

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board met on Tuesday, July 21, 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 Kleine
Milton W. Matthews
R. Lee Merritt
Scott E. Sterling
Lucia Anna Trigiani, Chair
Katherine E. Waddell (arrived at 9:37 a.m.)

Board member Glenn Silver 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
Bonnie Rhea Adams, Director, Complaint Analysis & Resolution
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 9:37 a.m.

Call to Order

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

Approval of Agenda

Mr. Kleine moved that the Board approve the minutes of the April 28,

Approval of Minutes

2009, meeting as amended. Mr. Merritt seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, and Trigiani.

Ms. Waddell arrived at 9:37 a.m.

Arrival of Board Member

Mr. Matthews moved that the Board approve the minutes of the May 14, 2009, Informal Fact-Finding Conference. Mr. Merritt seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Approval of Minutes

Ms. DeSplinter moved that the Board approve the minutes of the June 11, 2009, Ombudsman Regulatory Review Committee meeting. Mr. Sterling seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Ms. DeSplinter moved that the Board approve the minutes of the July 7, 2009, Ombudsman Regulatory Review Committee meeting. Ms. Waddell seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Ms. Trigiani extended congratulations to Ms. Henshaw and her family on the birth of Peyton Mary-Jane Henshaw.

Mr. Perry introduced Raymond West as the new Licensing Specialist for the CIC section.

Ms. Trigiani introduced Bonnie Rhea Adams, the Director of Complaint Analysis and Resolution, who introduced four summer interns in the CAR and CID division.

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

Public Comment Period

Regarding **File Number 2009-03404, Liberty Management and Development Corporation**, 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. Mr. Ahmed H. Motawie, President of Liberty Management and Development Corporation, (applicant) was present and addressed the Board.

File Number 2009-03404, Liberty Management and Development Corporation

After discussion, Ms. Kacani made a motion to reject the recommendation of the hearing officer. Mr. Matthews seconded the motion which was approved by: Kacani and Matthews. Members voting in opposition to the motion were: Ahlberg, DeSplinter, Kleine, Merritt, Sterling, and Waddell. Members abstaining from voting were: Coerse and Trigiani. The motion failed.

Ms. Waddell made a motion to adopt the summary and recommendation of the hearing officer and to deny the application for a Common Interest Community Manager Provisional License. Mr. Merritt seconded the motion which was approved by: Ahlberg, Coerse, DeSplinter, Kleine, Merritt, Sterling, Trigiani, and Waddell. Members voting in opposition to the motion were: Kacani and Matthews.

Considering the matter of **File Number 2009-02783, Board and Gary and Linda Parsons**, Ms. Trigiani indicated that the Board does not have sufficient information to make a determination.

**Review of
Determination
Record: File
Number 2009-
02783, Gary and
Linda Parsons**

Mr. Kleine made a motion stating a determination of compliance with § 55-386 of the Code of Virginia cannot be made. Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Ms. Trigiani requested that the Board reconsider the previous decision until staff could supply additional information. Mr. Sterling made a motion to reconsider the Board's previous decision. Ms. DeSplinter seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

The Board recessed at 10:49 a.m. and reconvened at 11:21 a.m.

Break

The Board continued the discussion of the review of determination for **File Number 2009-02783, Board and Gary and Linda Parsons**. Upon further review of the request for determination and the information provided, Ms. Kacani made a motion that there is insufficient information to support a determination of compliance with § 55-386.A of the Code of Virginia and there is no information to support a determination of compliance with § 55-386.B of the Code of Virginia. Ms. DeSplinter seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

**Review of
Determination
Record: File
Number 2009-
02783, Gary and
Linda Parsons**

Considering the matter of **File Number 2009-02778, Board and**

Review of

Bernard and Penny Tingler. Upon review of the request for determination and the information provided, Ms. Kacani made a motion that there is insufficient information to support a determination of compliance with § 55-386.A of the Code of Virginia and there is no information to support a determination of compliance with § 55-386.B of the Code of Virginia. Ms. DeSplinter seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

**Determination
Record: File
Number 2009-
02778, Bernard and
Penny Tingler**

The Board requested staff to revise the Determination Procedures for further consideration at their next meeting.

Mr. Perry gave an update on the regulatory review process.

**Regulations/
Update on
Regulatory Review
Process**

- The permanent Common Interest Community Manager Regulations were published on June 22, 2009. The public comment period ends on August 21, 2009. A public hearing is scheduled for August 3, 2009. The deadline for filing the Common Interest Community Manager Regulations with the Department of Planning and Budget is November 1, 2009.
- The Common Interest Community Management Information Fund Regulations (fast-track) were effective May 15, 2009.
- The Common Interest Community Ombudsman Regulations are in the drafting stage.
- The permanent Condominium Regulations were approved under an exempt action and were effective on July 9, 2009.

To implement Chapters 851 and 871 of the Acts of the 2008 General Assembly, Mr. Perry requested the Board to adopt a Notice of Intended Regulatory Action (NOIRA) for the Common Interest Community Manager Regulations to establish qualifications and standards of practice and conduct for employees of Common Interest Community Managers and those who supervise these employees; as well as to establish an education-based certification program for these employees; and to approve training courses and instructors. He also indicated that the Board needs to view the previously implemented Emergency Common Interest Community Manager Regulations to make any additional amendments as needed.

**Adoption of NOIRA
for CIC Manager
Regulations**

Ms. Kacani moved to adopt the filing of the Notice of Intended Regulatory Action for the Common Interest Community Manager

Regulations. Ms. Waddell seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Mr. Matthews updated the Board on the progress of the Ombudsman Regulatory Review Committee, and indicated that a draft of the regulations would be provided to the Board at its next meeting.

**Report from
Ombudsman
Regulatory Review
Committee**

Mr. Kleine discussed the application review process as it relates to the Bond/Insurance requirement for the common interest community managers. His concern is whether regulants and applicants of the Board are providing the appropriate insurance/bond requirements.

**Other Business/
Discussion of
Application Review
Process as it Relates
to Bond/Insurance
Policy
Documentation**

After lengthy discussion, the Board requested staff to develop a guidance document that would require the applicant to submit a certification from the insurance carrier that states the applicant has coverage that complies with § 54.1-2346(D); and to revise the application and instruction sheet to require such certification. The Board deferred further discussion until its next meeting.

The Board recessed for lunch from 12:09 p.m. to 12:54 p.m.

Lunch

The Board reviewed the revised Association Disclosure Packet Notice which incorporated suggestions from Board members. After much discussion and thorough review, the Board made further changes to the Notice and requested that these changes be sent to them for review. The Board deferred further discussion until its next meeting.

**Discussion of
Association
Disclosure Packet
Notice**

Ms. Trigiani asked to further defer the discussion of the meaning of “Substantial Completion” as used in § 55-79.58 (A) of the Code of Virginia and 18 VAC 48-20-310 and 18 VAC 48-20-320 (B) and (C) of the Condominium Regulations until its next meeting.

**Discussion of
Meaning of
“Substantial
Completion”**

In preparation of a possible formal hearing at the Board’s next meeting, Mr. Jack discussed the order of events for Formal Hearing procedures. Mr. Jack informed the Board that respondents and witnesses will be allowed to testify and cross-examine. While the Chairman will serve as Presiding Officer, Board members will be allowed to question the respondents as well as witnesses.

**Discussion of
Formal Hearing
Procedures**

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. Gillespie brought before the Board some issues the Ombudsman's Office was having related to the filing of complaints. The Ombudsman's Office is trying to help people to understand that staff cannot help everyone. Some frequent issues are: operations of the Board of Directors, elections, proxies, disclosure packages, problems with transition of control of condominiums from declarant to unit owners, and declarants not paying assessments. The Board suggested that complaints should be filed with the Board and move forward as any other complaint filed with the Department of Professional and Occupational Regulation.

Mr. Perry provided statistical information on common interest community applications and licenses, including the number of new applications filed, percentage of applications received, current regulations, and the percentage of regulant population for May, 2009. A handout of the statistical information for June, 2009 was also provided.

**Licensing/
Registration
Statistics**

Mr. Courtney presented to the Board the most recent financial statement for informational purposes.

**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's office attends. The requested information was provided to the Board with the agenda package for information purposes only.

**Staff Event
Calendar**

The Board revisited the scheduling of future Board meeting dates. After discussion, the Board moved to adopt the following meeting dates:

**Proposed
Meeting Schedule**

October 26, 2009
December 10, 2009
March 2, 2010
June 3, 2010
September 8, 2010
December 14, 2010

Ms. Trigiani announced that Mr. Ahlberg has been reappointed by the Governor for another term.

The Board members 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 3:05 p.m.

Adjourn

Lucia Anna Trigiani, Chair

Jay W. DeBoer, Secretary

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