

SOME ISSUES THAT THE AUTHORS HAVE SEEN WITH SOME RESERVE STUDIES

May 03, 2017

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Among other issues, many reserve studies are hard to understand. At times, community managers will contact us and ask us to help them out to determine many of the issues that are required to be disclosed with the budget annually. We ask them to e-mail the study to us and we can't find what they need to put in the budget either. Here is the NRS section that they seem to have the most problems finding in the studies. We have highlighted the section (Section 1 (b)) below where the issues are:

NRS 116.31151 Annual distribution to units' owners of operating and reserve budgets or summaries of such budgets and policy for collection of fees, fines, assessments or costs; ratification of budget.

1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) **The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of [NRS 116.3115](#). The budget must include, without limitation:**

(1) **The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;**

(2) **As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;**

(3) **A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore or to provide adequate funding for the reserves designated for that purpose; and**

(4) **A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation,**

the qualifications of the person responsible for the preparation of the study of the reserves required by [NRS 116.31152](#).

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties but not to exceed 60 miles from the physical location of the common-interest community; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The policy must include, without limitation:

(a) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; and

(b) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner.

(Added to NRS by [1999, 2993](#); A [2003, 2241](#); [2005, 2605](#); [2009, 1205, 1735, 2806](#))

Why don't the directors and the manager's see that the above section is put into the RFP so that a one page document just needs to be included with the budget vs. trying to pick the study apart to find these points that are required by law to be included in the budget? Getting the information wrong, leaves the person who had to search diligently to try to find everything open for errors as well. It would save on copying costs and potential errors transferring data from a study to another document for inclusion. (*A sample copy is shown on the last page of this article.*)

NAC 116.425 was changed to reflect terminology in the Administrative Code to reflect the proper terminology to be used in the study in Nevada. R050-13A states the following:

(m) A general statement describing the objectives of the funding plan that is designed to allocate the costs for the *maintenance*, repair, replacement and restoration of the major components of the common elements and the methods used in *projecting* the *30-year* funding plan, *using the following terms* and discussing, where applicable:

- (1) Full funding;
- (2) Threshold funding; and
- (3) Baseline funding;

Nowhere does it reference Level 1,2 or 3. That is used in some other states and is not to be confused with what the above says. Just because it has a (1), (2) and (3) before it does not mean that is the term to be used in the study as Level 1, Level 2 or Level 3. The study has to show the words stated above.

A sample of the form you will want to require the properly licensed reserve study specialist to include in their Nevada reserve studies is shown on the last page of this article.

R050-13 CA also includes a requirement that the new 5 year study start on the date of the site inspection (or last date if multiple dates) completed by the reserve study specialist. The study must have the beginning and ending date for which the reserve study is prepared. This must be shown on the report for the association to comply. If the inspection was performed in January and the study was completed and sent to the association in April, guess which date is the date that starts the clock ticking for the new study? Here is what the section states :

“For the purposes of paragraph (a) of subsection 1 of NRS 116.31152, the 5-year period for conducting a reserve study commences on the date on which the on-site inspection of the major components is performed”.

LCB File No. R050-13 CA, which was Effective on August 10, 2015, section 11 states that the study must include the following:

“ A listing of any significant components of the common-interest community that the association may be obligated to maintain, repair, replace or restore, which are not included in the funding projection in the reserve study and the reason for excluding those components from that funding projection.”

An example of this requirement would be underground pipes, street replacement, internal electrical, internal plumbing, storm drains, roofs, etc. for those things that might all outside of the 30 year reserve funding requirement. Those must be listed in the study so that directors know that they could or will be brought in at some point and if significant, they can start funding earlier to lower the burden on owners. Many of these components will require a professional (i.e., civil engineer, building engineer, etc.).

A nice feature to have on the form would be the 210 day date that from the first draft the reserve study specialist expects to hear back from the board since the board has to adopt it within 210 days of the first draft and send the form into the NRED. It would be a good reminder to the manager and the board to calendar this necessary action.

Funding Methods

This is a topic of extreme controversy within our industry. With the three funding methods, there is an extreme variation of reserve funding goals as well as safety of the associations financial health. Many believe that Full Funding is the safest way to fund. Others actually believe that Baseline Funding is fine even though it can allow the association’s reserve fund to fall to \$0.00 one or more times within the 30-year window. Developers love this method since it allows for the lowest assessment level during their selling period. Unfortunately, it leaves the new owner board with a dilemma when they discover that they may now have to significantly raise assessment levels to provide for adequate funding of both the OPERATING budget AND the RESERVE budget. This author believes that this method should not be allowed as a funding goal.

While Full Funding is generally used by many Providers, Threshold Funding is also an acceptable method as it provides flexibility where the other two methods are limited. With many associations, particularly much older developments (townhomes, condos) full funding is an impossible goal. Setting a reachable level short term gives the association the ability to establish reasonable assessment levels while building their reserve funds. Over time, the funding level can be increased if it makes sense for that particular community. Association’s in Nevada have had since 1999 to get their finances in order, when the laws were passed. It is sad that this condition still exists in the industry.

A misunderstanding also exists as to the meaning of “Full Funding.” Some believe, incorrectly, that Full Funding means that you have to have all the money necessary to maintain, repair or replace the association’s components at any point in time. Not true. What Full Funding means can be best explained by an example.

You have three components:

1. Swimming pool re-plaster ... \$10,000 every 10 years ... put \$1000 away every year.
2. Replace roofs \$80,000 every 20 years ... put \$4000 away every year.
3. Repaint Clubhouse ... \$8000 every 8 years ... put \$1000 away every year.

The table would look like this ...

POOL	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
ROOFS	4000	4000	4000	4000	4000	4000	4000	4000	4000	4000
PAINT	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
expense								8000		10000
Totals	6000	12000	18000	24000	30000	36000	42000	40000	46000	42000

Therefore, to be Fully Funded means that you have accumulated the total shown in the Totals line each year. If you do, it means that you have put aside that amount annually as stated in the reserve study. You are Fully Funded.

Clearly, Full Funding is the safest way for a community to fund their reserves for the majority of communities. Whichever method is used, it should be clearly stated in the reserve study which method has been used. If multiple methods are presented, it should be clearly noted which method is recommended for that particular association.