

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board met on Thursday, June 7, 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:

F. James Ahlberg
Pamela Coerse
Elena Ferranti (arrived at 1:21 p.m.)
Milton W. Matthews
Christiaan Melson
Douglas Rogers
Lucia Anna Trigiani, Chair
Katherine Waddell

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

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

Gordon Dixon, Director
Mark N. Courtney, Deputy Director of LRD
Trisha L. Henshaw, Executive Director
Heather Gillespie, Ombudsman
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.

Finding a quorum of the Board present, Ms. Trigiani, Chair, called the meeting to order at 9:40 a.m. **Call to Order**

Ms. Coerse moved to approve the revised agenda. Mr. Melson seconded the motion which was unanimously approved by: Ahlberg, Coerse, Matthews, Melson, Rogers, Trigiani, and Waddell. **Approval of Agenda**

Mr. Ahlberg moved that the Board approve the minutes of the April 23, 2012, Board meeting. Ms. Waddell seconded the motion which was unanimously approved by: Ahlberg, Coerse, Matthews, Melson, Rogers, Trigiani, and Waddell. **Approval of Minutes**

Mr. Ahlberg moved that the Board approve the minutes of the May 23, 2012, Informal Fact Finding Proceeding. Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, Matthews, Melson, Rogers, Trigiani, and Waddell.

Mr. Rogers moved that the Board approve the minutes of the June 6, 2012, Training Program Review Committee meeting. Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, Matthews, Melson, Rogers, Trigiani, and Waddell.

Ms. Trigiani opened the floor for public comment. Ms. Mary Margaret Allegro addressed the Board during the Public Comment Period. She expressed her concerns and issues with her homeowner association. **Public Comment Period**

Mr. Charles Small, common interest community manager, addressed the Board to express concerns regarding lowering the entry standards for common interest community managers. Ms. Trigiani and Ms. Henshaw explained that the regulations effective March 1, 2012, incorporated changes as a result of feedback received from regulants, associations, and legislators regarding the difficulty in meeting the previous qualifications for licensure. The Board is responsible for developing regulations that establish minimum qualifications and requirements in order to protect the health, safety, and welfare of the public, but that are not overly burdensome or cost-prohibitive. As this is a new regulatory program, there may continue to be amendments to the qualifications for licensure in order to obtain the appropriate regulatory balance between protection of the public and entry into the profession. On behalf of the Board, Ms. Trigiani thanked Mr. Small for addressing the Board with his concerns.

Regarding **File Number 2012-01315, Bradley Microcomputer Information Services**, the Board members reviewed the Consent Order as seen and agreed to by Bradley Microcomputer Information Services. Ms. Sutherland was present at the meeting. Ms. Waddell moved to accept the Consent Order which cites the following violations of the Board's regulations: 18 VAC 48-50-80 (Count 1); 18 VAC 48-50-190.A.6 (Count 2); and 18 VAC 48-50-220.D (2 violations) (Count 3). For these violations, Bradley Microcomputer Information Services agrees to pay the following monetary penalties: \$150.00 for the violation contained in Count 1; \$250.00 for the violation contained in Count 2; \$300.00 (2 violations each at \$150.00) in Count 3; and \$150.00 in Board costs, for a total monetary penalty of \$850.00. In addition, the Board agrees not to adversely consider this matter upon reviewing Bradley Microcomputer Information Services Common Interest **File Number 2012-01315, Bradley Microcomputer Information Services**

Community Manager License application so long as the terms of this consent order have been adhered to.

Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, Matthews, Rogers, Trigiani, and Waddell. Mr. Melson recused himself from the meeting and was not present during the discussion or vote.

Regarding **File Number 2012-02699, Kensington Condominiums, LLC and Kensington II Condominiums, LLC**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference. Scott Alperin, sole member of the Declarant, for Kensington Condominiums, LLC and Kensington II Condominiums, LLC, was present and addressed the Board. Mr. Alperin discussed the history of this issue, beginning with an erroneous structural report that was issued in 2007, and recent steps that have been taken to try to resolve problems with the condominium.

File Number 2012-02699, Kensington Condominiums, LLC and Kensington II Condominiums, LLC

At 10:29 a.m., Mr. Melson moved that the Board meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel pertaining to legal matters within the jurisdiction of the Board as permitted by § 2.2-3711.A.7 of the Code of Virginia. The following non-members were in attendance to reasonably aid the consideration of the topic: Mark Courtney, Steven Jack, and Trisha Henshaw. The motion to convene in closed meeting was with respect to the matter identified as agenda item V. c., File Number 2012-02699, Kensington Condominiums, LLC and Kensington II Condominiums, LLC. Mr. Matthews seconded the motion which was unanimously approved by: Ahlberg, Coerse, Matthews, Melson, Rogers, Trigiani, and Waddell.

Closed Meeting

At 12:02 p.m., Ms. Waddell moved that the Board adjourn the closed meeting and immediately reconvene in open session. Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, Matthews, Melson, Rogers, Trigiani, and Waddell.

Open Meeting

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Common Interest Community Board has reconvened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the *Code of Virginia* requires a certification

by this Common Interest Community Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Common Interest Community Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Common Interest Community Board.

VOTE: 7-0-4

AYES: Ahlberg, Coerse, Matthews, Melson, Rogers, Trigiani, and Waddell.

NAYS: None.

ABSENT: Cecchi, Ferranti, Kacani, and Sung

Ms. Coerse made a motion to enter a Consent Order as seen and agreed to by Kensington Condominiums, LLC and Kensington II Condominiums, LLC (Declarant Kensington). Pursuant to the Order, Declarant Kensington agrees to submit evidence acceptable to the Board by October 31, 2012, that Declarant Kensington has: 1) complied with the terms of the Cease and Desist Order entered by the Board in the matter of File Number 2009-03713 on December 2, 2010 and 2) complied with § 55-79.93 of the Code of Virginia by providing a complete 2012 Annual Report.

If Declarant Kensington submits in writing by October 31, 2012, an endorsed written agreement with the Association that extends the deadline to complete the deposit described in Term A4 of the Order, the Board and Declarant Kensington agree to waive the October 31, 2012, deadline for Term A4 of the Order, and Declarant Kensington agrees to comply with the deadline contained in the agreement with the Association.

In addition, Declarant Kensington agrees to submit in writing to the Board by no later than September 1, 2012, a status report as to the progress made regarding each of the terms of this Order and any other necessary events that would facilitate the completion of the terms of this Order.

Mr. Matthews seconded the motion which was unanimously approved by: Ahlberg, Coerse, Matthews, Melson, Rogers, Trigiani, and Waddell.

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

**Update on
Regulatory Review
Processes**

The Common Interest Community Ombudsman Regulations are in the final stage. The anticipated effective date is July 1, 2012.

The Common Interest Community Manager Regulations containing the employee certification provisions became effective March 1, 2012.

At the September 20, 2012, Board meeting, the Board will discuss the need to review the Time-Share Regulations and appoint a review committee, which will consist of several board members and interested parties. Ms. Trigiani suggested if any of the board members are interested in serving on this committee to contact Ms. Henshaw.

Ms. Trigiani suggested presenting a tutorial of the time-share law at the first meeting of the Time-Share Regulatory Review Committee and discuss the role of the board.

The Board members began reviewing the post-registration provisions of the draft Common Interest Community Board Condominium Regulations.

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

The Board recessed for lunch from 1:03 p.m. to 1:47 p.m. Miss Ferranti arrived at the meeting at 1:21 p.m.

**Lunch/Arrival of
Board Member**

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 complaints filed.
- The number of phone calls received.
- The number of emails received.
- The types of complaints received, including:
 - 16% Condominium Complaints
 - .09% Cooperative Complaints
 - 15% Manager Complaints

- 29% Property Owner Association Complaints
- 39% Time-Share Complaints

Ms. Gillespie discussed how best to handle complaints received from association members against the association's management company. Often these complaints involve access to books and records, which is the statutory responsibility of the association, not the manager. Ms. Gillespie stated that it seems these complaints should be handled through the associations' complaint procedures and would only be addressed through the Department's complaint process in the event that there was a possible violation of Board regulations or statutes.

The Board revisited the post-registration provisions of the draft Common Interest Community Board Condominium Regulations. In addition, the Board reviewed a memorandum expressing several significant concerns submitted to the Board by Mr. Colucci and Mr. Diamond after the conclusion of the Condominium Regulatory Review Committee's work. The Board considered the areas of concern and made several amendments to the draft regulations. The Board agreed by consensus that any additional comments should be submitted for consideration during the 60-day public comment period following executive branch review.

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

The Board members began reviewing the final draft of the Condominium Regulations which contained all changes made by the Board and Committee up to this point, as well as several clarifications and corrections presented by staff. Some of the changes were of a grammatical nature, and others to clarify sections of the regulations. After final review and revision of the draft regulations, Mr. Ahlberg made a motion to adopt the draft of the Common Interest Community Board Condominium Regulations as proposed regulations and to authorize staff, in consultation with the Board chair, to make any minor changes necessary to gain the approval of the proposed regulations during the executive branch review. Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, Ferranti, Matthews, Melson, Rogers, Trigiani, and Waddell.

Ms. Coerse provided a summary of the Training Program Review Committee meeting which was held on June 6, 2012.

**Review Training
Programs/Report
from June 6, 2012,
Training Program
Review Committee**

The Committee reviewed an application for approval as a fair housing training program pursuant to 18 VAC 48-50-255 of the Board's

**Fair Housing
Training**

regulations submitted by Rees Broome, PC, and entitled Fair Housing Law for Common Interest Community Managers. After review by the Committee, the Committee voted to recommend that the Board approve the training program application as presented. After discussion, Ms. Coerse moved that the Board accept the recommendation of the Committee and approve the training program entitled Fair Housing Law for Common Interest Community Managers provided by Rees Broome, PC, as a housing training program pursuant to 18 VAC 48-50-255 of the Board's regulations. Mr. Rogers seconded the motion which was unanimously approved by: Ahlberg, Coerse, Ferranti, Matthews, Melson, Rogers, Trigiani, and Waddell.

**Course/Rees
Broome, PC**

The Board discussed the Training Program Review Committee membership. The Board agreed by consensus to appoint Mr. Matthews to replace Ms. Waddell as a member. Mr. Matthews accepted the appointment to the Committee.

**Discussion of
Training Program
Review Committee
Membership**

Ms. Coerse thanked Ms. Waddell for serving on the Committee and welcomed Mr. Matthews.

The Board discussed a memorandum from Ms. Henshaw indicating that the Board office has received an application for a "standard" common interest community manager license from an applicant that entered into a consent order with the Board as a provisional common interest community manager licensee. All terms of the consent order have been met. Typically, an applicant that has been subject to past disciplinary action must proceed through an informal fact-finding conference to have the subsequent application considered. There are two provisional licensees who have entered into a consent order with the Board, and both were entered in March 2012. Because the Board recently adjudicated the matters giving rise to this issue, and such matters did not result in revocation or suspension of the provisional licenses, staff recommends that the Board adopt a policy statement.

**Consideration of
Policy Statement**

Mr. Melson made a motion to adopt the policy statement prepared by staff, as follows:

An applicant for a common interest community manager license who held a provisional common interest community manager license issued by the Common Interest Community Board (Board) and had a consent order entered by the Board will not have the previous consent order adversely affect the common interest community manager license application as long as all terms of the consent order were met as stipulated in the applicable consent order. All other requirements of

the Common Interest Community Manager Regulations regarding convictions, adverse financial history, or administrative discipline are not affected by this policy statement.

Ms. Waddell seconded the motion which was unanimously approved by: Ahlberg, Coerse, Ferranti, Matthews, Melson, Rogers, Trigiani, and Waddell.

Ms. Henshaw provided an update on active legislation affecting the Common Interest Community Board or common interest communities which will require regulatory review.

**Discussion of
Legislation/Follow-
up from 2012
Session**

Ms. Henshaw provided a memorandum with several legislative ideas for the 2013 General Assembly session. After discussion, Miss Ferranti made a motion to support the suggested legislative amendments intended to clarify the statutes pertinent to the Board's registration programs and its authority to enforce compliance. Mr. Melson seconded the motion which was unanimously approved by: Ahlberg, Coerse, Ferranti, Matthews, Melson, Rogers, Trigiani, and Waddell.

**Discussion of
Legislation/
Preparing for 2013
General Assembly
Session**

Ms. Henshaw provided an article that was published in the Spring 2012 issue of *VREB Speaking* on the Common Interest Community Manager Regulations that became effective March 1, 2012.

**Licensing/
Registration
Statistics**

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

- 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 provided an update on recent staff activities related to disseminating information regarding the Common Interest Community Manager Regulations effective March 1, 2012. In addition, Ms. Henshaw provided information about upcoming activities, including: the agency's new website will be effective July 2, 2012; letters will be mailed to common interest community managers and provisional licensees to notify them that the certification program will become effective on July 1, 2012; and

letters will be mailed to associations to notify them that the Common Interest Community Ombudsman Regulations will become effective July 1, 2012.

Ms. Henshaw provided the Board a copy of the most recent financial statement for informational purposes. Also, a copy of the revised financial statement for the Common Interest Community Management Recovery Fund for the month ended on April 30, 2012 was provided. No claims have been filed.

Board Financial 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

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 3:42 p.m.

Adjourn

Lucia Anna Trigiani, Chair

Gordon N. Dixon, Secretary