

## MEMBERS OF THE BOARD OF DIRECTORS VS. OFFICERS OF THE CORPORATION

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It is interesting the number of times that the two terms are confused; directors of the corporation vs. officers of the corporation. They are normally the same people, but it is important that you understand the important difference.

NRS 116.31034 states that the following:

**NRS 116.31034 Election of members of executive board and officers of association; term of office of member of executive board; staggered terms; eligibility to serve on executive board; required disclosures; procedure for conducting elections; certification by member of executive board of understanding of governing documents and provisions of chapter.**

1. Except as otherwise provided in subsection 5 of [NRS 116.212](#), not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, all of whom must be units' owners. **The executive board shall elect the officers of the association. Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners.** The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 3 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive **board**.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive **board** are elected at each election. The provisions of this subsection do not apply to:

- (a) Members of the executive **board** who are appointed by the declarant; and
- (b) Members of the executive **board** who serve a term of 1 year or less.

..... [Emphasis added]

NRS 82.211, which is the statute that most of the newer associations were formed under, states the following:

**NRS 82.211 Officers of corporation: Selection; terms; duties.**

1. Every corporation must have a president or a chair of the board, a secretary and a treasurer.

2. Every corporation may also have one or more vice presidents, assistant secretaries and assistant treasurers, and such other officers and agents as may be deemed necessary.

3. All officers must be natural persons and must be chosen in such manner, hold their offices for such terms and have such powers and duties as may be prescribed by the bylaws or determined by the board of directors.

4. An officer holds office after the expiration of his or her term until a successor is chosen or until the officer's resignation or removal before the expiration of his or her term. A failure to elect officers does not require the corporation to be dissolved. Any vacancy occurring in an office of the corporation by death, resignation, removal or otherwise, must be filled as the bylaws provide, or in the absence of such a provision, by the board of directors.

5. Any natural person may hold two or more offices. (Added to NRS by 1991, 1268; A 1993, 997)  
[Emphasis added]

As you can see from the above two sections, the **board** of directors are elected by the owners following Nevada's secret ballot procedures and the *officers* are then elected by a majority of the members of the

**board** of directors at a noticed meeting with the item on the agenda. The *officers*, unless the documents require otherwise, may not be owners in the development. Most associations would not want to have someone who does not have the financial investment serving as an *officer*, but at times may have a tenant or outside person who has the time and/or the talent to serve as one of the *officers*; i.e. Treasurer, Secretary, President. Unless the documents state otherwise, a majority of the **board** could appoint at a duly noticed meeting, someone outside of their community to serve in one of those *officer* positions. I don't know who in their right mind would want to do this, but it happens.

At times, the manager is asked to fill in an officer position and I honestly feel that this would be a conflict of interest. They should be the independent third party assuring that all of the controls are in place to help protect the assets of the association.

I don't know if this helped to clear up the difference in the two, but it is amazing the number of even long time managers who mix up and use the two terms incorrectly.