

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board met on December 3, 2014, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2nd Floor, Board Room 4, Richmond, Virginia 23233.

The following members were present:

Kristie Helmick
Mary Elizabeth Johnson
Christiaan Melson, Vice-Chair
Jacquelyn Riggs
Lucia Anna Trigiani, Chair
David Watts

Board members Enrico Cecchi, Kimberly Kacani, Thomas Mazzei, and Katherine Waddell were not in attendance.

DPOR staff present for all or part of the meeting included:

Jay W. DeBoer, Director
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Jill Hrynciw, Board Administrator
Heather Gillespie, Ombudsman
Betty C. Jones, Administrative Assistant

James Flaherty from the Office of the Attorney General was present.

Finding a quorum of the Board present, Ms. Trigiani, Chair, called the meeting to order at 1:06 p.m. Ms. Trigiani thanked the Board members for changing the meeting date.

Call to Order

Ms. Trigiani advised the Board of the emergency evacuation procedures.

**Emergency
Evacuation
Procedures**

Mr. Melson moved to approve the revised agenda. Ms. Johnson seconded the motion which was unanimously approved by: Helmick, Johnson, Melson, Riggs, Trigiani, and Watts.

Approval of Agenda

Mr. Melson moved that the Board approve the minutes of the September 11, 2014, Board meeting. Ms. Helmick seconded the motion which was

**Approval of
Minutes**

unanimously approved by: Helmick, Johnson, Melson, Riggs, Trigiani, and Watts.

Ms. Helmick moved that the Board approve the minutes of the September 10, 2014, Ombudsman Committee meeting. Mr. Melson seconded the motion which was unanimously approved by: Helmick, Johnson, Melson, Riggs, Trigiani, and Watts.

Ms. Trigiani opened the floor for public comment. No members of the public present requested to speak.

**Public Comment
Period**

In the matter of **File Number 2014-01517, Pleasant Valley Estates Condominium Association**, the Board members reviewed the Consent Order as seen and agreed to by Pleasant Valley Estates Condominium Association. After discussion, Ms. Riggs moved to accept the Consent Order which cites the following violation of the *Code of Virginia*: § 55-79.83:1 (Count 1). For this violation, Pleasant Valley Estates Condominium Association agrees to pay the following monetary penalties: \$1,000.00 for the violation contained in Count 1 and \$150.00 in Board costs, for a total monetary penalty of \$1,150.00.

**File Number 2014-
01517, Pleasant
Valley Estates
Condominium
Association**

In addition, Pleasant Valley Estates Condominium Association shall, within ninety (90) days of the entry of this Order, provide evidence satisfactory to the Board that a Reserve Study, as required by statute, has been conducted.

Further, the Board agrees to waive \$900.00 of the monetary penalty for Count 1 if, within ninety (90) days of entry of this Order, Pleasant Valley Estates Condominium Association provides evidence satisfactory to the Board that a Reserve Study has been conducted. If Pleasant Valley Estates Condominium Association does not comply with this condition, then the full monetary penalty will be automatically imposed.

Pleasant Valley Estates Condominium Association acknowledges that failure to conduct a Reserve Study, as required by statute, will result in further review.

Mr. Melson seconded the motion which was unanimously approved by: Helmick, Johnson, Melson, Riggs, Trigiani, and Watts.

Ms. Henshaw gave an update on the current status of the regulatory review processes for the Board's regulatory packages.

**Update on
Regulatory Review
Processes**

The Common Interest Community Board Condominium Regulations are in the final stage currently undergoing review by the Governor's office.

The Common Interest Community Board Time-Share Regulations are in the proposed stage currently undergoing review by the Governor's office.

The Common Interest Community Board Time-Share Regulations action to incorporate an amendment resulting from Senate Bill 348 to incorporate alternative purchase registration provisions are in the fast-track stage and will be undergoing executive branch review.

The Common Interest Community Board Condominium Regulations action to incorporate an amendment resulting from House Bill 899 decreases the condominium unit purchaser's right to cancel the purchase contract from ten days to five days have been published, with an effective date of October 9, 2014.

Ms. Henshaw provided a handout of a fee adjustment proposal to the Board. Ms. Henshaw stated that it is necessary to adjust fees as the Board has an excess cash balance greater than the 10% allowed by the Callahan Act. The proposal for consideration by the Board recommends a temporary reduction in annual renewal fees to \$10, regardless of number of lots/units. This measure would be for any common interest community association registrations renewed on or before June 30, 2016. Prior to that time, the Board will be provided with an update of its financial position. Ms. Henshaw stated that this is a temporary measure to come into compliance with the Callahan Act. After discussion, Mr. Melson made a motion to accept the recommendation of staff and authorize staff to proceed with filing an exempt action for a temporary fee reduction for association renewals. Mr. Watts seconded the motion which was unanimously approved by: Helmick, Johnson, Melson, Riggs, Trigiani, and Watts.

**Consideration of
Fee Adjustment
Proposal**

The Board was provided with a memorandum from Ms. Hrynciw requesting Board guidance regarding what Certified Principal/Supervisory Employee Applicants must submit when certain personal adverse financial history is disclosed.

**Consider Policy for
Certified
Principal/
Supervisory
Employee
Applicants with
Personal Adverse
Financial History**

The Common Interest Community Manager Regulations at 18VAC48-50-35 H requires an applicant for certification to provide all relevant information for the seven years prior to application on any outstanding judgments, past-due tax assessments, defaults on bonds, or pending or past bankruptcies, all as related to providing management services as defined in Section 54.1-2345 of the *Code of Virginia*.

After discussion, Mr. Melson made a motion that the Board adopt a guidance document to authorize staff to approve applicants for principal or supervisory employee certification who disclose personal adverse financial history in accordance with 18VAC48-50-35 H, provided all other entry requirements are met, as follows:

1. For past-due tax assessment, the applicant provides proof of an installment agreement or payment plan with the Internal Revenue Service or other applicable taxation authority. Such installment agreement or payment plan shall not be in default.
2. For an outstanding judgment, the applicant provides proof of an installment plan to satisfy the judgment and proof that payments pursuant to the established installment plan are current.
3. For an active bankruptcy, the applicant provides proof of a payment plan established by a bankruptcy court. Such payment plan shall not be in default.

An applicant unable to provide documentation in accordance with this policy that is acceptable, or discloses adverse financial history not related to a past-due tax assessment, outstanding judgment or bankruptcy shall be afforded the opportunity to have the application considered by the Board through an informal fact-finding conference pursuant to the Administrative Process Act (Chapter 40 of Title 2.2 of the *Code of Virginia*).

Ms. Riggs seconded the motion which was unanimously approved by: Helmick, Johnson, Melson, Riggs, Trigiani, and Watts.

Ms. Henshaw provided an overview of the Ombudsman Committee of the Common Interest Community Board.

Ms. Henshaw advised the Board that she provided a report to the Common Interest Community Workgroup of the Virginia Housing Commission on the work of the Ombudsman Committee. In addition, she shared the Board's message from the September 11, 2014 Board meeting regarding education and outreach.

Staff is working on rescheduling an Ombudsman Committee meeting date to develop an implementation plan for its education and outreach efforts.

Ms. Gillespie provided the Board with the 2013-2014 Annual Report on

**Report to Common
Interest Community
Workgroup of the
Virginia Housing
Commission**

Ombudsman's

the Office of the Common Interest Community Ombudsman and provided a handout on developing a better understanding of the Office of the Common Interest Community Ombudsman. She discussed the office overview, statistics, education and outreach, constituent expectations, legal developments, federal topics, news of interest, and statutory authority related to the Ombudsman.

Report

Ms. Henshaw provided the Board a copy of the most recent financial statement for informational purposes.

Board Financial Statements

A copy of the financial statement for the Common Interest Community Management Recovery Fund for the month ended on October 31, 2014 was also provided. No claims have been filed.

Recovery Fund Statements

The Board previously requested that staff compile a calendar of the common interest community-related events and dates that staff and the Ombudsman attend. The requested information was provided to the Board with the agenda package for information purposes only.

Staff Event Calendar

Ms. Henshaw provided the Board with a few updates. Ms. Henshaw notified the Board that Elena Ferranti, who was serving as a community manager representative, has resigned.

Other Board Business

Ms. Henshaw reminded the Board members to complete their Conflict of Interest Statement of Economic Interests forms by December 15, 2014.

The Board members were reminded to complete their conflict of interest forms and travel vouchers.

Complete Conflict of Interest Forms and Travel Vouchers

There being no further business, the meeting was adjourned at 2:40 p.m.

Adjourn

Lucia Anna Trigiani, Chair

Jay W. DeBoer, Secretary