

COMMON INTEREST COMMUNITY BOARD
MINUTES OF MEETING

The Common Interest Community Board (Board) met on March 28, 2024, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2nd Floor, Board Room 3, Richmond, Virginia 23233.

The following members were present:

Matt Durham, Chair
Maureen Baker, Vice-Chair
Catherine Noonan
Lori Overholt
Anne M. Sheehan
Tracey Talbert
Margaret 'Meg' Tunstall
Joyce Wolfe

Board members absent from the meeting:

Thomas Mazzei
Katherine Waddell
Deborah Casey

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

Kishore S. Thota, Director
Brian Wolford, Chief Deputy Director
Tom Payne, CID Deputy Director
Stephen Kirschner, LRPD Deputy Director
Anika Coleman, Executive Director
Lee Bryant, CIC/Cemetery Board Administrator
Breanne Lindsey, Regulatory Operations Administrator
Jennifer Sayegh, Policy and Legislative Affairs Manager
Joseph Haughwout, Regulatory Affairs Manager
Gezelle Glasgow, Administrative Coordinator
Lisa Robinson, Licensing Operations Administrator
Rachel Harris, Administrative Coordinator

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

Finding a quorum of the Board present, Mr. Durham called the meeting Call to Order to Order at 10:00 A.M.

Mr. Durham reviewed the emergency evacuation procedures.

Emergency Egress

Ms. Wolfe moved to approve the agenda as presented. Ms. Tunstall seconded the motion which was unanimously approved by members: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

**Approval
of Agenda**

Ms. Wolfe informed Board staff page four (4) of the minutes from the December 14, 2023, Common Interest Community Board meeting, to reflect that Ms. Noonan seconded the motions that were made for **File Number 2022-02691, Atlantic Community Management Corporation.**

Approval of Minutes

Ms. Tunstall moved to approve the minutes from the December 14, 2023, Common Interest Community Board meeting with the corrections. Ms. Overholt seconded the motion which was unanimously approved by members: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Ms. Noonan moved to approve the minutes from the February 06, 2024, Common Interest Community Board Condominium Regulatory Review Committee meeting. Ms. Tunstall seconded the motion which was unanimously approved by members: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Ms. Talbert moved to approve the minutes from the March 06, 2024, Common Interest Community Board Condominium Regulatory Review Committee meeting. Ms. Wolfe seconded the motion which was unanimously approved by members: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Ms. Noonan moved to approve the minutes from the March 14, 2024, Common Interest Community Board Timeshare Regulatory Review Community Committee meeting. Ms. Tunstall seconded the motion which was unanimously approved by members: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Mr. Durham allowed the Board and Board staff to introduce themselves due to recent reorganization changes.

**INTRODUCTIONS
AND
RESOLUTIONS**

Mr. Durham presented the following resolutions to the previous Common Interest Community Board staff:

Department of Professional and Occupational Regulation
Common Interest Community Board
Resolution for
Lisa Robinson

WHEREAS, **Lisa Robinson** did faithfully and diligently serve the Common Interest Community Board, and the Department of Professional and Occupational Regulation from 2008 to 2023;

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

WHEREAS, **Lisa Robinson**, 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 twenty-eighth day of March 2024, that **Lisa Robinson** be given all honors and respect due her for her outstanding service to this Board and 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.

**Department of Professional and Occupational Regulation
Common Interest Community Board
Resolution for
Tanya Pettus**

WHEREAS, **Tanya Pettus** did faithfully and diligently serve the Common Interest Community Board, and the Department of Professional and Occupational Regulation from 2008 to 2023;

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

WHEREAS, **Tanya Pettus**, 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 twenty-eighth day of March 2024, that **Tanya Pettus** be given all honors and respect due her for her outstanding service to this Board and 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.

**Department of Professional and Occupational Regulation
Common Interest Community Board
Resolution for
Rachel Harris**

WHEREAS, **Rachel Harris** did faithfully and diligently serve the Common Interest Community Board, and the Department of Professional and Occupational Regulation from 2023 to 2023;

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

WHEREAS, **Rachel Harris**, 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 twenty-eighth day of March 2024, that **Rachel Harris** be given all honors and respect due her for her outstanding service to this Board and 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.

The Board in consensus adopted the resolutions as written.

No members of the public present wished to address the Board.

Public Comment

Ms. Coleman informed the Board that recently there was action taken in regard to a request for Reconsideration of a case decision that impacted the Real Estate Board. Ms. Coleman provided the Board with details surrounding the case. The Real Estate Board issued a final order that resulted in the revocation of a regulant's license. The

**Executive Director's
Updates**

regulant filed an appeal and submitted a Petition for Reconsideration which is statutorily driven. Virginia Code Section § 22.1-4023.1, has a provision that allows an authorized representative such as an agency director or the courts, to reconsider the Board's actions on cases.

Reconsideration does not constitute an instant reversal of the ruling or the sanctions that accompany the Board's decision. However, if a Reconsideration request is approved, the case is scheduled to be heard during an emergency Board meeting or at the next scheduled meeting. This all depends on whichever comes first. The agency has reviewed the statute and determined that Reconsiderations should be referred to the Executive Director of the Board for approval or denial. If denied, no further action is required, and the Board's ruling is upheld.

Ms. Coleman asked the Board to consider granting the authority to address Reconsiderations to the Executive Director, in accordance with the statute.

Ms. Noonan moved to grant the authority to address Reconsiderations to the Executive Director, in accordance with the statute. Ms. Tunstall seconded the motion which was unanimously approved by members: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Ms. Coleman and Mr. Bryant provided an update on regulatory actions.

**Update on
Regulatory Actions**

General review of the CIC Condominium Regulations **18 VAC 48-30** submitted March 6, 2024. Currently in the Notice of Intended Regulatory Action (NOIRA) stage. Comment period is underway and will end on April 24, 2024.

General review of the Time-Share Regulations **18 VAC 48-45** submitted March 6, 2024. Currently in the NOIRA stage. Comment period is underway and will end on April 24, 2024.

CIC Manager Regulations **18 VAC 48-50** proposed regulations previously withdrawn on July 31, 2023. Per the December minutes need to file the proposed draft amendments to the CIC regulations.

General review of the CIC Association Registration Regulations **18 VAC 48-60 NOIRA** submitted February 12, 2024.

Mr. Haughwout informed the Board that at the December meeting, the Board voted to adopt CIC Ombudsman Regulations **18VAC48-70** proposed regulations and Board staff is working to get paperwork completed.

Mr. Bryant and Mr. Durham informed the Board, that Mr. Robert Diamond, CIC attorney on the Condominium Regulatory Review Committee, had expressed concerns about the Resale Disclosure Act amendments based on legislation. Mr. Bryant proposed to the Board that an appendix section can be added to make document more user friendly. Mr. Bryant will provide this to the Board at the next meeting and encouraged Board members to make any recommendations; changes are needed by July 1, 2024.

**CIC Association
Resale Certificate**

Mr. Bryant requested the Board consider Exempt Action to Amend CIC Association Regulations – The Property Owners Association will also be citing the Cooperative Act and the Condominium Act.

**Exempt Action to
Amend CIC
Association
Registration
Regulations**

Ms. Wolfe moved to amend the Resale Disclosure certificate language to reflect statutory changes and user ability changes. Ms. Baker seconded the motion which was unanimously approved by members: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Mr. Bryant requested the Board consider Exempt Action to Amend CIC Association Registration Regulations because of the Resale Disclosure certificate.

Ms. Talbert moved to amend the Association Registration Regulation language to reflect statutory changes. Ms. Wolfe seconded the motion which was unanimously approved by members: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Mr. Bryant informed the Board that the Condominium Regulatory Review Committee recommended the Board discuss removing **18VAC48-30-50.A** and creating a guidance document.

**Proposed changes to
18 VAC 48-30-50.A**

Ms. Talbert moved to approve the Committee's recommendation to remove **18 VAC 48-30-50.A** be removed and a guidance document be

created. Ms. Noonan seconded the motion which was unanimously approved by members: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Mr. Bryant informed the Board that the Condominium Regulatory Review Committee recommended the Board discuss removing **18VAC48-30-80.B** since the declarant is legally bound by this.

**Proposed changes to
18 VAC 48-30-80.B**

Ms. Tunstall moved to approve the Committee's recommendation to remove **18 VAC 48-30-50.B** be removed and a guidance document be created. Ms. Wolfe seconded the motion which was unanimously approved by members: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

OTHER BUSINESS

Ms. Sayegh, Policy and Legislative Affairs Manager provided the Board with an update on the 2024 General Assembly.

**2024 Legislative
Update**

General Assembly adjourned on March 9, 2024. 279 bills were introduced and 38 of those bills were from DPOR. 28 passed of those bills were passed; recommendations have been sent to the Governor Youngkin. Governor Youngkin has until midnight April 9, 2024, to make decisions. General Assembly will reconvene on April 17, 2024.

HB 105 (Reaser)

HB 105

Resale Disclosure Act; resale certificate, fees.

HB 105 makes a technical correction to § 55.1-2316.E of the Resale Disclosure Act enacted last year (HB 2235 & SB 1222). The original act omitted references to the annual report filing requirements for condominium unit owners' associations and associations in real estate cooperatives in a provision requiring that these associations be registered with the CIC Board to collect fees for the preparation and delivery of resale certificates. The legislation corrects the statute to include references to the applicable sections of the Virginia

Condominium Act (§ 55.1-1980) and Virginia Real Estate Cooperative Act (§ 55.1-2182) that require these associations to file an annual report with the CIC Board.

HB 214 (Watts)

HB 214

Common interest communities; residents providing certain services exemption.

This bill amends § 54.1-2347 of the Code of Virginia to specify that a resident of a common interest community (CIC) who provides bookkeeping, billing, or recordkeeping services for compensation for that CIC shall be presumed to be an independent contractor. The legislation also provides that none of the exemptions from licensure should be construed as contradicting the worker misclassification provisions in Virginia's tax laws (Chapter 19 of Title 58.1 of the Code of Virginia). HB 214 also amends § 60.2-210 of the Code of Virginia to provide a carve out in the Unemployment Compensation Act for CIC managers that employ a resident of a CIC for bookkeeping, billing, or recordkeeping services. It does not appear that this legislation will necessitate any change in processes by Board staff. However, the proposal will likely result in an increase in calls, emails, and other communications to staff which they cannot answer as taxation and unemployment compensation are beyond the scope of DPOR's authority.

HB 876 (Bulova) and SB 526 Graves)

HB 876/SB 526

Resale Disclosure Act; delivery of resale certificate, remedies.

Last year, the General Assembly enacted the Resale Disclosure Act. The Act provides one place within Common Interest Community law to find all information on resale disclosure, which is required when a property located within a common interest community is sold. The Act also set forth the requirements for contract disclosures, formatting and contents of the resale certificate, applicable fees, termination rights, and liability. Since its enactment last summer, issues have been seen in practice that require some further clarification. This clean-up bill seeks to clarify issues with delivery of the resale certificate, questions about whether a purchaser can waive receipt of the resale certificate, how fees are paid for the financial update and exemptions for new

construction. The most significant amendments involve changes to the provisions for delivery of resale certificates and the right of cancellation for failure to deliver a resale certificate.

HB 880 (Bulova) and SB 341 (Surovell)

HB 880/SB 341

Common interest communities; foreclosure remedy.

The legislation originated as a recommendation of the Virginia Housing Commission. The bill aims to provide protection for homeowners by limiting the enforcement of certain liens on primary residences, especially for smaller amounts of assessments. Specifics of the legislation include protection for primary residences, monetary limits for enforcement (\$5000), recordkeeping requirements, and recording of liens.

HB 1209 (Bulova)

HB 1209

Common interest communities; reserve studies, special assessment rescission or reduction.

The legislation includes 3 recommendations from the DPOR/Housing Commission Study on Common Interest Communities reserves, completed in 2023. This legislation makes several changes to the Property Owners' Association Act and the Virginia Condominium Act by removing certain provisions that previously allowed associations governed by these acts to rescind or reduce assessments related to the maintenance and upkeep of common areas and other association responsibilities, including the maintenance, repair, and replacement of capital components. This will give association governing boards in POAs and condominiums greater ability to fund reserves and pay for needed capital projects.

HB 1241 (Wilt) and SB 600 (Obenshain)

HB 1241/SB 600

Virginia Real Estate Time-Share Act; partial termination of certain time-shares.

The bill amends and reenacts sections of the Virginia Real Estate Time-Share Act to allow for the partial termination of a time-share project under § 55.1-2216. The proposal would allow the developer or the association of the time-share to terminate just a portion (for example, a phase or building) of a time-share. The proposal also specifies the possibility of termination upon a vote of the time-share owners having at least 51 percent of the time-shares in addition to a "written agreement" or vote of the owners. The bill introduces a one-year limitation on legal actions for any dispute arising out of any termination of a time-share project in accordance with the provisions of the Virginia Real Estate Time-Share Act.

SB 672 (Ebbin)

SB 672

Property Owners' Association Act or Virginia Condominium Act; assessments for legal obligations.

The bill restores order after confusion resulting from a recent Virginia Court of Appeals decision - Burkholder vs. Palisades Park Owners Association, Inc. The legislation introduces clarifications and restrictions related to assessments, charges, and fees within the framework of the Property Owners' Association Act and the Virginia Condominium Act. The legislation includes: clarification on the use of assessments, restrictions on charges against unit owners, and prohibition of unauthorized charges or assessments.

***HB723* Property Owners' Association Act; meeting of board of directors. This bill was assigned to DHCD.**

HB 723

Property Owners' Association Act; meetings of the board of directors; inconsistent provisions. Provides that the provisions of the Property Owners' Association Act govern the conduct of meetings of the board of the directors without regard to whether the property owners' association is incorporated or unincorporated. The bill clarifies that such provisions shall not be interpreted to supersede

corporate authorities otherwise established by law or governing documents.

Mr. Payne Compliance and Investigations Division Deputy Director, provided the Board with the 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

Mr. Durham informed the Board that the most recent financial statements were provided for the Board to review. Mr. Durham noted that the \$750,000 from the Management Information Fund to the Recovery wasn't shown on the statements. Mr. Kirschner informed the Board that the transfer did occur and that the report will reflect the updated balance.

Board Financial Statements

Ms. Peay provided a litigation update to the Board on Rosewood Management & Consulting Services LLC.

Litigation Update

Ms. Coleman informed the Board members of the Board Member Training Conference on October 10-11, 2024; more information will be sent at a later date.

Board Member Training Conference

Ms. Tunstall asked Board staff about training classes for Fair Housing and legal updates. Board staff informed Ms. Tunstall that they will research and ensure updates are made to the CIC Approved Training Programs list.


Other Business

Mr. Durham reminded the Board members to complete their conflict-of-interest forms and travel vouchers.

Complete Conflict of Interest Forms and Travel Vouchers

There being no further business, the Board adjourned at 11:25 am.

Adjourn



Matt Durham, Board Chair



Kishore S. Thota, Board Secretary