In accordance with § 2.2-4002.1 of the Code of Virginia, this proposed guidance document conforms to the definition of a guidance document in § 2.2-4101.

Department of Professional and Occupational Regulation

Common Interest Community Board

PROPOSED Summary of Board Interpretations, Policies, and Guidance Documents

Revised October 5, 2020

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

Common Interest Community Board

Summary of Board Interpretations, Policies, and Guidance Documents

General

Board Interpretations (General)	
The Board discussed providing interpretations of statutes related to its programs. The Board considered whether it would entertain requests for interpretations that go beyond those interpretations necessary to administer its programs, enforce the regulations, and make case decisions. The Board agreed by consensus to limit its review to those interpretations that fall within the scope of the Board's authority.	10/13/09

Associations/Association Registration

Reserve Balance	
The Board discussed "reserve balance" as it is used in § 55-514.2(B) (now § 55.1-1827(B)) of the Property Owners Association Act and § 55-79.81(B) (now § 55.1-1963(B)) of the Virginia Condominium Act. The Board agreed by consensus this would be the amount in reserves at the end of the fiscal year, plus what they plan to add to the reserve balance, plus one-fourth of the planned assessment income for the coming year. The bond must cover the highest amount that the reserve balance could be during the year, plus one-fourth in accordance with the Code requirements.	9/15/08
Final Adverse Decisions and Associations with No Governing Boards	
The Board discussed the applicability of the final adverse decision process to members of associations with no governing boards. This is a concern because there would be no governing board to consider complaints, thus there could be no final adverse decision. The Board determined that these complaints would have to go through the Department's regular complaint process and a remedy to these situations could only be handled by a change in the statute.	10/26/09
Applicability of the Common Interest Community Ombudsman Regulations on Solely Commercial Condominiums	
The Board adopted a guidance document on September 20, 2012, regarding whether the Common Interest Community Ombudsman Regulations apply to solely commercial condominiums. The Guidance Document is available on Town Hall.	9/20/12
Requests for Waiver of Filing Fee for Notice of Final Adverse Decision	
The Board adopted a guidance document on September 17, 2013 regarding the waiver of filing fees for filing a Notice of Final Adverse Decision (NFAD). The Guidance Document is available on Town Hall.	9/17/13
Maximum Allowable Fees	
The Board adopted a guidance document on June 27, 2013, regarding specific maximum allowable fees set by the Virginia Condominium Act and Property Owners Association Act that may be charged by the preparer of disclosure packets and resale certificates. The Guidance Document is available on Town Hall. Bulletins on these maximum fees are also available on Town Hall.	6/26/14
Best Practices for Property Owners' Associations' Declarations	
The Board adopted this document on December 10, 2015, to offer guidance on the best practices for the content of property owners' association declarations. Best Practices for the Content of Property Owners' Associations' Declarations is available on Town Hall.	12/10/15
Guidelines for the Development of Reserve Studies for Capital Components	

The Board adopted this document on September 5, 2019, to provide guidelines for associations in the development of reserve studies for capital components. Guidelines for the Development of Reserve Studies for Capital Components is available on Town Hall.	9/5/19

CIC Manager Licensure

Reserve Balance	
The Board discussed "reserve balance" as referenced in Section 54.1-2346(D) of the *Code of Virginia*. It was stated that the reserve balance should be calculated based on the last fiscal year, the date of the application, and the highest aggregate amount of each association managed by the Common Interest Community Manager during the last fiscal year. The amount of the bond or insurance for the manager is to maintain maximum coverage.	10/15/08
Blanket Fidelity Bond or Employee Dishonesty Insurance Policy	
The Board adopted a guidance document on March 2, 2010, regarding the requirement in § 54.1-2346(D) of the *Code of Virginia* that a Common Interest Community Manager obtain and maintain a blanket fidelity bond or employee dishonest insurance policy. The Guidance Document is available on Town Hall.	3/2/10
Definition of "Employee" as Used in Statutory Exemption from Licensure	
The Board adopted a guidance document on December 2, 2010, regarding the definition of "Employee" as used in § 54.1-2347(A) of the *Code of Virginia*. The Guidance Document is available on Town Hall.	12/2/10
CIC Manager License Requirements for Association Debt Collections	
The Board considered whether a common interest community manager license is required for a company that is only responsible for the collection of past-due assessments on behalf of an association. The Board responded by referencing the definition of "management services" in § 54.1-2345 of the *Code of Virginia*, which includes "(iii) collecting, disbursing, or otherwise exercising dominion or control over money or other property belonging to an association." Thus, based on the current statutory language, a license would be required for an entity performing any of the functions in the definition of management services, unless an exemption in § 54.1-2347 of the Code of Virginia applied.	6/9/11
CIC Managers with Disciplinary Action as a Provisional Licensee	
An applicant for a common interest community manager license who held a provisional common interest community manager license issued by the Board and had a consent order entered by the Board will not have the previous consent order adversely affect the common interest community manager license application as long as all terms of the consent order were met as stipulated in the applicable consent order. All	6/7/12

other requirements of the Common Interest Community Manager Regulations regarding convictions, adverse financial history, or administrative discipline are not affected by this policy statement.	
Requirement to Obtain and Maintain Separate Fidelity Bond or Insurance Policy	
The Board adopted a guidance document on September 20, 2012, regarding the requirement for common interest community managers to obtain and maintain a fidelity bond or employee dishonest insurance policy. The Guidance Document is available on Town Hall.	9/20/12
Certified Principal/Supervisory Employee Personal Adverse Financial History	
The Board adopted a guidance document on December 3, 2014, regarding what applicants for a principal/supervisory employee certificate must submit when certain personal adverse financial history is disclosed. The Guidance Document is available on Town Hall.	12/03/14

Condominium Registration

Completion Bonds for Commercial Condos	
The Board considered whether a commercial condominium needs to file a completion bond with the Board for incomplete common elements since commercials condominiums are exempt from registration. It was determined that § 55-79.87 (now § 55.1-1972) does not exempt commercial condominiums from filing a completion bond and that Board staff will retain these bonds, if applicable.	1/26/09
Ownership of Condo Unit by POA	
The Board reviewed a request for an interpretation on ownership of condominium units by a property owners association. The Board declined to provide an interpretation as it is outside the Board's authority.	10/13/09
Meaning of "Substantial Completion"	
The Board considered a request to provide an interpretation of the meaning of "substantial completion." The Board agreed by consensus that it could not provide an interpretation on this issue as it is outside the Board's authority.	10/26/09
Registration Process for Condominiums in Foreclosure	
The Board discussed a recurring issue that involves the foreclosure of condominiums wherein there are unsold units. Upon learning of a condominium foreclosure (the declarant's property has been foreclosed, not an individual unit owner's property), staff proceeds to ascertain the current status of the condominium and, if still owned by the foreclosing entity, the future plans for the condominium in order to ensure that the registration is compliant with the Virginia Condominium Act and the Condominium Regulations. Specifically, staff must know whether the financial institution plans to sell individual units or sell to a successor	12/1/11

declarant. Upon learning this information, staff can then advise as to the appropriate steps to ensure the registration remains up-to-date and accurate. The problem arises in situations wherein staff is unable to make contact with the foreclosing financial institution or does not obtain cooperation from the financial institution and it proceeds with the sale of the units. The Board directed staff to i.) ensure that appropriate confirmation from the association is received before releasing the assessment bond or letter of credit; ii.) attempt to obtain a statement from the financial institution to determine the current status and the next course of action; and, iii.) if appropriate, prepare the registration file so that the Board can review the matter in consideration of entering a cease and desist order in accordance with § 55-79.100 (now § 55.1-1986) of the *Code of Virginia* if compliance is not obtained and/or sales proceed.	
Declarant and Developer Control Period	
1. QUESTION: Section 55-79.54(c)(3) (now § 55.1-1916(C)(3))of the *Code of Virginia* includes a provision for extending the time period for expanding an expandable condominium. Section 55-79.54(d)(3) (now § 55.1-1916(D)(3)) of the *Code of Virginia* regarding a contractible condominium does not contain a similar provision to allow for an amendment to the declaration to extend the time to contract a contractible condominium. Does the Board take the position that such an amendment is not allowed? BOARD RESPONSE: The statute does not address extending the time period to withdraw land; therefore, it would not be permitted. Such time period extension only applies to an expandable condominium. 2. QUESTION: The Property Owners' Association Act (Title 55, Chapter 26 of the *Code of Virginia*) (now Chapter 18 of Title 55.1) does not contain a provision covering the extension of a developer control period reserved by a developer in a recorded declaration. Could an amendment adopted by two-thirds of the lot owners provide for an extension of the developer control period? BOARD RESPONSE: The Board does not have any purview over the extension of a developer control period in a property owners' association as it is determined by the declaration and not the Property Owners' Association Act.	3/14/13
Bond Requirements for Commercial Condominiums	
The Board considered two questions regarding the applicability of § 55-79.58:1 (now § 55.1-1921) of the *Code of Virginia* to commercial condominiums and responded as follows.	6/27/13

1. Does the Board have the authority to regulate commercial condominiums? The Board does have the authority to regulate commercial condominiums, except as exempt pursuant to § 55-79.87(B) (now § 55.1-1972(B)) of the *Code of Virginia.* 2. Does the Board accept and hold bonds posted pursuant to Virginia Code § 55-79.58:1 (now § 55.1-1921) on behalf of commercial condominium regimes? If the declarant of a commercial condominium were to present to the Board a bond pursuant to § 55-79.58:1 (now § 55.1-1921) of the *Code of Virginia*, the Board would retain the bond in accordance with the Code. Because commercial condominiums are exempt from the application requirements, and therefore are not required to submit plats, plans, and other documentation regarding the condominium, Board staff may not be able to ensure compliance with § 55-79.58:1 (now § 55.1-1921). Therefore, it may be necessary for Board staff to request such documentation to ensure the bond is in compliance.	
Letters of Credit May Be Accepted in Lieu of Assessment Bond	
The Board adopted a guidance document on June 27, 2013, regarding the requirement for a declarant to post an assessment bond for a condominium. The Guidance Document is located on Town Hall.	6/27/13
Required Amount of Assessment Bond/Letter of Credit	
The declarant of a condominium must file and maintain a bond or letter of credit in favor of the unit owner's association to insure the declarant's assessment obligations are fulfilled. It has been the registration practice to require that the bond or letter of credit is equal to $1,000 per unit registered (minimum of $10,000 and maximum of $100,000), regardless of whether the declarant still owns the unit. After discussion, the Board agreed by consensus to continue the practice of requiring an assessment bond or letter of credit be filed for the total number of units registered with the Board.	12/3/13
Withdrawal of Condominium Registrations	
The Board confirmed by consensus that the declarant is not obligated to maintain the condominium project registration, and may withdraw the registration, if the declarant is not selling units. As part of withdrawing the registration, the declarant will be required to certify that he has no plans to sell units, will continue to pay assessments on units owned by the declarant, and that he will re-register the condominium project and meet all current entry requirements of the *Code of Virginia* and Board's regulations should the declarant decide to sell units in the future.	3/26/15

Release of the assessment bond or letter of credit is possible with withdrawing the registration with confirmation from the unit owners association that the declarant is current in the payment of assessments.	

Time-Share Registration

Procedure for Determination of Compliance with § 55.1-2220 and § 55.1-2234	
The Board has the obligation, pursuant to § 55-382(B) (now § 55.1-2230(B)) of the Code of Virginia, upon the request of an aggrieved owner to render a determination whether compliance with §§ 55-375 and 55-386 (now §§ 55.1-2220 or 55.1-2234) has occurred. The Board adopted procedural guidelines for handling determination requests. The determination procedure is available on Town Hall.	10/26/09
Definition of Alternative Purchase	
A program that in summary will not be sold during the visit to the resort but will be marketed to potential purchasers days after they have left the resort does not appear to meet the definition of alternative purchase.	9/17/13
Time-Share Public Offering Statement (§ 55.1-2217(A)(1)(d)) *(Previously § 55-374(A)(1)(d))*	
The Board was asked for an interpretation of what exactly is required from the time-share developer in the Public Offering Statement regarding unsatisfied judgments and the status of pending lawsuits. The Board declined to provide an interpretation as it is outside the Board's authority in that it goes beyond an interpretation necessary to administer its programs, enforce the regulations, or make case decisions. The Board further stated that it urges the developer and its counsel to seek full disclosure consistent with the *Code of Virginia* and Board's regulations.	3/26/15
Determining Value of Blanket Surety Bonds Filed by Developers in Lieu of Escrowing Deposits	
The Board adopted a guidance document on June 7, 2018, regarding changes to § 55-375 (now § 55.1-2220) of the Virginia Real Estate Time-Share Act resulting from legislation during the 2018 General Assembly session. The Guidance Document is available on Town Hall.	6/7/18
Time-Share Public Offering Statements Delivered by Way of Alternative Media; Purchaser Opportunity to Review Public Offering Statement Prior to Execution of a Contract	
The Board adopted a guidance document on June 7, 2018, regarding the requirements for public offering statements under § 55-374 (now § 55.1-2217) of the Virginia Real Estate Time-Share Act. The Guidance Document is available on Town Hall.	6/7/18

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:

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