



The Builders Association of Northern Nevada  
2018-2019  
State & Local Policy Manual  
and  
Legislative Agenda

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## **INTRODUCTION**

### **MISSION**

Chartered in 1956, the Builders Association of Northern Nevada (BANN) is a non-profit organization affiliated with the National Association of Home Builders (NAHB). BANN is committed to education, information, representation and benefits to and for our membership, community and the building industry. BANN achieves these goals through a team effort of our membership and community to create a better quality of life, housing for our citizens, and economic prosperity.

### **AFFILIATED ORGANIZATIONS**

BANN represents the collective interests of the construction industry in Northern Nevada. BANN currently has nearly 500 member businesses representing more than 11,000 employees. The association offers information, training and education programs to all construction professionals. BANN is the primary vehicle for affiliated organizations and sub-organizations that have been established to meet targeted member needs. These affiliated organizations include BANN-PAC, Build-PAC, Sales and Marketing Council, Builders' Council and Remodelers' Council.

Additionally, BANN's committee structure exists to foster member participation and enhance the programs designed by the association for the benefit of its members and the community as a whole.

### **POLICY & POLITICAL ENGAGEMENT**

The primary goal of BANN is to enhance the economic climate in Northern Nevada, a major factor in housing affordability and a major employer. To facilitate our ability to educate those who regulate our industry, BANN maintains an ongoing dialogue with decision-makers and legislators at the local, state, and national levels.

The Builders Council, the Legislative, Codes, Infrastructure & Planning, and Energy committees represent BANN members' interests in federal, state, and local government activities. This includes full time representation at the Federal, State and all local entities. BANN is involved in various campaigns and committees, such as the Washoe County School Bond rollover initiative for school construction, reform of construction defect laws, membership on the municipalities and county enterprise various funds. BANN is an affiliate of NAHB, which represents BANN's interest at the federal level, and of the Nevada Home Builders Association, representing the industry at the State level.

## **LEGISLATIVE POLICY**

BANN legislative policies are reviewed and updated as needed by the BANN Board of Directors. Within the guidelines of this Legislative Policy Manual, BANN members and staff are able to make timely decisions, deliver testimony and implement personal contact with elected officials to convey a uniform and educated voice on behalf of the BANN membership.

## EDUCATION

BANN supports a world class education system for the future of our community. BANN believes that accountability at all levels – parents, teachers, administrators and students – is critical to ensure results from our school system. Career and technical education is imperative to provide choices for our children and to provide options on career choices to develop a well-rounded workforce. In fact, BANN is a founding member of ACE Charter High School. BANN continues to work with the Washoe County School District to bond for school construction. Creative solutions for schools and funding must be considered.

### SUPPORTS:

- Accurate and fair reporting of WCSD activities, including but not limited to spending per student, graduation rates, testing scores, and scholastic achievement.
- High Standards for all students and educators.
- Increased choices for students including Career and Technical curriculum.
- Greater accountability of voter approved and rollover bond funding.
- A plan for the backlog of deferred, current, and future maintenance needs.
- Cooperation with the development community on planning for future school sites, including preparation and ongoing Capital Improvement Program (CIP).
- Creative, broad based solutions to funding and building schools.
- Amendment of charter school legislation to provide equitable capital construction funding for successful programs like ACE High School.
- An increase in the Washoe County School District’s portion of the property tax to come closer to the ratio of Clark County School District (revise the “Nevada Plan) and a point of sale reset of the depreciation calculation for property tax.
- BANN sat on the SB411 committee and offered key support to WC-1, the revenue question passed by the voters on the November 2016 ballot. Builders Association of Northern Nevada will continue to work with the committee charged with allocating the capital projects funds received through WC-1.
- Broad based funding sources.
- Accountability for WCSD administrators and teachers. Continued revision to NRS 288 and other provisions to create accountability, plus removing “evergreen clause” of collective bargaining.

OPPOSE:

- Impact fees for new schools. Use of impact fees only for new schools. Must be part of larger, broad based revenue formula.
- Any single industry taxes.
- So called “voluntary” exactions (impact fees) and/or contributions required by local governments of developers when the approval of a project is contingent up the voluntary contribution.

## ENERGY

BANN recognizes that energy efficiency and conservation is growing in acceptance at both state and national levels – within both the government and private sectors. Often this goes beyond simple energy conservation and energy alternatives, and moves into the broader topic of “green building,” which emphasizes resource conservation, alternative construction materials, and energy use for the life of the home. BANN is proactive, working collaboratively to develop standards that are reasonable and cost effective for the home buying public. BANN has supported the ANSI approved and ICC published National Green Building Standard created in partnership by NAHB. The National Green Building Standard has been acknowledged as a referenced standard by the City of Reno, City of Sparks and Washoe County.

### SUPPORTS:

- Incentives for developers and consumers to provide energy efficient homes.
- Working with the construction industry to develop appropriate, cost effective energy options that will be supported by the consumer via increased value of the home.
- Recognition by State and Local entities of the ICC Published National Green Building Standard as a voluntary residential program
- Appraisals that reflect upgrades. Development of all forms of renewable energy.
- Promote an effective retrofit plan for older, less efficient housing that allows builders and remodelers to create benefits of energy efficiency for all housing.
- Multi-Jurisdictional Code Amendments to the International Energy Conservation Code (IECC) with jurisdictions having authority to adopt energy codes that best fit the needs of the community.
- Encourage code officials and building professionals’ adequate training, especially when the codes and standards change.

### OPPOSES:

- Arbitrary requirements and mandates for unproven energy efficient techniques that increase the price of housing without understanding the consumer purchasing preferences. The cost of building a house to one-sided cost benefit energy codes make homes unaffordable.
- Barriers in prescriptive codes which prevent builders from looking for a competitive edge to keep demand for their homes high, and offering consumers homes with lower energy bills and lessened environmental impacts.

## INDOOR AIR QUALITY STANDARDS

BANN (and NAHB) is concerned about unhealthy Indoor Air Quality and supports reasonable standards based on science. Mold, lead, radon and CO<sub>2</sub>, are of current concern by the public.

The presence of mold in residential buildings continues to generate litigation against builders, building owners, and property managers for personal injury and property damage. It is the subject of disputes between insurers and their policy holders.

Before the 1970s, household paint often contained lead. As lead paint ages, it can chip or crumble into dust. Exposure to lead-paint dust or chips can cause serious health problems. Laws enacted by the Environmental Protection Agency (EPA) in 2010 are designed to prevent contamination from lead-based paints. Simple testing determines the presence of lead-based paint. A contractor who is certified in lead paint removal is trained to do the job safely and will determine the best abatement strategy.

Radon is a naturally occurring radioactive gas that has no odor, color or taste and is produced by the breakdown of uranium in soil, rock and water. Uranium is found in all soils and in higher concentrations in granite, shale and phosphates. As it decays into radon gas, it moves through the soil into the atmosphere, where it is harmlessly dispersed in outdoor air. However, it can enter buildings through foundation openings and become trapped inside. When it enters a building, it can accumulate and present a health concern for occupants.

Carbon dioxide (CO<sub>2</sub>) is a relatively easy to measure surrogate for indoor pollutants emitted by humans, and correlates with human metabolic activity. Carbon dioxide at levels that are unusually high may cause occupants to grow drowsy, to get headaches, or to function at lower activity levels.

### SUPPORTS:

- The development of indoor air quality standards with the State Board of Health and/or the Legislature.
- Proper ventilation standards to allow for air turnover – breathable homes. Use of environmentally sustainable design concepts also include aspects related to the heating, ventilation and air-conditioning.
- Reduce energy consumption while maintaining adequate air quality.
- Increasing the role of green building (NAHB National Green Building Program) in construction and renovation practices provides an opportunity to ensure that housing units protect resident health while also conserving natural resources.

OPPOSES:

- National standards that do not allow different standards for different climates and regions.
- There is significant political and institutional momentum toward energy conservation in buildings which has led to building codes devoted solely to energy conservation, and resulted in the tightening of building envelopes reducing air infiltration and leakage. With air exchange significantly reduced, there is little room for error in protecting indoor air quality, other than providing more sophisticated, tightly calibrated and coordinated systems.
- Current energy codes indirectly cause negative pressure in the home because appliances can draw exhaust gasses back into the home or may also force air through the building envelope and create moisture/mold problems as humid air condenses within the building envelope.

## **NEVADA STATE CONTRACTORS BOARD (NSCB)**

The NSCB is a licensing agency, funded solely by the revenues generated from original license applications, license limit increase applications, and fines. BANN believes that the NSCB needs to be a fair, unbiased body that works to promote industry standards, as well as act as a consumer advocate agency.

### **SUPPORT:**

- Legislation to require a person who fills the position of investigator with the job scope to review plans or inspect a structure or building or a portion of a structure be certified by ICC. NSCB to adopt administrative language on issues such as inspector training and continuing educational requirements. Alternatively, require an enforcement officer to be accompanied by a local certified inspector with the proper training.
- A standard for “qualified” inspectors and a clear procedure for investigations, including published guidelines for NSCB inspectors’ determination of quality of workmanship and also satisfaction of NSCB issued notices to correct.
- Current licensing to support professionalism in the industry.
- NSCB as an economical, reliable and objective agency for consumers to depend on to resolve unfair practices and construction defect claims.
- Home building industry representation on the NSCB.
- Legislation that fairly and equally defines licenses and license limits
- Transparency in the investigative process
- BANN is supportive of an administrative or legislative “fix” to establish the definition of a “site” and “multiple sites” and how that pertains to the aggregate limit on a contractors license.

### **OPPOSES:**

- The NSCB acting solely as a “consumer advocate.”
- The NSCB acting as a surrogate lobbying group for the certain industry groups to the detriment of other industry groups.
- License limits that aggregate work performed under separate permits.
- Use of unlicensed contractors.

## **PUBLIC EMPLOYEE BARGAINING**

Right-to-work laws prohibit agreements between labor unions and employers making membership in a union, or payment of union dues, a condition of employment. Nevada has proudly been a "right-to-work" state for more than 65 years. Yet, our current laws for government employees trend toward a "union state." Union state styled laws discourage dismissal of poorly performing employees, frequently result in higher costs, cost the state and tax-payers tax dollars, and negatively impact economic development efforts.

### **SUPPORTS:**

- Thorough third-party analysis on the budget ramifications of public employee bargaining.
- Contracts that reflect the region's economic times.
- A reform package of state and local policy changes that will help open this process to the public and bring this spending back under control.
- Elimination of collective bargaining and mandatory arbitration.
- Elimination of the "evergreen" clause of expired contracts.
- Making collective bargaining and contract negotiations subject to open meeting laws.
- Making defined contribution rather than defined benefit as part of public employee compensation packages.

### **OPPOSES:**

- Collective bargaining and keeping this process closed to the public.
- Barriers to salary savings when consolidating services.
- Binding arbitration.

## REGIONAL FLOOD PLANNING

Flood planning by our local jurisdictions is something that our entire community benefits from and therefore should be funded by broad based funding sources.

### SUPPORTS:

- Unwinding the “super agency” Regional Flood Protection Agency formed under the Joint Powers Agreement and return management to local governments. Use the existing local review process, regulations and ordinances to review and analyze drainage and flood impacts from proposed development.
- Development of a flood control project that provides a minimum of 100-year flood protection for the entire region that is economically feasible, has a positive cost benefit for the community and can be funded with available federal, state and local resources.
- Long range flood control planning and implementation that allocates regional flood control improvements to support future growth as planned at regional and local levels.
- Develop and approve a single Hydrology/Hydraulic model to be used for the region to analyze public and private projects and their impact on flooding in the region. This single model should be transparent, readily available, user friendly and capable of producing consistent results.
- Presumption of validity in the information provided to the Flood Project by a Regional Infrastructure Agency, such as RTC, to avoid conflicts in proceeding with major infrastructure projects, especially those that have gone through an exhaustive planning process and, in some cases, those projects that are already under construction
- Rational nexus between regulation and impact/contribution to flood potential.
- Fair treatment of mitigating flood storage volume ratios based on sound science.

### OPPOSES:

- Construction industry “only” related funding requirements.
- Use of additional, redundant review process.
- Requiring only new residents to pay for existing flood management deficiencies.
- Use of the regulatory authority of the agency to delay, compromise or stop projects that are found to be important to the economic development of the region.

## REGIONAL PLANNING

The Truckee Meadows Regional Planning Agency (TMRPA) is responsible for the preparation and implementation of the Truckee Meadows Regional Plan which highly impacts the home building industry. The Regional Plan addresses land use planning, natural resource management, and infrastructure and service provisions within Washoe County. The agency implements the Regional Plan by ensuring that master plans of local governments and affected entities conform to the Regional Plan. The TMRPA is comprised of the Regional Planning Governing Board (RPGB), the Regional Planning Commission (RPC), the Director of Regional Planning, and staff.

TMRPA's website states: "The 2012 Truckee Meadows Regional Plan provides a blueprint for development in Washoe County over the next 20 years. The Regional Plan directs where growth will occur, identifies development constrained areas that are not suitable for future development, sets priorities for infrastructure development and addresses natural resource management. The Plan also coordinates provision of services and capital improvements from the local governments and affected entities in the region."

### SUPPORT:

- Working with the Truckee Meadows Regional Planning Agency and community stakeholders for sound growth management policies for the future of Northern Nevada.
- Reasonable facility planning and implementation standards for good planning across the region. Allow flexibility for all jurisdictions to meet needs of community growth for all different uses, including residential and industrial development.
- Consolidation of infrastructure and services where reasonable, including water resources, flood control, sewer, roads, parks, fire, police, and schools.
- Elimination of services where redundant and/or inappropriate.
- Eliminate constraints which deter sensible land use decisions affecting issues such as setting minimum residential densities and commercial Floor Area Ratios (FAR's). Support an emphasis on planning and coordination of regional infrastructure including maximizing the efficient use of available infrastructure resources through elimination of redundancy in management and facilities.
- TMRPA developing and maintaining studies and reports that analyze regionally significant issues such as the Industrial Land Study, that can be used to craft regional economic development and land use policies and strategies to improve the quality of life for all residents of the region as a whole.

- Work to amend the Regional Planning Statutes to establish the new primary role for TMRPA as a body for local governments to coordinate long-range plans and to identify common ground for the three jurisdictions to plan future land use, economic development and infrastructure of the Northern Nevada Region.
- Eliminating master plan conformance findings by the RPGB that constitute an effective veto of project-specific decisions legally made by a city council or county commission in compliance with the procedures of NRS 278 (the current appeal process within TMRPA is redundant, time consuming and very expensive for the applicant...often with no resolution).
- Amendments to NRS 278.026 to 278.029 that would relieve local governments of the onerous regional plan conformance requirements for plans and projects that are approved by a local governing board (i.e. county commission or city council) under the provisions of NRS 278.
- Amendments to the Regional Planning Statutes for counties under 700,000 population that would resemble NRS 278.02507 to 278.02598 for counties over 700,000 (Southern Nevada Regional Planning Coalition).
- Proactive approach for expectations of future growth without political denouements, including allowing all uses in all jurisdictions (i.e., industrial uses in Washoe County unincorporated areas).
- Housing plan which is neutral of politics and provides a clear needs assessment based on true market patterns.

**OPPOSES:**

- Concurrency in its most stringent interpretation.
- Regional Planning Commission acting as additional layer of bureaucracy.
- Regional Planning for a forum to continue or elevate disputes from the various entities.
- Regional Plan goals/policies that establish numeric thresholds that is not realistic or achievable in our region.

## **TAXES and IMPACT FEES**

BANN opposes the imposition of industry specific taxes, especially when the revenues generated benefit the citizens at large. For almost 400 years, local, state and national governments have assumed full responsibility for funding public infrastructure improvements. Traditionally citizens have understood and accepted the fact that public infrastructure improvements benefit everyone, so everyone should pay a fair share of the costs of providing and maintaining them. In recent years, a combination of no growth attitudes, opposition to taxes (new and increased) and reduced funding transfers to local governments from the state and national government has led to a fundamental shift in public expectations of who should pay for public infrastructure. The prevailing attitude is “anyone but me.” Based on this new political reality, local governments are allocating higher proportions of the costs of public infrastructure improvements to the residential construction industry.

While BANN supports local government’s need and ability to reasonably manage this growth, it opposes unreasonable land use restrictions and policies or business specific taxes that unfairly punish the development and construction industry for responding to market demands. Successful economic development endeavors are integrally related to a healthy, affordable housing market, and its ability to respond to the resulting market demand for new housing.

### **SUPPORT:**

- Broad based tax solutions to community wide problems
- A legislative effort to eliminate the current practice of 1.5% annual depreciation on real property up to a 75% reduction of a structure’s market value for tax purposes. (Create a more “fair market value” based approach for tax appraisal.)
- Resetting property market values for tax purposes at the point of sale.
- Regional Transportation Commission (RTC) regional road impact fee indexing.
- Local governments and agencies following the impact fee law requiring the development community to pay for only the impact of future development and not subsidizing existing deficiencies.
- A full analysis and understanding of current deficiencies in service, and that existing taxpayers pay their fair share, by creating, adopting and maintaining a Capital Facilities Improvement Plan (CIP) for all public facilities, as established by NRS 278B.
- Local government utilizing accurate population forecasts, reasonable capital improvement plans (CIP), and responsible modeling of future development.

- If impact fee is necessary, that it is developed in a public process with the full participation of all stakeholders in accordance with the NRS 278B process.
- Local governments recognizing the full economic impact to a community of future development such as construction jobs, jobs construction industry workers support directly or indirectly, ongoing increased property taxes and continued sales taxes.
- Eradication of expiration dates applied to credits issued for good faith road infrastructure built by developers over the past 20 years.

**OPPOSES:**

- Industry specific taxes, including increasing the real property transfer tax.
- Implementation of new or additional exactions or fees not in conformance with NRS 278B for infrastructure or services such as flood control, schools, fire, police and parks.
- Imposition of an impact fee when funding for care and maintenance of facility has not been determined.

## TRANSPORTATION

Northern Nevada has a substantial transportation infrastructure need due to increased commercial, industrial and residential growth that requires a regional solution. BANN supports full funding for identified transportation projects, such as the Regional Transportation Commission's (RTC) proposal to build the South-East Connector roadway. BANN supports the establishment of a consistent, dedicated source of funds that fully fund transportation infrastructure.

### SUPPORT:

- Regional approach to transportation needs, supported by a united business and development community.
- Major roadway capacity improvements including Spaghetti Bowl improvements, widening of US Highway 395, Sparks to I-80 link.
- Immediate construction of all roadways paid for by the Regional Road Impact Fee (RRIF) System.
- Indexing of impact fees with an inflationary adjustment for future transportation, as the building industry's "fair share" of funding for transportation.
- A dedicated reliable source of state funds for transportation.
- The Impact Fee Districts established in the 2015 GAM, 5<sup>th</sup> Amendment, as required by NRS 278B.
- Indexing of the fuel tax to keep up with fuel efficient automobiles and inflation.
- The revisions to the RRIF credit system established in the 2015 GAM, 5<sup>th</sup> Edition.
- Changes to the RTC General Administrative Manual that accomplish several things:
  1. Maintain the value and usability of existing RTC "Credits" for current credit holders, such as extending the life of these existing credits for the foreseeable future.
  2. Eliminate any future surplus of RRIF credits with RTC directly paying for desired overcapacity. The developer should only be required to pay their Regional Roadway Impact based on number of homes or constructing equivalent regional infrastructure.
  3. Not require any development to construct any additional Regional Roadway improvements beyond those necessary to mitigate project impact unless and until reimbursement in cash is provided for within a reasonable time frame after construction.

- Changes to the GAM and NRS that would allow a majority of the governing bodies to approve amendments to the GAM and not require unanimous approval of amendments by all governing bodies.

OPPOSE:

- Concurrency in its most stringent interpretation.
- Impact fees paying for existing deficiencies.
- Exactions over and above impact fees.
- A comingling of road funds with non-road accounts; or transfer of any road funds to any other program.

## WATER RESOURCE PLANNING

BANN supports a regional planning approach for water and flood control. Two decades of work on the Negotiated Settlement Agreement (NSA) is the single most critical future water supply solution for the Truckee Meadows. The NSA led to the Truckee River Operating Agreement (TROA) which is fully implemented and successfully addresses the long-term water supply needs of the local entities, endangered species, water quality, and storage issues related to the Truckee River.

### SUPPORT:

- Implementation of the Truckee River Operating Agreement.
- Expanded Truckee River storage to meet up to 119,000 acre feet of demands especially during drought situation years.
- Continue to manage and acquire water rights as well as optimize fiscal and operational efficiencies and practices resulting in a consistent seamless and equitable management of the region's potable water supplies.
- Regional conservation plans designed to use our resources efficiently.
- Utilization of reclaimed water to the fullest extent practicable including for parks, greenways, and outdoor residential use where reasonable. Analyze effluent price structures for cost efficiencies.
- Legislation to fix the state engineer water rights and allocation issues. Also issues such as Proof of Beneficial Use, permitting and certification issues need to be addressed.
- Capital Improvement Planning for newly merged geographic areas to increase efficiency, eliminate redundancy and maximize the use of ground and surface water rights, seeking out and acquiring new sources of water for a fifty year time horizon.

### OPPOSE:

- Policies that allow for duplication of managing services including not maximizing water resource management, and efficiency deficiencies.
- Price structuring and CIPs that make the use of reclaimed water less affordable than potable water for landscaping.
- Any attempts to modify the industry acceptance standards and procedures currently established to determine future availability of water resources to support future growth in the region.

## AFFORDABLE HOUSING

Federal, state and local governments should provide incentives and remove regulations and procedures that arbitrarily increase the costs of housing, which decreases the affordability of housing. In addition, all levels of government, including state and local governments, should address affordable housing needs by implementing a broad and comprehensive strategy including responsible alternative and innovative funding programs, increased housing production and diversity, streamlined regulatory processes, and reduced market interventions on the part of government, and not through the adoption of concepts such as mandatory inclusionary zoning or linkage fees without proper incentives.

### SUPPORTS

- Addressing housing affordability through the use of a competitive market operating in a climate that encourages and accommodates housing options for all income levels and that provides broad funding supplements where market forces cannot supply housing without added incentives or subsidy.
- Implementation of legislation to encourage local and state governments to remove barriers to affordable housing. Government regulation creates increased cost, thus negatively affecting affordability.
- The production of a broad spectrum of housing by the home building industry that guarantees appropriate development incentives and subsidies and that guarantees that the cost is borne by the general community and not by the home buying public.

### OPPOSES:

- Adoption of mandatory inclusionary zoning programs or policies.
- Change of sale of affordable housing projects to 20 years from 15 years.

## INCLUSIONARY ZONING

Government intrusion into housing needs should be implemented with broad and comprehensive strategies including responsible alternative and innovative funding programs, increased housing production and diversity, streamlined regulatory processes, and reduced market interventions on the part of government, and not through the adoption of mandatory inclusionary zoning without proper incentives.

Inclusionary zoning lives in any municipal or county ordinance that requires a property owner, builder, or developer to restrict the sale or resale price or rent of a specified percentage of residential units in a development as a condition of receiving permission to construct that development.

Government intervention in the housing market is a highly complicated undertaking and the common failing is to omit, fail to address, or vaguely define critical environments. Governmental intervention in housing, historically, often has only added to the overall cost of housing and exacerbated difficult situations.

Inclusionary zoning requires the production and sale or rental of housing at below-market prices, thereby imposing a cost on builders. Builders and land owners generally pass on the cost of inclusionary zoning to market rate purchasers or tenants. As a result, inclusionary zoning does not reduce the cost of constructing housing, but it increases the price of housing overall to the community. In most instances, inclusionary zoning has proven to work against proponents stated goals.

### SUPPORTS

- Addressing housing affordability through the use of a competitive market operating in a climate that encourages and accommodates housing options for all income levels and that provides broad funding supplements where market forces cannot supply housing without added incentives or subsidy.
- Ordinances and programs that provide development incentives, such as density bonuses, but do not specifically involve or impose sale price or rent restrictions
- Construction incentives - It is important for an inclusionary ordinance to provide specific incentives, and ones that provide economic value that covers and exceeds the cost of compliance with price controls. Possibilities include: density bonuses, infrastructure assistance, fast-track permitting, zero lot lines, or increased floor area ratios, reduced setbacks, greater maximum building height.
- Financial incentives - fee reductions, fee deferrals, fee waivers, planning grants or subsidies, construction grants, subsidies, low interest loans, building permit fee reduction, property or sales tax reduction on abatement, land donation, and transferable development rights.

- Geographic applicability - Definable "neighborhoods", zoning districts, central downtown district, mixed use districts, and rehabilitation of existing blight areas.
- Partnerships between public agencies and nonprofit organizations are critical components to achieving lasting affordability.

OPPOSES:

- Adoption of mandatory inclusionary zoning programs or policies.

## **LANDLORD – TENANT LAW Multi-Family (APARTMENTS)**

BANN supports all forms of housing, including multi-family (apartment) housing. As in any commercial relationship, there are both good and bad landlords and good and bad tenants. The current NRS provide fair and equitable rights to both parties in the landlord-tenant relationship. Recent efforts to increase the time of evictions, control levels of rent, and shift the balance of the landlord tenant relationship towards the tenants as in many jurisdictions around the country will unduly penalize landlords that act in good faith and will ultimately reduce the willingness of owners and developers to increase the supply of quality units available in our market. To meet the increased demands and higher standards of today's workers we must work to maintain the current balance of the landlord-tenant relationship or risk having significant negative unintended consequences such as an unwillingness to build new supply, or a decision by current landlords to not invest in capital improvements for existing properties.

### **SUPPORT:**

- Fair treatment of tenants and fair treatment of landlords.
- Current landlord-tenant relationship found in Nevada Revised Statutes (NRS).
- A balanced approach to a landlord's ability to tow illegally parked and abandoned vehicles from their property. Recent changes in the towing law in Nevada have had a negative effect on the quality of life for those tenants who pay rent and have a right to park at a property. The requirement that a car be illegally parked for 48 hours before it may be towed hinders the ability of landlords in communities with restricted parking levels to enforce their property rights and provide the necessary parking for their paying tenants.
- Changes to the "service animal" standards to allow landlords to reduce damage from untrained animals which have received the "service animal" designation, as well as a standard process for the service animal designation to prevent rampant abuse of the system.

### **OPPOSE:**

- Any changes to the NRS landlord-tenant relationship.
- Any changes to the NRS that reduce landlord's rights to protect their property and in doing so, prevent the protection of the tenants who are rightfully there.
- Rent-control or price fixing of any rents or fees associated with renting.
- Laws that reduce landlord's rights to evict tenants for being nuisances to the property that are endangering other tenants or the property itself (i.e., numerous calls for police response).

## JOB CREATION

Nevada leads the nation in job creation. More than 250,000 jobs were created since the recession with 100,000 of those jobs coming from small businesses. Average wages are up and we have an all-time-high number of employers. Unemployment is at ten-year low.

Consistently, States that have enacted reforms in three critical areas are rated as the best in the Nation for business. These reforms are:

- 1) Low Taxes
- 2) A reasonable and transparent regulatory environment
- 3) Tort Reform

Nevada is transitioning from an economy dependent upon a few industries like mining and gaming to a more sustainable, multi-faceted market place. Emerging industries like data storage and electric vehicles are supported as well as more traditional businesses such as transportation, warehousing and manufacturing. Homebuilding will continue to reflect the growth of these industries and support the workers and families they bring to Northern Nevada.

Builders Association of Northern Nevada supports programs like STEM education, which focuses on the integrated teaching of science, technology, engineering, mathematics, and other disciplines through inquiry and real-world problem-solving. STEM education in Nevada supports the alignment of education and workforce development to strategic economic opportunities by ensuring that our students and workforce possess the skills and innovation to succeed in a diversified society.

BANN supports recruitment of companies that pay higher wages, which has the effect of making more housing affordable.

## Common-Interest Communities (NRS Chapter 116)

BANN supports the concept of common interest communities which requires a person, by virtue of the person's ownership of a unit, to pay for a share of real estate taxes, insurance premiums, maintenance, improvement, services or other expenses related to common elements, other units or other real estate described in a declaration. These laws allow developers to build master-planned communities in phases and eventually transfer common area and other real estate to homeowner associations resulting in the self-governance of a community.

Common-Interest Communities are currently heavily regulated. BANN members believe that any streamlining of the regulatory environment would benefit not only the developers, but future members of the community.

### SUPPORTS:

- In larger communities (1,000+ doors), period of declarant control may extend past point in time when declarant conveys 90% of units. Under 1,000, period of declarant control may extend past point in time when declarant conveys 75% of units. (As of 2015 legislative session)
- Transparency with respect to any policies established by an association for the collection of any fees, fines, assessments or costs imposed against a homeowner.
- Exemptions to smaller communities from onerous provisions of Chapter 116. Already in NRS 116 law for associations that are 12 doors or less. 6 doors and under are not subject to NRS 116 unless they are written in to their CC&R's (NRS 116.1203)
- Allowing associations to enter onto foreclosed and/or vacant properties to maintain the exterior of the property.
- Provisions that grant homeowner associations reasonable governing powers while still giving the developer flexibility with respect to the build-out of the community.
- Requiring all associations to carry D&O Insurance. Could encourage board membership by affording members protections against lawsuits. Should also be extended to Board appointed committee members and CAMs.
- Eliminating need for 2<sup>nd</sup> notice during HOA elections. Will streamline the election process.
- Clearer definition of "emergency entry into units". As demonstrated in SB 239- Abatement Charges (however this only address condominiums)

- Changes to Towing law. Currently even abandoned/non- operational vehicles must be stickered for 48 hours. The current law prohibits Boards/CAMs from being able to enforce property rights and negatively impacts the communities.

## OPPOSE

- HOA's ability to bring construction defect lawsuits (including class action) against developers and builders. This should be left to the individual owners.
- Unreasonable conflict of interest provisions for designated declarant board members. As board members are elected after conveyance, there are provisions outlined in NRS 116.31034
- Keeping contracts between homeowner associations and lawyers confidential.

## **CONSTRUCTION DEFECT (TORT REFORM)– CHAPTER 40**

NRS Chapter 40 Reform - AB 125 (2015)

This bill was actively supported by BANN and the entire homebuilding industry and will have a major impact on construction defect litigation in Nevada. The bill revises provisions of “Chapter 40” that govern how construction defect claims are brought and adjudicated. The passage of AB 125 came early in the session and was passed out of both houses in under 30 days and was signed by Gov. Sandoval on February 24, 2015. Two bills were introduced in the 2017 session of the Nevada Legislature that would have eroded all or part of AB 125. Neither bill made it out of committee.

The key components of AB 125 are as follows:

- The definition of a constructional defect was modified and now requires either physical damage or an unreasonable risk of injury or physical damage to persons or property.
- Chapter 40 notices must specifically describe claimed defects, and notices must be provided on a per-home basis. Also, a homeowner is required to acknowledge the claimed defects.
- Attorney’s fees are no longer considered part of the damages in a Chapter 40 case, ending the long-standing treatment of plaintiff’s attorneys’ fees as an “entitlement.”
- An HOA can no longer allege Chapter 40 claims on individual residences, and is now limited to alleging claims on behalf of the HOA only with respect to common areas.
- Homeowners are required to exhaust available warranties before seeking relief by way of litigation.
- Establishes a single unified six-year period of repose to bring a construction defect case
- Prohibits certain types of indemnification clauses in residential construction contracts

Several current court cases will have direct impact on the law as it stands. BANN supports AB 125 and judicial interpretations that do not erode any aspects of AB 125.

The homebuilding industry can help preserve CD law by fixing legitimate issues with homes, helping educate homeowners on the availability of the Contractor’s Board as a remedy, and also relaying actual data to the legislators who must review the laws each session.

## IMMIGRATION REFORM

It is estimated that more than 20 percent of the building industry's entire workforce is foreign-born, making the immigrant population essential to meeting housing demand and sustaining economic growth in this country. While NAHB and BANN believes that border security reforms are important, it is also vital that immigration legislation must include a system by which immigrants can legally enter the country to work, because they are needed to sustain our nation's workforce. BANN also strongly believes this is an issue that should be handled by the federal government.

### SUPPORTS:

- Protecting our borders.
- Place the responsibility of verifying a worker's immigration status with the employer who hires and pays them.
- Create an enforcement system that is fair, efficient and workable for all U.S. employers.

### OPPOSES:

- Illegal immigration
- Legal liability on builders who base hiring on E Verify information which has been shown to be inaccurate 8% of the time.

### *Note:*

*Many employers mistakenly believe that if they participate in E-Verify they will be immune from scrutiny by the government regarding their pre-employment practices. This misconception can prove to be quite costly with fine from \$5000 to \$20,000.*

*The overall accuracy of E-Verify for employment-authorized workers, as measured by the FNC accuracy rate, is approximately 92 percent.*

## **TOURISM IMPROVEMENT DISTRICTS (STAR Bonds)**

BANN Supports the creation of tourism improvement districts under NRS 271A (“STAR Bonds”). The creation of these districts and sales tax subsidies for projects within these districts encourage the redevelopment of blighted areas, create construction and permanent jobs and increase the property tax base. These projects must attract tourism dollars which will not only benefit the specific project, but many other businesses in Northern Nevada.

Sales Tax Anticipation Revenue Bonds, or STAR bonds, allow cities to bond against anticipated sales tax revenue of a development in order to build it. Once the development is built, it can keep 75% of the sales taxes it generates to pay off the STAR bonds used to finance the project. The financing mechanism was first passed by the Nevada Legislature in 2003.

### **SUPPORTS**

- Use of STAR Bonds for redevelopment of blighted areas.
- Use of STAR Bonds to create new jobs.
- Use of STAR Bonds to bring in new business.
- Use of STAR Bonds to increase the property tax base.
- BANN supports responsible use of STAR Bonds, and the SID and SAD financing mechanisms, as a viable, effective way to finance large projects.

### **OPPOSE**

- Use of STAR Bonds to move existing businesses.

## NEVADA OSHA REGULATIONS and OSHA 10 & 30 SAFETY TRAINING REQUIREMENTS OF EMPLOYEES

The 2009 Legislature adopted legislation requiring all “construction workers” complete an OSHA 10 safety and training course within 15 days of employment. The legislation also required all “Supervisory Employees” complete an OSHA 30 safety and training course within 15 days of employment.

The 2009 legislation also has a 5 year renewal requirement for continuing education which was removed in 2015 legislation.

The 2017 year saw numerous imposed and proposed OSHA regulatory changes including:

- Employers can no longer be cited by OSHA for violating recordkeeping requirements
- OSHA 10/30 Hour Cards. Starting January 1, 2018, the State of Nevada will require specific workers in the entertainment industry to complete an OSHA 10 hour (non-supervisory employee) or an OSHA 30 hour (supervisory employee) safety and health general industry course and receive a completion card within 15 days of hire.
- Reconsideration of crane operators certification and whether it should be handled by a 3<sup>rd</sup> party; discussion continues
- The Beryllium Rule is also up for reconsideration.
- New requirements for reporting workplace injuries and illness. The new rule, which took effect Jan. 1, 2017, requires certain employers to electronically submit injury and illness data that they are already required to record on their onsite OSHA Injury and Illness forms.
- Nevada Injury and Fatality Reporting requirements. The new (changed) requirements are:
  - - Any accident or motor vehicle crash occurring in the course of employment which is fatal to one or more employees must be reported to NV OSHA orally within 8 hours.
  - - Any accident or motor vehicle crash occurring in the course of employment which results in the inpatient hospitalization of one or more employees, the amputation of a part of an employee’s body or an employee’s loss of an eye must be reported to NV OSHA orally within 24 hours.

SUPPORTS:

- Workplace safety, training and education of its members.
- Life-time certification as implemented by OSHA.

OPPOSES:

- Safety and training requirements which are not relevant to the industry.
- Unnecessary and burdensome training requirements which is not supported by OSHA or any other states.
- Ongoing costs to construction employers and employees on non-relevant industry requirements.
- The Nevada Occupational Safety and Health Administration requiring its investigators to find violations on at least half of their inspections. This decree amounts to a quota that encourages inspectors to write citations if they want to keep their job.

## **ENGINEER OF RECORD/QUALITY ASSURANCE PROGRAM (QAP)**

BANN recognizes and supports the housing and related infrastructure needs of our community. It opposes unreasonable requirements or regulations that restrict the development and construction industry. Successful oversight of residential related infrastructure construction is necessary. We understand the health and public safety components and desire of Washoe County, City of Sparks and City of Reno to have a mechanism that allows for the review and verification of improvements as part of their acceptance protocol.

### **SUPPORTS:**

- Responsible inspection, testing and verification of public improvements in accordance with approved improvement plans of record, Standard Specifications for Public Works Construction and the City of Reno, Washoe County, and City of Sparks design standards.
- Use of qualified Engineer of Record (EOR) testing and inspection firms and qualified laboratories as established through Washoe County, the City of Reno EOR program and the City of Sparks Professional on call qualification programs.
- Use of NAQTC and ICC Certified technicians and inspectors during public improvement construction.

### **OPPOSES:**

- The removal of the right of the owner/developer to choose the EOR Testing and Inspection firm.
- Subjective restrictions by the municipalities for reasonably qualifying EOR Testing Firms.
- Testing and Inspection fees dictated by the municipalities rather than allowing for the establishment of fair market value.

## **DILLON’S RULE VS HOME RULE FOR GOVERNMENT**

The so-called Dillon’s Rule (as opposed to Home Rule) was addressed by the 2015 legislature. The governor signed into law “functional home rule” – allowing local cities and counties to implement programs and rules which do not require a direct fee or tax increase for service. (“Fiscal Home Rule” would allow local governments to impose whatever fees and taxes not otherwise addressed by the state.)

BANN remains concerned about both the possibility of granting Fiscal Home Rule and the implementation of the Functional Home Rule enacted in 2015.

BANN continues to support Dillon’s Rule for a number of reasons:

- Many have suggested that Dillon’s Rule was borne out of the necessity to remove political corruption from municipalities.
- Some scholars have suggested that an added layer of governmental review provides greater protection from inherently corrupt political organizations.
- State-level control ensures greater uniformity, which facilitates economic growth by assuring companies that requirements such as business licenses and methods of taxation will be consistent throughout the state, thus resulting in more efficient and fair governance.
- Dillon’s Rule also allows a legislature to award new powers to only a few local governments at first, so as to “test” the new powers. If the grant of power proves successful, then the legislature may grant the power to all local governments.
- Some believe Dillon’s Rule benefits local government officials by allowing them to use the rule as a political shield. For instance, the citizens may not want increased taxes, but the taxes are necessary for the continued provision of critical services (schools, roads, services, and so on). Under Dillon’s Rule, it would be up to the state legislature to impose such tax policy.
- Some suggest that state governments possess more technical expertise and often operate at a more appropriate level for policymaking than local governments.
- Local actions often result in regional or statewide impacts. State oversight may prevent exclusionary and provincial actions by local governments.
- Dillon’s Rule provides certainty to local governments. If power is denied, whenever doubtful, litigation will be kept at a minimum in legislative affairs.

Nevada enacted a form of Home Rule in 2015. Local governmental entities were granted “Functional” home rule - the power to exercise programs of local self-government sometimes referred to as “broad functional” or “limited functional” home rule based on varying degrees of local autonomy).

## **DRUG-FREE and SAFE WORKPLACE**

Voters approved the recent Nevada's Initiative to Regulate and Tax Marijuana (more commonly known as Question 2) by a margin of 54 percent to 46 percent. This act will become effective on January 1, 2017, and Nevada's Department of Taxation will be required to adopt all regulations necessary to execute the act's provisions no later than twelve months after this date.

The effect of this change for Nevada employers is unknown. However, the act does not prohibit a "public or private employer from maintaining, enacting, and enforcing a workplace policy prohibiting or restricting actions or conduct otherwise permitted under this act." Further, under federal law, marijuana remains a Schedule 1 substance under the Controlled Substances Act.

The act preserves Nevada employers' rights to maintain a drug-free workplace. There remains some question about "impairment" - including how "impairment" is measured - and what it means in the work place. BANN urges legislators to create systems to ensure employers can maintain a drug-free, impairment-free work place.

Nevada is a non-statutory State in regards to employers' drug-free workplace policies, however, all employers should consider the following:

- Update / Implement policy to include recreational marijuana
- Publish / Educate employees on the organization's drug-free workplace policy
- Nevada employers are allowed to conduct workplace drug testing under limited circumstances, such as: 1) upon a contingent offer of employment; 2) after an on-duty motor vehicle accident; 3) upon return to duty from a substance abuse treatment program; 4) if there is reasonable suspicion of impairment; or 5) if there is any applicable federal law that requires testing.
- Effective January 17, 2017, 29 CFR 1904.35, was put into rule in regard to Incentive Programs and Drug Testing Policies. Under the rule, procedures that deter or discourage employee reporting are not reasonable. As interpreted by OSHA, the new rule requires employers to look at existing policies such as mandatory post-incident drug testing and employee safety incentive plans to ensure that they do not discourage employees from reporting injuries and illnesses.

**BUILDERS ASSOCIATION OF NORTHERN NEVADA  
OPERATING PROCEDURE**

For issues not clearly defined by an approved existing policy, the following procedure will prevail. The system is completely dependent on the time available in descending order:

The Builders Council, Legislative, Infrastructure & Planning, Codes, and/or Built Green Nevada committees make recommendations to the BANN Board of Directors which ratifies, modifies or rejects:

The Builders Council, Legislative, Infrastructure & Planning, or Codes committees make recommendations to the Executive Committee which ratifies, modifies or rejects:

Unless covered by the above state policies, staff will take no independent action to represent the Builders Association of Northern Nevada without first consulting the BANN President and the BANN Executive Director.