

**DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
PERIMETER CENTER  
9960 MAYLAND DRIVE  
RICHMOND, VIRGINIA 23233**

**COMMON INTEREST COMMUNITY BOARD**

*Tentative* **AGENDA**

**THURSDAY, December 8, 9:30 A.M.  
2<sup>nd</sup> FLOOR, BOARD ROOM 3**

**I. CALL TO ORDER**

**II. EMERGENCY EVACUATION PROCEDURES**

**III. APPROVAL OF AGENDA**

- a. Board Agenda, December 8, 2022

**IV. APPROVAL OF MINUTES**

- a. SB 693 Committee Meeting, September 22, 2022
- b. Board Meeting, September 22, 2022

**V. INTRODUCTION OF BOARD MEMBERS**

**VI. PUBLIC COMMENT PERIOD\***

**VII. REVIEW FILES AND DISCIPLINARY MATTERS**

- a. Consider Temporary Cease and Desist Orders
  - i. Condominium Registrations

**VIII. REVIEW TRAINING PROGRAM**

- a. Report from Training Program Review Committee
- b. Whiteford, Taylor & Preston, L.L.P.
  - i. Virginia CIC Law and Regulation Training Program

**IX. BOARD BUSINESS**

- a. Update on Regulatory Actions
- b. Update on SB 740 Structural Integrity and Reserves Workgroup
- c. Update on SB 693 Committee and Final Report
- d. Update to Maximum Allowable Fees for POA Disclosure Packets and Condominium Resale Certificates
  - i. Consider Quinquennial Adjustment of Fees for Inflation
  - ii. Consider Proposed Amendments to Guidance Document
- e. Discussion on General Review of Common Interest Community Ombudsman Regulations
  - i. Consider Authorizing Regulatory Review Committee
  - ii. Consider Authorizing Notice of Intended Regulatory Action (NOIRA) to Initiate Regulatory Review Process

**X. OTHER BUSINESS**

- a. Ombudsman Report
- b. Board Financial Statements
- c. Report from the 2022 Board Member Training Conference
- d. Consider Resolutions for Service
- e. Election of Officers
- f. Other Board Business

**XI. COMPLETE CONFLICT OF INTEREST FORMS AND TRAVEL VOUCHERS**

**XII. ADJOURN**

**NEXT MEETING SCHEDULED FOR March 9, 2023 at 9:30 A.M.**

\* Five minute public comment, per person, with the exception of any open disciplinary or application files.

\*\* Agenda materials made available to the public do not include disciplinary case files or application files pursuant to §54.1-108 of the *Code of Virginia*.

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8510 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

DRAFT AGENDA  
Materials contained in this agenda are proposed topics for discussion  
and are not to be construed as an official Board position.  
DRAFT AGENDA

**PERIMETER CENTER CONFERENCE CENTER**  
**EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS**  
(Script to be read at the beginning of each meeting.)

**PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THE PREMISES IN THE EVENT OF AN EMERGENCY.**

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound. When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

**Board Room 1**

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

**Board Room 2**

Exit the room using one of the doors at the back of the room. (Point) Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

You may also exit the room using the side door, turn **Right** out the door and make an immediate **Left**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

**Board Rooms 3 and 4**

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

**Training Room 1**

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

**Training Room 2**

Exit the room using one of the doors at the back of the room. Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

SB 693 COMMITTEE  
OF THE  
COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The SB 693 Committee of the Common Interest Community Board (Board) met on September 22, 2022 at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 3, Richmond, Virginia 23233.

The following members were present:

Lori Overholt, Chair  
Matt Durham  
Heather Gillespie (Non-voting)  
Drew Mulhare (Ex-officio)  
Sue Tarley  
Jerry Wright

Committee Member Paul Orlando was not present at the meeting.

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

Trisha L. Lindsey, Executive Director  
Joseph C. Haughwout, Jr., Board and Regulatory Administrator  
Stephen Kirschner, Licensing and Regulatory Programs Division Deputy Director  
Raven Custer, Administrative Coordinator

Ms. Overholt, Chair, called the meeting to order at 9:01 a.m.

**Call to Order**

Mr. Haughwout advised the Committee of the emergency evacuation procedures.

**Emergency  
Evacuation  
Procedures**

Mr. Durham moved to approve the agenda as presented. Mr. Wright seconded the motion which was unanimously approved by: Durham, Mulhare, Overholt, Tarley, and Wright. Ms. Gillespie did not vote as she is a non-voting member of the committee.

**Approval of Agenda**

There were no members of the public present who wished to address the Committee.

**Public Comment  
Period**

Mr. Haughwout provided an overview of the resources available to the Committee Members.

**Resources and  
Information**

The Committee was provided with (i) applicable common interest community laws and regulations, including those related to the association complaint process and (ii) Senate Bill 693.

Mr. Haughwout provided the committee with comments on the committee report from Mr. Orlando.

**Discussion**

After discussion, the committee agreed to make revisions to the committee report to the Board.

Mr. Wright moved to adopt the report as revised and recommend to the Board for consideration. Mr. Durham seconded the motion which was unanimously approved by: Durham, Mulhare, Overholt, Tarley, and Wright. Ms. Gillespie did not vote as she is a non-voting member of the committee.

**Other Business**

Ms. Overholt reminded the Committee 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 adjourned at 9:32 a.m.

**Adjourn**

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Drew Mulhare, Chair

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Demetrios J. Melis, Secretary

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met on September 22, 2022, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 3, Richmond, Virginia 23233.

The following members were present:

Drew Mulhare, Chair  
Maureen A. Baker  
Matt Durham  
Jim Foley  
Eileen M. Greenberg  
David S. Mercer, Vice-Chair  
Lori Overholt  
Anne M. Sheehan  
Scott Sterling  
Katherine E. Waddell

Board member Amanda Jonas was not in attendance at the meeting.

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

Demetrios J. Melis, Director  
Trisha L. Lindsey, Executive Director  
Heather Gillespie, Ombudsman  
Joseph C. Haughwout, Jr., Board and Regulatory Administrator  
Stephen Kirschner, Licensing and Regulatory Programs Division Deputy Director  
Raven C. Custer, Administrative Coordinator

Elizabeth Peay, Assistant Attorney General with the Office of the Attorney General, was present.

Finding a quorum of the Board present, Mr. Mulhare called the meeting to order at 10:32 a.m. **Call to Order**

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

Mr. Durham moved to approve the agenda. Ms. Greenberg seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Mercer, Mulhare, Sheehan, Sterling and Waddell. **Approval of Agenda**

Ms. Lindsey introduced to the Board Licensing and Regulatory Programs Division Deputy Director Stephen Kirschner.

**Introduction of Staff**

Mr. Durham moved to approve the June 9, 2022, Board meeting minutes as presented. Ms. Greenberg seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Mercer, Mulhare, Sheehan, Sterling and Waddell.

**Approval of Minutes**

Ms. Overholt moved to approve the August 9, 2022, SB 693 Committee meeting minutes as presented. Ms. Greenberg seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Mercer, Mulhare, Sheehan, Sterling and Waddell.

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

**Public Comment Period**

Mr. Mulhare and Mr. Mercer recused themselves from the meeting during the discussion and deliberation of File Number 2022-00949.

**Recusal Board Members**

In the matter of File Number **2022-00949, Purple Sage Cluster, Inc.**, the the Board members reviewed the Consent Order. Purple Sage Cluster, Inc. admits to a violation of 18 VAC 48-70-50.4 as outlined in Count 1, and a violation of 18 VAC 48-70-50.7 as outlined in Count 2. Purple Sage Cluster, Inc. consents to the imposition of a monetary penalty of \$450.00 for violation of Count 1, and a monetary penalty of \$250.00 for violation of Count 2, for total monetary penalties of \$700.00 and Board costs of \$150.00. Ms. Waddell moved to approve the Consent Order as presented. Mr. Foley seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Sheehan, Sterling and Waddell.

**File Number 2022-00949, Purple Sage Cluster, Inc.**

Mr. Mulhare and Mr. Mercer returned to the Board meeting.

**Return of Board Members**

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

**Update on Regulatory Actions**

Mr. Haughwout advised that the CIC Manager Regulatory Review Committee recommendations and draft proposed amendments to the CIC Manager Regulations were approved, with revisions, by the Board at the March 3, 2022 Board meeting. The proposed regulatory text was submitted for Executive Branch review on March 14, 2022.

Ms. Lindsey presented the Board with the agenda from the Workgroup meeting on August 5 and provided the roster and schedule for the Workgroup.

**Update on SB 740  
Structural Integrity  
and Reserves  
Workgroup**

Ms. Lindsey provided an overview of the discussions from the Workgroup.

The next meeting for the Structural Integrity and Reserves Workgroup will be in Roanoke on October 19, 2022.

Mr. Haughwout provided an update on the SB 693 Committee and presented the Board with the Committee Report.

**Update on SB 693**

After discussion, Ms. Sheehan moved to adopt the Committee's findings and conclusion as presented in the report. Based on the Committee's conclusion, the Board recommends against any legislative or regulatory changes to allow for the submission of audio and video recordings with a notice of final adverse decision. Mr. Foley seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Mercer, Mulhare, Sheehan, Sterling and Waddell.

**Review and  
Consider SB 693  
Report**

The Board received a report from 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**

Ms. Lindsey provided the Board with the most recent financial statements. The Board recovery fund has been replenished following the recovery claim at the June 9, 2022 Board meeting.

**Board Financial  
Statements**

Ms. Lindsey provided the Board with information on the 2022 Board Member Training Conference.

**2022 Board Member  
Training  
Conference**

Ms. Lindsey provided information regarding the passing of former Board Member Doug Rogers to the Board.

**Other Board  
Business**

Mr. Custer provided the Board with information regarding the new procedure for the distribution of meeting agendas.

Mr. Mulhare reminded Board members to complete their conflict of interest forms.

**Complete Conflict  
of Interest Forms  
and Travel  
Vouchers**



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

**Adjourn**

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Drew Mulhare, Chair

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Demetrios J. Melis, Secretary

# INTRODUCTION OF BOARD MEMBERS

DRAFT AGENDA  
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DRAFT AGENDA

# **PUBLIC COMMENT PERIOD**

Five minute public comment, per person, with the exception of any open disciplinary or application files.

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DRAFT AGENDA

**REPORT FROM TRAINING**  
**PROGRAM REVIEW COMMITTEE**

(To be Presented at Board Meeting)

DRAFT AGENDA  
Materials contained in this agenda are proposed only for discussion  
and are not to be construed as regulatory or official action.  
DRAFT AGENDA

**APPLICATION REVIEW SUMMARY**  
**November 30, 2022**

Provider Name:	<b>WHITEFORD, TAYLOR &amp; PRESTON, L.L.P.</b>						
Type of Course:	<b>Virginia CIC law and regulation training program</b>						
Retroactive Approval:	<b>None</b>						
Method of Instruction:	<b>Classroom Online (Virtual Webinar)</b>						
Previous Board Approvals:	<b>None</b>						
Staff Recommendation:	<b>Approval of the following course(s):</b> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Course Name</th> <th style="text-align: right;">Hours</th> </tr> </thead> <tbody> <tr> <td>Virginia Common Interest Community</td> <td style="text-align: right;">2.0</td> </tr> <tr> <td>Law and Regulation Updates</td> <td></td> </tr> </tbody> </table>	Course Name	Hours	Virginia Common Interest Community	2.0	Law and Regulation Updates	
Course Name	Hours						
Virginia Common Interest Community	2.0						
Law and Regulation Updates							



**Common Interest Community Board  
 COMMON INTEREST COMMUNITY MANAGER  
 TRAINING PROGRAM APPROVAL APPLICATION**

**A check or money order payable to the TREASURER OF VIRGINIA,  
 or a completed credit card insert must be mailed with your application package.  
 APPLICATION FEES ARE NOT REFUNDABLE.**

Type of Application (select one)	<input checked="" type="checkbox"/>	Provider Fee (0505)	Course Fee (0506)	Total Fee Due										
Initial CIC Manager Training Program Approval	<input checked="" type="checkbox"/>	\$50.00	+ \$50.00	= \$100.00										
Additional CIC Manager Training Program (Course) Approval	<input type="checkbox"/>		\$50.00	= \$50.00										
CIC Manager Training Program Provider Number	<table border="1"> <tr> <td>0</td><td>5</td><td>0</td><td>5</td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> </table>				0	5	0	5						
0	5	0	5											

- Name of Training Program Provider Whiteford, Taylor & Preston, L.L.P.
- Mailing Address (PO Box accepted) 3190 Fairview Park Drive, Suite 800  
Falls Church VA 22124  
 City State Zip Code
- Street Address (PO Box not accepted)  Check here if the Street Address is the same as the Mailing Address listed above.  
3190 Fairview Park Drive, Suite 800  
Falls Church VA 22124  
 City State Zip Code
- Email Address crinard@wtplaw.com
- Website Address www.wtplaw.com
- Select **one** of the following and provide the information below about the business named above.
  - Business Federal Employer Identification Number (FEIN) \* 

5	2	-	0	6	1	9	2	1	4
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 Federal Employer Identification Number (12-3456789)  
 \* State law requires every applicant, who is not a sole proprietor, to provide a federal employer identification number. Sole proprietors must provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.
  - Sole Proprietor's Social Security Number **and/or**

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  - Virginia** Department of Motor Vehicles Control Number \* 

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 DO NOT INCLUDE DASHES (1234567890)  
 > Enter the same identification number as used on examination, previous applications or licenses on file with the Department.  
 \* State law requires every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the **Virginia** Department of Motor Vehicles.
- Contact Numbers 703 / 280-3380 703 / 280-9260 703 / 280-9132  
 Primary Telephone Alternate Telephone Fax
- Individual responsible for training program administration  
 Name: Chad Rinard, Esq.  
 Title: Attorney  
 Telephone & Email Address 703 / 280-3380 & crinard@wtplaw.com

OFFICE USE ONLY	DATE	FEE	TRANS CODE <b>1020</b>	ENTITY #	FILE #/LICENSE # <b>05</b>	ISSUE DATE
	COMMITTEE REVIEW DATE		BOARD ACTION DATE		EFFECTIVE DATE OF APPROVAL	

9. Method of instruction (select **all** that apply)

- Classroom
- Correspondence
- Online
- Other distance learning, describe \_\_\_\_\_

10. Type of training program (only **one** per application)

- Introductory (16-hour minimum)
- Comprehensive (80-hour minimum)
- Virginia fair housing laws related to common interest communities (2-hour minimum)
- Virginia common interest community law and regulation updates (2-hour minimum)

11. Name of training program Virginia Common Interest Community Law and Regulation Updates

Training program contact hours 2

12. List all instructors that will provide instruction in the training program. Trade-appropriate designations, as well as a professional resume with a summary of teaching experience and subject matter knowledge and qualifications will need to be submitted as Attachment #2 (see below). Attach a separate sheet of paper with the requested information if additional space is needed.

Subject areas and corresponding numbers are:


Subject Area Number	Training Program Subject Area
<b>Comprehensive and Introductory Training Required Program Subject Areas:</b>	
1	Governance, legal matters, and communications
2	Financial matters including budgets, reserves, investments, internal controls, and assessments
3	Contracting
4	Risk management and insurance
5	Management ethics for common interest community managers
6	Facilities maintenance
7	Human resources
<b>Virginia Fair Housing Laws and CIC Laws and Regulations Subject Areas</b>	
8	Virginia fair housing laws related to common interest communities
9	Virginia common interest community laws and regulations updates

Instructor's Name	CIC Manager License Number (if applicable)	Subject Area Number (insert numbers from above chart)
Edward O'Connell	N/A	9
Michael Gartner	N/A	9
Marla Diaz	N/A	9
Chad Rinard	N/A	9
Kathryn Murphy	N/A	9
Nasim Saeidi	N/A	9
Claudia Knapp-Lopez	N/A	9

13. Summarize the applicant's qualifications and experience in providing training for common interest communities. If necessary, you may attach a separate sheet of paper.

See Attachment #2.

14. I, the undersigned, certify that the foregoing statements and answers are true, and I have not suppressed any information that might affect the Board's decision to approve this application. I certify that the training provider has complied with all the laws of Virginia under the applicable provisions of Title 54.1, Chapter 23.3 of the *Code of Virginia* and all regulations of the Common Interest Community Board.

Responsible Person's Signature Rinard, Chad  Digitally signed by: Rinard, Chad  
 DN: CN = Rinard, Chad email = CRinard@wtplaw.com OU = User Accounts  
 Date: 2022.11.17 10:20:10 -05'00'

Printed Name of Signatory Chad Rinard, Esq.

Title Attorney Date 11/17/2022

**The following attachments must accompany each training program application.** Please include a separator page to label each attachment with the number listed below. For example, "Attachment #1: Training Program Syllabus;" "Attachment #2: Instructor Information;" etc. Please note that the information listed below is required, and applications that do not contain all of the required attachments, in the format and order listed below, may not be submitted for the Board's consideration.

- **Attachment #1: Training Program Syllabus** - provide a training program syllabus that lists the purpose of the training program and the main topics covered in the training program.
  - For comprehensive and introductory training programs, the syllabus must include coverage of the subject areas contained in 18VAC 48-50-250.C of the Common Interest Community Manager Regulations. For each main topic in the syllabus, include the amount of time that will be devoted to that topic during the training program.
- **Attachment #2: Instructor Information** - Provide a one-page resume with a list of trade-appropriate designations, a summary of teaching experience, subject-matter knowledge, and qualifications for each instructor.
- **Attachment #3: Training Program Materials and Fees** - Provide information pertaining to any materials used or distributed during the training program, including copies of books, handouts, pamphlets, and slide presentations/overheads. Please indicate the fees that will be assessed for the training program and whether or not the fees include any materials for the training program and, if not, the materials that students are required to furnish.
  - For comprehensive and introductory training programs, a copy of the final, written examination and question item bank must be provided.
- **Attachment #4: Schedule of Training Program Dates and Locations** - Provide information pertaining to the anticipated schedule and location(s) for the training program. If a schedule has not been developed, please provide an anticipated start date for the program.
- **Attachment #5: Training Program Completion Certificate/Documentation** - Provide a copy, marked "sample," of the certificate of completion or other documentation to be provided at the end of the training program to verify successful completion.
- **Attachment #6: Online/Correspondence Training Program Information** - If an online or correspondence training program, provide information on the security procedures to be utilized. In addition, provide information on the examination that will be given at the end of the training program and security related to the examination. Online training providers must provide the website address, a user ID, and a password to be utilized by the Board in order to access the training program during the review process. Correspondence training program providers must provide a copy of the packet that will be distributed to students.



## Attachment #1: Training Program Syllabus

**Purpose:** This course covers common interest community laws and regulations and the recent case law and ombudsman determinations that interpret those laws and regulations.

### Main Topics Covered:

1. **Creation** **Time Estimate: 20 minutes**

a. **Necessity of Recording Condominium Instruments**

#### Code Section Covered

§ 55.1-1907 – How condominium may be created

b. **Associations that are Property Owners' Associations**

#### Code Section Covered

§ 55.1-1801 – Applicability

#### Recent Statutory Changes & Recently Decided Case Law

Condominium Act & Property Owners' Association Acts were renumbered in 2019. Shepherd v. Conde, 293 Va. 274, 286, 797 S.E.2d. 750, 756 (2017).

c. **Declarant Control**

#### Code Sections Covered

§ 55.1-1803 – Limitation on certain contracts and leases by declarant

§ 55.1-1921 – Bond to insure completion of improvements

§ 55.1-1930 – Declarant's obligation to complete and restore

§ 55.1-1976 – Public offering statement

#### Recent Determination by the Ombudsman

Gray v. Monarch Walk Condominium Association, File No. 2014-03642 (CICO June 30, 2014).

d. **Transition from Declarant-Control to Owner-Control**

#### Code Sections Covered

§ 55.1-1804 - Documents to be provided by declarant upon transfer of control

§ 55.1-1943 (H) – Control of condominium by declarant

§ 55.1-1947 – Transfer of special declarant rights

**e. Declarant's Warranty Period for Condominiums**

**Code Sections Covered**

- § 55.1-1955 (B) – (E) – Warranty against structural defects
- § 55.1-1956 (B)(ii) – Control of common elements

**2. Authority Unique to Each Association**

**a. Declaration for Property Owners' Associations & Condominium Instruments for Condominiums**

**Code Sections Covered**

- § 55.1-1800 – Definition of Declaration
- § 55.1-1900 – Definition of Condominium Instruments

**b. Amendments**

**Code Sections Covered**

- § 55.1-1829 – Amendment to declaration and bylaws
- § 55.1-1934 – Amendment of condominium instruments

**Recent Statutory Changes & Recently Decided Case Law**

- § 55.1-1800 – Definition of Electronic Means (amended in 2021)
- § 55.1-1832 – Use of Technology (amended in 2021)
- § 55.1-1900 – Definition of Electronic Means (amended in 2021)
- § 55.1-1935 – Use of Technology (amended in 2021)
- Tvardek v. Powhatan Homeowners Ass'n, Inc., 291 Va. 269, 277 - 78, 784 S.E.2d 280, 284 (2016).

**3. Authority for all Associations**

**a. Property Owners' Association Act**

**Code Section Covered**

- § 55.1-1801 – Applicability

**b. Condominium Act**

**Code Section Covered**

- § 55.1-1901 – Application and construction of Chapter

**4. Governing an Association**

**Time Estimate: 20 minutes**

**a. By the Members**

**i. Meeting Requirements**

**Code Sections Covered**

- § 55.1-1815 (G) – Association meetings; notice  
§ 55.1-1949 (A) – Meetings of unit owners’ association

**ii. Elections of Directors at Annual Meetings**

**Code Sections Covered**

- § 55.1-1815 (H) – Association meetings  
§ 55.1-1952 (A) & (C) - Meetings of unit owners’ association; quorums  
§ 55.1-1953 - Meetings of unit owners’ association; voting by unit owners; proxies

**Recent Statutory Changes & Recent Determination by the Ombudsman**

- § 55.1-1815 (H) – Association meetings (amended in 2021)  
§ 55.1-1832 – Use of Technology (amended in 2021)  
§ 55.1-1935 – Use of Technology (amended in 2021)  
§ 55.1-1953 - Meetings of unit owners’ association; voting by unit owners; proxies (amended in 2021)  
Baumgarten v The Villas at River Point Condominium Association, Inc., File No. 2021-02069 (CICO April 22, 2021).

**b. By the Directors**

**i. Meeting Requirements**

**Code Sections Covered**

- § 55.1-1816 – Meetings of the board of directors  
§ 55.1-1949 (B) – (D) – Meetings of executive board  
§ 55.1-1952 (B) - Meetings of executive board

**Recent Statutory Changes & Recent Determination by the Ombudsman**

- § 55.1-1832 – Use of Technology (amended in 2021)  
§ 55.1-1935 – Use of Technology (amended in 2021)  
Fowler v Groundhog Mountain Property Owners' Association, File No. 2023-00825 (CICO October 25, 2022)  
Panayides v Lafayette Park Condominium, File No. 2022-00066 (CICO July 26, 2021).

**ii. Adoption of Rules & Regulations**

**A. Authorized by the Property Owners' Association Act**

**Code Sections Covered**

- § 55.1-1806 (B) – Rental of lots
- § 55.1-1819 (A) – Adoption and enforcement of rules
- § 55.1-1820 – Display of the flag of the United States
- § 55.1-1821 – Home-based businesses permitted

**Recent Statutory Changes & Recently Decided Case Law**

- § 55.1-1819.1 – Limitation of smoking in development (added in 2021)
- § 55.1-1820.1 – Installation of solar energy collection devices (added in 2021)
- § 55.1-1823.1 – Electric vehicle charging stations permitted (added in 2020)
- Sainani v. Belmont Glen Homeowners Association, Inc., 297 Va. 714, \_\_, 831 S.E.2d 662, \_\_ (2019).

**B. Authorized by the Condominium Act**

**Code Sections Covered**

- § 55.1-1951 – Display of the flag of the United States
- § 55.1-1959 (A) – Adoption of rules and regulations
- § 55.1-1960 – Limitation of occupancy of a unit
- § 55.1-1973 – Rental of units

**Recent Statutory Changes**

- § 55.1-1951.1 – Installation of solar energy collection devices (added in 2021)
- § 55.1-1960.1 – Limitation of Smoking in Condominium (added in 2021)
- § 55.1-1962.1 - Electric vehicle charging stations permitted (added in 2020)

**5. Conduct of the Business of an Association**

**Time Estimate: 20 minutes**

**a. Maintaining Common Elements**

**Code Sections Covered**

§ 55.1-1900 – Definition of Capital components, Common elements, Limited common elements & Unit

§ 55.1-1955 (A) – Upkeep of condominiums

**Recent Determinations by the Ombudsman**

A. Spencer Taylor v. Condominium Unit Owners Association of Villas at Peppers Ferry, File No. 2021-00645 (CICO October 20, 2020).

Nicholls v. Pretty Lake Village Condominium Association, File No. 2019-02078 (CICO March 15, 2019).

**b. Maintaining Common Area**

**Code Sections Covered**

§ 55.1-1800 – Definition of Capital components, Common Area & Lot

§ 55.1-1818 – Common areas

**c. Budgeting**

**Recent Statutory Changes**

§ 55.1-1826 - Annual Budget, reserves for capital components (amended in 2019)

§ 55.1-1965 – Annual Budget, reserves for capital components (amended in 2019)

**Recent Determinations by the Ombudsman**

Wiseman v The Tivoli at Cardinal Forest Condominium, File No. 2021-02919 (CICO July 19, 2021).

Bosiger v. The Crossings Property Owners Association, File No. 2019-02748 (CICO May 23, 2019).

King v Pleasant Valley Condominium Owners Association, File No. 2017-03017 (CICO July 27, 2017).

**6. Financing an Association**

**a. Assessments**

**Code Sections Covered**

Virginia Code § 55.1-1805 – Association charges

Virginia Code § 55.1-1904 (i) – Association charges

**Recent Determinations by the Ombudsman**

Pilkerton v. Malvern Club, Inc., File No. 2020-01824 (CICO February 25, 2020).

Edwards v. Stone Ridge Association, Inc., File No. 2019-01347 (CICO December 14, 2018).

DRAFT AGENDA  
Materials contained in this agenda are proposed topics for discussion  
and are not to be relied upon for official Board position.  
DRAFT AGENDA

**7. Enforcement**

**Time Estimate: 20 minutes**

**a. Of Nonmonetary Covenants**

**i. Charges & Suspension of Voting Rights & Other Privileges**

**Code Sections Covered**

§ 55.1-1819 (B) – (D) Adoption and enforcement of rules  
§ 55.1-1959 (B) – (D) Assessment of charges for violations, etc.

**Recently Decided Case Law**

Shadowwood Condominium Association v. Fairfax County Redevelopment and Housing Authority, \_ Va. \_ fn. 2 (2012).

**ii. Injunctive Relief**

**Code Sections Covered**

§ 55.1-1819 (E) Adoption and enforcement of rules  
§ 55.1-1828 (A) Compliance with Declaration  
§ 55.1-1915 (A) Compliance with condominium instruments  
§ 55.1-1959 (E) Adoption and enforcement of rules and regulations

**Recently Decided Case Law**

Dillon v. Northam, 105 Va. Cir. 402, \_ (Virginia Beach 2020)(citing The Real Truth About Obama, Inc. v. Fed. Election Comm'n, 575 F.3d 342 (4<sup>th</sup> Cir. 2009)).  
Farran v. Olde Belhaven Towne Owners' Ass'n, 83 Va. Cir. 286, \*5 (Fairfax County 2011).

**b. Attorneys' Fees**

**Code Sections Covered**

§ 55.1-1828 (A) & (B) Compliance with declaration  
§ 55.1-1915 (A) & (B) Compliance with condominium instruments

**Recently Decided Case Law**

Lambert v. Sea Oats Condominium Association, Inc., 293 Va. 245, 254, 798 S.E.2d 177, 183 (2017).

**8. Owners' Rights**

**Time Estimate: 20 minutes**

**a. Examination of the Association's Books & Records**

Code Sections Covered

- § 55.1-1815 – Access to association records
- § 55.1-1945 – Books, minutes, and records; inspection

**Recent Determinations by the Ombudsman**

- § 55.1-1807 (1) – Statement of lot owner rights (added in 2019)
- § 55.1-1939 (1) – Statement of unit owner rights (added in 2019)
- Shears v Farmcolony I Homeowners' Association, Inc., File No. 2023-00047 (July 27, 2022).
- Robins v Swift Run Trails Homes Association, File No. 2021-2516 (CICO June 22, 2021).
- Taylor Yorke v. Unit Owners Association of Hiddenbrooke Condominium, File No. 2020-01513 (CICO February 11, 2020).
- Zeien v Green Run Homes Association, File No. 2019-01346 (CICO December 12, 2018).
- Dispensa v Parc Reston Condominium Unit Owners' Association, File No. 2017-02876 (CICO June 15, 2017).
- Sarrett v. Nolde Bakery Condominium, File No. 2014-03756 (CICO July 15, 2014).

**b. Sharing Information**

Code Sections Covered

- § 55.1-1817 – Distribution of information by members
- § 55.1-1950 – Distribution of information by members

**Recent Determinations by the Ombudsman**

- Ward v Captain's Cove Golf & Yacht Club, File No. 2023-00826 (CICO October 25, 2022)
- York v Hiddenbrooke Condominium Unit Owners Association, File No. 2022-00092 (CICO August 13, 2021).
- Massou v Woodbury Heights Condominium, File No. 2021-2585 (CICO July 19, 2021).
- Luis Lerin v. Three Ships Landing Condominium Association, File No. 2020-01334 (CICO January 6, 2020).
- Schibani v Lakeside Plaza Condominium Association, File No. 2017-01017 (CICO November 16, 2016).

**c. Resale Disclosure Packets**

Code Sections Covered

- § 55.1-1808 – Contract disclosure statement; right of cancellation
- § 55.1-1990 – Resale by purchaser; contract disclosure; right of cancellation



**9. Regulations**

**Time Estimate: 20 minutes**

**a. CICB Regulations**

**b. Manager Regulations (effective December 1, 2021)**

**Code Sections Covered**

§ 54.1-2345 - Definitions

**Administrative Code Sections Covered**

18 VAC 48-50-10 - Definitions

18 VAC 48-50-30 - Qualifications for licensure as a common interest community manager

18 VAC 48-50-35 - Qualifications for certification as a certified principal or supervisory employee effective July 1, 2012

18 VAC 48-50-140 through 18VAC48-50-220 - Part V. Standards of Conduct and Practice

**c. CIC Association Registration Regulations (effective September 1, 2021)**

**Administrative Code Section Covered**

18 VAC48-60-15 - Timeframe for association registration and annual report

**Edward J. O'Connell, III, Esq.**  
**Community Associations Attorney**

Recent Work History

**Whiteford, Taylor & Preston, LLP**  
Partner

**Falls Church / Richmond**  
2007- Present

Represents Common-Interest Community Associations in Virginia and the District of Columbia

Recent Presentations

**Tips for Presiding Over Board and Member Meetings Successfully**

Webinar accredited by CAMICB

May & August 2022

**COVID-19: The Legal Implications – What Managers Need to Know!**

Webinar

May 2020

Recent Publications

**Client Alert: Governor Northam Modifies Mask Mandate to Align with CDC Guidance and Announces Virginia to End COVID-19 Mitigation Measures on May 28, 2021**

Whiteford, Taylor & Preston's Newsletter

May 2021

**Client Alert: VDOLI COVID-19 Workplace Safety Rules**

Whiteford, Taylor & Preston's Newsletter

July 2020

**Client Alert: COVID-19 Community Association FAQs - You've Asked, We've Answered**

Whiteford, Taylor & Preston's Newsletter

April 2020

**How to Get Rid of a Board Member**

WMCCAI's Quorum Magazine

January 2020

Current Professional Activities

**Virginia Department of Professional and Occupational Regulation - Structural Integrity and Reserves Work Group**

**Foundation for Community Association Research – Think Tank Member**

Past Professional Activities

**Community Associations Institute - Washington Metropolitan Chapter**

- o WMCCAI Board of Directors (2008-2014)
- o WMCCAI Vice President (2012-2013)
- o WMCCAI President (2013-2014)

**Education**

**Columbus School of Law**

Juris Doctor

Washington DC

1994

**University of Richmond**

Bachelor of Arts

Richmond

1986

# Michael C. Gartner, Esq.

## Community Associations Attorney

### Recent Work History

**Whiteford, Taylor & Preston, LLP**  
Partner

**Falls Church, Virginia**  
July 2002 - Present

- General counsel to community associations in Virginia and Washington, D.C.
- Handle civil litigation in a wide variety of matters in Virginia and Washington, D.C.

### Representative Sample of Presentations

- “Overview of Employment Discrimination Issues,” Chesapeake Region Chapter of the Community Associations Institute Human Resources Seminar, Co-presenter, Columbia, Maryland, June 6, 2018
- “Your Community, You’re Connected – Community Association Governing Documents,” Fairfax County Consumer Affairs Cable Television Show, Panelist, Fairfax, Virginia, January 9, 2018
- “Overview Of Employment Discrimination Issues,” Virginia Leadership Retreat, Co-presenter, Hot Springs, Virginia, August 5, 2017
- “Guns And Community Associations – Can They Ever Mix?,” Community Associations Institute Annual Conference And Exposition, Co-presenter, Las Vegas, Nevada, May 4, 2017
- “Understanding, Preparing For, And Responding To Cyber Threats,” Community Associations Institute National Law Seminar, Co-presenter, Las Vegas, Nevada, January 19, 2017

### Memberships/Positions

- Board of Directors, Washington Metropolitan Chapter of the Community Associations Institute, November 2014 – Present (Immediate Past President, January 2022 – Present; President, January 2021 – December 2021; Vice President, January 2018-December 2018; Secretary January 2017 – December 2018)
- Communications Council Chair, Washington Metropolitan Chapter of the Community Associations Institute, 2014
- Co-Chair, Quorum Editorial Committee, Washington Metropolitan Chapter of the Community Associations Institute, January 2010 – December 2013
- Member, Fairfax Bar Association, 1997 – present
- Member, Virginia Bar Association, 1997 – present

### Education

**William Mitchell College of Law**  
Juris Doctor, *Magna Cum Laude*

St. Paul, Minnesota  
1997

**Virginia Polytechnic Institute and State University**  
Bachelor of Arts in Political Science

Blacksburg, VA  
1993

**Marla J. Diaz, Esq.**  
**Community Associations Attorney**

Recent Work History

<b>Whiteford, Taylor &amp; Preston, LLP</b>	<b>Falls Church / Richmond</b>
Partner	2016 - Present
Counsel	2014 - 2015
Associate	2008 - 2014

Represents Community Associations in Northern Virginia, Richmond, and Charlottesville

Recent Presentations

<b>Tips for Presiding Over Board and Member Meetings Successfully</b>	
Webinar accredited by CAMICB	May & August 2022
<b>Case Studies of Complex Insurance Claims</b>	
WMCCAI Conference & Expo	March, 2022
<b>Smoking and Other Odors – New Smoking Legislation, Regulating Smoking, Managing Complaints and Setting Policy</b>	
Webinar	October 2021
<b>Fair Housing Issues Part 1: Pools, Pets and Parking</b>	
WMCCAI's Conference & Expo	June 2021
<b>Fair Housing and Animals - A Primer for Community Associations</b>	
Webinar	April 2020
<b>Fair Housing Hot Topics and D&amp;O Liability</b>	
WMCCAI's Conference & Expo	February 2020

Recent Publications

<b>Discrimination Complaints in Your Neighborhood</b>	
Whiteford, Taylor & Preston's Newsletter	September 2021
<b>Solar Panels</b>	
Whiteford, Taylor & Preston's Newsletter	March 2021
<b>Client Alert: HUD Issues FHEO Notice Providing Guidance on Evaluating Reasonable Accommodation Requests for Animals under the Fair Housing Act</b>	
Whiteford, Taylor & Preston's Newsletter	Q2 2022

Current Committee Membership

**Arlington Bar Association**  
**Fairfax Bar Association**  
**Piedmont & Tidewater Subcommittee for Whiteford, Taylor & Preston, LLP**

Education

<b>Wake Forest University School of Law</b>	Winston-Salem
Juris Doctor	2001
<b>College of William and Mary</b>	Williamsburg
Bachelor of Arts in Government and Anthropology	1997

# **Chad Rinard, Esq.**

## **Community Associations Attorney**

### Recent Work History

#### **Whiteford, Taylor & Preston, LLP**

Partner  
Counsel

#### **Falls Church / Richmond**

January 2020 - Present  
September 2014 – December 2019

Represents Community Associations in Northern Virginia, Fredericksburg & Richmond

#### **Law Office of Chad Rinard, PLLC**

Owner

#### **Fredericksburg**

September 2008 - August 2014

Represented Community Associations in Stafford, Fredericksburg & Spotsylvania  
Litigated civil cases throughout Virginia including Henrico, Richmond, Chesterfield,  
Petersburg, Colonial Heights, Williamsburg & York

### Recent Presentations

#### **Tips for Presiding Over Board and Member Meetings Successfully**

Webinar accredited by CAMICB

May & August 2022

#### **It's the Association Feud! Surveys of the Ombudsman's Determinations**

SEVA CAI's Trade Show and Educational Expo

March 2022

Virginia Leadership Retreat

August 2021

#### **Legal Jeopardy, What to Avoid when Covenants and Law Conflict**

Virginia Leadership Retreat

July 2019

#### **Legislative Update – 2019**

In-person presentation for managers

June 2019

### Recent Publications

#### **Associations' Use of Electronic Voting to Conduct their Members' Business in the DMV**

WMCCAI's Quorum Magazine

August 2022

#### **Ombudsman's Determinations of Common Interest Community Law during the Pandemic**

Virginia State Bar Real Property Section's The Fee Simple Journal

June 2022

#### **Communities in Bloom: D.C. Conference Recap**

CVC CAI's Consensus Newsmagazine

Q2 2022

#### **How a Property Owners' Association Might Recover a Debt Against a Virginia Contractor**

Piedmont & Tidewater Subcommittee Newsletter

December 2021

### Current Committee Membership

#### **Common Interest Community Subcommittee for VSB's Real Estate Section**

#### **Education Committee for CVC CAI**

#### **Piedmont & Tidewater Subcommittee for Whiteford, Taylor & Preston, LLP**

### Education

#### **Georgetown University Law Center**

Juris Doctor

Washington

2001

#### **Emory University**

Bachelor of Arts in History & Music

Atlanta

1998

**Kathryn Murphy, Esq.**  
**Community Associations Attorney**

Recent Work History

**Whiteford, Taylor & Preston, LLP**  
Associate

**Falls Church, Virginia**  
November 2017 - Present

Represents Community Associations in Northern Virginia.

Recent Presentations

**Tips for Presiding Over Board and Member Meetings Successfully**

Webinar accredited by CAMICB

May & August 2022

Recent Publications

**2022 Virginia Legislative Update for Common Interest Communities**

Firm article published online

June 2022

**Pithy Title Needed: Lawyers Discussing Stormwater Management by Associations in Depth**

Firm article published online

June 2021

**Virginia 2021 Legislative Update for Common Interest Communities**

Firm article published online

April 2021

**Client Alert: zMod Proposed Changes to Fairfax County Zoning Ordinance and Potential Effects on Your Community**

Firm article published online

January 2021

**Client Alert: Virginia's Uniform Electronic Transaction Act: Conducting Association**

**Business Electronically During and Post COVID-19 Pandemic**

January 2021

Current Committee Membership

**Legislative Committee for WMCCAI**

**Piedmont & Tidewater Subcommittee for Whiteford, Taylor & Preston, LLP**

Education

**Notre Dame Law School**

Juris Doctor

South Bend, Indiana

2016

**Virginia Tech**

Bachelor of Arts in Political Science and English

Blacksburg, Virginia

2012

**Nasim Saeidi, Esq.**  
**Community Associations Attorney**

Recent Work History

**Whiteford, Taylor & Preston, LLP**  
Associate Attorney

**Falls Church**  
April 2020 - Present

Represents Community Associations in Northern Virginia, Fredericksburg & Richmond

**Kondori, Moorad & Niesen LLP**  
Associate Attorney

**Fairfax**  
April 2017 – December 2020

Represented clients throughout Virginia and D.C. in the areas of landlord-tenant, labor and employment, debt collections, business litigation and property disputes.

Recent Presentations

**Tips for Presiding Over Board and Member Meetings Successfully**

Webinar accredited by CAMICB

May & August 2022

Publications

**2022 Virginia Legislative Update for Common Interest Communities**

June 2022

**Virginia 2021 Legislative Update for Common Interest Communities**

April 2021

**ZMOD Proposed Changes to Fairfax County Zoning Ordinance and Potential Effects on Your Communities**

January 2021

**Conducting Association Business Electronically During and Post COVID-19 Pandemic**

January 2021

**Annual Meetings During COVID19**

October 2020

**COVID-19 Related Insurance Issues for Community Associations**

June 2020

Education

**University of Cincinnati College of Law**

Juris Doctor

Ohio

2015

**Xavier University**

Bachelor of Science in Business Administration

Ohio

2012

**Claudia Lopez-Knapp, Esq.**  
**Community Associations Attorney**

RECENT WORK HISTORY

**Whiteford, Taylor & Preston, LLP**  
Associate Attorney

**Falls Church**  
August 2021 – Present

Represents Community Associations in Northern Virginia, Fredericksburg & Richmond

**McClanahan Powers, PLLC**  
Associate Attorney

**Falls Church**  
January 2019 – August 2021

UPCOMING PRESENTATION

- Digital Decision-making: Boards Conducting Business through WhatsApp and Other Modern Platforms  
2023 Community Association Law Seminar in New Orleans

RECOGNITION

- *Washington, D.C. Super Lawyers®*, "Rising Stars" (2021)

MEMBERSHIPS & ACTIVITIES

- Member: Virginia Bar Association
- Member: Fairfax Bar Association
- Member: Alexandria Bar Association
- Education Committee for CAI
- Piedmont & Tidewater Subcommittee for Whiteford, Taylor & Preston, LLP

EDUCATION

- William and Mary Law School, 2017, J.D.
- George Mason University, 2012, B.S.



# Virginia Common Interest Community Law and Regulation Updates

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**By Whiteford, Taylor & Preston**

*This course is approved by the Common Interest Community Board  
to fulfill continuing education requirements for  
Common Interest Community Managers.*

# For this course, Common Interest Community Law is...

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- The Property Owners' Association Act,
- The Condominium Act,
- The Virginia Real Estate Cooperative Act &
- The Virginia Real Estate Time-Share Act.

# For this course, Common Interest Community Law is not...

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- The Fair Housing Act or
- The Nonstock Corporation Act or
- Covenant interpretation or
- Bylaw interpretation.

# So, let's start at the very beginning...

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- Condominiums are created when condominium instruments are recorded.
- When the Master Deed was recorded, for the purposes of the condominium statutes, units and their associated common elements were thereby constituted, not physically, but as integral parts of an established property regime. United Masonry, Inc. v. Jefferson Mews, Inc., 218 Va. 360, 376 - 77, 237 S.E.2d 171, 181 (1977).

# ...which is a very good place to start

---

- Property Owners' Associations are
  - any other developments subject to a declaration besides
    - Condominiums,
    - Cooperatives or
    - Times Shares

# What's New?

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- In 2019, the Virginia Condominium Act was renumbered from Va. Code secs. 55-79.39, et seq., to 55.1-1900, et seq.
- And the Property owners' Association Act was renumbered from 55.508, et seq., to 55.1-1800, et seq.
- A “Property Owners’ Association” must expressly have maintenance responsibilities and the authority to impose assessments. Shepherd v. Conde, 293 Va. 274, 286, 797 S.E.2d. 750, 756 (2017).

# Common Interest Community Law requires from Declarants...

---

- Of Property Owners' Associations
  - To Limit Management Contracts to 5 Years or Fewer, and
  - To Be Terminable on 90 Days Written Notice
- Of Condominiums
  - To File a Bond that is kept until Improvements to Common Elements are Complete, and
  - To complete all Improvements Shown on Plats, and
  - To make certain disclosures in a Public Offering Statement

# What's New?

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- Although declarants must statutorily file public offering statements, associations do not have to update their public offering statements. Gray v. Monarch Walk Condominium Association, File No. 2014-03642 (CICO June 30, 2014).



# Transition of Control from Declarant to Owners

---

- If Declarant no longer holds a majority of seats on a board, and
- no longer holds a majority of votes, then
  - Declarant must provide to the Association
    - all association books and records;
    - a statement of receipts and expenditures;
    - all plans for all improvements;
    - all association insurance policies;
    - any written unexpired warranties;
    - any contracts that bind the association &
    - a description of stormwater facilities.

# Declarants' Warranty of Common Elements

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- Declarants must warrant or guarantee
  - against structural defects in the common elements
    - for two years
- Structural defects
  - reduce the stability or safety of a structure below accepted standards, or
  - restrict the normal intended use of all or part of a structure, and
  - require repair, renovation, restoration, or replacement.

# The Warranty Specifics

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- Declarants' two-year warranty
  - begins when the first unit is conveyed
- And, notice of any warranty claim
  - must be given to Declarant and
  - must say that structural defects have reduced the stability or safety of the structure below accepted standards or restricted the normal intended use of all or part of the structure. Luria v. Board of Directors of Westbriar Condominium UOA Association, 277 Va., 359, 367, 672 S.E.2d 837, 841 (2009).

# Then, the Declarant is done and gone, so, now what?

---

- For Property Owners' Associations, follow the Declaration, which either
  - imposes responsibility for common area, *or*
  - authorizes assessments.
- For Condominiums, follow the Condominium Instruments, which include
  - the Declaration
  - the Bylaws &
  - the Plats and Plans.

# And if members do not like their Declaration, *etc.*, then...

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- For Property Owners' Association, amendments of the Declaration require
  - 2/3rds vote of the members
  - unless the Declaration requires otherwise
- For Condominiums, amendments of Condominium Instruments require
  - 2/3rds of the votes in the Association
  - unless the Condominium Instruments require otherwise

# What's New?

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- To effect an amendment to declaration, president must certify owners signed amendments or ratifications thereof. Tvardek v. Powhatan Homeowners Ass'n, Inc., 291 Va. 269, 277 - 78, 784 S.E.2d 280, 284 (2016).

# What Else is New?

## May Use Electronic Means if Able

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- An Association may vote electronically
  - unless expressly prohibited by a Declaration or the Condominium Instruments,
  - can retain records of those votes, and
  - provides alternatives at the Association's expense for any member that does not want to use electronic means
- Electronic Means means anything not involving paper
- Consult the Uniform Electronic Transactions Act for any further requirements

# But, Declarations may also be Supplemented or Supplanted

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- The Property Owners' Association Act does not invalidate
  - any Declaration recorded *before* July 1, 1998, but
  - that Act's provisions do apply if that Declaration is silent on those provisions
- So presumptively, the Property Owners' Association Act does invalidate
  - in any Declaration recorded *after* July 1, 1998
  - any contradictory provision



# Condominium Instruments may also be Supplemented or Supplanted

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- The Condominium Act does not invalidate
  - any Declaration recorded *before* July 1, 1974, but
  - that Act's provisions presumptively apply if that Declaration is silent on those provisions
- So, the Condominium Act likely does invalidate
  - in any Declaration recorded *after* July 1, 1974
  - any contradictory provision
- And, the provisions of the Condominium Act
  - may neither be varied by agreement nor waived

# Meeting Requirements for Members

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- Of Property Owners Associations

- Must be held at least once a year
- Notice must be provided at least 14 days in advance for annual and regularly scheduled meetings
- Notice must be provided at least 7 days in advance for other meetings
- Notice must state the time, place, and purposes of the meeting
- Notice must be sent by U.S. mail or it can be hand-delivered or sent by email

# Meeting Requirements for Members

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- Of Condominiums

- Must be held at least once a year
- Notice must be provided at least 21 days in advance for annual and regularly scheduled meetings
- Notice must be provided at least 7 days in advance for other meetings
- Notice must state the time, place and purposes of the meeting
- Notice must be sent by U.S. mail or it can be hand-delivered or sent by email

# What's New?

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- Despite COVID, an association must still hold a meeting of its members annually. Baumgarten v The Villas at River Point Condominium Association, Inc., File No. 2021-02069 (CICO April 22, 2021).
- As mentioned, notice may be sent electronically too, unless Declaration or Condominium Instruments *expressly prohibit it*.

See Va. Code secs. 55.1-1832 & -1935.

# What's Also New?

## Virtual Meetings of the Members

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- A members' meeting, meeting of the Board, or committee meeting can be held using an electronic platform if:
  - The Board has adopted guidelines
    - That ensure the persons accessing the meetings are authorized to do so &
  - The Association makes a reasonable alternative available for those who are unable to join virtually

# What's Also New?

## Virtual Meetings of the Members cont.

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- Unless expressly prohibited by the governing documents or the condominium instruments:
  - A member may vote at an association meeting in person, by proxy, or by absentee ballot
  - Voting may take place by electronic means
    - The Board must adopt guidelines for electronic voting
- Members voting by absentee ballot or proxy will be deemed present at the meeting for all purposes

# Board of Director Meetings

- Unless a Declaration or condominium instruments specify a larger majority, quorum is deemed present throughout any meeting of the Board if persons entitled to cast one-half of the votes are present at the beginning.
- All meetings, including committee meetings, are open to members
  - Informal gatherings cannot be used to circumvent this requirement
- Notice of the time, date and place of each meeting must be published
- Notice of special or emergency meetings must be provided to members, if possible, at the same time it is provided to the Board

# Board of Director Meetings

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- Any member may record any portion of a meeting that is required to be open
  - The Board may adopt rules regarding the use of recording equipment and requiring notice be provided that the meeting is being recorded
- The Board must allow owners the opportunity to comment on any matter relating to the association
  - The Board may limit comments to the topics listed on the meeting agenda for special meetings or a meeting in which the agenda is limited to specific topics



# Board of Director Meetings

- Executive session is used to:
  - Consider personnel matters
  - Consult with legal counsel
  - Discuss and consider contract, pending or probable litigation
  - Discuss and consider violations
  - Discuss and consider the personal liability of members to the association
- No contract, motion, or other action adopted, passed, or agreed to in executive session will become effective unless the board of directors reconvenes in open meeting and takes a vote

# What's New

- As mentioned, meetings of the Board can be held using an electronic platform.
- Attending a meeting virtually is not necessarily conducting business that requires an Association to provide an alternative to an owner who does not want to attend a meeting virtually. Fowler v Groundhog Mountain Property Owners' Association, File No. 2023-00825 (CICO October 25, 2022).
- Two board members are no longer required to be present at a virtual board meeting. Panayides v Lafayette Park Condominium, File No. 2022-00066 (CICO July 26, 2021).

See Va. Code sec. 55.1-1815 & -1935.

# Rules and Regulations that May Be Adopted under the POA

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- Summary of statutes applicable to Property Owners Association about rule making:
  - § 55.1-1806 (B) – Rental of lots
    - Association may require:
      - (i) the names, contact information and vehicle information for the tenants and (ii) the name and contact information of any authorized agent of the owner
      - the lot owner to provide the tenant's acknowledgment of and consent to any rules and regulations of the association

# More Rules and Regulations that May Be Adopted under the POA

---

- § 55.1-1819 (A) – Adoption and enforcement of rules
  - Board has the power to establish, adopt, and enforce rules and regulations with respect to use of the common areas and areas of responsibility assigned to the association by the declaration

# More Rules and Regulations that May Be Adopted under the POA

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- § 55.1-1820 – Display of the flag of the United States
  - Association cannot prohibit an owner from displaying the American Flag
  - Association may establish reasonable restrictions as to the size, place, duration, and manner of placement or display of the flag, if such restrictions are necessary to protect a substantial interest of the association

# More Rules and Regulations that May Be Adopted under the POA

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- § 55.1-1821 – Home-based businesses permitted
  - Unless the declaration provides otherwise, the association cannot prohibit an owner from operating a home-based business
  - The association may establish reasonable restrictions as to the time, place, and manner of the operation of a home-based business
  - The association may establish reasonable restrictions as to the size, place, duration, and manner of the placement or display of any signs on the owner's lot related to such home-based business
  - Any home-based business shall comply with all applicable local ordinances

# *New Rules and Regulations that May Be Adopted under the POA*

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- § 55.1-1819.1 – Limitation of smoking in development
  - Except to the extent that the declaration provides otherwise, the Board may establish reasonable rules that restrict smoking in the development, including in the common areas

# *New Rules and Regulations that May Be Adopted under the POA*

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- § 55.1-1820.1 – Installation of solar energy collection devices
  - Unless the declaration prohibits it, the association cannot prohibit an owner from installing a solar energy collection device on that owner's property
  - The association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices
    - A restriction is not reasonable if it increases the cost of installation by 5% or reduces the energy production of the device by 10%



# *New Rules and Regulations that May Be Adopted under the POA*

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- § 55.1-1823.1 – Electric vehicle charging stations permitted
  - Unless the governing document say otherwise, the association cannot prohibit any owner from installing an electric vehicle charging station
  - The association may establish reasonable restrictions concerning the number, size, place, and manner of placement or installation of such electric vehicle charging station
  - The association may require the owner obtain insurance covering claims related to the station

# What Else Is New?

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- Rules and regulations must be “within the scope of [the HOA's] authority” under its enumerated restrictive covenants. Sainani v. Belmont Glen Homeowners Association, Inc., 297 Va. 714, 728, 831 S.E.2d 662, 669 (2019).

# Rules and Regulations that May Be Adopted under the Condo Act

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- Summary of statutes applicable to Condominiums:
  - § 55.1-1951 – Display of the flag of the United States
    - Association cannot prohibit an owner from displaying the American Flag
    - Association may establish reasonable restrictions as to the size, place, duration, and manner of placement or display of the flag, provided such restrictions are necessary to protect a substantial interest of the association

# Rules and Regulations that May Be Adopted under the Condo Act

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- § 55.1-1959 (A) – Adoption of rules and regulations
  - Board has the power to establish, adopt, and enforce rules and regulations with respect to use of the common elements and areas of responsibility assigned to the association by the condominium instruments
- § 55.1-1960 – Limitation of occupancy of a unit
  - If expressly provided in the condominium instruments, the association can limit the number of persons who may occupy a unit

# Rules and Regulations that May Be Adopted under the Condo Act

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- § 55.1-1973 – Rental of units
  - Association may require:
    - the names, contact information and vehicle information for the tenants
    - the name and contact information of any authorized agent of the owner
    - the owner to provide the tenant's acknowledgment of and consent to any rules and regulations of the association

# *New Rules and Reg's that May Be Adopted under the Condo Act*

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- § 55.1-1951.1 – Installation of solar energy collection devices
  - Unless the declaration prohibits it, the association cannot prohibit an owner from installing a solar energy collection device on that owner's property
  - The association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices
    - A restriction is not reasonable if it increases the cost of installation by 5% or reduces the energy production of the device by 10%

# *New Rules and Reg's that May Be Adopted under the Condo Act*

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- § 55.1-1960.1 – Limitation of Smoking in Condominium
  - Except to the extent that the condominium instruments provide otherwise, the Board may establish reasonable rules that restrict smoking in the condominium, including in the common elements and units
- § 55.1-1962.1 - Electric vehicle charging stations permitted
  - Unless the condominium instruments provide otherwise, the association cannot prohibit any owner from installing an electric vehicle charging station
  - The association may prohibit the installation of a charging station if the installation is not technically feasible or practicable due to safety risks

# *New Rules and Reg's that May Be Adopted under the Condo Act*

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- § 55.1-1962.1 - Electric vehicle charging stations permitted
  - The association may require the owner:
    - Provide plans and drawings for the installation
    - Comply with building codes or recognized safety standards
    - Comply with reasonable architectural standards
    - Pay the costs of installation, maintenance, operation and use
    - Indemnify and hold the association harmless from any claim by a contractor or supplier
    - Pay the cost of removal of the station and restoration of the area
    - Separately meter and pay the utilities associated with the station
    - Engage a licensed electrician or engineer familiar with installation of electric charging stations
    - Obtain insurance covering claims related to the installation, maintenance, operation and use of the station
    - Reimburse the association for increases in common expenses attributable to the station



# Draft Agenda

## Duty to Maintain Condominium Common Elements

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- A condominium association has a duty to maintain, repair, replace and restore “Capital Components”, meaning all portions of the condominium other than the units.
  - Including the physical structures
- The financial responsibilities for the maintenance of the condominium falls on the associations except in cases where the damage is caused by the unit owners.

# Capital Components are

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- Items which associations have the obligation to repair, replace or restore as necessary
  - Does not have to be part of the common elements
- Funded through the Reserve Budget

# What's New?

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- An association violated common interest community law by using association funds for the repair of private toilets. A. Spencer Taylor v. Condominium Unit Owners Association of Villas at Peppers Ferry, File No. 2021-00645 (CICO October 20, 2020).
- Ombudsman will not determine if a board's decision to deny a request for a replacement was proper. Nicholls v. Pretty Lake Village Condominium Association, File No. 2019-02078 (CICO March 15, 2019).

# POA's Duty to Maintain Common Area

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- Similarly, the POA act imposes duties to maintain Capital Components
- Capital Components include but are not limited to Common Area, or property owned, leased or maintained or operated by the association

# Reserves to Maintain Capital Components

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- Unless otherwise provided by the governing documents:
  - Reserve Study must be done at least once every five years to determine necessity and amount of reserves required for repair, replace and restore capital components
  - Review reserve study annually and make necessary adjustments
- Budget for reserves should include:
  - Current estimates replacement cost, remaining life, and useful life of capital components

# What's New?

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- Budget for reserves should also include:
  - statement of amount of reserves recommended in the study, and
  - amount of current cash for replacement reserves
- Boards must make either
  - Annual budget or
  - A summary of the annual budget
    - Available prior to the fiscal year
      - Unless Declaration or Condominium Instruments say otherwise

# What Else is New?

- Budget is not required to fund reserves and operating expenses, reserves may be funded over time. Wiseman v The Tivoli at Cardinal Forest Condominium, File No. 2021-02919 (CICO July 19, 2021).
- Reserve study was incomplete because it did not address all capital components. Bosiger v. The Crossings Property Owners Association, File No. 2019-02748 (CICO May 23, 2019).
- Board can maintain reserves as it deems appropriate. King v Pleasant Valley Condominium Owners Association, File No. 2017-03017 (CICO July 27, 2017).

# Limitations on Assessments

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- Statutory authority to charge assessments that
  - may not be expressed in a Declaration
  - for a Property Owners Association must
    - Be related to services or
    - For use of the common area
  - may not be expressed in Condominium Instruments
  - for a Condominium must
    - Be related to services



# What's New?

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- If board members are preparing disclosure packets, there should be no hourly charge applied since board members are volunteers and therefore no actual cost for preparation is incurred. Pilkerton v. Malvern Club, Inc., File No. 2020-01824 (CICO February 25, 2020).
- Imposing a charge for an ARC application fee under the association's declaration is not a violation of common interest community law. Edwards v. Stone Ridge Association, Inc., File No. 2019-01347 (CICO December 14, 2018).

# Covenant Enforcement

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- An Association may duly adopt policy resolutions pursuant to its rulemaking authority
- However, when an Owner does not comply, what can the Association do?
  - The Association must only take enforcement actions expressly authorized by its recorded governing documents
  - If the Association has remedies in its governing documents, Virginia law requires certain additional due process procedures

# Typical Enforcement Remedies

- Suspension of privileges for nonpayment of assessments
- Imposition of violation charges for violation of the Association's documents
- Suspension of voting rights
- Suspension of privileges for violation of the Association's documents other than for nonpayment of assessments
- The Association's right of entry, and right to file an injunctive relief lawsuit to compel compliance by court intervention
- The Association's right to file a lawsuit for unpaid assessments.

# Enforcement, Generally

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- Associations are limited in the scope of their enforcement remedies by three factors:
  - The express language of the recorded governing documents
  - The Virginia Condominium Act for Condominiums and the Virginia Property Owners' Association Act for Homeowners Associations
  - Virginia Supreme Court decisions

# Violation Charges

- If the Association's recorded documents authorize it, the Association may assess violation charges against a violating Owner as long as it complies with the requirements contained in 55.1-1819 (B)-(D) of the Virginia Property Owners' Association Act and 55.1-1959 (B)-(D) of the Virginia Condominium Act.
- These two provisions are almost identical in their due process requirements and limitations on the amount of the charges. Both limit the amount of charges to \$10.00 per day for up to 90 days for violations of a continuing nature, and \$50.00 for a one time violation.

# Due Process

- Prior to assessing a violation charge against a violating Owner, the Association must provide:
  - 1. A Notice of Violation and Opportunity to Cure letter mailed to the address required for notices of meetings.
  - 2. If the violation remains uncorrected after a reasonable period of time, the Association must then provide a Notice of Hearing, which includes the actions which may be taken by the Association at least 14 days prior to the hearing by hand delivery or registered or certified mail to the address required for notices of meetings.
  - 3. The Association must then hold a hearing, at which time the violating Owner will have an opportunity to be heard and also has the right to be represented by counsel in front of the executive board or covenants committee.
  - 4. Within 7 days of the hearing, the Association shall provide notice of the hearing result to the violating Owner by hand delivery or registered or certified mail to such Owner at the address required for notices of meeting.

# What's New?

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- Associations must have express authority in the recorded documents prior to taking enforcement actions
  - The Virginia Supreme Court ruled in Shadowood Condominium Association v. Fairfax County Redevelopment and Housing Authority that the authority in the Virginia Property Owners' Association and Virginia Condominium Act to assess violation charges **is not** sufficient to impose the charges on its own. The recorded governing documents must clearly state that the Association has authority to impose violation charges as well.
  - If the Association does not have express authority to impose violation charges for violations, it must amend the recorded documents. Adopting a policy resolution is not sufficient authority to impose violation charges.

# Suspension of Privileges for Non-Payment of Assessments

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- Likewise, if the Association has express authority to suspend privileges for any nonpayment of assessment for 60 days or more, it may do so after following the due process requirements in the previous slides.
- Common suspensions are the right to use Common Area or Common Element parking, the right to use the pool, right to certain utility services like cable or internet, or other amenities.
- Note: the Association may not suspend a privileges which prevent access to the unit through the common elements, or any privileges which would endanger the health, safety or property of any Owner or occupant.



# Suspension of Privileges for other violations & of voting rights

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- If the Association's recorded governing documents expressly provide authority, the Association may also suspend privileges for other violations which are not nonpayment of assessments. Virginia law is silent on whether due process procedures should be taken in that case.
  - Note: the Association may not suspend a privileges which prevent access to the unit through the common elements, or any privileges which would endanger the health, safety or property of any Owner or occupant. This would include utility services like water, heat and electricity.

# Injunctive Relief

- Important statutes relevant to injunctive relief:
  - § 55.1-1819 (e) Adoption and enforcement of rules
  - § 55.1-1828 (A) Compliance with Declaration
  - § 55.1-1915 (A) Compliance with condominium instruments
  - § 55.1-1959 (E) Adoption and enforcement of rules and regulations

# What's New?

- 
- In order to have a successful injunctive relief claim, the Association should be prepared to establish:
    - its likelihood of success on the merits;
    - whether irreparable harm will be suffered if the injunction is denied;
    - whether the harm to the plaintiffs outweighs the harm to the defendants; and
    - whether the injunction is in the interest of the public. Dillon v. Northam, 105 Va. Cir. 402, \_ (Virginia Beach 2020)(citing The Real Truth About Obama, Inc. v. Fed. Election Comm'n, 575 F.3d 342 (4<sup>th</sup> Cir. 2009)).

# What's More?

- [However], if a statute empowers the court to grant injunctive relief, a request for an injunction need not contain an allegation of irreparable harm. Farran v. Olde Belhaven Towne Owners' Ass'n, 83 Va. Cir. 286, \*5 (Fairfax County 2011).

# Attorney's Fees

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- In the event the Association is forced to file either a claim for unpaid assessments, violation charges, late fees etc. or an injunctive relief claim ordering compliance with its rules, the Association is entitled to its reasonable attorney's fees expended if it is the prevailing party pursuant to § 55.1-1828 (A) and (B) Compliance with the declaration and § 55.1-1915 (A) and (B) Compliance with the condominium instruments.
- Most documents will also have an attorney's fees provision

# What's New?

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- Lambert v. Sea Oats Condominium Association, Inc. says that it is mandatory to award a prevailing party its attorney's fees.

# Owners' Right to Transparency

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- Books and records kept by an association
  - can be examined and copied
  - by an owner in good standing or his agent
  - for a proper purpose related to his membership in the unit owners' association
  - during reasonable business hours, or
  - at a mutually convenient time and location, and
  - upon five business days' written notice, but
  - must reasonably identify the purpose for the request, and
  - the specific books and records requested.

# What's New?

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- Association cannot provide a document for examination that it does not possess. Taylor Yorke v. Unit Owners Association of Hiddenbrooke Condominium, File No. 2020-01513 (CICO February 11, 2020).
- Association does not have to create a report if such report does not already exist. Shears v Farmcolony I Homeowners' Association, Inc., File No. 2023-00047 (July 27, 2022) & Sarrett v. Nolde Bakery Condominium, File No. 2014-03756 (CICO July 15, 2014).



# What Else is New?

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- There is no time limit in which to respond to a request to *copy* records. Zeien v Green Run Homes Association, File No. 2019-01346 (CICO December 12, 2018).

# But, Not All Records Have to be Produced for Examination

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- Associations may withhold these documents
  - Contracts in or under negotiation,
  - Litigation records,
  - Attorney-client communications,
  - Materials for executive session,
  - Individual owner files, other than those of the requesting owner &
  - For condominiums, drafts not yet incorporated into the books and records

# What's New?

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- Association has discretion about the documents it includes in a member's file. Robins v Swift Run Trails Homes Association, File No. 2021-2516 (CICO June 22, 2021).
- E-mail address may be exempt from examination if part of unit owners' file. Dispensa v Parc Reston Condominium Unit Owners' Association, File No. 2017-02876 (CICO June 15, 2017).

# Encouragement of Communications Among Owners

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- Boards must establish
  - a reasonable, effective, and free method,
  - appropriate to the size and nature of the association,
  - for owners to communicate among
    - themselves and
    - with their Board
- But Condominium Boards must *not*
  - require prior approval of the dissemination or content of any material

# What's New?

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- POA does not prohibit Association from adopting guidelines for the use of its method of communication. Ward v Captain's Cove Golf & Yacht Club, File No. 2023-00826 (CICO October 25, 2022).
- Facebook and bulletin boards do appear to be sufficient to meet the requirements of the Condominium Act. Luis Lerin v. Three Ships Landing Condominium Association, File No. 2020-01334 (CICO January 6, 2020).

# What Else is New?

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- But, phone numbers, emails and a directory are not sufficient methods of communication among members. York v Hiddenbrooke Condominium Unit Owners Association, File No. 2022-00092 (CICO August 13, 2021).
- Associations may not preapprove messages posted by unit owners on Building Link even if they consider the messages defamatory. Massou v Woodbury Heights Condominium, File No. 2021-2585 (CICO July 19, 2021).

# What Further is New?

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- But, associations *may remove* postings they believe to be defamatory. Schibani v Lakeside Plaza Condominium Association, File No. 2017-01017 (CICO November 16, 2016).
- Finally, boards are not required to respond to those communications. Kamminga v Tartan Village Association, File No. 2016-01898 (CICO March 9, 2016).

# Rights of Potential Owners

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- Associations must prepare disclosure packets for purchasers carefully because
  - Purchasers may cancel their contracts
    - within three days of receiving their disclosure packets
  - And, associations are bound by the statements made in their disclosure packets about
    - the status of an assessment account and
    - the status of the lot with respect to any violation of the governing documents



# CICB Regulations

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- Licensing
  - CIC Manager Regulations – Recent Changes  
12/1/21
- CIC Association Registration Regulations – Recent Changes 9/1/21
- Complaint Process
  - CIC Ombudsman Regulations – No Recent Changes
- Project Registration
  - Condominium Regulations – No Recent Changes
  - Time-Share Regulations – No Recent Changes

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Materials contained in this agenda are proposed  
and are not to be construed as regulation or official  
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# Manager Regulations

# Recent Regulatory Changes - Effective December 1, 2021

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*Qualifications for licensure as a common interest community manager and certification as a principal or supervisory employee were revised to exclude marijuana-related misdemeanor convictions from convictions that must be disclosed on an application. Standards of conduct and practice were revised to exclude marijuana-related drug distribution misdemeanor convictions from convictions that a Regulant must report to the Board.*

# Definitions

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- Common-Interest Community
- Common- Interest Community Manager
- Management Services
- Certified Principal or Supervisory Employee
- Principal Responsibility
- Direct Supervision
- Responsible Person
- Regulant
- Supervisory Responsibility

# License

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- Who - Any Person or Firm Offering Management Services
- Application Disclosures
  - Include Relevant Information About Responsible Person and Principals of the Firm
    - Outstanding Judgments, Bond Defaults, Bankruptcies, Past Due Tax Assessments and All Relevant Financial Information Relating to Providing Management Services and (7 Years)
    - Felony Convictions
    - Misdemeanor Convictions Within 3 Years (*Except Marijuana as 12/1/21*)
    - Prior Disciplinary Action

# Manager License

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- Method of Licensure (Options) - AAMC
  - Supervisory Employee, Officer, Manager or Principal Information
  - Evidence of Blanket Fidelity Bond Insurance or Employee Dishonesty Insurance
  - Certified Principal and Supervisory Employee Certification
  - Compliance with Standards of Good Conduct Practice (18VAC48-5-140 *et. seq*)
- Applicant, Responsible Person, and Principals of Firm Must be in Good Standing

# Certification

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- Who – Certified Principal and Supervisory Employees
- Disclosures
  - Felony Convictions
  - Misdemeanor Convictions Within 3 Years (*Except Marijuana as of 12/1/21*)
  - Compliance with Standards of Good Conduct Practice (18VAC48-5-140 *et. seq*)
  - Outstanding Judgments, Bond Defaults, Bankruptcies, Past Due Tax Assessments and All Relevant Financial Information Relating to Providing Management Services and (7 Years)
  - Professional Certification Requirements
    - PCAM, AMS, CMCA
    - Completion of Approved Introductory or Comprehensive Training and Six Months Experience

# Standards of Conduct and Practice

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- Grounds for Disciplinary Action
- Maintenance of License or Certification
- Maintenance and Management of Accounts
- Change of Business Entity Requires New License
- Notice of Adverse Action
- Prohibited Acts
- Internal Accounting Controls – GAAP
- Response to Inquiry and Provision of Records



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# **CIC Association Registration Regulations**

# Recent Regulatory Changes - Effective September 1, 2021

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- Name of Regulations changed to Common Interest Community Association Registration Regulations.
- Clearer procedures for renewal of a registration, including a one-year timeframe for an association to renew. An association that does not renew during that timeframe must reapply by submitting a new registration application.
- Addition of several definitions, including the terms “registration” and “annual report.”
- New section that comprehensively outlines association registration requirements, including potential consequences outlined in statute for associations that fail to comply.

# Timeframe for Registration and Annual Report

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- Within 30 days after the date of termination of the declarant control period, an association governing a condominium shall register with the board by filing the annual report required by § [55.1-1980](#) of the Code of Virginia and shall file an annual report every year thereafter.
- Within 30 days after the date of termination of the declarant control period, a proprietary lessees' association shall register with the board by filing the annual report required by § [55.1-2182](#) of the Code of Virginia and shall file an annual report every year thereafter.
- Within the meaning and intent of § [55.1-1835](#) of the Code of Virginia, a property owners' association shall register with the board by filing an annual report within 30 days of recordation of the declaration and shall file an annual report every year thereafter.

## **Attachment #4: Training Program Dates and Locations**

We plan to offer our training program in December 2022 as a webinar & again in May 2023 for CAI CVC likely as a hybrid webinar and live event hosted from our Richmond office.

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Materials contained in this agenda are proposed topics for discussion  
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DRAFT AGENDA  
Materials contained in this agenda are proposed topics for  
and are not to be considered as regulation or official Board policy  
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# WHITEFORD, TAYLOR & PRESTON

THIS IS TO CERTIFY THAT

**SAMPLE**

has successfully completed

## Virginia Common Interest Community Law and Regulations Update

held on           , 202  

for 2 hours of Virginia common interest community law and regulation training,  
approved by Common Interest Community Board

## **Attachment #6: Online/Correspondence Training Program Information**

We (Whiteford, Taylor & Preston) will be running our Virginia Common Interest Community Law and Regulation Updates training either or both virtually via GoToWebinar, or offer the course in-person at different management offices where a member of their staff will track who attends and relay that information to us so we can create and provide all attendees with their personalized completion certificates. If using GoToWebinar, the platform requires prior registration for the session at an agreed upon date and creates unique links to join the session for each registrant. The platform tracks who registers, who attends, how engaged each attendee is during the session, how long they were present in the session, which questions they asked, etc., all accessing in a report that can be pulled. We will use that information to create personalized certificates for each of the attendees. We will keep all information as requested for each individual participating in our training up to the five year mark.

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Materials contained  
and are not to be  
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# Common Interest Community Board

## Update on Regulatory Actions

(as of November 14, 2022)

### Action: CIC Manager Regulations – General Review

#### Current Stage: Proposed

- Board reviewed and considered committee recommendations, and adopted proposed regulatory text, with revisions, on 3/3/22.
- Proposed regulatory text submitted for Executive Branch review on 3/14/22.
- Currently in Executive Branch review.

#### Next Step: Executive Branch Review/Public Comment

- Following completion of Executive Branch review, publication of proposed regulation in Virginia Register, and 60-day public comment period. Comment period will include a public hearing.

**UPDATE ON SB 740 STRUCTURAL**  
**INTEGRITY AND RESERVES**  
**WORKGROUP**

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Materials contained in this agenda are proposed for discussion  
and are not to be construed as regulation or official action.  
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## REPORTS TO THE GENERAL ASSEMBLY

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### RD600 - Common Interest Community Board Review on the Feasibility of Allowing Audio and Video Recordings to be submitted with a Notice of Final Adverse Decision pursuant to Senate Bill 693 (2022) – October 26, 2022

**Published:** 2022

**Author:** Common Interest Community Board

**Enabling Authority:** Chapter 244 Enactment Clause 1. (Regular Session, 2022)

#### **Executive Summary:**

Sections § 54.1-2354.3 and 54.1-2354.4 of the Code of Virginia establish the Office of the Common Interest Community Ombudsman ("CICO") and the requirement for each common interest community ("CIC") association to establish an internal complaint procedure to resolve complaints made by an association member or citizen ("complainant") against the association. A complainant who receives an adverse decision from an association may file a notice of final adverse decision ("NFAD") with the Common Interest Community Board ("the Board"). The NFAD is to include all records pertinent to the association's adverse decision. The CICO reviews the NFAD to determine whether the association's decision conflicts with laws and regulations governing CICs. Under applicable statute and Board regulations, an NFAD must be in writing.

Senate Bill 693, as introduced during the 2022 General Assembly session, proposed to amend the Code of Virginia to require that an NFAD filed with the Board include "...any video or audio recordings..." The original bill was amended. The amended bill directed the Board to "...review the feasibility of allowing audio and video recordings to be submitted with a notice of final adverse decision as a record pertinent to the decision in accordance with § 54.1-2354.4 of the Code of Virginia." The bill required the Board to:

- Identify pertinent statutory and regulatory amendments necessary to allow for the submission of recordings;
- Identify any impediments to the submission of recordings, including information technology limitations and compliance with the provisions of the Virginia Freedom of Information Act and other public records laws;
- Consider whether allowing the submission of recordings would assist the CICO in the performance of duties with respect to any NFAD;
- Solicit and consider public comments; and
- Report its findings and any legislative, regulatory, policy, or budgetary recommendations to the Secretary of Labor and the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology.

The Board conducted the review with assistance from a committee comprised of common interest community attorneys, citizens residing in common interest communities, Board members, and the CICO.

The committee concluded that § 54.1-2354.4 of the Code of Virginia would likely need amendment to clarify that audio and video recordings can be submitted as records pertinent to a decision. The Common Interest Community Ombudsman Regulations (18VAC48-70) would require significant amendment to provide the public with the requirements and processes for submitting audio and video recordings with NFADs. CICs would be required to amend their internal documents and policies in order to comply with these changes. Implementation of these changes by CICs are impediments that may not make such changes feasible.

The Department of Professional and Occupational Regulation (DPOR) has the technical capacity to receive and archive digital audio and video recordings, but would need to establish clear guidelines prescribing acceptable file formats and procedures for submission of recordings. DPOR would need to provide appropriate training and resources for its public records management staff to perform redactions of recordings in order to timely and appropriately comply with the Freedom of Information Act when requests for closed NFAD cases are received.

The CICO may be able to receive and review recordings, and DPOR's public records management staff may be able to fulfill public records requests, without the need for additional staff. Additional staff would be required if there are a high number of NFADs that include recordings.

The committee also concluded that allowing for submission of audio and video recordings would be contrary to the role and purpose of the CICO and the association complaint process as designed by the General Assembly. Moreover, allowing for submission of audio and video recordings would not assist the CICO in performing the duties required by statute, and would likely be detrimental to the performing of these duties. The committee further concluded there was no substantial evidence for a change, and no identifiable public problem that allowing for submission of audio and video recordings would address. Moreover, the committee concluded that allowing for submission of recordings to the CICO may result in unintended negative impacts to CICs.

Based on the committee's findings and conclusion, the Board recommends against any legislative or regulatory changes to allow for the submission of audio and video recordings with an NFAD.

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Materials contained in this agenda are preliminary and are not to be construed as a final decision.  
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## MEMORANDUM

**TO: Members  
Common Interest Community Board**

**FROM: Joseph C. Haughwout, Jr., Board Administrator  
Common Interest Community Board**

**DATE: November 28, 2022**

**SUBJECT: Update to Maximum Allowable Fees for POA Disclosure Packets  
and Condominium Association Resale Certificates**

Background:

The Property Owners' Association Act (Chapter 18 of Title 55.1 of the Code of Virginia) and the Virginia Condominium Act (Chapter 19 of Title 55.1 of the Code of Virginia) set specific maximum allowable fees that may be charged by the preparer of disclosure packets and resale certificates. The Acts also index those maximum allowable fees to inflation and require adjustment every five years based on the United States Average Consumer Price Index, All Urban Consumers (CPI-U).

Sections **55.1-1810** and **55.1-1992** of the Code of Virginia both state, in pertinent part:

B. A reasonable fee may be charged by the preparer [of the disclosure packet/resale certificate] as follows:

1. For the inspection of the [lot/unit], as authorized in the declaration and as required to prepare the [disclosure packet/resale certificate], a fee not to exceed \$100;
2. For the preparation and delivery of the [disclosure packet/resale certificate] in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. Only one fee shall be charged for the preparation and delivery of the [disclosure packet/resale certificate];

3. At the option of the seller or the seller's authorized agent, with the consent of the [unit owners'] association or the common interest community manager, for expediting the inspection, preparation, and delivery of the [disclosure packet/resale certificate], an additional expedite fee not to exceed \$50;

4. At the option of the seller or the seller's authorized agent, for an additional hard copy of the [disclosure packet/resale certificate], a fee not to exceed \$25 per hard copy;

5. At the option of the seller or the seller's authorized agent, for hand delivery or overnight delivery of the overnight [disclosure packet/resale certificate], a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service; and

6. A post-closing fee to the purchaser of the [property/unit], collected at settlement, for the purpose of establishing the purchaser as the owner of the [property/unit] in the records of the [unit owners'] association, a fee not to exceed \$50.

I. A reasonable fee for the [disclosure packet/resale certificate] update or financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the [unit owners'] association or the common interest community manager perform an additional inspection of the [lot/unit], as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. Neither the association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the [disclosure packet/resale certificate] update. The requester may request that the specified update be provided in hard copy or in electronic form.

Sections **55.1-1810(F)** and **55.1-1992(F)** of the Code of Virginia both state:

The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

The initial maximum fees were established by the General Assembly in 2008. In accordance with the Acts, the Board adjusted the fees in 2013.

On June 27, 2013, the Board adopted a guidance document on the specific maximum allowable fees that may be charged by preparers of disclosure packets and resale certificates. On January 16, 2018, the guidance document was amended to reflect the current maximum allowable fees. The current fees are based on the compounded increase in CPI-U of 7.37% between December 31, 2012, and December 31, 2017.

Issue

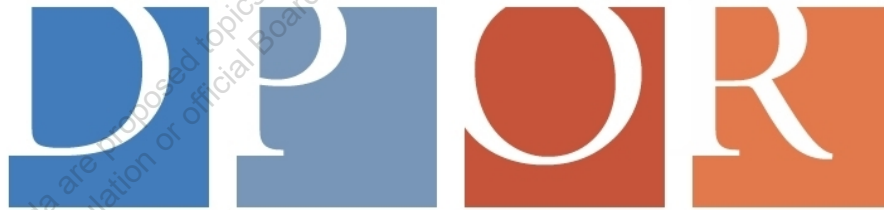
Pursuant to the Acts, the Board is required to readjust the maximum allowable fees, effective January 1, 2023, to account for the change inflation over the preceding five years. At this time, the CPI-U for December 2022, which would be required to calculate inflation for the five-year period from 2018 to 2022, is not available. This data will not be available until January 2023. Staff has calculated an estimated CPI-U for December 2022 based on the average monthly change to the CPI-U for 2022. The estimated CPI-U for December 2022 is 301.76. The CPI-U for December 2017 was 246.524. The estimated adjusted fees outlined below are based on a calculated compounded increase in CPI-U of 22.4% between December 2017 and December 2022.

Fee Type	Current Adjusted Fee (2018)	Estimated Adjusted Fee (2023)
Inspection of lot/unit	\$117.84	<b>\$144.24</b>
Preparation/delivery of packet/certificate (paper)	\$176.76	<b>\$216.36</b>
Preparation/delivery of packet/certificate (electronic)	\$147.30	<b>\$180.30</b>
Expedited inspection additional fee	\$58.92	<b>\$72.12</b>
Additional copy fee	\$29.46	<b>\$36.06</b>
Third-party commercial delivery (overnight or hand-delivery)	N/A	<b>N/A</b>
Post-closing fee	\$58.92	<b>\$72.12</b>
Pre-settlement updates	\$58.92	<b>\$72.12</b>
Additional inspection fee	\$117.84	<b>\$144.24</b>

Staff requests that until the CPI-U for December 2022 is reported by the Bureau of Labor Statistics (BLS), when the actual change in CPI-U for 2017-2022 can be calculated, that the current maximum allowable fees remain in place. Once BLS

reports the CPI-U for December 2022, staff will update the Board's guidance document and publish the adjusted maximum allowable fees.

DRAFT AGENDA  
Materials contained in this agenda are proposed topics for discussion  
and are not to be construed as regulation or official Board position  
DRAFT AGENDA



Department of Professional and Occupational Regulation

## Common Interest Community Board

### Guidance Document: Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates

Adopted June 27, 2013

Amended March 27, 2014

Amended July 1, 2014

Amended January 16, 2018

Revised September 3, 2020

*Effective December 10, 2020*

#### I. Issue

The Property Owners Association Act and the Virginia Condominium Act set specific maximum allowable fees that may be charged by the preparer of disclosure packets and resale certificates, provided that specific provisions of the applicable Acts are being met. The Acts also index those maximum allowable fees to inflation and require adjustment every five years based on the United States Average Consumer Price Index, All Urban Consumers (CPI-U).

#### II. Applicable Statutes

**§§ 55.1-1810** (pertaining to a disclosure packet for property subject to a property owners' association) and **55.1-1992** (pertaining to a resale certificate for a unit subject to a unit owners' association) of the Code of Virginia both state, in part:

Guidance Document

Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates

Adopted June 27, 2013 (Amended March 27, 2014; July 1, 2014; January 16, 2018; Revised September 3, 2020)

B. A reasonable fee may be charged by the preparer of the [disclosure packet/resale certificate] as follows for:

1. The inspection of the [unit/lot], as authorized in the declaration and as required to prepare the [disclosure packet/resale certificate], a fee not to exceed \$100;

2. The preparation and delivery of the [disclosure packet/resale certificate] in (i) paper format, a fee not to exceed \$150 for no more than two hard copies, or (ii) electronic format, a total fee not to exceed \$125, for a copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requestor. Only one fee shall be charged for the preparation and delivery of the [disclosure packet/resale certificate];

3. At the option of the seller or his authorized agent, with the consent of the [unit owners'] association or the common interest community manager, expediting the inspection, preparation, and delivery of the [disclosure packet/resale certificate], an additional expedite fee not to exceed \$50;

4. At the option of the seller or his authorized agent, an additional hard copy of the [disclosure packet/resale certificate], a fee not to exceed \$25 per hard copy;

5. At the option of the seller or his authorized agent, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service for hand delivery or overnight delivery of the [disclosure packet/resale certificate]; and

6. A post-closing fee to the purchaser of the [property/unit], collected at settlement, for the purpose of establishing the purchaser as the owner of the [property/unit] in the records of the [unit owners'] association, a fee not to exceed \$50.

I. A reasonable fee for the [disclosure packet/resale certificate] update or financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or his authorized agent, the requestor may request that the [unit owners'] association or the common interest community manager perform an additional inspection of the [unit/lot], as authorized in the declaration, for a fee not to exceed \$100. Any fees



Guidance Document

Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates

Adopted June 27, 2013 (Amended March 27, 2014; July 1, 2014; January 16, 2018; Revised September 3, 2020)

charged for the specified update shall be collected at the time settlement occurs on the sale of the property. Neither the [unit owners'] association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the [disclosure packet/resale certificate]. The requestor may request that the specified update be provided in hard copy or in electronic form.

**§§ 55.1-1810(F) and 55.1-1992(F)** of the Code of Virginia both state:

The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumer (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

### III. Policy

The CPI-U on 12/31/07 was 210.036, on 12/31/08 was 210.228, on 12/31/09 was 215.949, on 12/31/10 was 219.179, on 12/31/11 was 225.672, and on 12/31/12 was 229.601. With a starting point of 100, the compounded increase between 12/31/07 and 12/31/12 was 9.31%. In order to be consistent in calculation, the Board adopted the following policy indicating the exact compounded monetary amounts that are the maximum allowable fees to be charged by the preparers of disclosure packets and resale certificates, as applicable.

1. The inspection pursuant to §§ 55.1-1810(B)(1) and 55.1-1992(B)(1) of the *Code of Virginia*, a fee not to exceed **\$109.31**;
2. The preparation and delivery of the disclosure packet or resale certificate, as applicable, pursuant to §§ 55.1-1810(B)(2) and 55.1-1992(B)(2) of the *Code of Virginia*, in (i) paper format, a fee not to exceed **\$163.97** for no more than two hard copies, or (ii) electronic format, a total fee not to exceed **\$136.64**, for a copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requestor;
3. Expediting the inspection, preparation, and delivery of the disclosure packet or resale certificate, as applicable, pursuant to §§ 55.1-

Guidance Document

Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates

Adopted June 27, 2013 (Amended March 27, 2014; July 1, 2014; January 16, 2018; Revised September 3, 2020)

1810(B)(3) and 55.1-1992(B)(3) of the *Code of Virginia*, an additional expedite fee not to exceed **\$54.66**;

4. Pursuant to §§ 55.1-1810(B)(4) and 55.1-1992(B)(4) of the *Code of Virginia*, an additional hard copy of the disclosure packet or resale certificate, as applicable, a fee not to exceed **\$27.33** per hard copy;

6. Pursuant to §§ 55.1-1810(B)(6) and 55.1-1992(B)(6) of the *Code of Virginia*, a post-closing fee to the purchaser of the property or unit, as applicable, a fee not to exceed **\$54.66**;

I. A disclosure packet or resale certificate update, as applicable, or financial update pursuant to §§ 55.1-1810(I) and 55.1-1992(I) of the Code of Virginia, a fee not to exceed **\$54.66**. An additional inspection, as authorized in the declaration, pursuant to §§ 55.1-1810(I) and 55.1-1992(I) of the Code of Virginia, a fee not to exceed **\$109.31**.

On November 30, 2017, the Board authorized that the fees listed above remain in place until Bureau of Labor Statistics (BLS) published the CPI-U for December 2017. On January 12, 2017, BLS published the CPI-U for December 2017. The CPI-U for December 2012 was 229.601. The CPI-U for December 2017 was 246.524. Based on the calculation formula outlined above, the increase between 12/31/2012 and 12/31/17 was 7.37%. The revised maximum allowable fees outlined below are effective as of January 16, 2018.

Fee Type	Initial Maximum Fee (2008)	Adjusted Fee (2013)	Adjusted Fee (2018)
Inspection of lot/unit	\$100.00	\$109.31	<b>\$117.37</b>
Preparation/delivery of packet/certificate (paper)	\$150.00	\$163.97	<b>\$176.05</b>
Preparation/delivery of packet/certificate (electronic)	\$125.00	\$136.64	<b>\$146.71</b>
Expedited inspection additional fee	\$50.00	\$54.66	<b>\$58.69</b>
Additional copy fee	\$25.00	\$27.33	<b>\$29.34</b>
Third-party commercial delivery (overnight or hand-delivery)	Actual cost	N/A	<b>N/A</b>
Post-closing fee	\$50.00	\$54.66	<b>\$58.69</b>

Guidance Document

Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates

Adopted June 27, 2013 (Amended March 27, 2014; July 1, 2014; January 16, 2018; Revised September 3, 2020)

Pre-settlement updates	\$50.00	\$54.66	<b>\$58.69</b>
Additional inspection fee	\$100.00	\$109.31	<b>\$117.37</b>

DRAFT AGENDA  
Materials contained in this agenda are for informational purposes only and are not to be construed as regulation.  
DRAFT AGENDA



Department of Professional and Occupational Regulation

## Common Interest Community Board

### Guidance Document: Regarding Specific Maximum Allowable Fees Set by the Property Owners Association Act and Virginia Condominium Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates

Adopted June 27, 2013

Amended March 27, 2014

Amended July 1, 2014

Amended January 16, 2018

Revised September 3, 2020

Amended January 12, 2023

Effective February XX, 2023

#### I. Issue

The Property Owners' Association Act (§ 55.1-1800 et seq. of the Code of Virginia) and the Virginia Condominium Act (§ 55.1-1900 et seq. of the Code of Virginia) set specific maximum allowable fees that may be charged by the preparer of disclosure packets and resale certificates, provided that specific provisions of the applicable Acts are met. The Acts also index those maximum allowable fees to inflation and require adjustment every five years based on the United States Average Consumer Price Index, All Urban Consumers (CPI-U).

#### II. Applicable Statutes

Sections **55.1-1810** and **55.1-1992** of the Code of Virginia both state, in pertinent part:

B. A reasonable fee may be charged by the preparer [of the disclosure packet/resale certificate] as follows:

Guidance Document

Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates Adopted June 27, 2013 (Amended March 27, 2014; July 1, 2014; January 16, 2018; Revised September 3, 2020; Amended January 12, 2023)

1. For the inspection of the [lot/unit], as authorized in the declaration and as required to prepare the [disclosure packet/resale certificate], a fee not to exceed \$100;
  2. For the preparation and delivery of the [disclosure packet/resale certificate] in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. Only one fee shall be charged for the preparation and delivery of the [disclosure packet/resale certificate];
  3. At the option of the seller or the seller's authorized agent, with the consent of the [unit owners'] association or the common interest community manager, for expediting the inspection, preparation, and delivery of the [disclosure packet/resale certificate], an additional expedite fee not to exceed \$50;
  4. At the option of the seller or the seller's authorized agent, for an additional hard copy of the [disclosure packet/resale certificate], a fee not to exceed \$25 per hard copy;
  5. At the option of the seller or the seller's authorized agent, for hand delivery or overnight delivery of the overnight [disclosure packet/resale certificate], a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service; and
  6. A post-closing fee to the purchaser of the [property/unit], collected at settlement, for the purpose of establishing the purchaser as the owner of the [property/unit] in the records of the [unit owners'] association, a fee not to exceed \$50.
- I. A reasonable fee for the [disclosure packet/resale certificate] update or financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the [unit owners'] association or the common interest community manager perform an additional inspection of the [lot/unit], as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the

Guidance Document

Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates Adopted June 27, 2013 (Amended March 27, 2014; July 1, 2014; January 16, 2018; Revised September 3, 2020; Amended January 12, 2023)

property. Neither the association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the [disclosure packet/resale certificate] update. The requester may request that the specified update be provided in hard copy or in electronic form.

Sections **55.1-1810(F)** and **55.1-1992(F)** of the Code of Virginia both state:

The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

### III. Policy

The CPI-U on 12/31/07 was 210.036, on 12/31/08 was 210.228, on 12/31/09 was 215.949, on 12/31/10 was 219.179, on 12/31/11 was 225.672, and on 12/31/12 was 229.601. With a starting point of 100, the compounded increase between 12/31/07 and 12/31/12 was 9.31%. In order to be consistent in calculation, the Board adopted the following policy indicating the exact compounded monetary amounts that are the maximum allowable fees to be charged by the preparers of disclosure packets and resale certificates, as applicable.

1. The inspection pursuant to §§ 55.1-1810(B)(1) and 55.1-1992(B)(1) of the *Code of Virginia*, a fee not to exceed **\$109.31**;
2. The preparation and delivery of the disclosure packet or resale certificate, as applicable, pursuant to §§ 55.1-1810(B)(2) and 55.1-1992(B)(2) of the *Code of Virginia*, in (i) paper format, a fee not to exceed **\$163.97** for no more than two hard copies, or (ii) electronic format, a total fee not to exceed **\$136.64**, for a copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requestor;
3. Expediting the inspection, preparation, and delivery of the disclosure packet or resale certificate, as applicable, pursuant to §§ 55.1-

Guidance Document

Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates Adopted June 27, 2013 (Amended March 27, 2014; July 1, 2014; January 16, 2018; Revised September 3, 2020; **Amended January 12, 2023**)

1810(B)(3) and 55.1-1992(B)(3) of the *Code of Virginia*, an additional expedite fee not to exceed **\$54.66**;

4. Pursuant to §§ 55.1-1810(B)(4) and 55.1-1992(B)(4) of the *Code of Virginia*, an additional hard copy of the disclosure packet or resale certificate, as applicable, a fee not to exceed **\$27.33** per hard copy;

6. Pursuant to §§ 55.1-1810(B)(6) and 55.1-1992(B)(6) of the *Code of Virginia*, a post-closing fee to the purchaser of the property or unit, as applicable, a fee not to exceed **\$54.66**;

I. A disclosure packet or resale certificate update, as applicable, or financial update pursuant to §§ 55.1-1810(I) and 55.1-1992(I) of the Code of Virginia, a fee not to exceed **\$54.66**. An additional inspection, as authorized in the declaration, pursuant to §§ 55.1-1810(I) and 55.1-1992(I) of the Code of Virginia, a fee not to exceed **\$109.31**.

On November 30, 2017, the Board authorized that the fees listed above remain in place until Bureau of Labor Statistics (BLS) published the CPI-U for December 2017. On January 12, 2017, BLS published the CPI-U for December 2017. The CPI-U for December 2012 was 229.601. The CPI-U for December 2017 was 246.524. Based on the calculation formula outlined above, the increase between 12/31/2012 and 12/31/17 was 7.37%. The revised maximum allowable fees outlined below are effective as of January 16, 2018.

Fee Type	Initial Maximum Fee (2008)	Adjusted Fee (2013)	Adjusted Fee (2018)
Inspection of lot/unit	\$100.00	\$109.31	<b>\$117.37</b>
Preparation/delivery of packet/certificate (paper)	\$150.00	\$163.97	<b>\$176.05</b>
Preparation/delivery of packet/certificate (electronic)	\$125.00	\$136.64	<b>\$146.71</b>
Expedited inspection additional fee	\$50.00	\$54.66	<b>\$58.69</b>
Additional copy fee	\$25.00	\$27.33	<b>\$29.34</b>
Third-party commercial delivery (overnight or hand-delivery)	Actual cost	N/A	N/A
Post-closing fee	\$50.00	\$54.66	<b>\$58.69</b>

Guidance Document

Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates Adopted June 27, 2013 (Amended March 27, 2014; July 1, 2014; January 16, 2018; Revised September 3, 2020; **Amended January 12, 2023**)

Pre-settlement updates	\$50.00	\$54.66	<b>\$58.69</b>
Additional inspection fee	\$100.00	\$109.31	<b>\$117.37</b>

On December 8, 2022, the Board authorized that the fees effective January 16, 2018, remain in place until the Bureau of Labor Statistics (BLS) published the CPI-U for December 2022. On **January 12, 2023**, BLS published the CPI-U for December 2022. The CPI-U for December 2017 was 246.524. The CPI-U for December 2022 was **TBD**. Based on the calculation formula outlined above, the increase between December 31, 2017, and December 31, 2022 was **X.XX%**. The revised maximum allowable fees outlined below are effective as of **January 12, 2023**.

Fee Type	Initial Maximum Fee (2008)	Adjusted Fee (2013)	Adjusted Fee (2018)	<b>Adjusted Fee (2023)</b>
Inspection of lot/unit	\$100.00	\$109.31	\$117.37	<b>TBD</b>
Preparation/delivery of packet/certificate (paper)	\$150.00	\$163.97	\$176.05	<b>TBD</b>
Preparation/delivery of packet/certificate (electronic)	\$125.00	\$136.64	\$146.71	<b>TBD</b>
Expedited inspection additional fee	\$50.00	\$54.66	\$58.69	<b>TBD</b>
Additional copy fee	\$25.00	\$27.33	\$29.34	<b>TBD</b>
Third-party commercial delivery (overnight or hand-delivery)	Actual cost	N/A	N/A	<b>TBD</b>
Post-closing fee	\$50.00	\$54.66	\$58.69	<b>TBD</b>
Pre-settlement updates	\$50.00	\$54.66	\$58.69	<b>TBD</b>
Additional inspection fee	\$100.00	\$109.31	\$117.37	<b>TBD</b>



Code of Virginia

Title 55.1. Property and Conveyances

Chapter 18. Property Owners' Association Act

### **§ 55.1-1810. Fees for disclosure packet; professionally managed associations.**

A. A professionally managed association or its common interest community manager may charge certain fees as authorized by this section for the inspection of the property, the preparation and issuance of the disclosure packet required by § [55.1-1809](#), and for such other services as set out in this section. The seller or the seller's authorized agent shall specify in writing whether the disclosure packet shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to whom the disclosure packet shall be delivered.

B. A reasonable fee may be charged by the preparer as follows:

1. For the inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration and as required to prepare the association disclosure packet, a fee not to exceed \$100;
2. For the preparation and delivery of the disclosure packet in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. The preparer of the disclosure packet shall provide the disclosure packet directly to the designated persons. Only one fee shall be charged for the preparation and delivery of the disclosure packet;
3. At the option of the seller or the seller's authorized agent, with the consent of the association or the common interest community manager, for expediting the inspection, preparation, and delivery of the disclosure packet, an additional expedite fee not to exceed \$50;
4. At the option of the seller or the seller's authorized agent, for an additional hard copy of the disclosure packet, a fee not to exceed \$25 per hard copy;
5. At the option of the seller or the seller's authorized agent, for hand delivery or overnight delivery of the overnight disclosure packet, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service; and
6. A post-closing fee to the purchaser of the property, collected at settlement, for the purpose of establishing the purchaser as the owner of the property in the records of the association, a fee not to exceed \$50.

Except as otherwise provided in subsection E, neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request for the disclosure packet is made. The disclosure packet shall state that all fees and costs for the disclosure packet shall be the personal obligation of the lot owner and shall be an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § [55.1-1833](#), if not paid at settlement or within 60 days of the delivery of the disclosure packet, whichever occurs first.

For purposes of this section, an expedite fee shall be charged only if the inspection and preparation of delivery of the disclosure packet are completed within five business days of the request for a disclosure packet.

C. No fees other than those specified in this section, and as limited by this section, shall be charged by the association or its common interest community manager for compliance with the duties and responsibilities of the association under this chapter. No additional fee shall be charged for access to the association's or common interest

community manager's website. The association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the applicable fees so the seller or the seller's authorized agent will know such fees at the time of requesting the packet.

D. Any fees charged pursuant to this section shall be collected at the time of settlement on the sale of the lot and shall be due and payable out of the settlement proceeds in accordance with this section. The settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. The seller shall be responsible for all costs associated with the preparation and delivery of the association disclosure packet, except for the costs of any disclosure packet update or financial update, which costs shall be the responsibility of the requester, payable at settlement. Neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the association disclosure packet.

E. If settlement does not occur within 60 days of the delivery of the disclosure packet, or funds are not collected at settlement and disbursed to the association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the disclosure packet against the lot owner, (ii) the personal obligation of the lot owner, and (iii) an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § [55.1-1834](#). The seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the association. The association shall pay the common interest community manager the amount due from the lot owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

G. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a person specified in the written instructions of the seller or the seller's authorized agent, including the seller or the seller's authorized agent, or the purchaser or his authorized agent may request a disclosure packet update. The requester shall specify whether the disclosure packet update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The disclosure packet update shall be delivered within 10 days of the written request.

H. The settlement agent may request a financial update. The requester shall specify whether the financial update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request.

I. A reasonable fee for the disclosure packet update or financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the association or the common interest community manager perform an additional inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. The settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. Neither the association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the disclosure packet update. The requester may request that the specified update be provided in hard copy or in electronic form.

J. No association or common interest community manager may require the requester to request the specified update electronically. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the association. If the requester asks that the specified update be provided in electronic format, neither the association nor its common interest community manager may

require the requester to pay any fees to use the provider's electronic network or system. A copy of the specified update shall be provided to the seller or the seller's authorized agent.

K. When an association disclosure packet has been delivered as required by § [55.1-1809](#), the association shall, as to the purchaser, be bound by the statements set forth in the disclosure packet as to the status of the assessment account and the status of the lot with respect to any violation of the declaration, bylaws, rules and regulations, architectural guidelines, and articles of incorporation, if any, of the association as of the date of the statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

L. If the association or its common interest community manager has been requested in writing to furnish the association disclosure packet required by § [55.1-1809](#), failure to provide the association disclosure packet substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot. The preparer of the association disclosure packet shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters arising after the date of the settlement of the sale.

M. The Common Interest Community Board may assess a monetary penalty for failure to deliver the association disclosure packet within 14 days against any (i) property owners' association pursuant to § [54.1-2351](#) or (ii) common interest community manager pursuant to § [54.1-2349](#) and regulations promulgated thereto, and may issue a cease and desist order pursuant to § [54.1-2352](#).

N. No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board, (ii) is current in filing the most recent annual report and fee with the Common Interest Community Board pursuant to § [55.1-1835](#), (iii) is current in paying any assessment made by the Common Interest Community Board pursuant to § [54.1-2354.5](#), and (iv) provides the disclosure packet electronically if so requested by the requester.

2008, cc. [851](#), [871](#), § 55-509.6; 2009, c. [557](#); 2011, cc. [334](#), [577](#), [585](#); 2014, c. [216](#); 2015, c. [277](#); 2016, c. [471](#); 2017, cc. [387](#), [405](#); 2018, c. [226](#); 2019, cc. [391](#), [712](#); 2020, c. [592](#).

Code of Virginia  
Title 55.1. Property and Conveyances  
Chapter 19. Virginia Condominium Act

### § 55.1-1992. Fees for resale certificate.

A. The unit owners' association may charge fees as authorized by this section for the inspection of the property, for the preparation and issuance of the resale certificate required by §§ [55.1-1990](#) and [55.1-1991](#), and for such other services as are set out in this section. Nothing in this chapter shall be construed to authorize the unit owners' association or common interest community manager to charge an inspection fee for a unit except as provided in this section.

B. A reasonable fee may be charged by the preparer of the resale certificate as follows:

1. For the inspection of the unit, as authorized in the declaration and as required to prepare the resale certificate, a fee not to exceed \$100;
2. For preparation and delivery of the resale certificate in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125, for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. Only one fee shall be charged for the preparation and delivery of the resale certificate;
3. At the option of the seller or the seller's authorized agent, with the consent of the unit owners' association or the common interest community manager, for expediting the inspection, preparation, and delivery of the resale certificate, an additional expedite fee not to exceed \$50;
4. At the option of the seller or the seller's authorized agent, for an additional hard copy of the resale certificate, a fee not to exceed \$25 per hard copy;
5. At the option of the seller or the seller's authorized agent, for hand delivery or overnight delivery of the resale certificate, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service; and
6. A post-closing fee to the purchaser of the unit, collected at settlement, for the purpose of establishing the purchaser as the owner of the unit in the records of the unit owners' association, a fee not to exceed \$50.

Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request for the resale certificate is made. The resale certificate shall state that all fees and costs for the resale certificate shall be the personal obligation of the unit owner and shall be an assessment against the unit and collectible as any other assessment in accordance with the provisions of the condominium instruments and § [55.1-1964](#), if not paid at settlement or within 60 days of the delivery of the resale certificate, whichever occurs first.

For purposes of this section, an expedite fee shall be charged only if the inspection and preparation of delivery of the resale certificate are completed within five business days of the request for a resale certificate.

C. No fees other than those specified in this section, and as limited by this section, shall be charged by the unit owners' association or its common interest community manager for compliance with the duties and responsibilities of the unit owners' association under this section. No additional fee shall be charged for access to the unit owners' association's or common interest community manager's website. The unit owners' association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the

applicable fees so that the seller or the seller's authorized agent will know such fees at the time of requesting the resale certificate.

D. Any fees charged pursuant to this section shall be collected at the time settlement occurs on the sale of the unit and shall be due and payable out of the settlement proceeds in accordance with this section. The seller shall be responsible for all costs associated with the preparation and delivery of the resale certificate, except for the costs of any resale certificate update or financial update, which costs shall be the responsibility of the requester, payable at settlement. The settlement agent shall escrow a sum sufficient to pay such costs at settlement. Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate.

E. If settlement does not occur within 60 days of the delivery of the resale certificate, or funds are not collected at settlement and disbursed to the unit owners' association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the resale certificate against the unit owner, (ii) the personal obligation of the unit owner, and (iii) an assessment against the unit and collectible as any other assessment in accordance with the provisions of the condominium instruments and § [55.1-1964](#). The seller may pay the unit owners' association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the unit owners' association. The unit owners' association shall pay the common interest community manager the amount due from the unit owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

G. If a resale certificate has been issued within the preceding 12-month period, a person specified in the written instructions of the seller or the seller's authorized agent, including the seller or the seller's authorized agent or the purchaser or the purchaser's authorized agent, may request a resale certificate update. The requester shall specify whether the resale certificate update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The resale certificate update shall be delivered within 10 days of the written request.

H. The settlement agent may request a financial update. The requester shall specify whether the financial update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request.

I. A reasonable fee for the resale certificate update or financial update may be charged by the preparer, not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the unit owners' association or the common interest community manager perform an additional inspection of the unit, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. The settlement agent shall escrow a sum sufficient to pay such costs at settlement. Neither the unit owners' association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate update. The requester may request that the specified update be provided in hard copy or in electronic form.

J. No unit owners' association or common interest community manager may require the requester to request the specified update electronically. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the unit owners' association. If the requester asks that the specified update be provided in electronic format, neither the unit owners' association nor its

common interest community manager may require the requester to pay any fees to use the provider's electronic network or system. A copy of the specified update shall be provided to the seller or the seller's authorized agent.

K. When a resale certificate has been delivered as required by § [55.1-1991](#), the unit owners' association shall, as to the purchaser, be bound by the statements set forth in the certificate as to the status of the assessment account and the status of the unit with respect to any violation of the condominium instruments as of the date of the statement unless the purchaser had actual knowledge that the contents of the resale certificate were in error.

L. If the unit owners' association or its common interest community manager has been requested in writing to furnish the resale certificate required by § [55.1-1991](#), failure to provide the resale certificate substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject unit. The preparer of the resale certificate shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the condominium instruments, rules and regulations, and architectural guidelines of the unit owners' association as to all matters arising after the date of the settlement of the sale.

M. The Common Interest Community Board may assess a monetary penalty for failure to deliver the resale certificate within 14 days against any (i) unit owners' association pursuant to § [54.1-2351](#) or (ii) common interest community manager pursuant to § [54.1-2349](#) and regulations promulgated thereto, and may issue a cease and desist order pursuant to § [54.1-2349](#) or [54.1-2352](#), as applicable.

2008, cc. [851](#), [871](#), § 55-79.97:1; 2011, cc. [334](#), [577](#), [585](#); 2014, c. [216](#); 2015, c. [277](#); 2016, c. [471](#); 2017, cc. [393](#), [406](#); 2019, c. [712](#).

# MAXIMUM ALLOWABLE PREPARATION FEES

Disclosure Packets for Professionally Managed Property Owners' Associations

Includes Fees Updated January 16, 2018 + Law Changes Effective October 1, 2019

Virginia law requires that when selling a home in a property owners' association (POA), the owner must provide a potential purchaser with certain legally required information regarding the home, common areas, and the association. The [Property Owners' Association Act](#) (POA Act) calls the legally required information a **disclosure packet**. The packet must be requested by the seller, prepared by the POA, and delivered to the potential purchaser.

Compiling the required documents involves time, effort, and resources, so the law allows the preparer to assess **reasonable fees**, but sets a maximum amount for such fees.

The POA Act distinguishes between communities that are "professionally managed" and those run by volunteer member-owners. "Professionally managed" means a common interest community that has engaged (i) a common interest community manager to provide management services to the community or (ii) a person as an employee for compensation to provide management services to the community, other than a resident of the community who provides bookkeeping, billing, or recordkeeping services for that community. (See [§ 55.1-1800](#) in the POA Act)

POAs that **are** professionally managed may charge fees as established in [§ 55.1-1810](#) of the POA Act. (See adjacent table.)

**NOTE:** No professionally managed POA may collect fees authorized by § 55.1-1810 of the POA Act unless the association is (i) registered with the Common Interest Community Board (CIC Board), (ii) current in filing its most recent annual report and fee pursuant to § 55.1-1835, (iii) current in paying any assessment made by the CIC Board pursuant to § 54.1-2354.5; and (iv) provides the disclosure packet electronically if so requested by the seller or seller's authorized agent.

- See page two of this form for more information on association registration.

**PREPARERS** of DISCLOSURE PACKETS FOR PROFESSIONALLY MANAGED POAs are allowed to charge **no more than the following maximum fees** for *only* the following tasks:

**\$117.37** for **inspection** of the exterior of the dwelling unit and lot *if authorized in the declaration* and as necessary to prepare the disclosure packet.

**\$176.05** for **preparation and delivery** of the disclosure packet in **paper form (for no more than two copies)** OR **\$146.71 total** in **electronic form**. Only one fee shall be charged for preparation and delivery of the disclosure packet.

**\$58.69** for an additional fee to **expedite** the inspection, preparation, and delivery of the packet (if completed within five business days of the request)—but only if the preparer agrees to do so (*optional* at request of seller/agent).

**\$29.34** for an **additional hard copy** of the packet (*optional* at request of seller/agent).

**Actual cost** for third-party commercial delivery service to **hand-deliver or overnight** the packet (*optional* at request of seller/agent).

**\$58.69 post-closing fee** charged to the purchaser to update ownership records of the association.

**\$58.69** for pre-settlement **updates** to the packet.

**\$117.37** for **additional inspection** of the exterior of the dwelling unit and lot *if authorized* by the association declaration (*optional* at request of purchaser/agent).

Pursuant to § 55.1-1810(D) of the POA Act, fees shall be collected **at the time of settlement** on the sale of the lot and shall be due and payable out of the settlement proceeds. Neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the association disclosure packet.

To account for inflation, the law automatically adjusts the maximum fees applicable to professionally managed POAs every five years, based on the U.S. Average Consumer Price Index (CPI). The General Assembly established the initial cap amounts in 2008. **The current fees (displayed in bold) are effective as of January 16, 2018.** The next mandatory CPI adjustment will occur in 2023.

**What to do if your POA is not registered/ not current in filing with the CIC Board.**

If your POA is not registered with the CIC Board, or is not current in filing an annual report to the CIC Board, then your POA is prohibited from collecting fees authorized by §§ [55.1-1810](#) and [55.1-1811](#) of the POA Act.

**To verify if your POA is registered** with the CIC Board, or to verify your POA's current registration status, you may use the [License Lookup](#) feature on the website for the Department of Professional and Occupational Regulation (<http://www.dpor.virginia.gov>). You may also contact the CIC Board office.

**To register a POA, or to file an annual report**, your POA must submit a completed registration or annual report application, along with the required application fees and payments. The application is available on the CIC Board website (<http://www.dpor.virginia.gov/Boards/CIC-Board/>).

Your POA will also be required to certify that it has adopted, or will adopt, an association complaint procedure as required by [§ 54.1-2354.4](#) of the Code of Virginia, and the [Common Interest Community Ombudsman Regulations](#).

Please be advised that receipt of an application and the deposit of fees/payments by the CIC Board do not indicate CIC Board approval of the application.

For additional information, contact the CIC Board office by email at [cic@dpor.virginia.gov](mailto:cic@dpor.virginia.gov) or by telephone at 804-367-8510.



# MAXIMUM ALLOWABLE PREPARATION FEES

Disclosure Packets for Non-Professionally Managed Property Owners' Associations

Includes Fees Updated January 16, 2018 + Law Changes Effective October 1, 2019

Virginia law requires that when selling a home in a property owners' association (POA), the owner must provide a potential purchaser with certain legally required information regarding the home, common areas, and the association. The [Property Owners' Association Act](#) (POA Act) calls the legally required information a **disclosure packet**. The packet must be requested by the seller, prepared by the POA, and delivered to the potential purchaser.

Compiling the required documents involves time, effort, and resources, so the law allows the preparer to assess **reasonable fees**, but sets a maximum amount for such fees.

The POA Act distinguishes between communities that are "professionally managed" and those run by volunteer member-owners. "Professionally managed" means a common interest community that has engaged (i) a common interest community manager to provide management services to the community or (ii) a person as an employee for compensation to provide management services to the community, other than a resident of the community who provides bookkeeping, billing, or recordkeeping services for that community. (See [§ 55.1-1800](#) in the POA Act)

POAs that are **not** professionally managed may charge fees as established in [§ 55.1-1811](#) of the POA Act. (See adjacent table.)

**NOTE:** A non-professionally managed POA may not collect fees authorized by § 55.1-1811 of the POA Act unless the association is (i) registered with the Common Interest Community Board (CIC Board), (ii) current in filing its most recent annual report and fee pursuant to § 55.1-1835, and (iii) current in paying any assessment made by the CIC Board pursuant to § 54.1-2354.4.

- See page two of this form for more information on association registration.

**PREPARERS** of DISCLOSURE PACKETS FOR POAs that are **NOT PROFESSIONALLY MANAGED\*** are allowed to charge **no more than the following maximum fees** for *only* the following tasks:

**Actual cost for preparation and issuance** of disclosure packet not to exceed \$.10 per page of copying costs, or **\$100.00** for all costs incurred.

**\$50.00** for an additional fee to **expedite** the inspection, preparation, and delivery of the disclosure packet (if completed within five business days of the request)—with the consent of the association (*optional* at request of seller/agent).

**\$25.00** for an **additional hard copy** of the disclosure packet—with the consent of the association (*optional* at request of seller/agent).

**Actual cost** for third-party commercial delivery service to **hand-deliver or overnight** the disclosure packet—with the consent of the association (*optional* at request of seller/agent).

**\$50.00** for an update to the disclosure packet—at request of person authorized by seller/agent (*collected at time of delivery of update*).

**\$50.00** for a financial update—at request of settlement agent (*collected at time of delivery of update*).

**\$50.00** for **additional inspection** of the dwelling unit exterior and lot *if authorized* by the association declaration (*optional* at request of purchaser/agent).

Pursuant to § 55.1-1811(C) of the POA Act, fees (except fees for updates noted above) shall be collected **at the time of delivery** of the disclosure packet. If unpaid, any such fees shall be an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55.1-1833. The seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the association.

\*POAs that are not professionally managed may charge certain fees for inspection, preparation, and other services as set out in § 55.1-1810, provided the association provides the disclosure packet electronically, if requested, and otherwise complies with § 55.1-1810. (See page two of this form.)

Preparers for non-professionally managed POAs are allowed to charge **no more than the following maximum fees** for *only* the following tasks *and only if* they provide the disclosure packet electronically, if requested, and otherwise comply with [§ 55.1-1810](#):

\$117.37 for <b>inspection</b> of the exterior of the dwelling unit and lot <i>if authorized in the declaration</i> and as necessary to <u>prepare</u> the disclosure packet.
\$146.71 total for <b>preparation and delivery</b> of the disclosure packet in <b>electronic form</b> . Only one fee shall be charged for preparation and delivery of the disclosure packet.
\$58.69 for an additional fee to <b>expedite</b> the inspection, preparation, and delivery of the packet (if completed within five business days of the request)—but only if the preparer agrees to do so ( <i>optional</i> at request of seller/agent).
\$29.34 for an <b>additional hard copy</b> of the packet ( <i>optional</i> at request of seller/agent).
<b>Actual cost</b> for third-party commercial delivery service to <b>hand-deliver or overnight</b> the packet ( <i>optional</i> at request of seller/agent).
\$58.69 <b>post-closing fee</b> charged to the purchaser to update ownership records of the association.
\$58.69 for pre-settlement <b>updates</b> to the packet.
\$117.37 for <b>additional inspection</b> of the exterior of the dwelling unit and lot <i>if authorized</i> by the association declaration ( <i>optional</i> at request of purchaser/agent).

Pursuant to § 55.1-1810(D) of the POA Act, fees shall be collected **at the time of settlement** on the sale of the lot and shall be due and payable out of the settlement proceeds. Neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the association disclosure packet.

### What to do if your POA is not registered/ not current in filing with the CIC Board.

If your POA is not registered with the CIC Board, or is not current in filing an annual report to the CIC Board, then your POA is prohibited from collecting fees authorized by §§ [55.1-1810](#) and [55.1-1811](#) of the POA Act.

**To verify if your POA is registered** with the CIC Board, or to verify your POA’s current registration status, use the [License Lookup](#) feature on the website for the Department of Professional and Occupational Regulation (<http://www.dpor.virginia.gov>). You may also contact the CIC Board office.

**To register a POA, or to file an annual report**, your POA must submit a completed registration or annual report application, along with the required application fees and payments.

The application is available on the CIC Board website (<http://www.dpor.virginia.gov/Boards/CIC-Board/>).

Your POA will also be required to certify that it has adopted, or will adopt, an association complaint procedure as required by [§ 54.1-2354.4](#) and the [Common Interest Community Ombudsman Regulations](#).

Please be advised that receipt of an application and the deposit of fees/payments by the CIC Board do not indicate CIC Board approval of the application.

For additional information, contact the CIC Board office by email at [cic@dpor.virginia.gov](mailto:cic@dpor.virginia.gov) or by telephone at 804-367-8510.

## MAXIMUM ALLOWABLE PREPARATION FEES

### Condominium Resale Certificates for Condominium Unit Owners' Associations Includes Fees Updated January 16, 2018 & Law Changes Effective October 1, 2019

Virginia law requires that when reselling a unit in a condominium, the unit owner must provide a potential purchaser with certain legally required information regarding the condominium, common elements, and the unit owners' association. The [Virginia Condominium Act](#) calls the legally required information a **resale certificate**. The resale certificate must be requested by the seller, prepared by the condominium unit owners' association, and delivered to the potential purchaser.

Because compiling the required documents involves time, effort, and resources, the law allows the preparer to assess **reasonable fees**, but sets a maximum amount for such fees.

Condominium unit owners' associations may charge fees as established in [§ 55.1-1990](#) of the Virginia Condominium Act. (See adjacent table.)

To account for inflation, the law automatically adjusts the maximum fees applicable to unit owners' associations every five years, based on the U.S. Average Consumer Price Index (CPI). The General Assembly established the initial cap amounts in 2008. **The current fees (displayed in bold) are effective as of January 16, 2018.** The next mandatory CPI adjustment will occur in 2023.

**PREPARERS** of CONDOMINIUM RESALE CERTIFICATES are allowed to charge **no more than the following maximum fees** for *only* the following tasks:

**\$117.37** for **inspection** of the unit *if authorized in the declaration and as required to prepare* the resale certificate.

**\$176.05** for **preparation and delivery** of the resale certificate in **paper form (for no more than two copies)** OR **\$146.71 total** in **electronic form**. Only one fee shall be charged for preparation and delivery of the resale certificate.

**\$58.69** for an additional fee to **expedite** the inspection, preparation, and delivery of the resale certificate (if completed within five business days of the request)—but only if the preparer agrees to do so (*optional* at request of seller/agent).

**\$29.34** for an **additional hard copy** of the resale certificate (*optional* at request of seller/agent).

**Actual cost** for third-party commercial delivery service to **hand-deliver or overnight** the resale certificate (*optional* at request of seller/agent).

**\$58.69 post-closing fee** charged to the purchaser to update ownership records of the unit owners' association.

**\$58.69** for pre-settlement **updates** to the resale certificate.

**\$117.37** for **additional inspection** of the unit *if authorized by the declaration (optional* at request of purchaser/agent).

Pursuant to § 55.1-1992(D) of the Virginia Condominium Act, fees shall be collected **at the time settlement** occurs on the sale of the unit and shall be due and payable out of the settlement proceeds. Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate.

# **Common Interest Community Board**

## **Common Interest Community Ombudsman Regulations**

### **2023 General Regulatory Review**

The following list of topics are items that have been presented to staff, or identified by staff review, and that the Board may wish to consider during the general review of the Common Interest Community Ombudsman Regulations. This list is not inclusive of all items that the Board may present for amendment.

#### **Overall**

- Change appearances of “shall” to “must”, “will”, “may”, etc., as appropriate.
- Amend regulations to provide clarity and to align with current practices and processes.

#### **General/Definitions**

- Review definitions.
- Adding definitions for “common interest community manager” and “ombudsman.”
- Adding a provision that the Director of DPOR may designate the Ombudsman to perform the duties under § 54.1-2354.4(C).

#### **Association Complaint Procedure**

- Prohibiting associations from charging a fee for filing of a complaint through the association complaint procedure.
- Establishing a minimum timeframe for an association to render a final decision on a properly submitted association complaint.
- Establishing a minimum timeframe for a complainant to receive notice of the date, time, and location of when an association will consider an association complaint.
- Establishing a maximum time limit on when an association complaint can be filed under an association complaint procedure.
- Establishing a requirement that an association certify on its annual report filing that its complaint procedure complies with applicable statute and regulation.
- Adding a requirement for associations to respond to an inquiry made by the Ombudsman or the Board.

#### **Final Adverse Decisions**

- Consider the meaning of the term “records pertinent to the decision” as used in § 54.1-2354.4(B) of the Code of Virginia.
- Incorporate the Board’s current guidance regarding waiver of filing fees for notices of final adverse decision.

# OMBUDSMAN REPORT

DRAFT AGENDA  
Materials contained in this agenda are proposed topics for discussion  
and are not to be construed as regulation or official Board action.  
DRAFT AGENDA

**Department of Professional and Occupational Regulation  
Statement of Financial Activity**

**Common Interest Community Board  
954520**

2022-2024 Biennium

October 2022

	October 2022 Activity	Biennium-to-Date Comparison	
		July 2020 - October 2020	July 2022 - October 2022
Cash/Revenue Balance Brought Forward			0
Revenues	48,252	144,634	171,593
Cumulative Revenues			171,593
<b>Cost Categories:</b>			
Board Expenditures	22,807	168,121	150,801
Board Administration	0	0	0
Administration of Exams	0	0	0
Enforcement	6,559	51,335	51,787
Legal Services	124	1,046	124
Information Systems	3,553	22,849	18,945
Facilities and Support Services	5,093	25,732	22,302
Agency Administration	5,163	18,137	28,158
Other / Transfers	0	0	0
<b>Total Expenses</b>	<b>43,298</b>	<b>287,220</b>	<b>272,117</b>
Transfer To/(From) Cash Reserves	0	0	(105,478)
<b>Ending Cash/Revenue Balance</b>			<b>4,954</b>

Cash Reserve Beginning Balance	2,594,716	0	2,700,194
Change in Cash Reserve	0	0	(105,478)
Ending Cash Reserve Balance	2,594,716	0	2,594,716

<b>Number of Regulants</b>	
Current Month	7,888
Previous Biennium-to-Date	7,201

**REPORT FROM THE 2022 BOARD MEMBER**  
**TRAINING CONFERENCE**

DRAFT AGENDA  
Materials contained in this agenda are proposed for discussion  
and are not to be construed as regulation or official action.  
DRAFT AGENDA

# Commonwealth of Virginia



## Department of Professional and Occupational Regulation Common Interest Community Board

### Resolution for

# Drew Mulhare

WHEREAS, **Drew Mulhare**, did faithfully and diligently serve as a member of the Common Interest Community Board from 2018 to 2022;

WHEREAS, **Drew Mulhare**, did devote generously of his time, talent and leadership to the Board;

WHEREAS, **Drew Mulhare**, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the 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 Common Interest Community Board this seventh day of December 2022, that **Drew Mulhare** 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.

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David S. Mercer, Vice Chair

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Demetrios J. Melis, Secretary



# Commonwealth of Virginia



## Department of Professional and Occupational Regulation Common Interest Community Board

### Resolution for

# Amanda Jonas

WHEREAS, **Amanda Jonas**, did faithfully and diligently serve as a member of the Common Interest Community Board from 2018 to 2022;

WHEREAS, **Amanda Jonas**, did devote generously of her time, talent and leadership to the Board;

WHEREAS, **Amanda Jonas**, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the 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 Common Interest Community Board this seventh day of December 2022, that **Amanda Jonas** be given all honors and respect due her for her outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which she is held by this Board.

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David S. Mercer, Vice Chair

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Demetrios J. Melis, Secretary

# ELECTION OF OFFICERS

DRAFT AGENDA  
Materials contained in this agenda are proposed topics for discussion  
and are not to be construed as regulation or official Board action.  
DRAFT AGENDA

# OTHER BOARD BUSINESS

DRAFT AGENDA  
Materials contained in this agenda are proposed topics for discussion  
and are not to be construed as regulation or official Board decision.  
DRAFT AGENDA

**COMPLETE CONFLICT OF INTEREST**  
**FORMS AND**  
**TRAVEL VOUCHERS**

DRAFT AGENDA  
Materials contained in this agenda are proposed topics for discussion  
and are not to be construed as regulation of the Official Board of Education.  
DRAFT AGENDA

# ADJOURN

**Please return your document folders to Raven Custer**

DRAFT AGENDA  
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and are not to be construed as regulatory or official Board action.  
DRAFT AGENDA