

## COMMON INTEREST COMMUNITY BOARD

### MINUTES OF MEETING

The Common Interest Community Board met on Thursday, March 27, 2014, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 1, Richmond, Virginia 23233.

The following members were present:

Elena Ferranti  
Kristie Helmick  
Thomas Mazzei  
Christiaan Melson, Vice-Chair  
Jacquelyn Riggs  
Douglas Rogers  
Lucia Anna Trigiani, Chair

Board members Enrico Cecchi and Kimberly Kacani were not in attendance.

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

Nick Christner, Acting Director  
Mark N. Courtney, Senior Director for Regulatory and Public Affairs  
Trisha L. Henshaw, Executive Director  
Heather Gillespie, Ombudsman  
Jill Hrynciw, Board Administrator  
Cameron Parris, Legal Analyst  
Betty C. Jones, Administrative Assistant

Ms. Trigiani introduced and welcomed Mr. James Flaherty, Assistant Attorney General II, from the Office of the Attorney General as Board counsel.

Finding a quorum of the Board present, Ms. Trigiani, Chair, called the meeting to order at 9:34 a.m. **Call to Order**

Ms. Trigiani advised the Board of the emergency evacuation procedures. **Emergency Evacuation Procedures**

Mr. Rogers moved to approve the revised agenda. Mr. Mazzei seconded the motion which was unanimously approved by: Ferranti, Helmick, Mazzei, Melson, Riggs, Rogers, and Trigiani. **Approval of Agenda**

Ms. Henshaw announced that Nick Christner is serving as Acting **Introduction of Staff**

Director for the agency. She also introduced Charles Fustero, a new full-time licensing specialist, and Thomas Wennerstrom, a permanent part-time licensing specialist, for the Board; Cameron Parris, legal analyst; and James Flaherty as Board counsel.

Mr. Melson moved that the Board approve the minutes of the December 3, 2013, Board meeting. Miss Ferranti seconded the motion which was unanimously approved by: Ferranti, Helmick, Mazzei, Melson, Riggs, Rogers, and Trigiani.

**Approval of Minutes**

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

**Public Comment Period**

Ms. Hrynciw provided a memorandum to the Board regarding recent condominium registration annual reporting. Thirty one condominium projects have December deadlines for filing Declarant Annual Reports with the Board. Of the 31 solicitation letters for Declarant Annual Reports mailed to declarants or their attorneys, 17 Declarant Annual Reports are complete, 12 declarants requested extensions or additional research is required on the part of Board staff, and two did not respond. The two declarants who did not respond are Two Street Development, LLC, and Thomas E. Grattan, III, and Jacquelyn A. Grattan. These two Declarants did not respond to the solicitation letter, second notice letter, or final notice letter.

**Consideration of Temporary Cease and Desist Order Regarding Condominium Registration Number 0517060243, 2C Condos, a Condominium**

The Board reviewed an amended memorandum from staff dated March 26, 2014, to consider issuance of a temporary cease and desist order against Two Street Development, LLC, the declarant of 2C Condos, a Condominium, Condominium Registration Number 0517060243.

After reviewing the facts and information presented in the amended memorandum at the Board meeting, the Board determined that the declarant has failed to file an annual report within thirty (30) days of the condominium project registration as required by § 55-79.93 of the Code of Virginia.

The Board reviewed an amended memorandum from staff dated March 26, 2014, to consider issuance of a temporary cease and desist order against Thomas E. Grattan, III, and Jacquelyn A. Grattan, the declarant of Parkview Condominium at Church Hill, Condominium Registration Number 0517050230.

**Consideration of Temporary Cease and Desist Order Regarding Condominium Registration Number 0517050230, Parkview**

After reviewing the facts and information presented in the amended memorandum at the Board meeting, the Board determined that the declarant has failed to file an annual report within thirty (30) days of the

condominium project registration as required by § 55-79.93 of the Code of Virginia.

**Condominium at Church Hill**

After discussion, Mr. Mazzei made a motion to issue Temporary Cease and Desist Orders in accordance with § 55-79.100(b) of the Code of Virginia for 2C Condos, A Condominium, and Parkview Condominium at Church Hill in the interest of protecting the public from harm. The Board ordered Two Street Development, LLC, the declarant of 2C Condos, a Condominium, and Thomas E. Grattan, III, and Jacquelyn A. Grattan, the declarant of Parkview Condominium at Church Hill, to cease and desist from the sale of units in the condominium projects until an annual report is submitted and determined to be acceptable by the Board. If the declarants of 2C Condos, a Condominium, and Parkview Condominium at Church Hill, fail to cease and desist the unlawful practice after entry of the Orders, the Board may refer the matters for enforcement pursuant to § 54.1-306 of the Code of Virginia, and/or impose sanctions and take other actions permitted by Chapter 4.2 of Title 55 (§§ 55-79.39 et seq.) of the Code of Virginia. These two orders remain in effect until the declarants submit acceptable documentation to the Board that it has taken the affirmative actions necessary to correct the deficiencies or the matters are adjudicated, whichever is later. Miss Ferranti seconded the motion which was unanimously approved by: Ferranti, Helmick, Mazzei, Melson, Riggs, Rogers, and Trigiani.

Ms. Trigiani transferred the Chair to Mr. Melson and recused herself from the meeting.

**Transfer of Chair**

In the matter of **File Number 2013-02165, Condominium Services, Inc.**, the Board members reviewed the record of the Informal Fact-Finding Conference which consisted of the application file, exhibits and transcript, and the Summary of the Informal Fact-Finding Conference. Mr. Joseph Riviere with Condominium Services, Inc. was present and addressed the Board. He concurred with the recommendation and wants approval of his common interest community manager license. Miss Ferranti moved to adopt the summary and recommendation of the hearing officer and to approve the application for a common interest community manager license contingent upon obtaining the requisite certified principal or supervisory employee certification(s). Mr. Rogers seconded the motion which was unanimously approved by: Ferranti, Helmick, Melson, Riggs, and Rogers. Ms. Trigiani was not present during the discussion or vote due to her professional relationship with Condominium Services, Inc. Mr. Mazzei recused himself from the meeting and was not present during the discussion or vote due to his professional relationship with Condominium Services, Inc.

**File Number 2013-02165, Condominium Services, Inc.**

Ms. Trigiani returned to the meeting and resumed the position of Chair.

**Transfer of Chair**

Ms. Trigiani disclosed that she is familiar with Mr. Schroeder professionally but indicated she can be fair and impartial in consideration of this matter.

**File Number 2014-00744, Wesley Schroeder, Jr.**

In the matter of **File Number 2014-00744, Wesley Schroeder, Jr.**, the Board members reviewed the record of the Informal Fact-Finding Conference which consisted of the application file, exhibits and transcript, and the Summary of the Informal Fact-Finding Conference. Mr. Wesley Schroeder, Jr. was present to address any questions from the Board. Mr. Rogers moved to adopt the summary and recommendation of the hearing officer and to approve the application for a common interest community manager principal or supervisory employee certificate. Mr. Melson seconded the motion which was unanimously approved by: Ferranti, Helmick, Mazzei, Melson, Riggs, Rogers, and Trigiani.

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 have completed executive branch review. A 60-day public comment period ended February 14, 2014. A public hearing was held on December 18, 2013. One comment was received.

The Common Interest Community Board Time-Share Regulations are currently undergoing review by the Secretary of Commerce and Trade.

The Board members were provided with the public comments for the Common Interest Community Board Condominium Regulations, as well as a draft of the Board's response for each comment. One comment was received during the public comment period of December 16, 2013 to February 14, 2014. After review and discussion, Ms. Riggs moved to adopt the draft response as amended. Mr. Mazzei seconded the motion which was unanimously approved by: Ferranti, Helmick, Mazzei, Melson, Riggs, Rogers, and Trigiani.

**CIC Board Condominium Regulations Review Summary of Public Comments and Adopt Board Response**

Ms. Hrynciw discussed several sections in the proposed Condominium Regulations requiring non-substantive revision. These sections covered: marketing, contents of public offering statement, narrative sections on taxes, annual report by declarant, and the prohibited acts.

**Adopt Final CIC Condominium Regulations**

After amending the proposed regulations pursuant to comments received, Mr. Melson made a motion to accept staff recommendations

of non-substantive changes and adopt the amendments to the Common Interest Community Board Condominium Regulations as final regulations and to authorize staff, in consultation with the Board chair, to make any minor changes necessary to gain the approval of the final regulations during executive branch review. Mr. Mazzei seconded the motion which was unanimously approved by: Ferranti, Helmick, Mazzei, Melson, Riggs, Rogers, and Trigiani.

The Board recessed for a break at 10:28 a.m. and reconvened at 10:47 a.m.

Mr. Rogers provided a summary of the Training Program Review Committee meeting which was held on March 27, 2014. On July 1, 2012, the Board began certifying principal and supervisory employees of common interest community managers. As a condition to renew their certificates, individuals are required to complete two hours of Board-approved Virginia common interest community law and regulation training, as well as two hours of Board-approved training that encompasses Virginia fair housing laws related to common interest communities. The Committee reviewed and recommended approval of one training program.

The Committee reviewed for approval the training program application submitted by Vandeventer Black, LLP. The training program entitled *Vandeventer Black's Community Association Manager Law & Regulations Seminar* was submitted for approval as a Virginia common interest community law and regulation training program. After review by the Committee, the Committee recommended that the Board approve the training program as presented. Ms. Shalanda Franklin was present from Vandeventer Black, LLP to address any questions. After discussion, Mr. Mazzei moved that the Board accept the recommendation of the Committee and approve the application submitted by Vandeventer Black, LLP for *Vandeventer Black's Community Association Manager Law & Regulations Seminar* as a Virginia common interest community law and regulation training program. Ms. Helmick seconded the motion which was unanimously approved by: Ferranti, Helmick, Mazzei, Melson, Riggs, Rogers, and Trigiani.

The Board revisited the scheduling of future Board and Training Program Review Committee meeting dates. After discussion, the Board moved to adopt the following meeting dates by consensus:

September 10, 2014 (Training Program Review Committee meeting previously scheduled for September 24, 2014)

**Break**

**Report from March 27, 2014, Training Program Review Committee**

**Review of CIC Law and Regulation Program: Vandeventer Black, LLP**

**Reschedule September Meeting Dates**

September 11, 2014 (CIC Board meeting previously scheduled for September 25, 2014)

The following resolution was presented for consideration by the Board.

**Consideration of  
Resolution for  
Service**

**Resolution for**

**Gordon N. Dixon**

WHEREAS, **Gordon N. Dixon**, did faithfully and diligently serve the Virginia Common Interest Community Board from 2010 to 2014 as the Director of the Department of Professional and Occupational Regulation; and

WHEREAS, **Gordon N. Dixon**, did devote generously of his time, talent and leadership to the Board; and

WHEREAS, **Gordon N. Dixon**, did endeavor at all times to render assistance and advice to the Board with fairness and good judgment in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Common Interest Community Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth.

NOW, THEREFORE, BE IT RESOLVED, by the Virginia Common Interest Community Board this twenty-seventh day of March 2014, that **Gordon N. Dixon**, be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

Mr. Melson made a motion to adopt the resolution. Mr. Rogers seconded the motion which was unanimously approved by: Ferranti, Helmick, Mazzei, Melson, Riggs, Rogers, and Trigiani.

Ms. Henshaw provided a handout of active and inactive legislation **Update on 2014**

affecting the Common Interest Community Board and common interest communities during the 2014 Virginia General Assembly session. Ms. Trigiani provided additional information about several bills that were presented this Session.

**General Assembly Session**

Ms. Trigiani transferred the Chair to Mr. Melson and recused herself from the meeting.

**Transfer of Chair**

The Board considered a Request for Waiver of Filing Fee with a Notice of Final Adverse Decision. After discussion, Miss Ferranti made a motion to deny the request for waiver of the filing fee. Mr. Sledzaus and Mr. Moran's yearly income totals are higher than the most current U. S. Department of Health & Human Services (HHS) Poverty Guidelines for two people in a household, which the Board previously determined it would use as the threshold in considering waivers of filing fees. Mr. Mazzei seconded the motion which was unanimously approved by: Ferranti, Helmick, Mazzei, Melson, Riggs, and Rogers. Ms. Trigiani was not present during the discussion or vote due to a personal interest in this matter.

**Consider Request for Waiver of Filing Fee**

Ms. Trigiani returned to the meeting and resumed the position of Chair.

**Transfer of Chair**

The Board adopted a guidance document on June 27, 2013 regarding specific maximum allowable fees set by the Condominium Act and Property Owners Association Act that may be charged by the preparer of disclosure packets and resale certificates. Subsection I of §§ 55-509.6 and 55-79.97:1 was inadvertently omitted from the guidance document.

**Consider Amendment to Guidance Document Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates**

The Consumer Price Index-Urban on 12/31/07 was 210.036, on 12/31/08 was 210.228, on 12/31/09 was 215.949, on 12/31/10 was 219.179, on 12/31/11 was 225.672, and on 12/31/12 was 229.601. With a starting point of 100, the compounded increase between 12/31/07 and 12/31/12 was 9.31%. Mr. Mazzei made a motion to amend the guidance document prepared by staff to include the omitted section as follows:

- I. A disclosure packet or resale certificate update, as applicable, or financial update pursuant to §§ 55-509.6.I and 55-79.97:1.I of the *Code of Virginia*, a fee not to exceed **\$54.66**. An additional inspection, as authorized in the declaration, pursuant to §§ 55-509.6.I and 55-79.97:1.I of the *Code of Virginia*, a fee not to exceed **\$109.31**.

Mr. Rogers seconded the motion which was unanimously approved by:

Ferranti, Helmick, Mazzei, Melson, Riggs, Rogers, and Trigiani.

Ms. Gillespie provided a handout on the activities of the Office of the **Ombudsman's Report** Common Interest Community Ombudsman, including statistical information on complaints filed with the Ombudsman's office. Specific information included:

- The number of phone calls received,
- The number of emails received,
- The number of complaints filed, and
- The types of complaints received, including:

47 Notices of Final Adverse Decision since September 13, 2012

General Concerns and Observations:

- Persons posing as time-share resellers and points traders – operating from restaurants and disappearing.
- Offers to sell time-shares...fine print reveals the offer is only to advertise for a fee, not sell.
- Local time-share company offering to buy out maintenance fees, but will not provide the contract up front. Attempting to work with Attorney General's office on this.
- Defunct/dysfunctional boards – can't force them to put complaint procedure in place or respond to complaint.
- Confusion between manager complaints and association complaints.
- Very few valid Notice of Final Adverse Decisions – many associations continue to process complaints that are not appropriate for the complaint process.
- No method for fast-tracking failure to have a complaint procedure.

Ms. Trigiani suggested the Board form an Ombudsman Committee to work with the Ombudsman's office and identify and address items, including but not limited to, unregistered common interest community associations and lack of complaint procedures. Ms. Trigiani selected Mr. Melson to Chair the Ombudsman Committee. In addition, Board

members Ms. Helmick, Mr. Mazzei, and Mr. Rogers were selected to serve as Board member representatives on the Committee.

Ms. Gillespie will provide a report of her findings for consideration by the Ombudsman Committee at the next Board meeting. Ms. Gillespie suggested that a recommendation from the Ombudsman Committee be made available to the Housing Committee regarding House Bill 332.

Mr. Melson departed at 12:01 p.m.

**Departure of Board Member**

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 February 28, 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. Ms. Henshaw and Ms. Gillespie are drafting articles for CAI's publication entitled *Quorum*.

**Staff Event Calendar**

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 12:06 p.m.

**Adjourn**

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Lucia Anna Trigiani, Chair

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Nick Christner, Acting Director