



Common Interest Community Board

PROPOSED Guidance Document: Determining Value of Blanket Surety Bonds Filed by Developers in Lieu of Escrowing Deposits

*Adopted June 7, 2018
Revised September 3, 2020*

Effective upon conclusion of the public comment period required pursuant to § 2.2-4002.1 of the Code of Virginia

I. Background

Section 55.1-2220 of the Code of Virginia outlines requirements for deposits made in connection with the purchase or reservation of a time-share product. Subsection A of § 55.1-2220 requires:

Any deposit made in connection with the purchase or reservation of a product shall be held in escrow. All deposits shall be held in escrow until (i) delivered to the developer upon expiration of the purchaser's cancellation period provided the purchaser's right of cancellation has not been exercised, (ii) delivered to the developer because of the purchaser's default under a contract to purchase a time-share, or (iii) refunded to the purchaser. Such funds shall be deposited in a separate account designated for this purpose that is federally insured and located in the Commonwealth; except where such deposits are being held by a real estate broker or attorney licensed under the laws of the Commonwealth, such funds may be placed in that broker's or attorney's regular escrow account and need not be placed in a separate designated account. Such escrow funds shall not be subject to attachment by the creditors of either the purchaser or the developer.

Subsection B of § 55.1-2220 permits the developer of a time-share project consisting of

more than 25 units to file a corporate surety bond or irrevocable letter of credit with the Board in lieu of escrowing deposits. Subsections C and D of § 55.1-2220 provide that the surety bond or letter of credit may either be (i) an individual bond or letter of credit for each deposit accepted, or (ii) a blanket bond or letter of credit if the total amount of deposits accepted by the developer exceeds \$10,000.

II. Issues and Concerns

Subsection D of § 55.1-2220 specifies the following with respect to a blanket letter of credit filed with the Board:

For the purposes of determining the amount of any blanket letter of credit that a developer maintains in any calendar year, the total amount of deposits considered held by the developer shall be determined as of May 31 in each calendar year and the amount of the letter of credit shall be in accordance with the amount of deposits held as of May 31.

However, subsection C of § 55.1-2220 does not contain the timeframe for calculating deposits with respect to a blanket bond filed with the Board.

III. Board Guidance

The Board adopts a guidance document that establishes the following:

For the purposes of determining the amount of any blanket bond that a developer maintains in any calendar year, the total amount of deposits considered held by the developer shall be determined as of May 31 in each calendar year and the amount of the bond shall be in accordance with the amount of deposits held as of May 31.

The Common Interest Community Board will be taking public comment on this proposed guidance document. A 30-day comment period will begin on November 9, 2020.

If you wish to comment on the proposed guidance document, you may do so via the Town Hall website or you may submit written comments so that they are received no later than December 9, 2020 to:

*Joseph C. Haughwout, Jr., Board Administrator
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400
Richmond, VA 23233
(804) 367-8510
CIC@dpor.virginia.gov*