

LANDSCAPE MAINTENANCE ASSOCIATIONS

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Many individuals move into an “association” thinking that they have a full blown association where the association not only collects the assessments to take care of the common areas, but ensures that the documents are enforced uniformly.

Effective through October 30, 2011, NRS 116.1201 is very specific that only specific portions of the the NRS 116 statute applies to all common-interest communities created in Nevada *except* for certain exempt communities which are created as limited-purpose associations. One of those exempted communities is a community created just to maintain the landscape of the common elements of a common interest community.

NRS 116.1201, section 6 states the following:

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- 6. As used in this section, “limited-purpose association” means an association that:
 - (a) Is created for the limited purpose of maintaining:
 - (1) The landscape of the common elements of a common-interest community;
 - (2) Facilities for flood control; or
 - (3) A rural agricultural residential common-interest community; and
 - (b) **Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units’ owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.**

(Added to NRS by 1991, 542; A [1999, 2998](#); [2001, 2488](#); [2003, 2223](#); [2005, 2587](#); [2009, 1609, 2211, 2863, 2908](#))

If the association had enforcement provisions in their documents, they would not be considered a landscape maintenance association and this would bring other responsibilities into the mix, which would includes the payment of the \$3.00 per door Ombudsman’s fee.

NRS 116.1201, Section 2 states the following:

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- 2. This chapter does not apply to:
 - (a) A limited-purpose association, except that a limited-purpose association:
 - (1) Shall pay the fees required pursuant to [NRS 116.31155](#), **except that if the limited-purpose association is created for a rural agricultural residential common-interest**

community, the limited-purpose association is not required to pay the fee unless the association intends to use the services of the Ombudsman;

(2) Shall register with the Ombudsman pursuant to [NRS 116.31158](#);

(3) Shall comply with the provisions of:

(I) [NRS 116.31038](#);

(II) [NRS 116.31083](#) and [116.31152](#), unless the limited-purpose association is created for a rural agricultural residential common-interest community;

(III) [NRS 116.31073](#), if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and

(IV) [NRS 116.31075](#), if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of [NRS 116.4101](#) to [116.412](#), inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter or a part of this chapter does apply to that planned community pursuant to [NRS 116.12075](#). This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of [NRS 116.4102](#) to [116.4108](#), inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of [NRS 116.4101](#).

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of [chapter 119A](#) of NRS.

It is understandable why some owners are frustrated and angry when they were lead to believe that they were buying into a full blown HOA, but instead bought into a community with NO ENFORCEMENT powers. Each owner must take action against any other owner who may be in violation of the governing documents. For the association to do so would be an illegal act.

If the documents, however, have *any* enforcement powers other than to collect assessments, the association is not a true limited-purpose association regardless of what they may have been lead to believe by the name of the association etc. In opening up this door, however, because of the fact that there have been Landscape Maintenance Associations, by name only, who acted as if they were in fact limited-purpose associations only to find out that they did have enforcement powers. OOPS! These communities had to go back many years and pay the \$3.00 per door per home Ombudsman's that was due since the requirement went into law. This caused owners to

kick up thousands of dollars since this was effective back to 1997 and included late fees and penalties.

If a majority of the owners wish to become a full blown association, there are ways to accomplish this, but the use of an attorney is recommended to ensure done properly as in most cases the lenders of each owner's lot would have to be included in the voting process. Not an easy task.