

## **E-DELIVERY OF COMMUNITY COMMUNICATIONS**

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Have you heard of this term before? E-Delivery had been around since our law, NRS 116.3108, passed many years ago allowing members to get documents and notices electronically..... **IF THE ASSOCIATION OFFERS IT.** In the last session (2009), however, if the owner asks for a copy of the minutes electronically, the Association may not charge for a copy of the minutes.

I feel that it is critical for an association to have a policy if they are willing to deliver documents electronically and have the owner sign a document, which they acknowledge that they will notify the association should they change their E-mail address to which they have asked the notifications to be sent.

Before you call your association's attorney to help you create an e-delivery policy, ask yourself if e-delivery is right for you and your association. To use e-delivery, managers must keep accurate electronic records with a computer system capable of handling e-delivery requirements. The ability to scan sensitive documents such as budgets and other financial materials is required. This would require a .pdf file or other read-only types of formats to be created before sending.

Even though you don't have a choice with the minutes, the association Board of Directors should obtain and adopt a specific e-delivery policy. Your counsel then can read to insure that your policy meetings the requirements of the laws and your documents. A written policy insures that present and future members of the board have a template to follow. This policy should clearly lay out the association's legal responsibilities for communication, disclosures, and education of the owners and the residents if different from the owners.

There are two ways that you can deliver these E-documents: E-mail to members, or a secure website where owners take the responsibility to download if they wish.

If the Association's website is password-protected then creating a document depository is a really easy choice. An additional benefit is that the website becomes a library of the many important document of which the owners need to be aware and can access at their convenience vs. the manager or board's.

If the website option is not viable, you Board needs to make sure that any distribution of information is sent in a read-only format to protect their integrity, but be aware that there are programs out there that will convert to allow changes. The policy should state some type of liability to the owner should this happen, etc.

The one important requirement that I mentioned above is to get the written consent of owners to accept electronic document delivery prior to delivering documents. They could claim that you didn't have authorization to do so should they want to raise issues in the future. Any document that they sign should state the provisions in the law where the association may provide E-delivery, what their responsibilities are to notify the association of changes and what the process is to opt out.

If you do not get prior written consent of each individual owner, you cannot rely on electronic delivery of documents to that owner. Anyone who does not specifically consent to electronic delivery must still receive the documents via hard copy in the mail.

As members of the Board, they should be prepared for this to cost the Association more in their management fees as it will take time to determine who wants hard copies only and who signed up for E-delivery. This is probably the main reason that most associations don't offer E-delivery, because of the expense.

Below are just a few of the current sections (7-2010) that apply to electronic delivery in the common interest community industry.

NRS 116.3108 .....

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, **if the association offers to send notice by electronic mail**, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, **in electronic format at no charge to the unit's owner** or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session. ....

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, **in electronic format at no charge to the unit's owner** or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

**NRS 116.31083 Meetings of executive board; frequency of meetings; requirements concerning notice and agendas; periodic review of certain financial and legal matters at meetings; requirements concerning minutes of meetings; right of units' owners to make audio recordings of certain meetings.**

1. A meeting of the executive board must be held at least once every quarter, and not less than once every 100 days and must be held at a time other than during standard business hours at least twice annually.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

**(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or**

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.....

