

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met on September 23, 2021, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2nd Floor, Board Room 3, Richmond, Virginia 23233.

The following members were present:

Drew Mulhare, Chair
Eileen M. Greenberg
Amanda Jonas
David S. Mercer, Vice-Chair
Lori Overholt
Anne M. Sheehan
Katherine E. Waddell

Board members Maureen Baker, Jim Foley, and Scott Sterling were not in attendance at the meeting.

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

Mary Broz-Vaughan, Director
Trisha L. Lindsey, Executive Director
Heather Gillespie, Ombudsman
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Tanya M. Pettus, Board Administrator

Joshua Laws, Assistant Attorney General with the Office of the Attorney General, was present.

Finding a quorum of the Board present, Mr. Mercer, Vice-Chair, called **Call to Order** the meeting to order at 9:40 a.m.

Ms. Lindsey advised the Board of the emergency evacuation procedures. **Emergency Evacuation of Board Rooms**

Ms. Greenberg moved to approve the agenda as presented. Ms. Jonas seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, Sheehan, and Waddell. **Approval of Agenda**

Ms. Waddell moved to approve the June 3, 2021, Board meeting minutes as presented. Ms. Sheehan seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, Sheehan, and **Minutes**

Waddell. Ms. Jonas moved to approve the August 4, 2021, CIC Manager Regulatory Review Committee meeting minutes as presented. Ms. Greenberg seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, Sheehan, and Waddell.

Ms. Lindsey presented to the Board a public comment submitted via email from Harry Campbell, in which he expressed his concern for the lack of enforcement of statutes and regulations governing time-shares and common interest communities. Specifically, Mr. Campbell is concerned about the ignorance of, or unwillingness to comply with, the requirement to conduct reserve fund studies among common interest communities, and feels that the Board should have a system in place to proactively measure and enforce reserve study requirements. Mr. Campbell's comment included several questions to the Board on the subject.

**Public Comment
Period**

No members of the public present at the meeting came forward to address the Board.

Ms. Sheehan recused herself from the meeting for discussion and deliberation of File Number 2020-01680.

**Recusal of Board
Member**

In the matter of **File Number 2020-01680, Barkan Management LLC**, the Board members reviewed the record which consisted of the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference.

**File Number 2020-
01680, Barkan
Management LLC**

The Board considered each of the charged Violations under Counts 1 through 5.

After review of the charged Violations under Count 1, Ms. Jonas moved to accept the recommendation of the Presiding Officer and find no violation as outlined in the Summary. Ms. Greenberg seconded the motion. After discussion, the motion was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, and Waddell.

After review of the charged Violation under Count 2, Ms. Overholt moved to accept the recommendation of the Presiding Officer and find Barkan Management LLC in violation of 18VAC 48-50-160 as outlined in the Summary. Ms. Jonas seconded the motion. After brief discussion, the motion was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, and Waddell.

After review of the charged Violations under Count 3, Ms. Greenberg moved to accept the recommendation of the Presiding Officer and find Barkan Management LLC in violation of 18VAC 48-50-190.12 under Violation 1, and find no violation under Violation 2 as outlined in the Summary. Ms. Jonas seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, and Waddell.

After review of the charged Violations under Count 4, Ms. Jonas moved to accept the recommendation of the Presiding Officer and find Barkan Management LLC in violation of 18VAC 48-50-190.10 under Violation 1, Violation 2, Violation 4, Violation 5, and Violation 6, and find no violation under Violation 3 as outlined in the Summary. Ms. Greenberg seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, and Waddell.

After review of the charged Violation under Count 5, Ms. Jonas moved to accept the recommendation of the Presiding Officer and find no violation as outlined in the Summary. Ms. Greenberg seconded the motion. After discussion, the motion was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, and Waddell.

Ms. Broz-Vaughan briefed the Board on the methods used in determining sanctions for violations of the Board's regulations.

Ms. Greenberg moved to accept the recommended sanction for the violation of 18VAC 48-50-160 in Count 2 as outlined in the Summary as presented, which imposed a monetary penalty of \$250.00. Ms. Jonas seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, and Waddell.

Ms. Jonas moved to accept the recommended sanction for the violation of 18VAC 48-50-190.12 in Count 3 as outlined in the Summary as presented, which imposed a monetary penalty of \$250.00. Ms. Greenberg seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, and Waddell.

Ms. Waddell moved to accept the recommended sanctions for the violations of 18VAC 48-50-190.10 in Count 4 as outlined in the Summary as presented, which imposed a monetary penalty of \$250.00 for Violation 1, a monetary penalty of \$250.00 for Violation 2, a monetary penalty of \$1,000.00 for Violation 4, a monetary penalty of \$250.00 for Violation 5, and a monetary penalty of \$1,000.00 for Violation 6. Ms. Greenberg

seconded the motion. After discussion, the motion was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, and Waddell.

Mr. Mulhare arrived to the meeting at 9:52 a.m. and immediately recused himself for discussion and deliberation of File Number 2020-01680 and File Number 2020-02432.

Arrival of Board Member

Ms. Sheehan returned to the meeting.

Return of Board Member

In the matter of **File Number 2020-02432, Property Management Associates LLC dba PMA**, the Board members reviewed the record which consisted of the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference.

File Number 2020-02432, Property Management Associates LLC dba PMA

After review of the charged Violations under Count 1, Ms. Sheehan moved to accept the recommendation of the Presiding Officer and find no violation as outlined in the Summary. Ms. Waddell seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Overholt, Sheehan, and Waddell.

Mr. Mulhare returned to the meeting and assumed Chair of the Board.

Return of Board Member

Mr. Haughwout asked the Board to consider issuance of a temporary cease and desist order against the condominium project registration of The Atrium at MetroWest Condominium, for failure of the declarant, Pulte Home Company, LLC to submit a complete annual report as required by § 55.1-1979 of the Code of Virginia, and Board Regulation 18 VAC 48-30-540. Ms. Sheehan moved to authorize staff to issue a temporary cease and desist order against the project registration of The Atrium at MetroWest, as failure to file an annual report would cause irreparable harm to the public. Ms. Overholt seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Consider Temporary Cease and Desist Orders Regarding Condominium Registrations

Mr. Haughwout asked the Board to consider issuance of a temporary cease and desist order against the condominium project registration of The Tiber, A Luxury Condominium, for failure of the declarant, Libbie Guthrie Company, LLC to submit a complete annual report as required by § 55.1-1979 of the Code of Virginia, and Board Regulation 18 VAC

48-30-540. Ms. Greenberg moved to authorize staff to issue a temporary cease and desist order against the project registration of The Tiber, A Luxury Condominium, as failure to file an annual report would cause irreparable harm to the public. Ms. Waddell seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Mr. Haughwout asked the Board to consider issuance of a temporary cease and desist order against the condominium project registration of Saunders Station, a Condominium, for failure of the declarant, Stanley Martin Homes LLC to submit a complete annual report as required by § 55.1-1979 of the Code of Virginia, and Board Regulation 18 VAC 48-30-540. Ms. Sheehan moved to authorize staff to issue a temporary cease and desist order against the project registration of Saunders Station, a Condominium, as failure to file an annual report would cause irreparable harm to the public. Ms. Overholt seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Mr. Haughwout asked the Board to consider issuance of a temporary cease and desist order against the condominium project registration of Summerhill at Stony Point Condominium, for failure of the declarant, RHS Management Corporation to submit a complete annual report as required by § 55.1-1979 of the Code of Virginia, and Board Regulation 18 VAC 48-30-540. Ms. Greenberg moved to authorize staff to issue a temporary cease and desist order against the project registration of Summerhill at Stony Point Condominium, as failure to file an annual report would cause irreparable harm to the public. Ms. Waddell seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Mr. Haughwout provided an update on the current status of the regulatory review processes for the Board's regulatory packages:

**Update on
Regulatory Actions**

Final amendments to the CIC Management Information Fund Regulations became effective on September 1, 2021. The regulations are now titled Common Interest Community Association Registration Regulations.

A Notice of Intended Regulatory Action (NOIRA) for a general review of the CIC Manager Regulations was published in the Virginia Register on August 16, 2021, which commenced a 30-day public comment

period that concluded on September 15, 2021.

Mr. Haughwout provided the Board with an update on the CIC Manager Regulatory Review Committee whose formation was authorized by the Board at its March 4, 2021, meeting. The Committee held its first meeting on August 4, 2021. The Committee reviewed the regulatory review process and timeline, and discussed general items to be considered for amendment. The Committee's next meeting is scheduled for October 27, 2021.

**Update on CIC
Manager
Regulatory Review
Committee**

Ms. Lindsey asked the Board to consider authorizing staff to file an exempt action to amend several sections of the CIC Manager Regulations to comport with recent legislation legalizing marijuana. The amendment would exclude marijuana-related misdemeanor convictions from the disclosure and reporting requirements in the regulations. Ms. Lindsey advised the Board that this amendment would pertain to licensed common interest community managers, as well as principal or supervisory employee certificate holders. After discussion, Ms. Overholt moved to authorize staff to file an exempt action to amend the CIC Manager Regulations. Ms. Jonas seconded the motion which was unanimously approved by: Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

**Consider Exempt
Action to Amend
CIC Manager
Regulations**

Mr. Haughwout asked the Board to consider adopting interpretive guidance clarifying the meaning of the phrase "lots or units subject to the declaration," as the term is used in the Common Interest Community Association Regulations, as Board staff has received inquiries seeking clarification regarding the number of lots or units in a community that are to be reported on association registration applications and annual reports. Ms. Jonas moved to adopt the following interpretive guidance:

**Request for
Interpretive
Guidance
Regarding 18VAC
48-60-60**

The phrase "lots or units subject to the declaration" as used in 18VAC48-60-60 means any lots or units within a development to which the provisions of the recorded declaration, as amended, for the common interest community are applicable.

Ms. Waddell seconded the motion. After discussion, the motion was unanimously approved by: Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Ms. Gillespie provided the Board with a report on the Office of the Common Interest Community Ombudsman. The report contains statistics on complaints received by the Ombudsman's office, as well as compliance and enforcement statistics.

Ombudsman Report

Discussion was held on the types of issues raised and complaints received attributed to modified procedures and routines due to COVID-19.

Ms. Lindsey provided the Board with the most recent financial statements. There have been no claims from the Recovery Fund.

Board Financial Statements

Ms. Gillespie provided a brief overview of upcoming events she is scheduled to attend virtually.

Staff Event Calendar

Ms. Lindsey advised the Board that preliminary planning for the Board Member Training Conference scheduled to take place in 2022 has begun.

Other Business

Ms. Lindsey advised the Board that Ms. Pettus has been promoted to Board Administrator and will be replaced as Administrative Assistant.

Ms. Lindsey advised the Board that a newly hired Deputy Director of Licensing and Compliance will join DPOR in September and will be attending Board meetings in the future.

The Board recessed from 11:00 a.m. to 11:11 a.m.

Recess

Board members completed biennial Board member conflict of interest training as required by the Virginia Conflict of Interest and Ethics Advisory Council.

Biennial Conflict of Interest Training

Ms. Lindsey reminded Board members to complete their conflict of interest forms and travel vouchers.

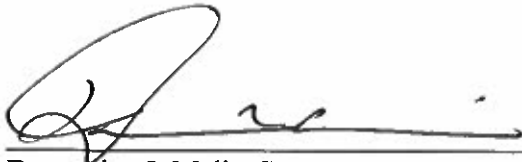
Complete Conflict of Interest Forms and Travel Vouchers

There being no further business, the meeting was adjourned at 11:39 a.m.

Adjourn



Drew Mulhare, Chair



Demetrios J. Melis, Secretary

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Drew R. Mulhare
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting September 23, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

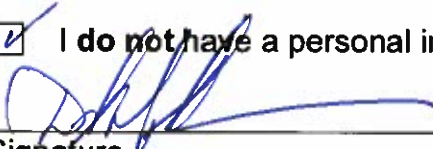
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Signature



Date

9/23/21

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Eileen Greenberg
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting September 23, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Eileen Greenberg
Signature

9/23/2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Amanda Jonas
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting September 23, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Amanda Jonas
Signature

9/23/21
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: David Mercer
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting September 23, 2021

5. I have a personal interest in the following transaction:

None

Nature of Personal Interest Affected by Transaction:

None

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

DM
Signature

9/23/21
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Lori Overholt
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting September 23, 2021

5. I have a personal interest in the following transaction:

N/A

Nature of Personal Interest Affected by Transaction:

N/A

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

N/A

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Lori Overholt
Signature

9/23/2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Anne Sheehan
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting September 23, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

Goldklang Group CPAs P.C. has mutual clients with
Barkan Management LLC. I am an owner in Goldklang
Group CPAs P.C.

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Anne Sheehan
Signature

9/23/2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

- 1. Name: Katherine E. Waddell
- 2. Title: Board Member
- 3. Agency: Common Interest Community Board
- 4. Meeting/IFF Date: Board Meeting September 23, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Katherine E. Waddell
Signature

9/23/2021
Date

