

Do you really have freedom of speech in your HOA?

The following is an edited excerpt of a Nevada Independence editorial authored by Mike Kosor and published April 11, 2019

Nevada's once highly acclaimed anti-SLAPP (strategic lawsuits against public participation) law was enacted to address the all-too-common "defamation" tool used to intimidate and silence critics of businesses engaged in local land development (among others). Danger lies, in a Nevada lower court recently acting as if Nevada's anti-SLAPP law excludes members of an HOA attempting to engage in the fair governance of their own communities.

HOAs have long been recognized as quasi-governmental entities and a protected class under anti-SLAPP laws. This is widely accepted in California, after which Nevada patterned its legislation, as it is in many other states. The court ruling was in an actin brought against me. I have appealed the lower court's decision to the Nevada Supreme Court.

I am not a troublemaker for trouble's sake. I am a retired USAF officer who felt compelled to again serve, this time in my own community where, not unlike most communities, homeowner's lack of understanding is widespread. I soon discovered that many of the democratic values I had spent my career defending were absent or under attack by my own HOA.

I have long opposed the actions of my community developer in its resistance to transferring Board control to the community. Three members of my five-person community Board are direct employees of the developer. My community's management company is also wholly owned by the developer, and its pricey contract is renewed without any competitive bid process.

Initially, I ran for the single board seat open to owners in the hopes of raising awareness and stemming the effects of my neighbor's lack of knowledge. As the election period opened, in a blatant effort to silence me and the few others assisting me with similar concerns, I was slapped with a defamation action by the developer. While I am confident the court will eventually recognize the error of the lower court, I decided to act during this recent legislative session in the hope of preventing others from undergoing a similar difficult (and very expensive) experience. I proposed a simple clarifying addition to Nevada's anti-SLAPP language.

Despite reaching out to over half of all legislators seeking a sponsor, having no paid voice in the halls, none have yet stepped up. **All our legislators turned a blind eye and deaf ear to the conversation.**