

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board met on Thursday, September 20, 2012, 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:

Enrico Cecchi
Elena Ferranti
Kimberly B. Kacani, Vice Chair
Milton W. Matthews
Christiaan Melson
Lucia Anna Trigiani, Chair
Katherine Waddell (arrived at 10:07 a.m.)

Board members F. James Ahlberg, Jacquelyn Riggs, Douglas Rogers, and Miyun Sung were not in attendance.

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

Gordon Dixon, Director
Nick Christner, Deputy Director for Licensing, Investigations and Compliance
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Heather Gillespie, Ombudsman
Thomas K. Perry, Property Registration Administrator
Michele Atkinson, Board Administrator
Betty C. Jones, Administrative Assistant

Ms. Trigiani introduced and welcomed Mr. R. Thomas Payne, Assistant Attorney General, from the Office of the Attorney General. Mr. Payne was in attendance as Board counsel as Steven Jack was unable to attend.

Finding a quorum of the Board present, Ms. Trigiani, Chair, called the meeting to order at 9:44 a.m. **Call to Order**

Miss Ferranti moved to approve the agenda. Mr. Melson seconded the motion which was unanimously approved by: Cecchi, Ferranti, Kacani, Matthews, Melson, and Trigiani. **Approval of Agenda**

Ms. Trigiani announced that Pamela Coerse, a former Common Interest **Introduction of Staff**

Community Board member, is retiring as a time-share consultant, and announced that a new member, Ms. Jacquelyn Riggs, was appointed to serve on the Board as the time-share industry representative.

and New Member

Mr. Dixon discussed the agency's reorganization and the Governor's Commission on Government Reform and Restructuring and how it impacts the agency's boards. As a result of the reorganization, Ms. Henshaw has taken on additional assignments which include administering the Board for the Asbestos, Lead, and Home Inspectors (ALHI) and the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (WWWOSSP). Ms. Henshaw introduced the new and existing staff members.

Ms. Gillespie introduced Erin Bishop who assists her in answering telephone calls received in the Ombudsman's office.

Lisa Robinson was recognized by Ms. Trigiani for receiving a complimentary letter for her exceptional customer service provided to a member of the public. On behalf of the Board, Ms. Trigiani congratulated and thanked Ms. Robinson for her efforts.

Mr. Melson moved that the Board approve the minutes of the June 7, 2012, Board meeting. Mr. Cecchi seconded the motion which was unanimously approved by: Cecchi, Ferranti, Kacani, Matthews, Melson, and Trigiani.

Approval of Minutes

Ms. Trigiani opened the floor for public comment. Mr. H. Rutherford, condominium owner, addressed the Board during the Public Comment Period. He expressed concerns regarding his condominium association, as well as complaints that fall outside of the Board's authority.

Public Comment Period

Mr. Jim Peters, condominium owner, addressed the Board concerning his expectations as a member of multiple associations, as well as the lack of assistance provided by the Board and Department. He expressed the need for greater enforcement and believes the Board should select an egregious case and exercise its authority to pursue action through the courts.

Ms. Waddell arrived at 10:07 a.m.

Arrival of Board Member

Ms. Henshaw gave an update on the current status of the regulatory review processes for several of the Board's regulatory packages. Specifically the Common Interest Community Ombudsman Regulations became effective July 1, 2012. In addition, the Common Interest

Update on Regulatory Review Processes

Community Board Condominium Regulations are currently undergoing review by the Secretary's office.

Ms. Trigiani indicated the Time-Share Regulations have not undergone detailed review since November 1988. The Board decided that a Committee should be formed to review the Time-Share Regulations. The Committee will be using the Condominium Regulations as the framework for revising the Time-Share Regulations. In addition to drafting language to align the regulations with current statute and Board procedures, the Committee will develop regulations for the registration of time-share resellers in accordance with legislation passed by the General Assembly this year.

Discussion of Time-Share Regulatory Review Committee

Ms. Trigiani selected Mr. Melson to Chair the Time-Share Regulatory Review Committee. In addition, Ms. Riggs was selected to serve as a Board member representative on the Committee.

Mr. Dixon suggested that the Committee should include a representative from consumers who has experience with time-shares.

After discussion, Ms. Kacani made a motion to direct staff to invite the following members to serve on the Committee: Tom Bell, Senior Vice President of Governmental Affairs, Interval International, former Florida regulator; Pamela Coerse, former Common Interest Community Board member, with the Virginia Resort Developers Association; Caroline Emswiler, former Massanutten General Manager; Christopher Nolen, Senior Vice President of McGuire Woods Consulting LLC; Philip Richardson, attorney with Eck, Collins & Richardson, PL; Van Rouse, consumer representative; and Robert Diamond, attorney with Reed Smith LLP, and authorize Ms. Henshaw, in consultation with the Chair, to select an additional consumer member to serve on the Committee. Mr. Matthews seconded the motion which was unanimously approved by: Cecchi, Ferranti, Kacani, Matthews, Melson, Trigiani, and Waddell. Once a date has been set, the Committee will be notified.

Ms. Henshaw advised that a Notice of Intended Regulatory Action (NOIRA) for the Time-Share Regulations must be authorized by the Board in order to begin the review process. A motion was made by Mr. Matthews to authorize staff to file a Notice of Intended Regulatory Action for the Common Interest Community Board Time-Share Regulations after members of the Committee have been confirmed and before the first meeting of the Committee is held. Miss Ferranti seconded the motion which was unanimously approved by: Cecchi, Ferranti, Kacani, Matthews, Melson, Trigiani, and Waddell.

Authorize NOIRA for Time-Share Regulatory Review

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

Ombudsman's Report

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

Time-Share Complaints – 39%

Property Owners' Association Complaints – 27%

Condominium Association Complaints – 22%

Manager Complaints – 12%

Board Actions (books & records, disclosure packets, maintenance) – 42%

Misrepresentation During Sales Presentation (T-S) – 31%

In addition, Ms. Gillespie discussed general concerns and observations regarding the association complaint process and Ombudsman Regulations.

The Board recessed for a break at 11:07 a.m. and reconvened at 11:36 a.m.

Break

The Board was provided with a memorandum from Ms. Gillespie requesting Board guidance on the applicability of the Common Interest Community Ombudsman Regulations on condominium associations that are solely commercial. After discussion, Ms. Kacani made a motion to adopt a guidance document to provide that the Board determined that the definition of association, as set forth in §55-528, is not intended to include solely commercial condominiums, the Board does not have jurisdiction over solely commercial condominiums, and there will be no action taken by the Board if a solely commercial condominium does not implement and adopt a complaint process under the CIC Ombudsman Regulations. Based on the language of the law, it does not appear that the Board can unequivocally state that solely commercial condominium associations are not required to adopt complaint procedures, but the Board can address the jurisdictional aspect of this issue and its lack of authority to take action if a solely commercial condominium association does not adopt a complaint process. Mr. Melson seconded the motion which was unanimously approved by: Cecchi, Ferranti, Kacani,

Request for Board Guidance on the Applicability of the Ombudsman Regulations on Commercial Associations

Matthews, Melson, Trigiani, and Waddell.

The Board was provided with a memorandum from Ms. Henshaw requesting Board guidance regarding the requirement to obtain and maintain a separate fidelity bond or insurance policy required for Common Interest Community Managers to comply with section 54.1-2346.D of the Code of Virginia and 18 VAC 48-50-30.E of the Board's Regulations. After discussion, Ms. Kacani made a motion to adopt a guidance document to state that the statutes and regulations clearly require a bond or insurance policy in compliance with the provisions of 18 VAC 48-50-30.E of the Board's Regulations and § 54.1-2346.D of the Code of Virginia to be obtained and maintained by the common interest community manager separate from the association's policy required in compliance with §§ 55-79.81.B (condominium unit owners' associations) or 55-514.2.B (property owners' associations). Mr. Melson seconded the motion which was unanimously approved by: Cecchi, Ferranti, Kacani, Matthews, Melson, Trigiani, and Waddell.

**Request for Board
Guidance
Regarding CIC
Manager
Bond/Insurance
Policies**

Ms. Henshaw provided an update on the status of the Consent Order entered in the matter of File Number 2012-02699 for Kensington Condominiums, LLC and Kensington II Condominiums, LLC. Mr. Alperin submitted a status report to the Board regarding the progress made in connection with its efforts to comply with the terms of the Order. The terms of the Consent Order must be complied with by October 31, 2012. No action was taken by the Board.

**Update on Status of
Consent Order
for Kensington
Condominiums,
LLC and
Kensington II
Condominiums,
LLC**

The following resolution was presented for consideration by the Board.

Resolution for
Pamela Coerse

**Consideration of
Resolution for
Service**

WHEREAS, Pamela Coerse, did faithfully and diligently serve as a member of the Virginia Common Interest Community Board from 2008 to 2012;

WHEREAS, Pamela Coerse, did devote generously of her time, talent and leadership to the Board;

WHEREAS, Pamela Coerse, did endeavor at all times to render decisions with fairness and good judgement 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 twentieth day of September 2012 that Pamela Coerse, be given all honors and respect due her for her outstanding service to the Commonwealth and its citizens; and

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

Miss Ferranti made a motion to adopt the resolution. Mr. Melson seconded the motion which was unanimously approved by: Cecchi, Ferranti, Kacani, Matthews, Melson, Trigiani, and Waddell.

The Board discussed the Training Program Review Committee membership. A motion was made by Mr. Matthews to select Mr. Rogers to serve as Chair of the Committee. Mr. Cecchi seconded the motion which was unanimously approved by: Cecchi, Ferranti, Kacani, Matthews, Melson, Trigiani, and Waddell. The Board also discussed the vacancy on the Committee. The Board agreed by consensus that Ms. Kacani be added as a member.

**Discussion of
Training Program
Review Committee
Membership**

Ms. Henshaw provided a copy of statistical information regarding licensing and registration processing activities for August 2012. Specific information included:

**Licensing/
Registration
Statistics**

- The number of new applications processed;
- The number of annual reports and renewals processed;
- The number of phone calls and emails handled; and,
- The current regulant population segregated by program.

In addition to the most recent month available, data from one year ago was provided for comparison purposes. Ms. Henshaw indicated that the number of applications continues to rise and the total regulants are increasing.

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

**Board Financial
Statements**

statement for the Common Interest Community Management Recovery Fund for the month ended on July 31, 2012 was provided. No claims have been filed.

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 opened the floor for nominations of Chair and Vice Chair. Ms. Kacani made a motion to nominate Ms. Trigiani as Chair. Mr. Melson seconded the motion which was unanimously approved by: Cecchi, Ferranti, Kacani, Matthews, Melson, Trigiani, and Waddell. By acclamation, Ms. Trigiani was elected Chair.

Election of Officers

Ms. Kacani made a motion to nominate Mr. Matthews as Vice Chair. Mr. Melson seconded the motion which was unanimously approved by: Cecchi, Ferranti, Kacani, Matthews, Melson, Trigiani, and Waddell. By acclamation, Mr. Matthews was elected Vice Chair.

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 12:21 p.m.

Adjourn

Lucia Anna Trigiani, Chair

Gordon N. Dixon, Secretary