

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met on June 7, 2018, 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:

Lucia Anna Trigiani, Chair  
Maureen A. Baker  
Kimberly Kacani  
Eugenia Lockett Reese  
Paul Orlando  
Lori Overholt  
Katherine E. Waddell  
David Watts

Board members Mary Elizabeth Johnson and Scott Sterling were not in attendance at the meeting.

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

Jay W. DeBoer, 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, Ms. Trigiani, Chair, called the meeting to order at 9:36 a.m. **Call to Order**

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

Ms. Henshaw advised the Board of amendments to the agenda. Mr. Orlando moved to approve the agenda as amended. Ms. Waddell seconded the motion which was unanimously approved by: Baker, Kacani, Lockett Reese, Orlando, Trigiani, Waddell, and Watts. **Approval of Agenda**

Ms. Baker noted a typographical error in the minutes of the March 15, **Approval of**

2018 Board meeting minutes. Ms. Wadell moved to approve the minutes of the March 15, 2018, Board meeting as amended. Mr. Watts seconded the motion which was unanimously approved by: Baker, Kacani, Lockett Reese, Orlando, Trigiani, Waddell, and Watts.

**Minutes**

Ms. Overholt arrived at 9:39 a.m.

**Arrival of Board Member**

There were no members of the public present to address the Board.

**Public Comment Period**

Mr. Haughwout provided the Board with an update of temporary cease and desist actions from March 15, 2018.

**Follow-up Report from Temporary Cease and Desist Actions from March 15, 2018 Meeting**

Mr. Haughwout advised the Board there were no temporary cease and desist orders to consider, as all condominium registrations listed for consideration are now in compliance or in the process of registration termination.

**Consider Temporary Cease and Desist Orders Regarding Condominium Registrations**

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

**Update on Regulatory Review Process**

Amendments to the CIC Management Information Fund Regulations regarding the 2018 fee reduction became effective June 1, 2018.

A notice of intended regulatory action (NOIRA) for a general review of the CIC Management Information fund was submitted for executive branch review on May 31, 2018. A panel of stakeholders will be organized to review the regulatory actions. Ms. Henshaw advised the Board that Board members Orlando and Watts expressed interest in participating on the stakeholder panel, and advised that members of the public will also be invited to participate on the stakeholder panel. Ms. Kacani moved to appoint, with Mr. Orlando serving as Chair, Orlando and Watts, and authorized staff to work with the Board Chair to select members of the public to participate on the panel as well. Ms. Overholt seconded the motion which was unanimously approved by: Baker, Kacani, Lockett Reese, Orlando, Overholt, Trigiani, Waddell, and Watts.

Mr. Haughwout presented for Board review a draft guidance document

**Proposed Guidance**

for time-share public offering statements and offering statements delivered via alternative media. Discussion was held on the definition of “alternative media”, and acknowledgement of receipt of the public offering statement. After discussion, Mr. Watts moved to authorize staff to make the draft guidance document available for a 30-day public comment period, after which any comments received will be reviewed at the next Board meeting. Ms. Lockett Reese seconded the motion which was unanimously approved by: Baker, Kacani, Lockett Reese, Orlando, Overholt, Trigiani, Waddell, and Watts.

**Document for Time-Share Public Offering Statements and Offering Statements Delivered by Alternative Media**

Mr. Haughwout presented for Board review a draft guidance document for determining the value of blanket surety bonds submitted by developers in lieu of escrowing deposits. After discussion, Ms. Overholt moved to authorize staff to make the draft guidance document available for a 30-day public comment period, after which any comments received will be reviewed at the next Board meeting. Ms. Lockett Reese seconded the motion which was unanimously approved by: Baker, Kacani, Lockett Reese, Orlando, Overholt, Trigiani, Waddell, and Watts.

**Proposed Guidance Document for Determining Value of Blanket Surety Bonds Submitted by Developers in Lieu of Escrowing Deposits (HB674/SB443)**

Ms. Henshaw asked the Board to consider whether staff may publish a guidance document as final if no public comments are received on the draft guidance document. Discussion was held on current public participation guideline requirements and the methods in which staff notifies the public of public comment periods. After discussion, Mr. Watts moved to authorize staff to publish guidance documents as final if no public comments are received on the draft guidance document. Mr. Orlando seconded the motion which was unanimously approved by: Baker, Kacani, Lockett Reese, Orlando, Overholt, Trigiani, Waddell, and Watts.

Mr. Haughwout asked the Board to consider whether escrow accounts held by real-estate brokers or attorneys for time-share purchases must be held separately in banks located in Virginia. House Bill 674 and Senate Bill 443 states that escrow deposits for time-share purchases must be “...deposited in a separate account ...that is federally insured and located in Virginia; 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.” After discussion, and based on consultation with counsel, the Board agreed by consensus that the requirement in HB674/SB443 for separate accounts to be located in Virginia is not applicable to the regular escrow accounts of real-estate brokers or attorneys that are licensed by the Commonwealth of Virginia.

**Questions Received Pertaining to HB674/SB443**

Mr. Haughwout presented the Board with draft amendments to the Time-Share Regulations as a result of HB674/SB443, which passed during the 2018 General Assembly session. The legislation eliminates the requirement for developers to post a bond or letter of credit with the Board to insure escrow deposits and allows developers of certain time-share projects to post and maintain a corporate surety bond or irrevocable letter of credit with the Board in lieu of escrowing deposits. The proposed regulatory amendments include (i) removing references to escrow bond/letter of credit requirement; (ii) revising time-share annual report requirements; (iii) revising procedures for return of bonds/letters of credit; (iv) revising public offering statement requirements related to the escrowing of deposits; and (v) removing the requirement of registered time-share resellers to post an escrow bond/letter of credit with the Board. After discussion, Ms. Overholt moved to approve the draft text and authorize staff to file an exempt action to amend the Time-Share Regulations in order for the regulations to be consistent with statute. Mr. Orlando seconded the motion which was unanimously approved by: Baker, Kacani, Lockett Reese, Orlando, Overholt, Trigiani, Waddell, and Watts.

The Board recessed from 10:47 a.m. to 11:15 a.m.

Discussion was held on the process for public comments on documents that are not within the scope of the Administrative Process Act, and the authority of the Board to exclude comments received outside of the public comment periods for such documents.

The Board reviewed public comments received on the drafts of proposed revisions to the POA Disclosure Packet Notice and the proposed new Condominium Resale Certificate Notice. The Board considered for approval draft revisions to the POA Disclosure Packet Notice and the draft of the new Condominium Resale Certificate Notice. After review and discussion of the draft documents, the public comments received on the draft documents, and further revisions to the draft documents, Ms. Kacani moved to adopt the POA Disclosure Packet Notice and the Condominium Resale Notice as revised. Final revisions adopted by the Board will be incorporated into the documents and submitted to the Board's Chair for final review prior to publication by staff. Mr. Orlando seconded the motion which was approved by: Baker, Kacani, Lockett Reese, Orlando, Overholt, Trigiani, and Waddell. Mr. Watts opposed. The Board thanks all public commenters for their contributions and participation.

Ms. Henshaw presented the Board with eight draft legislative proposals

**Consider Exempt  
Action to Amend  
Time-Share  
Regulations to  
Implement  
HB674/SB443**

**Recess**

**Revise and Adopt  
Proposed POA  
Disclosure Packet  
Notice and  
Condominium  
Resale Certificate  
Notice (HB923)**

**2019 Legislative**

to be submitted for consideration during the 2019 General Assembly session.

**Items for Consideration**

Discussion was held on the process in which assessment fees are determined per Code of Virginia sections:

- 54.1-2349.A.1,
- 55-79.93:1.C,
- 55-516.1.C, and
- 55-504.1.C.

After discussion and review of the draft legislative items, the Board agreed by consensus to approve the proposals for submission as amended to include a modification of item #2 and the addition of item # 9.

The Board was provided with current complaint and file statistics as of June 1, 2018.

**Ombudsman Report**

Ms. Henshaw provided the Board with the most recent financial statements and advised the Board that there have been no claims from the Recovery Fund.

**Board Financial Statements**

Ms. Henshaw provided an overview of recent events attended by Board staff and the Ombudsman.

**Staff Event Calendar**

Ms. Henshaw presented the Board with tentative Board meeting dates for 2019. Ms. Kacani moved to accept the meeting dates as presented. Mr. Orlando seconded the motion which was unanimously approved by: Baker, Kacani, Lockett Reese, Orlando, Overholt, Trigiani, Waddell, and Watts.

**Consider 2019 Meeting Dates**

Mr. Watts asked the Board to consider disregarding public comments received after a public comment period end date for any public comments to be received and reviewed by the Board in the future. After discussion, the Board agreed by consensus to consider on a case-by-case basis whether public comments received after a public comment period end date should be reviewed.

**Other Business**

As Ms. Kacani's second four year term on the Board will be ending on June 30, 2018, Ms. Trigiani thanked Ms. Kacani for her service and commitment to the Board.

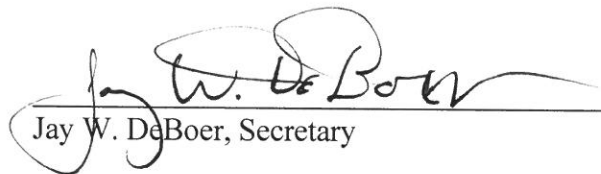
Ms. Trigiani reminded the Board members to complete their conflict of interest forms and travel vouchers.

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

There being no further business, the meeting was adjourned at 1:21 p.m.

**Adjourn**

  
Lucia Anna Trigiani, Chair

  
Jay W. DeBoer, Secretary

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Lucia Anna Trigiani
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 7, 2018

5. I have a personal interest in the following transaction:

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Nature of Personal Interest Affected by Transaction:

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I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

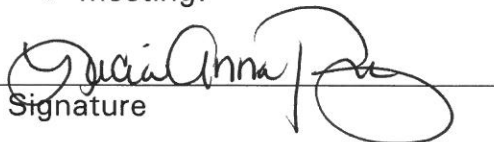
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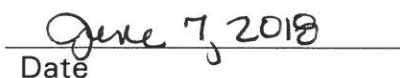
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6.  I **do not** have a personal interest in any transactions taken at this meeting.

  
Signature

  
Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Maureen A. Baker
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 7, 2018

5. I have a personal interest in the following transaction:

\_\_\_\_\_

\_\_\_\_\_

Nature of Personal Interest Affected by Transaction:

\_\_\_\_\_

\_\_\_\_\_

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

\_\_\_\_\_

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6.  I **do not** have a personal interest in any transactions taken at this meeting.

Maureen A. Baker  
Signature

6/7/18  
Date



**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

- 1. Name: Kimberly B. Kacani
- 2. Title: Board Member
- 3. Agency: Common Interest Community Board
- 4. Meeting/IFF Date: Board Meeting June 7, 2018

5. I have a personal interest in the following transaction:

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Nature of Personal Interest Affected by Transaction:

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I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

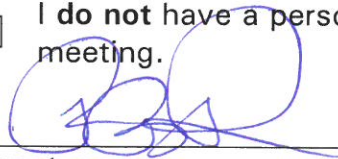
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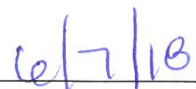
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6.  I **do not** have a personal interest in any transactions taken at this meeting.

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

**CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

- 1. Name: Eugenia Lockett Reese
- 2. Title: Board Member
- 3. Agency: Common Interest Community Board
- 4. Meeting/IFF Date: Board Meeting June 7, 2018

5. I have a personal interest in the following transaction:

\_\_\_\_\_  
\_\_\_\_\_

Nature of Personal Interest Affected by Transaction:

\_\_\_\_\_  
\_\_\_\_\_

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

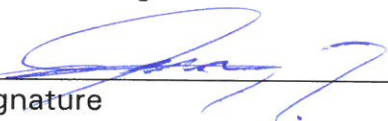
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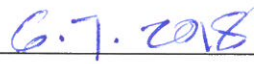
I am able to participate in this transaction fairly, objectively, and in the public interest.

**or**

I did not participate in the transaction.

6.  I **do not** have a personal interest in any transactions taken at this meeting.

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Paul Orlando
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 7, 2018

5. I have a personal interest in the following transaction:

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Nature of Personal Interest Affected by Transaction:

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I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

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I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6.  I **do not** have a personal interest in any transactions taken at this meeting.

P. L. Orlando  
Signature

6/7/18  
Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Lori Overholt
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 7, 2018

5. I have a personal interest in the following transaction:

timeshare guidance

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

ARDA, timeshare

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6.  I do not have a personal interest in any transactions taken at this meeting.

Lori J Overholt  
Signature

6/7/18  
Date

**CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

- 1. Name: Katherine E. Waddell
- 2. Title: Board Member
- 3. Agency: Common Interest Community Board
- 4. Meeting/IFF Date: Board Meeting June 7, 2018

5. I have a personal interest in the following transaction:

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Nature of Personal Interest Affected by Transaction:

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I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

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I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6.  I do not have a personal interest in any transactions taken at this meeting.

Katherine E. Waddell  
Signature

6/7/18  
Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

- 1. Name: David Watts
- 2. Title: Board Member
- 3. Agency: Common Interest Community Board
- 4. Meeting/IFF Date: Board Meeting June 7, 2018

5. I have a personal interest in the following transaction:

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Nature of Personal Interest Affected by Transaction:

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I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

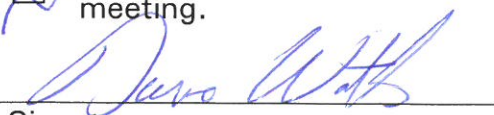
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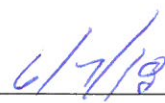
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6.  I **do not** have a personal interest in any transactions taken at this meeting.

  
Signature

  
Date