

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met on September 3, 2020, at the Deep Run Park, 9900 Ridgefield Parkway, Deep Run Recreation Center, Ridgefield Ballroom, Henrico, Virginia 23233.

The following members were present:

Drew Mulhare, Chair
Tom Burrell
Jim Foley
Amanda Jonas
David S. Mercer, Vice-Chair
Lori Overholt
Anne M. Sheehan

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

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

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

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

Finding a quorum of the Board present, Mr. Mulhare, Chair, called the meeting to order at 9:31 a.m. **Call to Order**

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

Ms. Henshaw advised the Board of safety measures currently in place due to COVID-19. **COVID-19 Safety Reminders**

Ms. Henshaw introduced staff members Lee Bryant and Brenda Hundley, who were present to assist in implementing safety protocols.

Ms. Jonas moved to approve the agenda as presented. Mr. Burrell seconded the motion which was unanimously approved by: Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, and Sheehan.

Approval of Agenda

Mr. Foley moved to approve the June 4, 2020, Board meeting minutes as presented. Ms. Jonas seconded the motion which was unanimously approved by: Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, and Sheehan.

Approval of Minutes

Cynthia Gale was present to address the Board. Ms. Gale asked for clarification as to whether the license renewal extensions currently in place due to the public health emergency applied to association registrations, and whether this affects the ability of associations to collect fees for disclosure packets. Ms. Gale also asked for clarification on the term “size” as it applies to the fees associations pay for registration or registration renewal. The Board agreed by consensus that staff will communicate with Ms. Gale to relay the answers to her questions.

Public Comment Period

Mr. Mulhare recused himself from the meeting for deliberation and discussion of File Numbers 2019-02922 and 2020-01868. Mr. Mercer, Vice-Chair, assumed Chair of the Board.

Recusal of Board Member

In the matter of **File Number 2019-02922, Alliance Community Management Inc., t/a Stephens & Company, Inc.**, the Board members reviewed the Consent Order. Alliance Community Management Inc. admits to a violation of 18 VAC 48-50-190.17 as outlined in Count 1, and agrees to the imposition of Board costs of \$150.00. Ms. Overholt moved to approve the Consent Order as presented. Ms. Jonas seconded the motion which was unanimously approved by: Burrell, Foley, Jonas, Mercer, Overholt, and Sheehan.

File Number 2019-02922, Alliance Community Management Inc, t/a Stephens & Company Inc

In the matter of **File Number 2020-01868, Debra Kaye Beagley**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference (IFF), and the Presiding Officer’s Summary and Recommendation.

File Number 2020-01868, Debra Kaye Beagley

Janeen Koch, attorney for Ms. Beagley, was present to address the Board. Ms. Koch asked that the Board remand the matter to reconvene the IFF in order to present additional evidence for the Board’s consideration. The applicant agreed to waive her right under § 2.2-4021(B) to receive a decision from the Board on her application within 90-days of the date of the IFF. Ms. Jonas moved to authorize the waiver of the 90-day requirement for a Board decision per the applicant’s request.

After discussion, Ms. Sheehan seconded the motion which was approved by: Burrell, Jonas, Mercer, Overholt, and Sheehan. Mr. Foley opposed the motion. The motion passed by majority vote. Ms. Sheehan then moved to remand the matter to an IFF. Ms. Jonas seconded the motion. After discussion, the motion was approved by: Burrell, Jonas, Mercer, Overholt, and Sheehan. Mr. Foley opposed the motion. The motion passed by majority vote.

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

Return of Board Member

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

Update on Regulatory Actions

Final amendments to the Condominium Regulations regarding declarant trade and fictitious name requirements became effective on June 1, 2020.

Final amendments to the Time-Share Regulations regarding developer/reseller trade and fictitious name requirements became effective on June 1, 2020.

Final amendments to the Common Interest Community Manager Regulations regarding trade and fictitious name requirements became effective on June 1, 2020.

The Board adopted final amendments to the CIC Management Information Fund Regulations on March 12, 2020. Amendments are currently undergoing Executive Branch review, after which a final 30-public comment period be held, prior to becoming effective.

Mr. Haughwout asked the Board to consider authorizing an exempt action to amend language in the Time-Share Regulations in order to conform to changes in the Virginia Real Estate Time-Share Act resulting from Senate Bill 584, which passed during the 2020 General Assembly session. After discussion, Ms. Overholt moved to authorize staff to file an exempt action to amend language in the Time-Share Regulations in order to conform to the changes in the statute. Mr. Burrell seconded the motion which was unanimously approved by: Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, and Sheehan.

Consider Exempt Action to Amend Time-Share Regulations (SB 584)

Ms. Henshaw and Mr. Haughwout presented the Board with staff recommendations for amendments to the Board's guidance documents in

Staff Request for Authorization to

order to conform to the recent Title 55 recodification. After review and discussion, Mr. Foley moved to accept staff recommendations for amendments to the guidance documents and authorized staff to amend the guidance documents in order to conform to the Title 55 recodification. Ms. Jonas seconded the motion which was unanimously approved by: Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, and Sheehan.

**Update CIC Board
Guidance
Documents**

Ms. Henshaw and Ms. Broz-Vaughan presented the Board with two legislative proposals to be submitted for consideration during the 2021 General Assembly session for informational purposes.

**2021 CICB
Legislative Items**

Ms. Henshaw asked the Chair to consider re-opening the public comment period in order to share with the Board a public comment received in writing. Mr. Mulhare reopened the public comment period.

**Public Comment
Period Re-opened**

Ms. Henshaw presented the Board with a written public comment received from Richard J. Hebert of Sagicus Law Group, PLC. Mr. Hebert believes that due to amendments to Title 54.1 of the Code of Virginia and the Condominium Act effective October 1, 2019, that DPOR and the Board now has jurisdiction over professional and commercial condominiums.

After discussion and review of the Board's current guidance document regarding the applicability of the Common Interest Community Ombudsman Regulations on solely commercial condominiums, the Board agreed by consensus that no action would be taken by the Board and that current Board guidance regarding commercial condominiums remains in effect.

Mr. Mulhare closed the public comment period.

Ms. Henshaw advised the Board of temporary waivers of certain regulations pursuant to Executive Order 51 in response to COVID-19. During the current state of emergency, the validity of licenses, certifications, registrations, and other authorizations issued by the Board that would otherwise (i) expire during the state of emergency and (ii) be eligible for renewal or reinstatement during the state of emergency under applicable regulations, will be extended until the 30th day after the date by which the state of emergency is lifted. In addition, regulations that prohibit or limit online, electronic, or distance learning have also been waived until the 30th day after the date by which the state

**DPOR Updates as it
Relates to COVID-
19 Response**

of emergency is lifted. Ms. Henshaw noted that the waivers do not apply to statutory requirements.

Ms. Henshaw advised the Board that in order to comply with public health emergency recommendations, the agency remains closed to the public and staff scheduling adjustments have been made, including telework for those employees who are eligible.

Discussion was held on the increase in attendance of training sessions and meetings due to the availability of virtual meeting options.

Ms. Gillespie provided the Board with a summary of current complaint and file statistics as of August 28, 2020.

Ombudsman Report

Ms. Gillespie advised the Board that the Notice of Adverse Decision and Complaint forms have been revised and will be made available on the DPOR website soon.

Ms. Henshaw advised the Board that public comments are currently being accepted via the Town Hall by the Board for Professional and Occupational Regulation for the purpose of evaluating several licensure programs as a result of the 2018 Joint Legislative Audit and Review Commission study and legislation during the 2019 General Assembly session. The public comment period closes on September 30, 2020.

Update on Public Hearings

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

Board Financial Statements

Ms. Henshaw advised that Eugenia Lockett Reese is no longer a member of the Board.

Other Business

Mr. Laws updated the Board on a matter of receivership that went before the Real Estate Board on July 16, 2020.

Ms. Henshaw congratulated Ms. Baker and Ms. Overholt on their reappointments to the Board.

Ms. Henshaw advised the Board that a general review of the Board's Common Interest Community Manager Regulations will be discussed at the December meeting, and asked the Board members to consider suggestions for members to serve on the general review committee. Ms. Henshaw also advised that staff will look to discuss matters that come before the Board rather than being reviewed by staff at a future meeting.

Mr. Mercer commended staff on their commitment to safety and attention to detail during the COVID-19 crisis.

Ms. Broz-Vaughan also commended staff on their efforts and teamwork during the pandemic and thanked the Board for their patience and support.

There being no further business, the meeting was adjourned at 10:38 a.m.

Adjourn

Drew Mulhare, Chair

Mary Broz-Vaughan, Secretary