kick in and require a fifth appraisal before we list the property with a broker. That is what section 3, paragraph (h) refers to.

It changes on page 7, section 4, subsection 1, paragraph (c), subparagraph (2). This is where it would allow the counties to hold these auctions on an Internet website. It states: "On an Internet website or other electronic medium." Section 4 also goes on to describe the details of how these Internet auctions would be held. As I mentioned, we believe these electronic or Internet auctions would open up the buyer market and give us a better chance to sell these properties.

One of you asked me a question during a few of the briefings whether or not this applied to tax lien properties, and it does not apply to tax lien properties. I also have Lisa Kremer in the south, so she is available for any technical questions. Lisa is the Director of our Department of Real Property Management, which is the department in Clark County that manages the real property.

Section 5, and the rest of the bill after section 5, that language was not in the original bill. Once we reviewed this with the cities, the cities also wanted to be able to do this. So section 5 and the rest of the bill will allow the cities to be able to conduct these same processes—to not only sell property or start the auctions for the average of the two appraised values, but it will also allow the cities to hold the auctions online or on the Internet website.

That is the entirety of the bill, and I am available to answer any questions anyone may have.

Vice Chair McCurdy:

We will begin our questions with Assemblyman Ellison.

Assemblyman Ellison:

Why would you do multiple appraisals on one parcel if it is up for sale? I can see in Clark County where you can get multiple appraisals, like two, for a property. Then you said you come back for the fourth or the fifth appraisal. I believe you were talking about page 7. Usually if you get an appraisal, that is good for a couple of years. Why would you do multiple appraisals?

John Fudenberg:

The current existing statute requires us to get two additional appraisals if they are over six months old; that is why. We would probably do that anyway because the property value could certainly change. I do not know if we would do that, but current law mandates we get two additional appraisals if they are over six months old.

Assemblyman Ellison:

Are we talking mostly commercial or residential or just anything? The reason I am trying to get to this is in Las Vegas where you have several places to apply for an appraisal in some of the rural areas, it is quite a bit of money to get a commercial appraisal in these areas. To get multiple appraisals, you cannot get them out of Las Vegas. You can get some out of Reno. If not, you end up with someone from Salt Lake City or another of those areas. That puts a burden back on some of these rural areas.

John Fudenberg:

The property we are referring to is mostly commercial. I do not believe there is any residential, but Lisa Kremer in Las Vegas can confirm whether or not there is any residential property. I believe it is all commercial property that we are referring to.

Lisa Kremer, Director, Department of Real Property Management, Clark County:

It would be for residential and commercial properties. Pretty much any property that we want to put out for sale or lease would require us to obtain two appraisals pursuant to the *Nevada Revised Statutes* that currently exist.

Assemblyman Ellison:

I could understand this in Las Vegas, where they have a lot of properties. But you have [rural] areas where it is difficult to get multiple appraisals through. I am wondering if this bill will affect those areas based on that, or is there a population cap on this, or is it just a general state appraisal bill? I agree with what you are doing. I have no problem with it. It is just that in some of these areas, it is hard to get commercial appraisers there.

John Fudenberg:

I was not aware that it was difficult to get appraisals in more rural areas, but that is something to entertain. Maybe we can put a population cap on the bill to make it apply to only the larger counties. That is certainly something we would be open to.

Assemblyman Smith:

My question is on the situation where you had your fifth appraisal. I know leading up to that you would have either the single appraisal, and you would have to accept that appraisal as the bottom of your price cap. Sometimes you would have two appraisals and take the average of that. I am thinking at the point you are where you have now done five appraisals, what level of pricing do you hold, or at that point with a broker, can you go below that?

John Fudenberg:

I believe we would be mandated to use in essence the fifth appraisal—it could be the third appraisal if they were within the six months. We would have to use that one appraisal to then list it at that price—at least to start the listing. Lisa, if you could, correct me if I am wrong. I see her nodding her head, so that is correct. We would have to use that value to list it with a broker.

Assemblyman Smith:

Okay. Then based on using a broker, I know sometimes properties do not sell and the price is bumped down. Do you have the ability to do that, or are you locked at that point?

John Fudenberg:

Lisa, do you know if we have the ability to sell the property during the third sale if it does not sell? Would we have the ability to sell that for less than that appraised value?

Lisa Kremer:

To my knowledge, we would not have the ability to sell it for anything less than the fair market value that is established by the broker at that time.

Assemblyman Leavitt:

My question goes along with those of my colleagues. You are talking about two appraisals and the average of those two appraisals. If the property does not sell, it could be a burden on the municipality or the county that is trying to sell this land. Is there some way we can ease that burden a bit? I know we want to stay with fair market value, but sometimes if we stick to fair market value, then that land sits there. It costs the county and hence the taxpayers money to sit there vacant when we could have the ability to drop the price a little, get the land off the books, and then it is not a burden on anyone. That would be my request, if we could look a little deeper into that.

John Fudenberg:

We would certainly be willing to look into that. I would have to talk to Lisa and maybe we could have some offline conversation. I do not know. Right now, we cannot do that, so I do not know that we could change the statute to allow for that, but I do not see why we would not be willing to do that, certainly.

Assemblywoman Munk:

Just a point with my colleague. Appraisals are only good for six months, commercial or residential, and that is a federal law, which is probably why the six months is in the statute. You have to get new appraisals every six months, whether it is residential or commercial.

Vice Chair McCurdy:

Thank you for that clarification.

Assemblyman Assefa:

Just a quick clarification. The bill authorizes for these auctions to also happen on an Internet website. Two things: One, is that in addition to your traditional way of accepting auctions? And Two, I am sure you have done research before the bill was put together. What are other jurisdictions' experiences or other states' experiences when it comes to conducting these auctions online?

John Fudenberg:

We would still be allowed to do the in-person auction. As far as the research in other jurisdictions' experience, Lisa Kremer, can you speak to that? She is probably more familiar with how other jurisdictions have done online or Internet auctions.

Lisa Kremer:

We have experience in the county with conducting an online auction, but it was held in the board of county commissioners' chambers. We went through two rounds of that, and it was successful at the time. The auction itself was held within the chambers. I am not aware of any other jurisdictions within southern Nevada that have conducted online auctions. I do know that online auctions have occurred in other states and in other counties, particularly in California, but I cannot speak to a lot of the background and the successes of that. I know with us in Clark County in the two auctions that we conducted, we were able to pull in additional buyers from around the country, and it helped to increase the buyer pool.

Assemblyman Hafen:

I appreciate the bill, and I echo some of my colleagues' concerns. I was looking online at some of the recent sales in my community—some of them are as little as \$2,500. You mentioned five appraisals, and I would love to work with you to try to reduce that for all counties, including Clark County. I understand the federal issues, and I do not know if there is a way around it or not. If there were a way, I would also suggest, and my colleague mentioned, maybe you sell it at 10 percent lower than the lowest appraisal after the second bid request. Once you sell it, you get an income from the sale and then you are going to be collecting property tax. I do not know what commercial property tax rates are, but you are generating additional revenue for the counties. If you are going to talk about those, I would love to be entertained and discuss those.

Vice Chair McCurdy:

Are there any additional questions from the Committee at this time? [There were none.] All those who wish to testify in support of Senate Bill 36 (1st Reprint), please come forward at this time, both here in Carson City and in Las Vegas.

Kerrie Kramer, representing NAIOP, Northern Nevada Chapter; and NAIOP, Southern Nevada Chapter:

We are in support of Senate Bill 36 (1st Reprint). The NAIOP is in support of any measure that would increase land availability for additional development.

Mary C. Walker, representing City of Carson City; Douglas County; Lyon County; and Storey County:

We support Senate Bill 36 (1st Reprint), and I want to thank Clark County because on the Senate side, we had some concerns about the original bill, and they amended their bill for the rural concerns. We really appreciate that. We think it is a good, practical bill because I think it will attract more buyers. I think the average of the two bids and going to Internet auctions very much improves the process we currently have.

I want to suggest that you might want to look at section 3, subsection 1, paragraph (c). It says:

Except as otherwise provided . . . if the board of county commissioners by its resolution further finds that the real property to be sold or leased is worth more than \$1,000, the board shall appoint two or more disinterested, competent real estate appraisers pursuant to NRS 244.2795 to appraise the real property. If the board of county commissioners holds a public hearing on the matter of the fair market value of the property, one disinterested, competent appraisal of the real property is sufficient before selling or leasing it.

So we have the ability to just get one appraisal under the current law. I recall, and I think it is more than ten years ago, then-Assemblywoman Marilyn Kirkpatrick championed this whole change in the selling of real property because of some problems that had happened. We were able to work to get that one appraisal in the current statute. This bill takes the

current statute and allows us to do Internet selling and also averaging of the appraisals. That is the only thing this bill does.

David Cherry, Government Affairs Manager, City of Henderson:

Thank you for the opportunity to testify in support of S.B. 36 (R1). It has been said that imitation is the sincerest form of flattery, so we want to say thank you to the bill sponsor, Clark County, and to our friends at the counties for allowing the cities to amend into this bill and to give us the same type of flexibility that the bill originally contemplated giving to counties alone. This bill is certainly an effort to both modernize and streamline the option process while continuing to ensure that there is a fair and transparent process for the sale of real property covered under this bill. Again, we think this will help modernize the system. We think it is going to be good for both the counties and the cities. Thank you, again, for considering the bill today.

Vinson Guthreau, Deputy Director, Nevada Association of Counties:

I will echo Mr. Cherry's comments. We believe the interim auction provisions and the average of two appraisals in this bill provide local governments flexibility. Our board approved support of this bill. We wanted to put that on the record.

Vice Chair McCurdy:

Are there any others who wish to testify in support of Senate Bill 36 (1st Reprint) at this time? [There was no one.] We will now go to opposition. Are there any who wish to testify in opposition to Senate Bill 36 (1st Reprint), either here in Carson City or in Las Vegas? Please come forward at this time. [There was no one.] Are there any who wish to testify in the neutral position? [There was no one.] We will ask our bill sponsor, if you wish, to come forward and provide closing remarks, or we will move forward. [There were none.] We will close the hearing on Senate Bill 36 (1st Reprint) and open the hearing on Senate Bill 392 1st Reprint). We will ask Senator Woodhouse to come forward.

**Senate Bill 392 (1st Reprint): Revises provisions relating to real property.
(BDR 10-1044)**

Senator Joyce Woodhouse, Senate District No. 5:

Thank you for the opportunity to present Senate Bill 392 (1st Reprint). Joining me this morning is my very good friend, former Senator Mike Schneider, and Director of Business and Industry Michael Brown. I would like to briefly walk through the bill for the Committee, and then I am going to turn it over to my two experts on homeowners' associations (HOA) for further comments.

Originally, Senate Bill 392 (1st Reprint) proposed moving the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels from the Real Estate Division of the Department of Business and Industry to the Office of the Attorney General. The reason for this was simple. Virtually all of the questions and issues that the ombudsman deals with end up being legal matters of one type or another, and it has always made sense to me that the ombudsman should be housed in the Office of the Attorney General, where that

individual would have access to appropriate legal resources to conduct his or her work. However, over the years, we have attempted this bill in that manner and have not been successful because the Attorney General's Office over the years has consistently opposed making this move on a variety of grounds. In consultation with the Department of Business and Industry, we developed a new set of recommendations that allow the ombudsman to remain housed within the Department, while also providing enhanced assistance from the Attorney General's Office, along with other improvements that we believe will finally provide the ombudsman the tools and the resources that are needed.

In its first reprint, Senate Bill 392 (1st Reprint) requires that at least one person employed within the Real Estate Division be a certified public accountant or have training, expertise, and experience in performing audits in order to assist the ombudsman in fulfilling his or her duties. It also requires the Attorney General to assign a deputy with legal experience and expertise in fraud or fiscal malfeasance to the Real Estate Division to assist the ombudsman.

Finally, it authorizes the director of the Department of Business and Industry to create a task force on common-interest communities to be chaired by the director, which will address areas of concern and recommend regulations or legislation as appropriate.

That concludes my remarks, and I would like to turn the microphone over to Senator Schneider and following him, Mr. Brown, to give further rationale and the reasons why we are bringing the bill forth in this manner. Following their presentations, we are happy to answer any questions you have.

Mike Schneider, Private Citizen, Las Vegas, Nevada:

Twenty-six years ago, I was sitting in Assemblyman Assefa's seat where I started my career. I also have to say that 26 years ago, Senator Woodhouse was my campaign chair, so you can blame her for all the horrible bills I have had over the years. Let me also say that 26 years ago, we both had red hair, and Mr. Brown had hair. I am surprised this bill is before Government Affairs. I can tell you that in 1997 when I went to the Senate, I had a big omnibus bill on homeowners' associations and I was in the minority there. I did not think I would get much of the bill, but I got basically the whole bill, and even more than what I anticipated. One of the pieces of that bill was to create the Office of Ombudsman and put it in the Office of the Attorney General.

After a couple months of hearings, Senator Townsend, who was chairman of the commerce committee where we had that bill, came to me and said, Okay, Raggio said you can have the bill, which I was very happy about. But he said you have to move the ombudsman's office somewhere else. I said, Why is that? He said, Because Frankie Sue Del Papa is the Attorney General, she is a Democrat, and they were scared she was going to run for Governor or U.S. Senator, and they did not want to give her a bigger platform. I looked around and thought, Well, everything is kind of real estate, and I put it in the Real Estate Division. At the time, 25 or 26 years ago, the Real Estate Division was an absolute disaster. They took the ombudsman's office and it grew slowly. It was actually manipulated by outside construction defect attorneys who wrote all the regulations for them, wrote a pamphlet for

them, and even had the attorneys' names on the pamphlet to hand out to homeowners. It did not start off well. It has gotten a little better over the years, but it still is not perfect.

I am going to tell you what happened to create a real situation in this state, and that is the construction defect lawsuits. We are running amok in this state. The construction defect attorneys raided homeowners' associations. They came in hot and heavy. They were wining and dining board members; taking them to Maui and Cabo; you name it and they were doing it, running hookers into them and everything else. It was totally amazing. Even though one construction defect attorney was up here one session arguing against any reform to all this, one of his construction defect competitors was taking about 15 or 20 property association managers to Cabo for an extended junket weekend of golf, et cetera. This attorney had to send down a private investigator and a photographer to keep track of it because those were his bought-and-paid-for managers.

All this happened over the course of several years, and I kept getting telephone calls at home. Homeowners would say, We need help, and I directed them to the sheriff's department—no help. The homeowners knew what was going on. Their money was getting scammed. I referred them to the district attorney's office—no help. I referred them to the Attorney General, and there was no help. Finally, I started saying, Go to the Federal Bureau of Investigation (FBI). At first there was no help, but what really lit up the FBI is some of these attorneys were manipulating the election of the officers of wards since they knew which homeowners voted and which did not on a regular basis, just as you know in your district who votes and who does not. They would fill out ballots and they mailed the ballots from the same law office in Los Angeles. And so that came to light, and then the FBI wrote in the preamble of [*Nevada Revised Statutes* (NRS)] Chapter 116 of the bill, we put in there that homeowners' associations are governments—they are quasi-governments. So the FBI, their No. 1 charge in the United States is political corruption. Since these were governments that gave them the real entry, there were intrastate and interstate laws being violated, and they were able to come in.

Those of you who live in Clark County probably heard a lot about this, where one of these construction defect attorneys was busted and there was this whole collusion thing with contractors and everyone else. There were four or five deaths that came out of this. They would buy a unit in an association and then put the name of other people on the unit so that they could get elected to the board. They were manipulating the board members that way, and one of them was a retired police officer. He committed suicide right away, not far from Senator Woodhouse's home. He was the first one, and there were three or four other suicides and people beaten to within an inch of their lives over all this, because there are hundreds of millions of dollars on the line with these construction defect lawsuits.

So I gave you a little background on it. I thought, Let us try to get this into the Attorney General's Office again, and we got pushback from Attorney General Ford. Fortunately, Mr. Brown, whom I have known 25 years as an honorable, hard-working guy—honest, he is a moral person. He said, Well, I will try to do this, and let us tighten this up and let me see if I can straighten this out, and I said, That is a great idea. With that, Senator Woodhouse was able to adjust it on the Senate side, and before you is a bill that I support. Mr. Brown also supports this bill. With that, I will turn it over to Mr. Brown.

Michael Brown, Director, Department of Business and Industry:

Yesterday morning I opened my mail and, like every Monday morning at 9 a.m., I get all these emails from frustrated homeowners who are frustrated with their homeowners' associations. I sent them down to our team in southern Nevada, who I think are with us today if there are additional questions.

It is a pleasure to be here with my longtime friends, Mike Schneider and Joyce Woodhouse. I came to the Legislature to represent my former company in 1995 and got to know Senator Schneider then and know how diligently he has worked for a quarter of a century on this issue. Homeowners' associations—I think we have over 3,000 with about a half-million people living in that kind of a system. They are very different than what you might find in my home state of Ohio where, rather than having homeowners' associations, we have 900 local governments, not counting townships, which would probably make it thousands of local governments. In essence the homeowners' associations substitute for having to place a lot of government officials into office. We reviewed the idea that was brought forward with the Attorney General, and the Attorney General set one of his cornerstones as consumer protection but in the area of consumer protection, he is looking for patterns of practice where they can bring big cases and coordinate nationally on these kinds of criminal cases.

In Nevada, the Attorney General has a Bureau of Consumer Protection. I have a Consumer Affairs Unit, and we have the HOA ombudsman within the Real Estate Division (Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels), so we are well suited on our side to do this if we could strengthen the tools that we have. Part of that is also just personal engagement. I was the first to meet with the Attorney General's Bureau of Consumer Protection. They said I was the first director who had ever come to visit them, and I keep in regular touch with them. I was the past chairman of a homeowners' association in Nevada. In Virginia, I was president of Alexandria's largest civic association. I was chairman of Citizens Against the Stadium that stopped the Washington Redskins from building their stadium in historic Alexandria, and in the process uncovered public corruption that resulted in people going to jail. So I am not shy about these kinds of matters.

We looked at the bill and asked, What could we do to strengthen it without moving it? The first thing I would like to do is to have a task force jointly with the Attorney General so that we look at this regime of law that has been in place for 25 years and come back to you next session with suggestions on how we could possibly strengthen and improve it. It is in the nature of a gubernatorial transition and a short legislative session that there is just not the

time to do that kind of deep dive now, but we can come back next session with ideas on how we can better enforce these. We have homeowners' associations that range from Wendover to Reno to Henderson, so this is not just a southern Nevada issue. In fact, Senator Goicoechea has a hot phone right to my desk on any matters involving Wendover and HOAs.

The second is to designate an attorney in the Attorney General's Office who will build the expertise for enforcement action in this area.

The third is to have an auditor who can help review the books and follow the finances. These are volunteer-run organizations. We attempt to have training programs in the industry and attempt to have training programs for the folks who step forward to deliver this public service. Ninety-five percent of them are doing a really good job and doing the best job they possibly can and we want to compliment them. At the same time, we have to watch those who are not coloring inside the lines.

Finally, when we have to bring an enforcement action, having an attorney inside who can bring that case together so that we can then pass it to the Attorney General for enforcement would be helpful. I compliment the two Senators for their absolute diligence. In a quarter of a century, Mike Schneider has watched out and tried to guard, protect, and preserve the public integrity for our homeowners' associations. Senator Woodhouse, who is delightful to work with, approached me early in the session and indicated a strong interest in moving forward in this area. I have my colleague, Sharath Chandra, in the south who, if there is anything he needed to say or if you have any questions, we will be glad to respond.

Vice Chair McCurdy:

Did you want to provide any additional testimony in Las Vegas? If not, we will proceed. Are there any questions from the Committee at this time?

Assemblywoman Bilbray-Axelrod:

I have a question about the structure of your office. You made mention that you have an in-house counsel. What is the actual structure of that? You kind of alluded to the fact that, I believe, the plan would be you have an in-house counsel who would tee it up, then turn it over to the Attorney General's Office. Is that correct?

Michael Brown:

Yes. When Senator Woodhouse came to us and said, What could we do besides moving it? I turned to the career professionals who have spent their lives working on this and said, I need some ideas. I need you to work for the Attorney General's Office. So I am going to pass to my colleague, Sharath in southern Nevada, who can explain how they are organized and how this would come together.

Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry:

That is a great question. What we are looking for with this is to strengthen that relationship with the Office of the Attorney General. Currently, the Attorney General's Office represents the Division in all these matters to develop a stronger relationship with particular attorneys who can build their HOA knowledge and focus on those matters exclusively. We have some very talented folks at the Attorney General's Office. In this process, we are going to strengthen that relationship and also allow for more focused individuals to rely on the HOA law in NRS Chapters 116 and 116A, and then maybe next session we will come back and look at this matter and say, Has this gotten better, what improvements do we need to make? That is the relationship we currently have, and we are looking to strengthen it.

Assemblywoman Bilbray-Axelrod:

How many people are in your office? When you talk about NRS Chapter 116, are the experts going to be in your office or are you creating the relationship between the Attorney General's Office with the expertise in NRS Chapter 116?

Sharath Chandra:

The experts are in-house: the ombudsman, the education officer, the training officer, and the investigators are housed in the Real Estate Division. The legal matters, the cases, are then referred to the Attorney General's Office, and the cases are developed there, then brought before the Commission for Common-Interest Communities and Condominium Hotels for discipline. Again, there are two pieces to this: there are the homeowners' associations and then there are community managers. The community managers are licensed under the Real Estate Division. So there are two segments we work through, and both of those disciplinary cases go to the Attorney General's Office.

Assemblyman Leavitt:

I am trying to piece this together through your testimony and through what I can see are the amendments to this bill. My concern is it was not able to move from the Real Estate Division to the Office of the Attorney General, so now we are having two people doing one person's job because we have the Real Estate Division handling it initially where they were handling it solely before. We are bringing in the Attorney General's Office to help handle it, and now we have two people doing the job of the ombudsman. If you cannot move it, then I see the dilemma, but I do not know the history of why it did not move, why it could not move, any of that, but it seems because it could not move from the Real Estate Division to the Office of the Attorney General, now we are saying, Well, now the Attorney General is going to help, so now two people are going to do this job instead of just one. That is just my layman's view of what the limited information is before me and, correct me if I am wrong, but is that the case?

Mike Schneider:

This is not a case of you now having two people doing the same job. The ombudsman's office is a huge job, and as Michael Brown indicated, there are over a half-million people in Clark County living in HOAs. So this is a huge job, and what we are doing is, in this bill, we are adding; we are back-dooring into the Office of the Attorney General and picking up that legal expertise that is needed. It is needed, and that is why I wanted to put it there. It is needed in the ombudsman's office. It is not like doing two jobs. You cannot have the ombudsman who is supposed to meet with the homeowners and do all that, be the legal person to delve into all the legal matters, and do investigations, and that—you cannot do it. I do not think you should be worried about the cost because there is a door fee on every homeowners' association unit in the state. That door fee covers all the expenses. The door fee has virtually been the same for 25 years. I think it may have gone up one dollar. There is plenty of money to cover all this. It is beefing up the Department. It needs to be beefed up, and it needs the legal expertise there.

Assemblyman Leavitt:

Just for clarification, there is no legal counsel available in the Real Estate Division to help with these things? Or, if not, how did they do it up until now? Are they leaning on the Attorney General's Office currently or do they have their own legal counsel in there who is handling these cases, because the ombudsman is not legal counsel and is not qualified to handle legal cases when it gets to that point. What is currently being done?

Sharath Chandra:

The current process is that everything is done in the ombudsman's office. The legal matters, those cases are then referred to the Attorney General's Office, which prepares the legal cases forward. That structure does not change. This language allows us to work with the Attorney General to have a specific attorney who can develop expertise. Currently there is a young lady, Michelle Briggs, who is amazing. We work with her so that the idea is to develop that relationship and make her the subject-matter expert, if she is not already, and then leverage that and focus it more on HOAs. In the Attorney General's Office, there are a lot of attorneys. We want to create a mechanism that allows us to have one person designated who would become the subject-matter expert and, also, use them a little more than we have in the past to get clarification on legal questions where we may not be the experts. The folks in the ombudsman's office are subject-matter experts, but they are not lawyers.

Michael Brown:

This is also an effort. We know that the state is growing. We know more homeowners' associations are being formed. We know we are going to have more folks coming into the area, so this is an effort to skate to where the puck is going and make sure we have a much stronger tie with the Office of the Attorney General so that when we have to take enforcement actions, we have a seamless process in place.

Assemblyman Leavitt:

Thank you for that clarification. As I was listening to the gentleman from down south talk, it was in my head that this is an administrative process, not a codification process. Is it your

suggestion that it needs to be in law for this process to move forward? What you are asking the bill to do, you are doing right now. Other than the fact that you wanted to move the ombudsman's office to the Attorney General's Office, which for whatever reason that happened—I do not know the history behind it. I know the history from 25 years ago, but I do not know the history of a month ago. Since that did not happen, it seems it would now move to an administrative process, not bring a bill to us and make our administrative process law.

Michael Brown:

This is really an effort to make sure that we have a formal arrangement that extends beyond the individuals who might be in the office right now and have a working agreement on this.

Senator Woodhouse:

I also wanted to add that this measure in front of you in Senate Bill 392 (1st Reprint) creates that task force so that we can continue to address the needs of the ombudsman in the Real Estate Division and bring back legislation next time to make this process work even better.

Assemblyman Carrillo:

To follow up on Assemblyman Leavitt's questioning, are there not a lot of frivolous complaints that are being sent through and, of course, you would have a designated expert through the Attorney General's Office who would determine if this is worth bringing to fruition and see if it is worth bringing to where it would be a legitimate complaint. That individual will specifically work on those issues with NRS Chapter 116, and that is pretty much it, right? Obviously, they have other tasks to do, but we will have a go-to deputy attorney general who will specify their knowledge of this particular chapter that deals with HOAs, correct?

Michael Brown:

We have a terrific staff down there in Charvez Foger. I think he played football for the University of Nevada, Reno. He is very good at what he does and in handling these matters. They are able to sift the frivolous. What we find is that the complicated cases are really complicated cases, and that is where we need the extra ties—the Attorney General's Office to delve into those because they are not simple. Often the cases are not black and white. There are lots of shades of gray to them, and you interject issues of property rights and things like that and they get complicated really fast.

Vice Chair McCurdy:

Are there any additional questions from the Committee at this time on Senate Bill 392 (1st Reprint)? [There were none.] We will now open the testimony in support of Senate Bill 392 (1st Reprint). [There was none.] Is there anyone who would like to testify in opposition to Senate Bill 392 (1st Reprint)? [There was no one.] Would those who would like to testify in the neutral position on Senate Bill 392 (1st Reprint) please come forward. [There was no one.] Would the Senator like to come up and make any closing remarks? [There were none.]

We will now close the hearing on Senate Bill 392 (1st Reprint) and open the hearing to public comment. [There was none.]

This meeting is adjourned [at 9:31 a.m.].

RESPECTFULLY SUBMITTED:

Connie Jo Smith
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.