

## **COMMISSION ON COMMON OWNERSHIP COMMUNITIES**

### **Minutes of the Monthly Meeting**

**December 7, 2016**

**Approved**

The monthly meeting of the Commission on Common Ownership Communities was called to order at 7:20 pm by Chairperson Rand H. Fishbein.

**Present:** Commissioners Branda, Burrows, Ethier, Fine, Fishbein, Fonoroff, Gardner, Gelfound, Majerle, Radcliff, Viney, Zajic (12).

**Absent:** Commissioners Coyle, Oxendine, Winegar (3).

**Also attending:** Associate County Attorney Walter Wilson; DHCA staff Peter Drymalski; Dallas Valley, Lawrence Dorney, Asadur Ozkanian, Jack and Yvette Rich.

Prior to the monthly meeting, the Process and Procedures Committee presented its proposed Dispute Resolution Procedures. The CCOC adopted the proposals for early on-site dispute mediation where possible, to establish a central file for the collection of association governing documents; to not have the CCOC review all new complaints for jurisdiction prior to initiating the dispute resolution process; to request statistics on CCOC mediations and to encourage mediation agreements to include a 1-year period for compliance; to encourage the consolidation of different complaints by different complainants when they present similar issues; to investigate the possibility of providing free or reduced-cost legal assistance to parties; to encourage prehearing conferences and early prehearing orders using a uniform schedule; to include in its formal Decisions a warning that the Decision is legally enforceable by the DHCA staff and subject to fines at the court's discretion; and that the CCOC will create a standard schedule for all cases to follow.

**1. MINUTES.** The minutes of the November, 2016, meeting were approved as drafted with the correction of the dates in Section 8, which should read "2017" instead of "2018." (Mr. Fonoroff abstained.)

### **2. COMMUNITY FORUM:**

Mr. Dorney stated he refused to sign the Sign In form for tonight's meeting. Mr. Ozkanian complained of unfairness in the treatment of his CCOC complaint but admitted that he had appealed and that the Circuit Judge had upheld the CCOC decision.

### **3. CHAIRPERSON'S REPORT:**

Dr. Fishbein thanked Ms. Ethier and the members of her committee for their work on the proposed dispute resolution procedures.

Dr. Fishbein and the Commission thanked Mr. Fine for the Christmas dinner he provided.

Dr. Fishbein reported that he and the IT committee had met with DHCA's IT staff to discuss the CCOC's IT programs. The CCOC supports DHCA's proposal to ask the County Council to renew the current funding of \$70,000 for IT development in the County's FY18 budget. He also noted that the current budget withholds approximately \$120,000 of the funds collected from CCOC registration fees from the CCOC.

He also reported that he has begun discussions with area law schools on the topic of creating legal clinics for law students to assist the parties in CCOC cases. The law schools are interested and there the discussions will continue in 2017.

Dr. Fishbein asked for a report on hiring. Mr. Drymalski reported that the application deadlines for the Office Service Coordinator expired November 17, and for the Investigator II on December 1. 103 applications for the OSC have been received and are being reviewed. Dr. Fishbein asked if the CCOC could be represented in the review or interview process, and Mr. Drymalski said it could not be, because County procedures limit participation to County employees. Mr. Wilson explained that current procedures are: 1. The Office of Human Resources (OHR) reviews applications to determine if they meet the minimum standards of the job requirements; 2. OHR forwards to DHCA the applications that do meet the minimum standards; 3. DHCA selects staff to rank the applications and returns them to OHR; and 4. OHR selects the top-ranked applications and sends them to DHCA for interviews. Standard questions for each interviewee are determined in advance.

Finally, Dr. Fishbein noted that the CCOC has not received the results of the surveys mailed by DHCA in early 2016; and he asked that DHCA not mail the 2017 surveys until approximately March, 2017, so that the CCOC has time to study the results of the 2016 surveys and determine what follow-up questions to ask.

### **3. NEW CASES PRESENTED FOR REVIEW:**

The Commission voted 11 to 1 (Mr Fine voting nay) to reject jurisdiction of Rich v. Mutual 11, #58-16, as moot.

### **4. REQUESTS TO THE COMMISSION:**

None.

### **5. DECISIONS AND ORDERS ISSUED; OTHER LITIGATION:**

Mr. Drymalski reported that no new decisions were issued by the CCOC; however the CCOC decision in *Ozkanian v. Walnut Grove* was upheld by the Circuit Court and that the Respondent in *Usui v. Americana Finnmark* has filed an appeal from the panel's interim ruling in that case.

## **6. COUNTY ATTORNEY'S REPORT:**

Mr. Wilson asked if the CCOC wished to intervene in the *Usui* appeal. He has discussed the appeal with the Respondent condominium association, which told him that the appeal is based on the CCOC's alleged misinterpretation of the "business judgment" rule. The CCOC agreed that no significant County interest was involved and that the County need not intervene.

## **7. STAFF REPORTS:**

Mr. Drymalski presented the monthly staff report and noted that almost 1,600 people have taken the mandatory training class this year.

## **8. COMMITTEE REPORTS:**

There was no report from the Education Committee.

Mr. Zajic circulated a written report from the Legislative Committee and asked that it be part of the record.

Dr. Fishbein reported that the CCOC IT committee and the DHCA IT staff do not agree on the program to be used by DHCA for CCOC case management. DHCA wants to develop its own program, but the CCOC wants to consider the purchase of a program already in use by lawyers, such as ProLaw. Currently DHCA is focusing on creating a database for the CCOC, not on case management. He would like to arrange a demonstration of ProLaw for the CCOC and for DHCA, and he asked the CCOC if he should ask DHCA to allow him to arrange for a demonstration. The Commission unanimously agreed to this.

Dr. Fishbein and Ms. Ethier discussed Dr. Fishbein's memorandum to create a "triage" system, whereby the CCOC, or a committee, would review every CCOC case to determine if it can be dismissed or otherwise disposed of. Mr. Wilson said that the CCOC did not have this authority and must follow the dispute resolution procedures outlined in Chapter 10B. In addition, under other provisions of County law, the powers granted to the Director of DHCA can be delegated only to a "proper person" and CCOC members do not qualify for that role. However, individual CCOC members could assist DHCA staff in developing a database that would inventory the status of pending cases.

Mr. Drymalski pointed out that the CCOC will have sufficient staff by early 2017 to perform this review and to report its results to the CCOC, and that the project should wait until CCOC staff can do the work. However, the CCOC voted unanimously to

establish a committee (Ethier, Fine) to perform the file reviews, inventory all cases, and make recommendations.

**9. OLD BUSINESS:**

**10. NEW BUSINESS:**

The CCOC's ancient tape recorder failed during the meeting and the CCOC requested permission to replace it.

Mr. Majerle asked if the CCOC could obtain free meeting rooms for the presentation of live classes on mandatory director training even though the classes were presented by non-CCOC members.

**11. NEXT MEETING:** The next meeting will be Wednesday, January 4, 2017, and the following meeting will be Wednesday, February 1, 2017.

The meeting adjourned at 9:50 pm.