

**COMMISSION ON COMMON OWNERSHIP COMMUNITIES
FOR MONTGOMERY COUNTY, MARYLAND**

IN THE MATTER OF	:	
	:	
LORRAINE DAVIS	:	
Complainant	:	
	:	Case No. 06-12
v.	:	Hearing Date: October 10, 2012
	:	Decision: July 26, 2013
CHEVY CHASE CREST	:	
CONDOMINIUM ASSOCIATION	:	
	:	
Respondent.	:	
	:	

MEMORANDUM DECISION AND ORDER

On October 10, 2012, the above-captioned case was heard by a Hearing Panel of the Commission on Common Ownership Communities for Montgomery County, Maryland, pursuant to Chapter 10B of the Montgomery County Code, 1994, as amended. During the hearing, the Panel heard testimony from Respondent's witness and received into evidence Commission file documents and those submitted by Respondent. Complainant did not appear at the hearing.

Issues

The Commission took jurisdiction over the following alleged violations of the governing documents and State law by the Chevy Chase Crest Condominium Association (the "Respondent" or "Association"):

1. failing to take and to maintain minutes of its meetings;
2. failing to give advance notice of its meetings; and
3. failing to make its documents available for inspection.

The hearing on October 10, 2012 was limited to these issues. The Commission voted to reject jurisdiction of the claim that the Association unreasonably changed its contract with an outside vendor for installing and maintaining washers and dryers in the Association's laundry room.

Findings of Fact

Although both parties were properly notified of the date and time of the hearing, only the Respondent attended and presented evidence. Based on all the testimony and evidence received, including Commission Exhibit 1, the Hearing Panel makes the following Findings of Fact related to the claims of Complainants:

1. The Respondent, Chevy Chase Condominium Association, is a ~~condominium association as defined and governed by Title 11 of the Real Property Article of the Code of Maryland.~~

2. Lorraine Davis (the "Complainant") is a member of the Association.

3. The terms of the master deed and bylaws are binding on both the Respondent and Complainant. Collectively, these documents together with policies adopted by the Board are referred to as the "Governing Documents" of the Condominium.

4. The Respondent has a longstanding practice of holding its Board of Director meetings on the third Tuesday of each month. A meeting is not held if a quorum of the Board is not present or in December of each year due to the holidays.

5. The Respondent has a practice of preparing board meeting minutes so that they are available for unit owners to view. Dates for the next board meeting are contained in the minutes. Copies of all 2011 meeting minutes were introduced by Respondent at the hearing as Respondent's Exhibit 1. These minutes reflected that 7 meetings were held by Respondent in 2011.

6. The Respondent has a policy that any unit owner seeking to inspect documents of the Respondent must make an appointment with its management company to view the records.

7. The Complainant did not make an appointment to view records, but instead appeared at the Respondent's management company without a prior appointment. As a result, Complainant was not provided with records during her visit. Thereafter, Complainant did not request an appointment with the management company to view records.

8. The Complainant did request a copy of the Respondent's laundry contract. Respondent filed a copy of the laundry contract with the Commission in February, 2012, at which time it became available to Complainant.

9. On June 11, 2012, the Complainant requested certain income and expense records from Respondent. On July 1, 2012, Respondent emailed copies of the requested financial statements to Complainant. Thereafter, on July 26, 2012, further financial documents were emailed to Complainant by Respondent, and Complainant confirmed by email dated July 26, 2012 that all requested documents had been received.

Conclusions of Law

1. The Maryland Condominium Act, Section 11-109, Real Property Article of the Code of Maryland, requires that Respondent hold at least one open meeting per year. The evidence presented at the hearing reflects that Respondent held 7 open meetings during 2011, thus meeting the meeting requirements of the Act.

2. The Maryland Condominium Act, Section 11-116(a), requires minutes of each meeting be prepared. The evidence presented at the hearing reflects that Respondent had written minutes for each of the 7 meetings it held during 2011, thus meeting the minute requirements of the Act.

3. The Maryland Condominium Act, Section 11-116(c), requires that books and records be made available for inspection by unit owners. The evidence presented at the hearing reflects that Respondent did make available to Complainant all requested records.

Attorneys Fees

Through a Motion made at the hearing, the Respondent requested an award of legal fees in the amount of \$4,545.00.

Under Section 10B-13(d), we can award legal fees only if the association documents so require, or if a party is guilty of misconduct in the course of these proceedings.

The Respondent has not cited in its Motion any association document that requires the Complainant to reimburse it for its legal fees in a case like this, and we do not find any.

Although we find in favor of the Respondent on all counts, we do not find that the complaint was frivolous or unjustified. Documents requested by Complainant were provided by the Respondent during the pendency of the case and not prior to it. Moreover, the Respondent adopted a *Policy and Procedure for the Inspection and Copying of Books and Records* in March 2012 presumably in response to the requests made by Complainant and certainly after this case was initiated.

While the Complainant failed to appear at the hearing, the Respondent assumed no greater burden than it would have had the Complainant appeared. If anything, the hearing was shorter in duration due to the absence of the Complainant. Accordingly, we deny the Respondent's motion for attorney's fees.

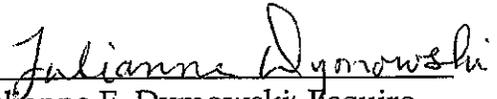
Order

In view of the foregoing, and based upon the record in this case, it is this 26th day of July, 2013 by the Commission on Common Ownership Communities, ORDERED as follows:

1. The Panel finds in favor of the Respondent on all claim in this case.
2. The Respondent's request for an award of legal fees is denied as there is no authority in the Governing Documents for such an award.

Any party aggrieved by an action of the Commission may file an administrative appeal to the Circuit Court for Montgomery County, Maryland, within 30 days after the date of this decision pursuant to the Maryland Rules of Procedure for administrative appeals.

Panel Members Richard Brandes and David Weinstein concur in this decision.


Julianne E. Dymowski, Esquire
Panel Chair