

**DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
PERIMETER CENTER
9960 MAYLAND DRIVE
RICHMOND, VIRGINIA 23233**

COMMON INTEREST COMMUNITY BOARD

Tentative **AGENDA**

**THURSDAY, June 8, 10:00 A.M.
2nd FLOOR, BOARD ROOM 3**

I. CALL TO ORDER

II. EMERGENCY EVACUATION PROCEDURES

III. APPROVAL OF AGENDA

- a. Board Agenda, June 8, 2023

IV. APPROVAL OF MINUTES

- a. Board Meeting, March 9, 2023
- b. SB 740 Structural Integrity and Reserves Work Group Meeting, March 15, 2023
- c. Board Meeting, April 10, 2023
- d. Board Meeting, April 25, 2023

V. PUBLIC COMMENT PERIOD*

VI. REVIEW FILES AND DISCIPLINARY MATTERS

- a. File Number 2023-00261 Getachew, Bethelehem G.
Prima Facie
- b. Consider Temporary Cease and Desist Orders

VII. BOARD BUSINESS

- a. Update on Regulatory Actions
- b. Resale Disclosure Certificate Update
- c. Update on SB 740 Structural Integrity and Reserves Workgroup
- d. Update on CIC Ombudsman Regulatory Review Committee
- e. Discussion on General Review of Condominium Regulations
- f. Discussion of Proposed Regulations for Common Interest Community Manager

VIII. OTHER BUSINESS

- a. 2024 Legislative Discussion
- b. Ombudsman Report
- c. Board Financial Statements
- d. Consider Resolutions for Service
- e. Other Board Business

IX. COMPLETE CONFLICT OF INTEREST FORMS AND TRAVEL VOUCHERS

X. ADJOURN

NEXT MEETING SCHEDULED FOR September 21, 2023 at 10:00 A.M.

* Five minute public comment, per person, with the exception of any open disciplinary or application files.

** Agenda materials made available to the public do not include disciplinary case files or application files pursuant to §54.1-108 of the *Code of Virginia*.

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8510 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
and are not to be construed as regulation or official Board position
DRAFT AGENDA

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound. When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Board Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Room 2

Exit the room using one of the doors at the back of the room. (Point) Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

You may also exit the room using the side door, turn **Right** out the door and make an immediate **Left**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Rooms 3 and 4

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 2

Exit the room using one of the doors at the back of the room. Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

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COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met on March 9, 2023, 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:

Maureen A. Baker
Matt Durham
Jim Foley
Eileen Greenberg
Thomas Mazzei
David Mercer
Anne M. Sheehan
Margaret Tunstall

Board members Lori Overholt, Scott Sterling, and Katherine E. Waddell were not in attendance at the meeting.

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

Kishore Thota, Chief Deputy Director
Trisha L. Lindsey, Executive Director
Stephen Kirschner, Licensing and Regulatory Programs Division Deputy Director
Heather Gillespie, Ombudsman
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Raven C. Custer, Administrative Coordinator

Joshua Laws from 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.

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

Mr. Foley moved to approve the agenda. Ms. Baker seconded the motion, which was unanimously approved by: Baker, Durham, Foley, Greenberg, Mazzei, Sheehan, and Tunstall. **Approval of Agenda**

Mr. Foley moved to approve the minutes of the December 8, 2022, Training Program Review Committee as presented. Ms. Tunstall seconded the motion. The following members voted in favor of the motion: Baker, Durham, Foley, Overholt, Sheehan, and Waddell. Mr. Mazzei abstained. The motion to approve the minutes as presented passed by majority.

Approval of Minutes

Ms. Sheehan moved to approve the minutes of the December 8, 2022, Board Meeting as presented. Ms. Baker seconded the motion. The following Board Members voted in favor of the motion: Baker, Durham, Foley, Overholt, Sheehan, and Waddell. Mr. Mazzei abstained. The motion to approve the minutes as presented passed by majority.

Mr. Mercer arrived at 10:03 a.m.

Arrival of Board Member

Ms. Lindsey introduced Mr. Mazzei and Ms. Tunstall.

Introduction of Board Members

The Board Members and Board staff introduced themselves.

No members of the public present came forward to address the Board.

Public Comment Period

Mr. Haughwout asked the Board to consider issuance of a temporary cease and desist order against the condominium project registration of Calvert Lofts, A Condominium, for failure of the declarant, Mariposa, LLC, to (i) submit an annual report as required by § 55.1-1979 of the Code of Virginia, and Board Regulation 18 VAC 48-30-540; (ii) post or maintain a bond or letter of credit to insure payment of assessments as required by § 55.1-1968 of the Code of Virginia; and (iii) comply with the requirements of Board Regulation 18 VAC 48-30-570.

Consider Temporary Cease & Desist Orders Regarding Condominium Registrations

After discussion, Mr. Mazzei moved to authorize staff to issue a temporary cease and desist order against the project registration of Calvert Lofts, A Condominium, and require Mariposa, LLC, to (i) submit the required annual report in accordance with the Code of Virginia and the Board's regulations; and (ii) either provide current evidence from the surety or financial institution of the bond or letter of credit required pursuant to § 55.1-1968 of the Code of Virginia, or submit a replacement bond or letter of credit; or provide a request for return of the assessment bond that meets the requirements of 18 VAC 48-30-570 within thirty (30) days of the order's effective date, as the Declarant's failure to comply with §§ 55.1-1979 and 55.1-1968 of the

Code of Virginia, and 18 VAC 48-30-570 would cause irreparable harm to the public interest. Mr. Foley seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Mazzei, Mercer, Sheehan, and Tunstall.

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

**Update on
Regulatory Actions**

The CIC Manager Regulatory Review Committee recommendations and draft proposed amendments to the CIC Manager Regulations were approved, with revisions, by the Board at the March 3, 2022 Board meeting. The proposed regulatory text was submitted for Executive Branch review on March 14, 2022.

The Board authorized filing of NOIRA and formation of a CIC Ombudsman Regulatory Review Committee on December 8, 2022, for conducting a general review of the Common Interest Community Ombudsman Regulations. The NOIRA is in development and the Committee is being formed.

Ms. Lindsey advised the Board that the SB 740 Structural Integrity and Reserves Workgroup has held one (1) meeting since the last Board meeting.

**Update on SB 740
Structural Integrity
and Reserves
Workgroup**

Ms. Lindsey provided an overview of the discussions from the Workgroup and reviewed the list of preliminary recommendations from the previous Workgroup meeting.

Ms. Sheehan spoke regarding her participation in the Workgroup.

The next, and final, meeting for the Structural Integrity and Reserves Workgroup will be in Richmond on March 15, 2023.

Ms. Lindsey provided the Board with an update on legislation passed during the 2023 General Assembly session that may impact the Board.

**2023 Legislative
Update**

The Board discussed the need for a special CIC Board meeting to address specific legislation the Board will be required to implement.

Ms. Gillespie introduced Ben Tyree, the CIC Administrative Support Specialist.

Ombudsman Report

The Board received a 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.

Ms. Lindsey provided the Board with the most recent financial statements.

Ms. Lindsey informed that Board that the Department is preparing for the Board Member Training Conference in 2024.

Mr. Durham reminded Board members to complete their conflict of interest forms.

There being no further business, the meeting was adjourned at 10: 55 a.m.

Board Financial Statements

Other Board Business

Complete Conflict of Interest Forms and Travel Vouchers

Adjourn

Matt Durham, Chair

Demetrios J. Melis, Secretary

STRUCTURAL INTEGRITY AND RESERVES STUDY (SB 740) WORKGROUP

MINUTES OF MEETING

The Structural Integrity and Reserves Study Workgroup met on March 15, 2023, at the Virginia Tech Richmond Center, 2810 N. Parham Road, Richmond, Virginia 23294.

The following members were present:

Lucia Anna (Pia) Trigiani, Chair
Walter Alcorn
Jon Bach
John Bailey
Michelle Baldry
Gary Beveridge
Steven Brumfield
Walter Diercks
Lee Frame
Heather Gillespie

Colin Horner
Kimberly Kacani
Erin Kormann
Theresa Melson
Phoebe Neseth
Edward O'Connell
John Olivieri
Phoebe Rolen
Anne Sheehan
Lynette Wuensch

Workgroup members Jeffrey Brown, Ron Clements, Mark Dix, Rafael Martinez, and Chris Stone were not present at the meeting.

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

Trisha L. Lindsey, Executive Director, Common Interest Community Board
Joseph C. Haughwout, Jr., CIC Board and Regulatory Administrator
Raven Custer, Administrative Coordinator

Mel Jones, Bob McNab, Terry Clower, Matt Vogel, Keith Waters, and Aliana Cheguer were present as meeting facilitators.

Ms. Trigiani, Chair, called the meeting to order at 10:03 a.m.

Call to Order

Ms. Trigiani advised the Workgroup of the emergency evacuation procedures.

**Emergency
Evacuation
Procedures**

Mr. Brumfield moved to approve the agenda. Ms. Rolen seconded the motion, which was unanimously approved by: Trigiani, Alcorn, Bach, Bailey, Baldry, Beveridge, Brumfield, Diercks, Frame, Gillespie, Horner, Kacani, Kormann, Melson, O'Connell, Rolen, Sheehan, and Wuensch.

Approval of Agenda

Structural Integrity and Reserves Study (SB 740) Workgroup
March 15, 2023

Staff were informed of minor corrections that were needed to draft meeting minutes for the February 7, 2023, Structural Integrity and Reserves Workgroup meeting.

Approval of Minutes

Mr. Frame moved to approve the February 7, 2023, Structural Integrity and Reserves Workgroup meeting minutes as amended. Mr. Brumfield seconded the motion which was unanimously approved by: Trigiani, Alcorn, Bach, Bailey, Baldry, Beveridge, Brumfield, Diercks, Frame, Gillespie, Horner, Kacani, Kormann, Melson, O'Connell, Rolan, Sheehan, and Wuensch.

Ken Cordo was present and introduced himself to the Workgroup.

Public Comment Period

There were no members of the public present who wished to address the Workgroup.

Ms. Neseth arrived at 10:08 a.m.

Arrival of Workgroup Member

Ms. Lindsey, Ms. Trigiani, and Ms. Jones thanked the members of the Workgroup, the Board staff, and the meeting facilitators for their time and effort with the workgroup.

Discussion

The Workgroup took time to review the draft final recommendations before beginning discussion.

Mr. Olivieri arrived at 10:23 a.m.

Arrival of Workgroup Member

After taking time to review the draft final recommendations, the Workgroup began discussion on the report.

Discussion Continued

The Workgroup recessed from 12:20 p.m. to 12:57 p.m.

Recess

The Workgroup continued discussion on the draft final recommendations.

Discussion Continued

Ms. Neseth departed from the Workgroup meeting at 1:56 p.m.

Departure of Workgroup Member

The Workgroup was provided with (i) SB 740; (ii) a letter from the Honorable Scott A. Surovell, patron of SB 740; (iii) current versions of

Resources and Information

Structural Integrity and Reserves Study (SB 740) Workgroup
March 15, 2023

applicable common interest community laws and regulations; (iv) provisions of the Uniform State Building Code; (v) CIC Board guidelines for development reserve studies for capital components; (vi) various CAI publications related to reserve studies, condominium and condominium safety, infrastructure in community associations, and state volunteer immunity laws; (vii) Florida SB 4-D; (viii) additional news and journal articles in relation to Champlain Towers; and the Virginia Common Interest Community Survey.

Ms. Lindsey provided the Workgroup with a tentative table of contents for the final report.

Other Business

The Workgroup discussed the next steps for the final report.

Mr. Alcorn departed from the Workgroup meeting at 2:03 p.m.

**Departure of
Workgroup
Member**

After discussion, Mr. Brumfield moved to approve recommendations provided by the Workgroup. Ms. Gillespie seconded the motion, which was unanimously approved by: Trigiani, Bach, Bailey, Baldry, Beveridge, Brumfield, Diercks, Frame, Gillespie, Horner, Kacani, Kormann, Melson, O'Connell, Olivieri, Rolen, Sheehan, and Wuensch.

**Other Business
Continued**

Ms. Trigiani reminded Workgroup members to complete their conflict of interest forms

**Complete Conflict
of Interest Forms**

There being no further business, the meeting adjourned at 2:28 p.m.

Adjourn

Matt Durham, Chair

Demetrios J. Melis, Secretary

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met on April 10, 2023, at the Glen Allen Branch Library, 10501 Staples Mill Road, GL Meeting Room, Glen Allen, Virginia 23060.

The following members were present:

Matt Durham, Chair
Maureen A. Baker
Jim Foley
Eileen M. Greenberg
David S. Mercer, Vice-Chair
Lori Overholt
Scott Sterling
Katherine E. Waddell

Board members Thomas Mazzei, Anne Sheehan, and Margaret Tunstall were not in attendance at the meeting.

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

Demetrios J. Melis, Director
Stephen Kirschner, Licensing and Regulatory Programs Division Deputy Director
R. Thomas Payne, Deputy Director for Compliance and Investigations
Trisha L. Lindsey, Executive Director
Johnathan Darden, Director of Investigations
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Raven C. Custer, 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 11:28 a.m.

Mr. Durham advised the Board of the emergency evacuation procedures. **Emergency Evacuation Procedures**

Mr. Mercer moved to approve the agenda. Mr. Foley seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Mercer, Overholt, Sterling, and Waddell. **Approval of Agenda**

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

**Public Comment
Period**

At 11:30 a.m., Ms. Baker moved that the Board meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel and briefings by staff members regarding actual or probable litigation pursuant to § 2.2-3711.A.7 of the Code of Virginia. The following non-members were in attendance to reasonably aid the consideration of the topic: Demetrios Melis, Stephen Kirschner, Thomas Payne, Trisha Lindsey Johnathan Darden, Joseph Haughwout, and Elizabeth Peay. Mr. Foley seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Mercer, Overholt, Sterling, and Waddell.

Closed Meeting

Mr. Foley departed the meeting at 12:03 p.m. to ensure there was not an actual or potential conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§2.2-3100 et seq.).

**Departure of Board
Member**

The Board continued in closed meeting.

**Closed Meeting
Continued**

At 12:46 p.m., Mr. Sterling moved that the Board adjourn the closed meeting and immediately reconvene in open session. Ms. Baker seconded the motion which was unanimously approved by: Baker, Durham, Greenberg, Mercer, Overholt, Sterling, and Waddell.

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Common Interest Community Board has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the *Code of Virginia* requires a certification by this Common Interest Community Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Common Interest Community Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Common Interest Community Board.

VOTE

AYES: Baker, Durham, Greenberg, Mercer, Overholt, Sterling, and Waddell.

NAYS: None.

ABSENT DURING THE VOTE: None.

ABSENT DURING THE MEETING: Foley, Mazzei, Sheehan, and Tunstall.

Mr. Mercer moved that there is reasonable cause to believe that Rosewood Management & Consulting Services LLC, CIC Manager License Number 0501000317, is “unable to properly discharge its fiduciary responsibilities to an association to which it provides management services” in accordance with § 54.1-2353 of the Code of Virginia and to petition for an injunction against Rosewood Management & Consulting Services LLC and the appointment of a receiver as provided in §54.1-2353 of the Code of Virginia.

**Rosewood
Management &
Consulting Services
LLC**

Mr. Sterling thanked Board staff for its response to this matter and for bringing it to the Board for consideration. Ms. Lindsey thanked the Board members for changing their schedules on such short notice and for their commitment to the public and the Board.

Other Business

Mr. Durham reminded Board members to complete their conflict of interest forms.

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

There being no further business, the meeting was adjourned at 12:49 p.m.

Adjourn

Matt Durham, Chair

Demetrios J. Melis, Secretary

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DRAFT AGENDA

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COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met on April 25, 2023, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2nd Floor, Board Room 4, Richmond, Virginia 23233.

The following members were present:

Maureen A. Baker
Matt Durham
Jim Foley
Thomas Mazzei
Lori Overholt
Anne M. Sheehan
Scott Sterling
Margaret Tunstall
Katherine E. Waddell

Board members Eileen Greenberg and David Mercer were not in attendance at the meeting.

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

Demetrios J. Melis, Director
Trisha L. Lindsey, Executive Director
Heather Gillespie, Ombudsman
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Raven C. Custer, Administrative Coordinator

Joshua Laws from the Office of the Attorney General was present.

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

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

Mr. Foley moved to approve the agenda. Mr. Sterling seconded the motion, which was unanimously approved by: Baker, Durham, Foley, Mazzei, Overholt, Sheehan, Sterling, and Tunstall. **Approval of Agenda**

No members of the public present came forward to address the Board.

**Public Comment
Period**

Ms. Waddell arrived at 10:05 a.m.

**Arrival of Board
Member**

The Board reviewed the recommended regulatory amendments to the CIC Ombudsman regulations to comply with House Bill 1627 and Senate Bill 1042.

**HB 1627 and SB
1042**

After review, Mr. Mazzei moved to authorize the Board to file the regulatory amendments as an exempt action. Ms. Tunstall seconded the motion which was unanimously approved by: Baker, Durham, Foley, Mazzei, Overholt, Sheehan, Sterling, Tunstall, and Waddell.

The Board reviewed the recommended regulatory amendments to the time-share regulations to comply with House Bill 1955 and Senate Bill 969.

HB 1955 and SB 969

After review, Ms. Overholt moved to authorize the Board to file the amendments as an exempt action. Ms. Waddell seconded the motion which was unanimously approved by: Baker, Durham, Foley, Mazzei, Overholt, Sheehan, Sterling, Tunstall, and Waddell.

Ms. Lindsey presented the Board with a draft of the Resale Certificate.

**Resale Disclosure
Act (HB 2235/SB
1222)**

Ms. Trigiani was present to assist with the review of the draft Resale Certificate and answer any questions the Board might have. The Board reviewed the draft Resale Certificate and began a line-by-line discussion.

The Board recessed from 10:30 a.m. to 10:47 a.m. due to a fire drill.

Recess

The Board continued review of the Resale Certificate.

**Continued Resale
Disclosure Act (HB
2235/SB 1222)**

The Board recessed from 11:47 a.m. to 12:18 p.m.

Recess

Mr. Sterling departed the meeting at 1:45 p.m.

**Departure of Board
Member**

The Board continued review of the Resale Certificate.

**Continued Resale
Disclosure Act (HB
2235/SB 1222)**

Ms. Overholt departed the meeting at 1:48 p.m.

**Departure of Board
Member**

The Board continued review of the Resale Certificate.

**Continued Resale
Disclosure Act (HB
2235/SB 1222)**

After lengthy discussion, Mr. Mazzei moved to approve the Resale Certificate as amended. Mr. Foley seconded the motion which was unanimously approved by: Baker, Durham, Foley, Mazzei, Sheehan, Tunstall, and Waddell.

Ms. Lindsey provided the next steps in the process, to include distributing the final version of the Resale Certificate to the Board members to ensure all changes from the meeting were captured. Next, the Resale Certificate will be distributed to managers and associations to ensure that it is available for use beginning July 1, 2023.

**Other Board
Business**

Mr. Durham reminded Board members to complete their conflict of interest forms.

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

There being no further business, the meeting was adjourned at 2:08 p.m.

Adjourn

Matt Durham, Chair

Demetrios J. Melis, Secretary

PUBLIC COMMENT PERIOD

Five minute public comment, per person, with the exception of any open disciplinary or application files.

DRAFT AGENDA
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DRAFT AGENDA

UPDATE ON REGULATORY ACTIONS

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DRAFT AGENDA

RESALE DISCLOSURE CERTIFICATE UPDATE

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DRAFT AGENDA

UPDATE ON SB 740 STRUCTURAL
INTEGRITY AND RESERVES WORK GROUP

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DRAFT AGENDA

UPDATE ON CIC OMBUDSMAN
REGULATORY REVIEW COMMITTEE

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DISCUSSION ON GENERAL REVIEW OF CONDOMINIUM REGULATIONS

DRAFT AGENDA
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DISCUSSION OF PROPOSED REGULATIONS FOR COMMON INTEREST COMMUNITY MANAGER

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DRAFT AGENDA



Department of Professional and Occupational Regulation

COMMON INTEREST COMMUNITY BOARD 2024 LEGISLATIVE PROPOSALS

Following please find a list of potential legislative ideas for the 2024 General Assembly Session. Due to a change in deadlines for these submissions, these proposals have already been submitted for review by DPOR leadership. These proposals are a compilation of legislative amendments that the Board has discussed in past meetings. In addition, this list includes legislative changes based on recommendations from the CIC Manager Regulatory Review Committee, which the Board reviewed and accepted at its meeting on March 3, 2022. It also includes three new items (9, 10, 11) that were added as a result of items noted during the preparation of the standard Resale Certificate Form just after the 2023 legislative session. A summary of the legislative proposals is below. The remainder of the document provides more detail regarding each of the proposals.

CICB LEGISLATIVE ITEMS | Summary

- 1. Common Interest Communities/Common Interest Community Management Recovery Fund:** Amend § 54.1-2354.1 to include associations in the definition of "claimant" in order to allow associations to file a claim to recover money from the recovery fund, as opposed to only a court-appointed receiver. In addition, amend § 54.1-2354.5(C) to increase the minimum balance of the recovery fund to \$1,500,000. Also, amend § 54.1-2354.5(B) to require payments to the recovery fund with each common interest community manager renewal and each association annual report (not just with initial application or first annual report filing as is currently required). Overall, amend § 54.1-2354.5 to more closely conform to the Department's other recovery funds.
- 2. Virginia Real Estate Time-Share Act:** Remove the requirement from § 55.1-2245(A)(1) of the Code of Virginia that requires time-share resellers to keep a "copy of a current government-issued photographic identification (e.g., driver's license, passport, or military identification card) of the lead dealer who provided the contact information."
- 3. Common Interest Community Managers:** Amend § 54.1-2347(A) of the Code of Virginia to remove the licensure exemption outlined in § 54.1-2347(A)(2) that exempts "[a]n employee of an association from providing management services for that association's common interest community."
- 4. Common Interest Community Managers:** Amend § 54.1-2349(A)(2) of the Code of Virginia so that the Board's Common Interest Community Manager Regulations may permit a management company's designation as an Accredited Association Management

Company (AAMC) to be one of the criteria for licensure, rather than a mandated criterion.

5. **Common Interest Community Managers:** Amend § 54.1-2346(E) of the Code of Virginia to eliminate the requirement pertaining to an independent certified public accountant review or audit of the financial statements of the common interest community manager.
6. **Common Interest Community Managers:** Amend § 54.1-2346(D) of the Code of Virginia to clarify that the amount of the fidelity bond or employee dishonesty insurance policy to be obtained by a common interest community manager be based on all association funds under the control of the common interest community manager at the end of the most recent fiscal year.
7. **Common Interest Community Managers:** Amend § 54.1-2353(A) of the Code of Virginia to remove the requirement that association funds held by a common interest community manager be held in a trust account.
8. **Common Interest Community Managers:** Amend § 54.1-2349 of the Code of Virginia to remove the provisions outlined in subdivision B 2 that provide for the Real Estate Board to enforce Article 1 of Chapter 23.3 of Title 54.1 (§§ 54.1-2345 to 54.1-2354) of the Code of Virginia when the licensed common interest community manager is also a licensee of the Real Estate Board.
9. **Common Interest Communities:** Amend § 54.1-2350 of the Code of Virginia so that the tagline accurately reflects the changes made during the 2023 General Assembly Session. The provisions of the section were amended to require the Board to develop and disseminate a standardized resale certificate form as opposed to the previous requirement for the Board to develop a form to accompany the resale certificate. The tagline should be amended accordingly to prevent confusion.
10. **Resale Disclosure Act:** Delete § 55.1-2310.A.27 of the Code of Virginia related to documentation that must be provided in the resale certificate. This provision is specific to cooperatives and an accountant would not prepare a statement as to the deductibility for federal income tax purposes by the owner. Having this as a required component of the resale certificate is unnecessarily burdensome and confusing for volunteer associations preparing resale certificates.
11. **Resale Disclosure Act:** Amend § 55.1-2316.E of the Code of Virginia related to the collection of fees for preparation and delivery of resale certificates to include condominium unit owners' associations (§ 55.1-1980) and proprietary lessees' associations (§ 55.1-2182) as it inadvertently only references property owners' associations. This section was moved from the Property Owners' Association Act during the 2023 General Assembly Session and was not amended to include the additional Acts to which it is now applicable.

1.

COMMON INTEREST COMMUNITIES | Recovery Fund

Code(s) referenced:

§§ 54.1-2354.1, 54.1-2354.5(B), 54.1-2354.5(C), and 54.1-2354.5(D)

Summary of current language:

Pursuant to language in the Code, the only entity that can make a claim upon the Common Interest Community Management Recovery Fund is a claimant. Section 54.1-2354.1 defines "claimant" as a receiver for a common interest community manager appointed pursuant to § 54.1-2353. The Recovery Fund was established as a mechanism for the Board to protect the interests of associations and, specifically, to pay the amount of any shortfall to the extent there are not sufficient funds to pay any award of fees, costs, and expenses by the court appointing the receiver; or to restore all funds that were or ought to have been properly held by the CIC manager as certified by the court appointing the receiver. Currently, if the CIC Board has cause to believe that a CIC manager is unable to fulfill its fiduciary duties to an association, the CIC Board must petition the applicable court by providing evidence as required by the court and seeking relief that includes an injunction and appointment of a receiver. It is not until the conclusion of that process that the receiver is eligible for payment from the Recovery Fund. To date, there has only been one receiver appointed and one claim against the Recovery Fund.

The minimum balance of the CIC Management Recovery Fund is \$150,000. If the balance of the Fund falls below the minimum required amount, the Director may be authorized to transfer a fixed amount for the CIC Management Information Fund. If the amount of the transfer is not sufficient, the Board is required to assess each association and common interest community manager an amount sufficient to bring the balance of the Fund to the minimum amount.

Excerpts:

§ 54.1-2354.1. Definitions.

"Claimant" means, upon proper application to the Director, a receiver for a common interest community manager appointed pursuant to § 54.1-2353 in those cases in which there are not sufficient funds to restore all funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager or to pay an award of reasonable fees, costs, and expenses to the receiver.

§ 54.1-2354.5. Common Interest Community Management Recovery Fund.

"B. Each common interest community manager, at the time of initial application for licensure, and each association filing its first annual report after the effective date shall be assessed \$25, which shall be specifically assigned to the Fund. Initial payments may be incorporated in any application fee payment or annual filing fee and transferred to the Fund by the Director within 30 days.

All assessments, except initial assessments, for the Fund shall be deposited within three business days after their receipt by the Director, in one or more federally insured banks, savings and loan associations, or savings banks located in the Commonwealth. Funds deposited in banks, savings

institutions, or savings banks in excess of insurance afforded by the Federal Deposit Insurance Corporation or other federal insurance agency shall be secured under the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.). The deposit of these funds in federally insured banks, savings and loan associations, or savings banks located in the Commonwealth shall not be considered investment of such funds for purposes of this section. Funds maintained by the Director may be invested in securities that are legal investments for fiduciaries under the provisions of § 64.2-1502.

Interest earned on the deposits constituting the Fund shall be used for administering the Fund. The remainder of this interest, at the discretion of the Board, may be transferred to the Common Interest Community Management Information Fund, established pursuant to § 54.1-2354.2, or accrue to the Fund.

"C. On and after July 1, 2011, the minimum balance of the Fund shall be \$150,000. Whenever the Director determines that the principal balance of the Fund is or will be less than such minimum principal balance, the Director shall immediately inform the Board. At the same time, the Director may recommend that the Board transfer a fixed amount from the Common Interest Community Management Information Fund to the Fund to bring the principal balance of the Fund to the amount required by this subsection. Such transfer shall be considered by the Board within 30 days of the notification of the Director."

"D. If any such transfer of funds is insufficient to bring the principal balance of the Fund to the minimum amount required by this section, or if a transfer to the fund has not occurred, the Board shall assess each association and each common interest community manager within 30 days of notification by the Director, a sum sufficient to bring the principal balance of the Fund to the required minimum amount. The amount of such assessment shall be allocated among the associations and common interest community managers in proportion to the each payor's most recently paid annual assessment, or if an association or common interest community manager has not paid an annual assessment previously, in proportion to the average annual assessment most recently paid by associations or common interest community managers respectively. The Board may order an assessment at any time in addition to any required assessment. Assessments made pursuant to this subsection may be issued by the Board (i) after a determination made by it or (ii) at the time of license renewal."

Summary of proposed amendment:

For recovery funds administered by boards within DPOR, the harmed party is eligible to make a direct claim for reimbursement from the recovery fund provided certain prerequisites are met. By amending the definition of "claimant" to include an association, the harmed party could be eligible to make a direct claim for reimbursement similar to other recovery funds within DPOR. In addition, by amending the language to increase the minimum balance of the recovery fund to \$1,500,000, the Director will be able to transfer funds from the CIC Management Information Fund to the Recovery Fund if the balance is below the minimum amount. Also, amend § 54.1-2354.5(A) to require payments to the recovery fund with each common interest community manager renewal and each association annual report (not just with initial application or first annual report filing as is currently required).

Background of proposed amendment:

The Board is concerned that a single claim, much less multiple claims, could easily exceed the current minimum of \$150,000. In addition, the Board is concerned that the current payments into the recovery fund are not sufficient to provide adequate recovery to a claimant in the event a payment is ordered pursuant to § 54.1-2354.5. In fact, the CIC Board had its first recovery fund claim in June 2022 and, as anticipated, the amount of the claim exceeded the amount in the recovery fund. While the Board awarded the full amount of funds in the recovery fund for the claim, it still left approximately \$140,000 unable to be paid.

2.

VIRGINIA REAL ESTATE TIME-SHARE ACT | Reseller Recordkeeping

Code(s) referenced:

§ 55.1-2245(A)(1)

Summary of current language:

The current language requires time-share resellers to keep specific information for five years, including copies of government-issued photographic identification pertaining to the lead dealer.

Excerpt:

§ 55.1-2245. Recordkeeping by reseller.

"A. If contact information has been obtained by a reseller from any source, including a lead dealer, the reseller and lead dealer shall maintain the following records for a period of five years from the last date of contact between the reseller and the owner:

1. The name; home address; work address, if different; telephone number; email address, if any; and a copy of a current government-issued photographic identification (e.g., driver's license, passport, or military identification card) of the lead dealer who provided the contact information;"

Summary of proposed amendment:

Amend the language to remove the requirement that a reseller keep copies of government-issued photographic identification.

Background of proposed amendment:

Identity theft is an increasing problem, and a statutory requirement that places a responsibility on regulants to keep information that could contribute to theft of an individual's personal information is not appropriate.

3.

COMMON INTEREST COMMUNITIES | Common Interest Community Manager Licensure

Code(s) referenced:

§§ 54.1-2346(A); 54.1-2346(C); and 54.1-2347(A)(2)

Summary of current language:

The current language exempts an employee of an association who provides management services to the association's common interest community from the requirement in § 54.1-2346(A) of the Code of Virginia to have a common interest community manager license issued by the Board.

Excerpts:

§ 54.1-2346. License required; certification of employees; renewal; provisional license.

"A. Unless exempted by § 54.1-2347, any person, partnership, corporation, or other entity offering management services to a common interest community on or after January 1, 2009, shall hold a valid license issued in accordance with the provisions of this article prior to engaging in such management services.

C. On or after July 1, 2012, it shall be a condition of the issuance or renewal of the license of a common interest community manager that all employees of the common interest community manager who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community shall, within two years after employment with the common interest community manager, hold a certificate issued by the Board certifying the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community or shall be under the direct supervision of a certified employee of such common interest community manager. A common interest community manager shall notify the Board if a certificated employee is discharged or in any way terminates his active status with the common interest community manager."

§ 54.1-2347. Exceptions and exemptions generally.

"A. The provisions of this article shall not be construed to prevent or prohibit:

2. An employee of an association from providing management services for that association's common interest community;"

Summary of proposed amendment:

Amend the section to remove the provision in § 54.1-2347(A)(2) that exempts an employee of an association who provides management services to that common interest community association from the requirement to be licensed.

Background of proposed amendment:

Individuals who are directly employed by associations to provide management services to the associations' common interest communities are not required to be licensed as a common interest community manager, and are not required to be certified as a principal or supervisory employees under § 54.1-2346(C) of the Code of Virginia; as the certification requirement is applicable only to those employed by licensed common interest community managers. The regulatory review committee was concerned that these individuals may lack the minimum training and experience to directly provide management services to common interest communities, which poses a risk to the public welfare.

4.

**COMMON INTEREST COMMUNITIES | Common Interest Community
Manager Licensure**

Code(s) referenced:

§ 54.1-2349(A)(2)

Summary of current language:

The current language requires that the criteria for licensure of licensure of common interest community managers include designation as an Accredited Association Management Company by the Community Associations Institute. The Board may establish by regulation an alternative to this designation, which must include either (i) completion of a Board-approved training program and certifying examination; or (ii) completion of a Virginia testing program.

Excerpts:

§ 54.1-2349. Powers and duties of the Board.

"A. The Board shall administer and enforce the provisions of this article. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:
2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;"

Summary of proposed amendment:

Amend the language to essentially "flip" the requirements of the statute by requiring that the criteria for licensure established by the Board must include either (i) successful completion of a Board-approved training program and certifying examination, or (ii) successful completion of a Virginia testing program; and establishing designation as an Accredited Association Management Company (AAMC) as an alternative.

Background of proposed amendment:

Based on the current requirements of the statute, the Common Interest Community Manager Regulations stipulate that a firm must hold an active designation as an AAMC. However, in lieu of such designation, the firm may designate a supervisory employee, officer, manager, owner, or principal of the firm who is involved in all aspects of the management services offered and provided by the firm, and who meets certain education and experience qualifications. Such qualifications include accreditation as a Professional Community Association Manager (PCAM) by Community Associations Institute, or completion of a Board-approved training program. During the regulatory review, it was determined that only about 12% of licensed common interest community managers qualified on the basis of an active AAMC designation. The great majority qualified using the "alternative" contemplated under the statute. The regulatory review

committee was also concerned that mandating licensure qualifications to be linked to credentialing by another organization could be problematic if the standards established by the credentialing organization were to change in the future.

5.
**COMMON INTEREST COMMUNITIES | Common Interest Community
Manager Licensure**

Code(s) referenced:

§ 54.1-2346(E)

Summary of current language:

The current language requires that when obtaining or renewing a license, a common interest community manager certify to the Board that an independent certified public accountant reviews or audits the financial statements of the common interest community manager at least annually according to standards established by the American Institute of Certified Public Accountants.

Excerpts:

§ 54.1-2346. License required; certification of employees; renewal; provisional license.

"E. It shall be a condition of the issuance or renewal of the license of a common interest community manager that the common interest community manager certifies to the Board (i) that the common interest community manager is in good standing and authorized to transact business in Virginia; (ii) that the common interest community manager has established a code of conduct for the officers, directors, and persons employed by the common interest community manager to protect against conflicts of interest; (iii) that the common interest community manager provides all management services pursuant to written contracts with the associations to which such services are provided; (iv) that the common interest community manager has established a system of internal accounting controls to manage the risk of fraud or illegal acts; and (v) *that an independent certified public accountant reviews or audits the financial statements of the common interest community manager at least annually in accordance with standards established by the American Institute of Certified Public Accountants or by any successor standard-setting authorities.*"

Summary of proposed amendment:

Amend the language to remove the provision in § 54.1-2346(E) that requires a common interest community manager to certify to the Board that the common interest community manager's financial statements are reviewed or audited at least annually by an independent certified public accountant.

Background of proposed amendment:

The current language appears to have been intended to protect common interest community associations by ensuring that the finances of the management company are reviewed by an independent accountant as a safeguard against the potential defalcation of funds entrusted to the common interest community manager by associations. During regulatory review, it was determined that an annual review or audit of a management company's financial statements

would not provide the intended protection to common interest community associations since the financial accounts of a management company are separate from those of the common interest community association. A review or audit of a management company's financial statements would not detect any defalcation of association funds.

6.

COMMON INTEREST COMMUNITIES | Common Interest Community Manager Licensure

Code(s) referenced:

§ 54.1-2346(D)

Summary of current language:

The current language requires that when obtaining or renewing a license, a common interest community manager obtain a fidelity bond or employee dishonesty insurance policy that insures the common interest community manager for losses by its client associations resulting from the theft or dishonesty of the common interest community manager's officers, directors, or employees. The amount of the insurance must be the lesser of (i) \$2 million, or (ii) the highest aggregate amount of the operating and reserve balances of all of the common interest community associations under the control of the common interest community manager during the previous fiscal year; but must be at least \$10,000.

Excerpts:

§ 54.1-2346. License required; certification of employees; renewal; provisional license.

"D. It shall be a condition of the issuance or renewal of the license of a common interest community manager that the common interest community manager shall obtain and maintain a blanket fidelity bond or employee dishonesty insurance policy insuring the common interest community manager against losses resulting from theft or dishonesty committed by the officers, directors, and persons employed by the common interest community manager. Such bond or insurance policy shall include coverage for losses of clients of the common interest community manager resulting from theft or dishonesty committed by the officers, directors, and persons employed by the common interest community manager. Such bond or insurance policy shall provide coverage in an amount equal to the lesser of \$2 million *or the highest aggregate amount of the operating and reserve balances of all associations under the control of the common interest community manager during the prior fiscal year.* The minimum coverage amount shall be \$10,000."

Summary of proposed amendment:

Amend the language so that amount of the required insurance is the lesser of \$2 million or the highest aggregate amount of *all association funds*, not just operating and reserve balances, of all associations under the control of the common interest community manager *at the end of the most recent fiscal year for the common interest community manager.*

Background of proposed amendment:

During regulatory review, there was concern that having the amount of the insurance based on the aggregate of associations' operating and reserve balances may leave out other association

funds that are under the control of the common interest community manager which could potentially be lost due to theft or dishonesty, risking that associations may be insufficiently protected in the event of a loss. The regulatory review committee was also concerned that the term *during the prior fiscal year* was imprecise and unclear. The committee recommended this provision be more definitive.

7.

COMMON INTEREST COMMUNITIES | Common Interest Community Managers

Code(s) referenced:

§ 54.1-2353(A)

Summary of current language:

The current language requires that a common interest community manager must keep all association funds deposited with the common interest community manager in a fiduciary trust account separate from the funds of the common interest community manager.

Excerpts:

§ 54.1-2353. Protection of the interests of associations; appointment of receiver for common interest community manager.

"A. A common interest community manager owes a fiduciary duty to the associations to which it provides management services with respect to the manager's handling the funds or the records of each association. All funds deposited with the common interest community manager shall be handled in a fiduciary capacity and *shall be kept in a separate fiduciary trust account or accounts* in an FDIC-insured financial institution separate from the assets of the common interest community manager. The funds shall be the property of the association and shall be segregated for each depository in the records of the common interest community manager in a manner that permits the funds to be identified on an association basis. All records having administrative or fiscal value to the association that a common interest community manager holds, maintains, compiles, or generates on behalf of a common interest community are the property of the association. A common interest community manager may retain and dispose of association records in accordance with a policy contained in the contract between the common interest community manager and the association. Within a reasonable time after a written request for any such records, the common interest community manager shall provide copies of the requested records to the association at the association's expense. The common interest community manager shall return all association records that it retains and any originals of legal instruments or official documents that are in the possession of the common interest community manager to the association within a reasonable time after termination of the contract for management services without additional cost to the association. Records maintained in electronic format may be returned in such format."

Summary of proposed amendment:

Amend the language to remove the requirement that association funds be held in a trust account.

Background of proposed amendment:

During regulatory review, there was concern that the requirement for association funds to be held in a trust account is not reflective of practice in the community management industry, where association funds are not typically held in fiduciary trust accounts.

8.
COMMON INTEREST COMMUNITIES | Common Interest Community Board

Code(s) referenced:

§ 54.1-2349(B)(2)

Summary of current language:

The current language provides that the Real Estate Board has sole enforcement responsibility of Article 1 of Chapter 23.3 of Title 54.1 of the Code of Virginia when a licensed real estate broker, real estate salesperson, or real estate brokerage is a licensed common interest community manager.

Excerpts:

§ 54.1-2349. Powers and duties of the Board.

"B. 1. The Board shall have the sole responsibility for the administration of this article and for the promulgation of regulations to carry out the requirements thereof.

2. The Board shall also be responsible for the enforcement of this article, provided that the Real Estate Board shall have the sole responsibility for the enforcement of this article with respect to a real estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager."

Summary of proposed amendment:

Amend the section to remove the provision that gives the Real Estate Board sole enforcement authority when a licensed common interest community manager is also a licensee of the Real Estate Board.

Background of proposed amendment:

When the General Assembly created the Common Interest Community Board in 2008, it established shared enforcement jurisdiction over those dually licensed by the Real Estate Board, modeled after the framework applicable to the Fair Housing Board. This approach works for these boards because both enforce the same fair housing laws and regulations. However, this is not the case for the Common Interest Community Board and the Real Estate Board. In the handful of disciplinary cases to date involving common interest community managers also licensed by the Real Estate Board, shared jurisdiction has proven unworkable. Unlike fair housing, the laws and regulations governing standards of practice for managers and real estate licensees are not analogous. The Real Estate Board voted in 2015 to designate a CIC Board member to preside over any dual-licensee administrative proceeding, recognizing it needed subject matter expertise with CIC laws, regulations, and industry practice. In every referred CIC

disciplinary case since that time, the Real Estate Board has adopted the recommendation of the CIC Board member. When a violation of CIC laws and regulations is considered and adjudicated by a body that does not also administer those standards, it creates a great deal of confusion for licensees as well as the legal community.

9.
COMMON INTEREST COMMUNITIES | Common Interest Community Board

Code(s) referenced:

§ 54.1-2350

Summary of current language:

The language in the section as amended during the 2023 General Assembly Session requires the Common Interest Community Board to develop and disseminate a standardized resale certificate form. However, the tagline still reads "form to accompany resale certificates."

Excerpts:

§ 54.1-2350. Annual report; form to accompany resale certificates.

In addition to the provisions of § 54.1-2349, the Board shall:

...

2. Develop and disseminate an association annual report form for use in accordance with §§ 55.1-1835, 55.1-1980, and 55.1-2182; and
3. Develop and disseminate a standardized resale certificate form, which shall contain disclosure statements in the order listed in § 55.1-2310. The form shall provide for the attachment of reference documents and contain space for an association to indicate those disclosures that pertain to its particular community. The form shall also provide that the purchaser remains responsible for his own examination of the resale certificate and of any attached reference documents.

Summary of proposed amendment:

Amend the tagline to reflect the new provisions, such as "Annual report; standardized resale certificate."

Background of proposed amendment:

Prior to July 1, 2023, the Common Interest Community Board was required to create a form to accompany resale certificates and disclosure packets to provide specific information important to those purchasing property within common interest community associations. When the General Assembly amended this section during the 2023 General Assembly Session, the provisions were amended to require the Common Interest Community Board to develop a standardized resale certificate form to aid consumers and preparers in understanding the disclosures and documents that must be a part of the resale certificate. As part of this, all provisions related to resale certificates and disclosure packets were conformed to use the same vocabulary no matter the type of association and created a new Act governing resale certificates called the Resale Disclosure Act (Chapter 23.1 of Title 55.1).

10.

COMMON INTEREST COMMUNITIES | Resale Disclosure Act

Code(s) referenced:

§ 55.1-2310.A.27

Summary of current language:

The language in the section was moved from the Virginia Real Estate Cooperative Act to the newly-created Resale Disclosure Act.

Excerpts:

§ 55.1-2310. Resale certificate; form and contents.

- A. The association shall include the completed resale certificate form, developed by the common interest community board pursuant to subdivision 3 of § 54.1-2350, with supporting documentation set out in the following order:

...

27. In a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the owner of real estate taxes and interest paid by the association; . . .

Summary of proposed amendment:

Delete subdivision 27 from § 55.1-2310.A.

Background of proposed amendment:

Per professional accountants who work with common interest communities, an accountant would not be able to provide such a statement. It would be inappropriate, and possibly problematic, for an accountant to make any kind of statement about deductions on an owner's taxes when they have no knowledge of any matter related to an individual owner's tax situation. This would also reduce the number of items an association manager or volunteer member responsible for preparing the resale certificate would have to consider when prepare such resale certificate.

11.

COMMON INTEREST COMMUNITIES | Resale Disclosure Act

Code(s) referenced:

§ 55.1-2316.E

Summary of current language:

The language in the section was moved from the Property Owners' Association Act to the newly-created Resale Disclosure Act. The provision includes the specific circumstances that must be met in order for an association to charge the fees for preparing the resale certificate, including being current in filing the association annual report with the CIC Board.

Excerpts:

§ 55.1-2316. Resale certificate; fees.

...

E. No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board; (ii) is current in filing the most recent annual report and fee with the Common Interest Community Board pursuant to § 55.1-1835; (iii) is current in paying any assessment made by the Common Interest Community Board pursuant to § 54.1-2354.5; and (iv) provides the option to receive the disclosure packet electronically.

Summary of proposed amendment:

Add § 55.1-1980 and § 55.1-2182 to properly capture condominium unit owners' associations and cooperative proprietary lessees associations, respectively.

Background of proposed amendment:

When provisions related to resale certificates (disclosure packets) were moved from the Property Owners' Association Act, the Virginia Condominium Act, and the Virginia Real Estate Cooperative Act, this particular provision was cut and pasted from the POA Act, which only referenced the annual report provision in that Act, and due to an apparent oversight wasn't amended to include the two additional types of associations that are subject to the Resale Disclosure Act.

OMBUDSMAN REPORT

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
and are not to be construed as regulation or official Board action.
DRAFT AGENDA

**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Common Interest Community Board
954520**

2022-2024 Biennium

April 2023

	April 2023 Activity	Biennium-to-Date Comparison	
		July 2020 - April 2021	July 2022 - April 2023
Cash/Revenue Balance Brought Forward			0
Revenues	59,176	477,113	499,542
Cumulative Revenues			499,542
Cost Categories:			
Board Expenditures	16,966	369,893	383,744
Board Administration	0	0	0
Administration of Exams	0	0	0
Enforcement	9,607	121,488	149,775
Legal Services	0	2,092	2,192
Information Systems	6,516	63,870	58,339
Facilities and Support Services	6,407	62,697	62,038
Agency Administration	3,479	42,150	67,166
Other / Transfers	0	0	0
Total Expenses	42,975	662,190	723,253
Transfer To/(From) Cash Reserves	(798)	0	(240,709)
Ending Cash/Revenue Balance			16,999

Cash Reserve Beginning Balance	2,460,282	0	2,700,194
Change in Cash Reserve	(798)	0	(240,709)
Ending Cash Reserve Balance	2,459,485	0	2,459,485

Number of Regulants	
Current Month	7,822
Previous Biennium-to-Date	7,321

DEPARTMENT OF PROFESSIONAL
& OCCUPATIONAL REGULATION

**VIRGINIA COMMON INTEREST
COMMUNITY MANAGEMENT
RECOVERY FUND**

FINANCIAL STATEMENTS

Cash Basis

For the Month Ended

4/30/2023

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT RECOVERY FUND
BALANCE SHEET
GOVERNMENTAL FUNDS
04/30/23

	Special Revenue Funds		
	Principal	Interest	Totals
ASSETS			
Cash and Cash Equivalents	\$ 146,230	\$ 15,946	\$ 162,176
	-	-	-
Total Assets	<u>\$ 146,230</u>	<u>\$ 15,946</u>	<u>\$ 162,176</u>
FUND BALANCES			
Reserved for Payment of Future Claims	\$ 146,230	-	\$ 146,230
Reserved for Administration of Recovery Act	-	15,946	15,946
Total Fund Balances	<u>\$ 146,230</u>	<u>\$ 15,946</u>	<u>\$ 162,176</u>

The accompanying notes are an integral part of this statement.

**DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
 VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT RECOVERY FUND
 STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
 GOVERNMENTAL FUNDS
 FOR THE MONTH ENDED 04/30/2023**

	CURRENT MONTH			YEAR TO DATE		
	Principal Fund	Interest Fund	Totals	Principal Fund	Interest Fund	Totals
REVENUES:						
Assessments	\$ 1,175	\$ -	\$ 1,175	\$ 7,025	\$ -	\$ 7,025
Investment Income		585	585		4,312	4,312
Total Revenues:	<u>1,175</u>	<u>585</u>	<u>1,760</u>	<u>7,025</u>	<u>4,312</u>	<u>11,337</u>
EXPENDITURES:						
Claims Expense	-	-	-	-	-	-
Administrative Expenses	-	-	-	-	148	148
Total Expenses:	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>148</u>	<u>148</u>
	<u>1,175</u>	<u>585</u>	<u>1,760</u>	<u>7,025</u>	<u>4,165</u>	<u>11,190</u>
Beginning Fund Balance	<u>145,055</u>	<u>15,361</u>	<u>160,417</u>	<u>139,205</u>	<u>11,782</u>	<u>150,987</u>
Ending Fund Balance	<u>\$ 146,230</u>	<u>\$ 15,946</u>	<u>\$ 162,176</u>	<u>\$ 146,230</u>	<u>\$ 15,946</u>	<u>\$ 162,176</u>

The accompanying notes are an integral part of this statement.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT RECOVERY FUND
SUPPLEMENTAL SCHEDULE OF CLAIMS PAID
April 30, 2023

CLAIMS PAID:	Number of Payments	Dollar Amount of Claims Paid	Related Recoveries	Net Payments
July 1, 2022 - June 30, 2023	0	\$0.00	\$0.00	\$0.00
July 1, 2021 - June 30, 2022	1	\$239,466.76	\$0.00	\$239,466.76
July 1, 2020 - June 30, 2021	0	\$0.00	\$0.00	\$0.00
July 1, 2019 - June 30, 2020	0	\$0.00	\$0.00	\$0.00
July 1, 2018 - June 30, 2019	0	\$0.00	\$0.00	\$0.00
July 1, 2017 - June 30, 2018	0	\$0.00	\$0.00	\$0.00
July 1, 2016 - June 30, 2017	0	\$0.00	\$0.00	\$0.00
July 1, 2015 - June 30, 2016	0	\$0.00	\$0.00	\$0.00
July 1, 2014 - June 30, 2015	0	\$0.00	\$0.00	\$0.00
July 1, 2013 - June 30, 2014	0	\$0.00	\$0.00	\$0.00
July 1, 2012 - June 30, 2013	0	\$0.00	\$0.00	\$0.00
July 1, 2011 - June 30, 2012	0	\$0.00	\$0.00	\$0.00
July 1, 2010 - June 30, 2011	0	\$0.00	\$0.00	\$0.00
July 1, 2009 - June 30, 2010	0	\$0.00	\$0.00	\$0.00
July 1, 2008 - June 30, 2009	0	\$0.00	\$0.00	\$0.00
Total	1	\$239,466.76	\$0.00	\$239,466.76

This schedule is presented on a cash basis and represents aggregate claims paid and related recoveries. Recoveries are often received and reported in a different year from when the claim was paid.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT RECOVERY FUNDS
NOTES TO FINANCIAL STATEMENTS
4/30/2023

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The following is a summary of certain significant accounting policies employed by the Department of Professional and Occupational Regulation in administering the Virginia Common Interest Community Management Recovery Fund.

A. Basis of Presentation

The accompanying financial statements have been prepared using governmental fund accounting as prescribed by the Governmental Accounting Standards Board (GASB). The financial statements are prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

B. Reporting Entity

These financial statements report the financial activity of the Virginia Common Interest Community Management Recovery Fund, which is administered by the Department of Professional and Occupational Regulation. The Department exercises oversight authority over other funds which are not included in these financial statements.

C. Financial Statement Presentation

Special Revenue Funds account for transactions related to resources received and used for restricted or specific purposes. The Virginia Common Interest Community Management Recovery Fund, which is reported as a special revenue fund, is established under Section 55-530.1 of the *Code of Virginia* to reimburse associations for losses that occur when their community manager fails to perform his or her fiduciary responsibilities.

D. Measurement Focus and Basis of Accounting

The governmental fund financial statements are reported using the current financial resources measurement focus and the cash basis of accounting. Revenues are recognized when cash is received and expenditures are recorded when paid. The Department uses the cash basis of accounting during the year and prepares financial statements in accordance with generally accepted accounting principles at year end. ##

E. Cash and Cash Equivalents

Cash and cash equivalents consist of cash on hand, demand deposits, and investments in the Local Government Investment Pool (LGIP). Investments in the Local Government Investment Pool are reported as cash equivalents since they are readily convertible to cash.

2. RESTRICTED FUND BALANCES

Assets held in the Virginia Common Interest Community Management Recovery Funds are restricted to the payment of claims in accordance with Section 55.530.1H of the *Code of Virginia*. Interest earned on the deposits are used to pay the expenses of administering the fund, to pay claims, or may be transferred to the Common Interest Community Management Information Fund.

3. ASSESSMENTS

The Common Interest Community Management Recovery Fund is financed through assessments. Each new common interest community manager pays a \$25 assessment into the Recovery Fund at the time of application. Each association pays \$25 into the Recovery Fund at the time of filing its first annual report. After July 1, 2011, the *Code of Virginia* requires the Board to transfer funds from the Common Interest Community Management Information Fund and/or assess each association and each common interest community manager additional fees whenever the principal balance of the Recovery Fund is less than \$150,000. If the principal balance of the fund exceeds \$5,000,000 on June 30 of any year, the Board must transfer the excess to the Virginia Housing Partnership Revolving Fund.

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These financial statements are prepared by Doris Economou, Accounting Specialist. Please call 804-367-2530 if you have questions.

CONSIDER RESOLUTIONS FOR SERVICE

(To be Considered at Meeting)

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Materials contained in this agenda are proposed topics for discussion
and are not to be construed as regulation or official Board action.
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OTHER BOARD BUSINESS

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Materials contained in this agenda are proposed topics for discussion
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COMPLETE CONFLICT OF INTEREST
FORMS AND
TRAVEL VOUCHERS

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