

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board met on Thursday, February 12, 2009 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:

F. James Ahlberg
Pamela Coerse
Ronda S. DeSplinter
Kimberly B. Kacani, Vice Chair
Milton W. Matthews
R. Lee Merritt
Glenn H. Silver
Scott E. Sterling
Lucia Anna Trigiani, Chair
Katherine E. Waddell

Board member Douglas Kleine was not in attendance.

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

Jay W. DeBoer, Director
Mark N. Courtney, Deputy Director of LRD
Nick Christner, Deputy Director of CID
Heather Gillespie, Ombudsman
Doug Schroder, Director of Adjudication
Trisha L. Henshaw, Executive Director
Ann-Marie Brigil, Hearing Officer
Thomas K. Perry, Property Registration Administrator
Betty C. Jones, Administrative Assistant
Earlyne Perkins, Legal Analyst

Steven Jack from the Office of the Attorney General was present.

Ms. Trigiani, Chair, called the meeting to order at 9:40 a.m.

Call to Order

The Board approved the agenda as written by consensus.

Approval of Agenda

Mr. Matthews moved that the Board approve the minutes of the January 26, 2009, meeting as amended. Ms. Waddell seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter,

Approval of Minutes

Kacani, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell.

Ms. Kacani moved that the Board approve the minutes of the February 5, 2009, Informal Fact Finding Conference as amended. Mr. Ahlberg seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell.

Ms. Trigiani opened the floor for public comment. Ms. Dawn Bauman addressed the Board during the Public Comment Period concerning several comments on the provisions relating to training programs and examinations in the proposed draft of the Common Interest Community Manager Regulations.

**Public Comment
Period**

Mr. Ron Kirby also addressed the Board during the Public Comment Period. He began by congratulating the Board and the Committee for an outstanding job in such a short period of time. He then expressed a concern about the subjective nature of provisions contained in the prohibited acts section in the proposed draft of the Common Interest Community Manager Regulations.

Mr. Schroder provided an overview of the informal fact finding process. He discussed the various stages in this procedure, board member roles and responsibilities, and staff roles and responsibilities in adjudicating licensing and disciplinary cases.

**Review Files/
Overview of
Informal Fact
Finding Process**

Mr. Courtney introduced Earlyne Perkins, Legal Analyst, to present the Board's first application file.

**File Number 2009-
02640, Patriot
Properties, Inc.**

Regarding File Number 2009-02640, Patriot Properties, Inc, the Board members reviewed the record of the Informal Fact-Finding Conference which consisted of the application file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference. Ms. Kacani moved to accept and adopt the summary and recommendation of the Hearing Officer and to approve the application for a provisional license. Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell.

The Board recessed at 11:00 a.m. and reconvened at 11:15 a.m.

Break

The Board presented Certificates of Appreciation to the citizen members who participated on the Regulatory Review Committee. Mr. Gaeser and Mr. Adams were present to receive their certificates. The Certificates of Appreciation for the following citizen members of the committee will be

**Other Business/
Presentation of
Certificates of
Appreciation**

mailed: Messrs. Inman, Orlando, and Melson.

The Board members were provided with the public comments to the Notice of Intended Regulatory Action for the Common Interest Community Manager Regulations, as well as a draft of the Board's response for each comment. There were eight comments received during the public comment period of November 10, 2008, to December 10, 2008. After review and discussion, Mr. Matthews moved to adopt the draft responses as amended. Ms. DeSplinter seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell.

**Regulations/
Adopt Board
Response to Public
Comment**

The Board reviewed the final comments and suggestions at its February 12, 2009, meeting. Some of the changes were of a grammatical nature, and others to clarify sections of the regulations.

**Review and Adopt
as Proposed the
Draft CIC Manager
Regulations**

After discussion of several additional amendments, Ms. Waddell made a motion to adopt the draft of the Common Interest Community Manager Regulations as proposed regulations. Mr. Merritt seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell.

Ms. Coerse made a motion to authorize the Executive Director in consultation with the Chair to make any minor changes necessary to gain the approval of the proposed regulations during the regulatory review process. Mr. Merritt seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell.

The Board reviewed the draft Condominium Regulations. Ms. Waddell made a motion to adopt the draft of the Condominium Regulations as proposed regulations. Mr. Matthews seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell.

**Review and Adopt
as Proposed
Condominium
Regulations**

Mr. Merritt made a motion to authorize the Executive Director in consultation with the Chair to make any minor changes necessary to gain the approval of the proposed regulations during the regulatory review process. Mr. Ahlberg seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell.

After reviewing the draft Condominium Regulations, Chair Trigiani asked if there was a Condominium Advisory Committee that was in place under the Real Estate Board. It was decided that this will be

deferred until the April 28, 2009, meeting.

The Board recessed for lunch from 12:16 p.m. to 1:06 p.m.

Lunch

At the January 26, 2009 meeting, the Board deferred discussion of the definition of “final adverse decision.” The Board resumed discussion of this phrase and Ms. Gillespie and Ms. Henshaw reiterated the importance of this definition in moving forward with the Ombudsman Regulations. The Board discussed “final adverse decision” at length and offered several ideas and suggestions.

**Discuss
Ombudsman
Regulations/
Discussion of Final
Adverse Decision
and Regulatory
Review Committee,
Version 2.0**

The Board agreed by consensus that a Committee should be formed to prepare a draft of the Ombudsman Regulations for recommendation to the Board and to further consider the meaning of “final adverse decision.”

Ms. Trigiani selected Milton Matthews to Chair the Ombudsman Regulatory Review Committee. After discussion, Mr. Sterling moved to have the following Board members serve on the committee: Katherine Waddell and Ronda DeSplinter. Public members who will be invited to serve are: Prudence Bachman, Community Association Institute; Thomas Burrell, III, Westridge Property Owner Association; Deborah Casey, Vandenter & Black; William Mason, Segan, Mason & Mason; William Marr, Law Offices of William A. Marr; and Coleen Kenah, Community Group. Ms. Coerse seconded the motion to approve the committee which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell.

Mr. Courtney introduced Ann-Marie Brigil, the Hearing Officer for the Board who presides over informal fact finding cases.

**Introduction of
Hearing Officer**

The Board discussed the review of the association disclosure packet notice. This item was initially discussed at the September 4, 2008 Board meeting. Ms. Trigiani requested a copy of the association disclosure packet notice be provided at its April 28, 2009, meeting.

**Discussion of
Disclosure Packet
Notice**

Ms. Trigiani provided an overview of legislation that has been proposed during the 2009 Virginia General Assembly session as it pertains to common interest communities.

**Other Business/
Legislative
Update from 2009
General Assembly
Session**

Ms. Gillespie provided a report on the activities of the Office of the Common Interest Community Ombudsman, including statistical

**Ombudsman's
Report**

information on complaints filed with the Ombudsman's office.

Ms. Henshaw provided statistical information on common interest community applications and licenses, including the number of new applications filed, percentage of applications received, current regulants, and the percentage of regulant population for January 2009. Ms. Henshaw advised the Board members that the target date for common interest community managers to appear on the license look-up page of the Department's website is March 1, 2009.

**Licensing/
Registration
Statistics**

The Board financial statements were not provided at this meeting as new statements had not been compiled since the last Board meeting date.

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

**Staff Event
Calendar**

Ms. Gillespie added an additional date to the calendar. She has been asked to speak on February 21, 2009, at the James City County Legislative Seminar on what the Ombudsman's office can do and cannot do.

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

**Conflict of Interest
and Travel Voucher
Forms**

There being no further business, the meeting was adjourned at 2:44 p.m.

Adjourn

Lucia Anna Trigiani, Chair

Jay W. DeBoer, Secretary