

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board met on Monday, January 26, 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
Douglas M. Kleine
Milton W. Matthews
R. Lee Merritt
Glenn H. Silver (arrived at 9:45 a.m.)
Scott E. Sterling (arrived 9:35 a.m.)
Lucia Anna Trigiani, Chair
Katherine E. Waddell

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

Jay W. DeBoer, Director
Nick Christner, Deputy Director of CID
Trisha L. Henshaw, Executive Director
Heather Gillespie, Ombudsman
Thomas K. Perry, Property Registration Administrator
Betty C. Jones, Administrative Assistant

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

Ms. Trigiani, Chair, called the meeting to order at 9:33 a.m.

Call to Order

Mr. Sterling arrived at 9:35 a.m.

**Arrival of Board
Member**

Ms. Trigiani requested that an item be added under Other Business regarding overview of legislation.

Approval of Agenda

Ms. Coerse moved to approve the agenda as amended. Ms. Kacani seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Ms. Coerse moved that the Board approve the minutes of the December 2, 2008, meeting. Ms. Waddell seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Approval of Minutes

Ms. Kacani moved that the Board approve the minutes of the December 11, 2008, Regulatory Review Committee meeting. Mr. Ahlberg seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Ms. Kacani moved that the Board approve the minutes of the January 13, 2009, Regulatory Review Committee meeting. Ms. DeSplinter seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Ms. Trigiani opened the floor for public comment. Ms. Anita Hager addressed the Board during the Public Comment Period requesting the meaning of “supervisory responsibility” as it is used in §54.1-2346.C of the Code of Virginia. Ms. Trigiani explained that the Board had not provided an interpretation of this term yet, however, it will likely be a part of the regulatory review process when the Board develops regulations for individual certification.

**Public Comment
Period**

Mrs. Nancy Huntington also addressed the Board during the Public Comment Period concerning issues with the complaint process. Ms. Trigiani provided information on the complaint process.

Ms. Kacani gave a report from the Regulatory Review Committee. The Committee’s goal was to review the emergency regulations and make changes to the draft in a timely manner such that a recommendation for the proposed regulations could be presented to the Board.

**Regulations/Review
of Timeline for
Regulations**

The Committee reviewed each section of the regulations and teams were assigned to work on certain sections as detailed previously. During the Committee’s review, there were three areas in particular that received a great deal of attention. They were: Qualifications for Licensure, Prohibited Acts, and Training Programs and Examination. The Committee also spent time reviewing similar regulations of other boards.

At its January 13, 2009, meeting, the Committee performed its final review of the draft regulations with all of the changes that had been

made by the Committee, and a final product was approved by the Committee for recommendation to the Board. This draft is the result of over three months of research, input, review and discussion on the part of the Committee, staff, citizens and professional organizations.

While it was important that the Committee meet the tight deadline established by the Board, it was even more critical that the deadline be reached without compromising the quality of the draft provided.

As a reminder to the Board, Ms. Henshaw discussed the time-line for the proposed regulations.

Mr. Silver arrived at 9:45 a.m.

Arrival of Board Member

Ms. Trigiani discussed the changes to the draft Common Interest Community Manager Regulations from the January 13, 2009, Committee meeting as supplied by staff. Some of the changes were of a grammatical nature, and others to clarify sections of the regulations.

Review of Draft Regulations from Regulatory Review Committee

The Board recessed at 10:50 a.m. and reconvened at 11:05 a.m.

Break

The Board revisited the suggested changes to the Prohibited Acts contained in Part V of the draft Common Interest Community Manager Regulations. Specifically, the Board discussed alternatives to the draft wording in 18 VAC 48-50-190.G. After review and discussion, Mr. Kleine moved that the Board approve 18 VAC 48-50-190.G as recommended by the Committee. Mr. Ahlberg seconded the motion. The motion passed by majority vote. Members voting “Yes” were Ahlberg, Kleine, DeSplinter, Matthews, Coerse, Merritt, and Waddell. Members voting “NO” were Kacani, Sterling, and Silver.

Review of Draft Regulations from Regulatory Review Committee

The Board also reviewed the suggested changes in 18 VAC 48-50-190.J of the draft Common Interest Community Manager Regulations. After review and discussion, Mr. Sterling moved that the Board approve 18 VAC 48-50-190.J as recommended by the Committee. Ms. Coerse seconded the motion. The motion passed by majority vote. Members voting “Yes” were Ahlberg, Kacani, Coerse, DeSplinter, Kleine, Sterling, Matthews, Waddell, and Merritt. Member voting “No” was Silver.

The Board recessed for lunch from 12:40 p.m. to 1:22 p.m.

Lunch

The Board continued the review of the draft regulations. Specifically, the Board discussed the provisions for training programs approved by

Review of Draft Regulations from

the Board.

**Regulatory Review
Committee**

The Board recessed at 2:45 p.m. and reconvened at 3:04 p.m.

Break

The Board reconvened to further discuss the suggested changes contained in Part VI, Training Programs and Examination, of the draft Common Interest Community Manager Regulations. Some of the changes were of a grammatical nature, and others to clarify sections of the regulations.

**Review of Draft
Regulations from
Regulatory Review
Committee**

Ms. Kacani made a motion to accept and adopt the revisions to the draft Common Interest Community Manager Regulations as revised. Mr. Ahlberg seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell. The Board will review any final comments and suggestions at its February 12, 2009, meeting.

Ms. Gillespie provided a flow chart which illustrated the process for handling the different types of information that is expected to be received upon implementation of the Ombudsman Regulations. In order to better explain the areas that will need to be addressed in the regulations, Ms. Gillespie discussed the process for handling complaints, inquiries, and notices of final adverse decision.

**Discussion of
Ombudsman
Regulations**

Ms. Henshaw explained that the first step in drafting the Ombudsman Regulations is to develop a definition of "final adverse decision." This definition will be the foundation for many of the provisions to be contained in the Ombudsman Regulations. Ms. Henshaw provided two handouts with suggestions for defining "final adverse decision." The Board decided to defer this discussion until its February 12, 2009, meeting.

The Board deferred reviewing the public comments on the Notice of Intended Regulatory Action until its February 12, 2009, meeting. Ms. Henshaw said that, as part of the regulatory process, the Board must respond to each of the comments received.

**Public Comments on
Regulations**

Mr. Perry discussed an issue regarding whether or not a commercial condominium needs to file a completion bond for incomplete common elements since commercial condominiums are exempt from registration with the Board. After discussion, Ms. Kacani moved that § 55-79.87 of the Code of Virginia does not exempt commercial condominiums from filing a completion bond and that the Board will retain these bonds. Ms. Coerse seconded the motion which was unanimously approved by:

**Other Business/
Completion Bonds
for Commercial
Condominium
Projects**

Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Silver, Sterling, Trigiani, and Waddell.

The Board was provided with the most recent financial statement for informational purposes.

Board Financial Statements

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. Henshaw discussed an issue a homeowner association was having with his association as to when to submit an invoice for the cost of a disclosure packet and the applicability of § 55-509.6.E of the Code of Virginia. The Board does conclude that the last sentence of § 55-509.6.E. is applicable to § 55-509.6.E. The last sentence requires the association to pay the common interest community manager the amount due from the lot owner within 30 days after invoice. The Board also advised the homeowner to seek private legal counsel.

Discussion of § 55-509.6.E. of the Code of Virginia

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

Ombudsman's Report

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.

Legislation Overview

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 5:04 p.m.

Adjourn

Lucia Anna Trigiani, Chair

Jay W. DeBoer, Secretary