

## COMMON INTEREST COMMUNITY BOARD

### MINUTES OF MEETING

The Common Interest Community Board (Board) met on September 10, 2015, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 4, Richmond, Virginia 23233.

The following members were present:

Lucia Anna Trigiani, Chair  
Kristie Helmick  
Mary Elizabeth Johnson  
Kimberly Kacani  
Thomas Mazzei  
Paul Orlando  
Scott Sterling  
Katherine Waddell  
David Watts

Board members Christiaan Melson and Jacquelyn Riggs were not in attendance.

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

Jay W. DeBoer, Director  
Mark N. Courtney, Senior Director for Regulatory and Public Affairs  
Trisha L. Henshaw, Executive Director  
Jill R. Hrynciw, Board Administrator  
Heather Gillespie, Ombudsman  
Tanya M. Pettus, Administrative Assistant

Joshua E. Laws, Assistant Attorney General, 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 9:35 a.m. **Call to Order**

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

Mr. Orlando moved to approve the agenda as amended. Mr. Mazzei seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts. **Approval of Agenda**

Mr. Orlando moved that the Board approve the minutes of the June 4, 2015, Training Program Review Committee meeting. Mr. Mazzei seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts.

**Approval of Minutes**

Ms. Kacani moved to approve the minutes of the June 4, 2015, Board meeting. Mr. Orlando seconded the motion. After discussing a possible amendment to the minutes, Ms. Kacani withdrew her motion to approve the minutes as presented. The withdrawal was accepted by Board consensus. Ms. Kacani then made a motion to approve the minutes as amended. Mr. Orlando seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts.

After discussion, Ms. Kacani moved to approve the minutes of the June 24, 2015, HB 1632 Stakeholder Committee meeting as amended. Upon further discussion, Ms. Kacani withdrew the motion. Mr. Mazzei seconded the motion to withdraw. Ms. Kacani then made a motion to approve the minutes as presented. Mr. Mazzei seconded the motion which was approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, and Waddell. Mr. Watts opposed. The motion was passed with a majority vote.

Ms. Trigiani welcomed and introduced the newest member of the Board, Scott Sterling. Ms. Henshaw introduced the newest staff member, Tanya M. Pettus, Administrative Assistant.

**Welcome & Introduction of Staff**

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

**Public Comment Period**

The Board reviewed a memorandum from staff dated September 2, 2015 to consider issuance of a temporary cease and desist order against Waterside at Jordan Point Condominium where the declarant failed to submit an annual report and bond/letters of credit verification forms.

**Consideration of Temporary Cease and Desist Order: Waterside at Jordan Point Condominium**

After reviewing the facts and information presented in the memorandum, the Board determined that the declarant failed to file a complete annual report within thirty (30) days of the anniversary date of the condominium project registration as required by § 55-79.93 of the Code of Virginia and 18 VAC 48-30-540 of the Condominium Regulations, failed to maintain an assessment bond or letter of credit pursuant to § 55-79.84:1 of the Code of Virginia and 18 VAC 48-30-600 of the Condominium Regulations, and failed to amend, and

subsequently file, the public offering statement in accordance with 18 VAC 48-30-460 and 18 VAC 48-30-490 of the Condominium Regulations .

After discussion, Ms. Kacani made a motion to issue a Temporary Cease and Desist Order in accordance with § 55-79.100(b) of the Code of Virginia as the public interest will be irreparably harmed by delay in issuing an order. Ms. Kacani further moved that the declarant of the registrant must cease and desist from the sale of units in the condominium project until an assessment bond or letter of credit and amended public offering statement are submitted and determined to be acceptable by the Board. The assessment bond or letter of credit and amended public offering statement compliant with applicable law and regulation shall be submitted to the Board within 30 days of the entry of the Order. Failure to comply will result in referral of this matter for enforcement pursuant to 54.1-306 of the Code of Virginia and/or imposition of sanctions and other actions as permitted by Chapter 4.2 of Title 55 (§§ 55-79.39 et seq.) of the Code of Virginia. Further, if the declarant fails to cease and desist from the sale of units in the condominium project after entry of the Order, 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. The order will remain in effect until the declarant submits acceptable documentation to the Board that the necessary affirmative actions have been taken to correct the deficiencies or the matters are adjudicated, whichever is later. Mr. Mazzei seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts.

The Board recessed from 10:47 a.m. until 11:00 a.m.

**Recess**

The Board reviewed a memorandum from staff dated September 2, 2015, to consider issuance of temporary cease and desist orders against the following condominium project registrations where the declarants failed to submit annual reports and bond/letters of credit verification forms:

**Consideration of  
Temporary Cease  
and Desist Orders  
Regarding  
Condominium  
Registrations**

1. New Century Housing, Inc., declarant of Woods Edge at Warm Hearth, a Leasehold Condominium, Registration Number 0517060253
2. OPRE Culpepper, LLC, declarant of Waters Place, a Condominium, Registration Number 0517070189
3. P & A Construction, Inc., declarant of Post Avenue Condominium, Registration Number 0517131003

4. Comfort Properties, LLC, declarant of 4490 Pleasant Avenue Condominium, Registration Number 0517080130

After reviewing the facts and information presented in the memorandum at the Board meeting, the Board determined that the declarants failed to file annual reports within thirty (30) days of the anniversary date of the condominium project registrations as required by § 55-79.93 of the Code of Virginia.

After discussion, Mr. Sterling made a motion to issue Temporary Cease and Desist Orders in accordance with § 55-79.100(b) of the Code of Virginia as the public interest will be irreparably harmed by delay in issuing the orders.

The declarants of the registrants must cease and desist from the sale of units in the condominium project until annual reports and assessment bond or letter of credit verification forms, as applicable, are submitted and determined to be acceptable by the Board. If the declarants fail to cease and desist the unlawful practice after entry of the Order, 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. The orders remain in effect until the declarants submit acceptable documentation to the Board that the necessary affirmative actions have been taken to correct the deficiencies or the matters are adjudicated, whichever is later. Ms. Helmick seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts.

The Board reviewed a memorandum from staff dated August 31, 2015 to consider issuance of a temporary cease and desist order against The Pointe Vacation Interval Estates, a registered time-share, where the developer failed to submit an annual report.

**Consideration of  
Temporary Cease  
and Desist Orders  
Regarding Time-  
Share Registration**

After reviewing the facts and information presented in the memorandum at the Board meeting, the Board determined that the developer failed to file an annual report by June 30, 2015 as required by § 55-394.1 of the Code of Virginia.

After discussion, Ms. Waddell made a motion to issue a Temporary Cease and Desist Order in accordance with § 55-396.D.2 of the Code of Virginia as the public interest will be irreparably harmed by delay in issuing an order.

The developer must cease and desist from the sale of time-share units until an annual report is submitted and determined to be acceptable by the Board. If the project developer fails to cease and desist the unlawful practice after entry of the Order, the Board may refer the matter for enforcement pursuant to § 54.1-306 of the Code of Virginia, and/or impose sanctions and take other actions permitted by Chapter 21 of Title 55 (§§ 55-360 et seq.) of the Code of Virginia. The order will remain in effect until the developer submits acceptable documentation to the Board that the necessary affirmative actions have been taken to correct the deficiencies or the matter is adjudicated, whichever is later. Ms. Helmick seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts.

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

**Regulatory Review  
Process Update**

The general review of the Time-Share Regulations is in the proposed stage and the next step is for the Board to review public comment and file the language as final.

The Time-Share Regulations' fast-track regulatory package to incorporate alternative purchase registration becomes effective October 1, 2015

The Board reviewed the comments submitted during the public comment period on the proposed Time-Share Regulations that are being submitted for amendment pursuant to a general review. After reviewing each of the comments and the proposed responses prepared by Board staff, Mr. Mazzei made a motion to adopt responses to the public comments as presented by staff and amended by the Board. Ms. Johnson seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts.

**Consider Public  
Comment and  
Responses from  
Time-Share  
Regulations  
General Review**

Ms. Henshaw presented changes to the proposed text of the Time-Share Regulations, incorporating changes made as a result of the Board's responses to public comment, amendments resulting from the approval of another regulatory action regarding alternative purchase registrations, and other non-substantive changes that were identified during the preparation of the draft final regulations for the Board to consider. After discussion, Ms. Waddell made a motion to adopt the proposed regulations with amendments as final. Mr. Watts seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts.

**Adopt Proposed  
Time-Share  
Regulations as  
Final**

The Board considered a Notice of Intended Regulatory Action (NOIRA) to consider revision of the Ombudsman Regulations to clarify the timeframe in which an existing association has to establish an association complaint process. After discussion, Ms. Waddell made a motion to authorize staff to file a NOIRA to consider revision of the Ombudsman Regulations to clarify the timeframe in which an existing association has to establish an association complaint process and to make any other changes identified as appropriate during the review process. Mr. Orlando seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts.

**Consider NOIRA to Amend Ombudsman Regulations**

The Board considered a NOIRA to amend the CIC Manager Regulations pertaining to training program course content specific to the two-hour common interest community law and regulation training and the two-hour fair housing training program approved by the Board. These changes were identified as necessary at the June 4, 2015, Training Program Review Committee meeting as the language was not updated during the last review to reflect that those two programs are only applicable for renewal of certificates for principal or supervisory employees, and not a prerequisite to initial certification. After discussion, Mr. Watts moved to approve a regulatory amendment pursuant to the fast-track regulatory review process including the language as proposed by staff. Ms. Waddell seconded the motion. Upon further discussion, Mr. Watts withdrew the motion. The Board agreed to the withdrawal by consensus. Mr. Sterling moved to table the discussion. Ms. Kacani seconded the motion which was approved by: Helmick, Johnson, Kacani, Orlando, Sterling, Trigiani, and Watts. Those voting in opposition to the motion were Mazzei and Waddell. The motion passed with a majority vote. The Board Chair directed that the Training Program Review Committee develop a proposal for Board consideration at its next meeting.

**Consider NOIRA to Amend CIC Manager Regulations**

Upon review of the training program application for the Vandeventer Black, LLP *Fair Housing Laws Training for Common Interest Community Management*, Mr. Orlando moved to approve the two-hour fair housing training program application. Ms. Waddell seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts.

**Review of Training Program: Vandeventer Black, LLP, Fair Housing Laws Training for Common Interest Community Management**

Ms. Henshaw reviewed the current training program application review process with the Board. Currently, staff performs a review of all training program applications submitted to ensure completeness,

**Consider Training Program Review Process**

compliance with the regulatory requirements, and any other information is included based on past actions of the Board related to training program content. Once this review is completed by staff, a Training Program Review Committee meeting is convened to consider the application along with recommendations by staff. Because concerns were raised at a previous Committee meeting regarding the staff's review, Ms. Henshaw inquired as to whether the Board wished to establish an alternative review process. After discussion, the Board agreed by consensus to continue with the current process with no recommendations for change.

Ms. Henshaw provided the Board with a report from the HB 1632 Stakeholder Committee meeting held June 24, 2015. She advised the Board that a draft Best Practices for Property Owners' Associations' Declarations will be presented for consideration at the next Committee meeting scheduled for September 24, 2015. The draft includes common topics based on a review of a variety of existing declarations as well as specific provisions identified and discussed at the last Committee meeting.

**Report from HB  
1632 Stakeholder  
Committee Meeting**

Staff provided the Board with a draft amendment to the Disclosure Packet Notice required by §54.1-2350 of the Code of Virginia that was the result of feedback received from a member of the public that one of the provisions did not align with the underlying law. After discussion, the Board agreed by consensus to table the review of the Disclosure Packet Notice until the next Board meeting scheduled for December 10, 2015.

**Adopt Revised  
Disclosure Packet  
Notice**

Ms. Henshaw advised the Board the legislative ideas adopted by the Board at the June 4, 2015 meeting to be considered for inclusion in the Administration's legislative packet will not go forward this session as a result of other priorities at this time.

**Update on 2016  
Legislation**

Ms. Gillespie provided the Board with a report on the Office of the Common Interest Community Ombudsman. A handout was provided containing complaint statistics. The data indicates the total number of complaints received in the Ombudsman's office has decreased. Ms. Gillespie also provided an update to the Board of the survey that was generated as a result of discussions at the Board's Ombudsman Committee meeting.

**Ombudsman's  
Report**

Board members considered the following resolution for former Board Member Enricho Cecchi:

**Consideration of  
Resolution for  
Service**

WHEREAS, Enricho Cecchi, did faithfully and diligently serve the

Virginia Common Interest Community Board from 2011 to 2015;

WHEREAS, Enricho Cecchi, did devote generously of his time, talent and leadership to the Board;

WHEREAS, Enricho Cecchi, did endeavor at all times to render decisions 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 tenth day of September 2015, that Enricho Cecchi 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.

Ms. Kacani moved to adopt the resolution. Ms. Helmick seconded the motion which was unanimously approved by: Helmick, Johnson, Kacani, Mazzei, Orlando, Sterling, Trigiani, Waddell, and Watts.

Ms. Henshaw provided a copy of the most recent financial statements and advised the Board that there have been no claims from the Recovery Fund.

**Board Financial Statements**

Ms. Henshaw provided a schedule of upcoming events to be attended by Board staff and the Ombudsman.

**Staff Event Calendar**

Ms. Henshaw advised the Board of changes to the Administrative Process Act as a result of legislation from the 2015 General Assembly Session. As a result of those changes, the name of the presiding officer will now be listed on hearing notices. Because this may include a Board member's name, Ms. Henshaw reminded the Board members that they must refrain from any discussions outside of the hearing with any participants related to a case or application file and to forward any inquiries they receive directly to staff. This will help to ensure that an otherwise qualified Board member is not precluded from participating in the matter.

**Other Board Business**

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 1:23 p.m.

**Adjourn**

---

Lucia Anna Trigiani, Chair

---

Jay W. DeBoer, Secretary

DRAFT