

COMMISSION ON COMMON OWNERSHIP COMMUNITIES

Minutes of the Monthly Meeting January 4, 2017 (Approved)

The monthly meeting of the Commission on Common Ownership Communities was called to order at 7:04 pm by Chairperson Rand H. Fishbein.

Present: Commissioners Branda, Burrows, Ethier, Fine, Fishbein, Fonoroff, Majerle, Oxendine, Radcliff, Winegar, Viney, Zajic (12).

Absent: Commissioners Coyle, Gardner, Gelfound (3).

Also attending: Associate County Attorney Walter Wilson, DHCA Staff Peter Drymalski; Dallas Valley, Anis Ahmed, Larry Dorney.

RECORDING CCOC MONTHLY MEETINGS. At the beginning of the meeting there was a discussion of whether or not to record the monthly meetings on a tape or other electronic format, as opposed to written notes. Mr. Wilson advised that under recent legislative changes, the Commission must retain the electronic recordings of its meetings for at least 5 years and that the public is entitled to a copy of such recordings. This law applies to MP3 recordings as well as to printed transcripts. However, Mr. Wilson continued, the law does not require the Commission to record its meetings electronically or to make a printed transcript.

VOTE OF APPRECIATION TO MARK FINE. The Commission expressed its appreciation to Commissioner Fine for supplying the excellent sandwiches and other refreshments for the meeting at his own cost.

1. MINUTES. The minutes of the December ,2016, meeting were approved as corrected (Mr. Oxendine abstained).

2. COMMUNITY FORUM: Mr. Ahmed stated he had a case pending with the CCOC and the opposite party was represented by a lawyer who was listed on the CCOC webpage as being a volunteer panel chair for the CCOC. Mr. Drymalski pointed out that the attorney was a former Commissioner who had agreed to serve as a volunteer panel chair after his term expired in early 2014; however, he had not chaired or participated in any CCOC cases since then. The website was out of date and would be updated in the near future.

3. ELECTIONS. By acclamation, the Commission reelected Rand Fishbein as its chairperson, and Aimee Winegar as its vice-chairperson.

4. NEW CASES PRESENTED FOR REVIEW:

The Commission voted to vacate its decision of December, 2016, to reject jurisdiction of #58-16, Rich v. Mutual 11 and it then voted to accept jurisdiction of the dispute and refer it to a hearing panel for further proceedings. The Commission stated that its jurisdiction was limited to whether the parties had complied with the mediation agreement of September 15, 2016, and whether that breach involved an issue that fell under the Commission's jurisdiction under Section 10B-8. The Commission's vote was 10 to 2 (Commissioners Fonoroff and Oxendine voting nay). The hearing panel will include Commissioners Burrows and Majerle.

The Commission voted unanimously to dismiss, without prejudice, Case #23-16, Westfarm HOA v. Taveau, for failure to prosecute.

The Commission voted unanimously to reject Case #69-16, Ahmed v. Dufief Mill CA, for lack of jurisdiction under Section 10B-8.

The Commission voted unanimously to accept jurisdiction of #70-16, Hisirci v. Mallard Cove Condominium and to refer it to a hearing panel (Commissioner Fine abstained). The hearing panel will include Charles Fleischer, Kathy Viney and John Radcliff.

The Commission appointed a hearing panel for #22-16, Westfarm HOA v. Dibelayi and to set it for a hearing. This case was accepted last year but no panel was appointed at the time. The panel will include Commissioners Fine and Radcliff.

5. CHAIRPERSON'S REPORT. Dr. Fishbein stated that the IT committee had met with DHCA IT staff to discuss the contents of the CCOC's case management program, and that it was currently working on a description of the data fields to be used.

6. REQUESTS TO THE COMMISSION: None

7. DECISIONS AND ORDERS ISSUED; OTHER LITIGATION: None.

8. COUNTY ATTORNEY'S REPORT: Mr. Wilson stated that he had been able to review the State's Open Meetings Act more carefully. He further explained that amendments to the law, effective after October, 2016, require government agencies to retain copies of any tape or other electronic recording they make of their open meetings for at least 5 years; however, there is no duty to make such recordings. The staff's notes of the meetings are not subject to a retention requirement. The Commission voted 11 to 1 to make no electronic recordings of its monthly meetings, with Dr. Fishbein voting nay and Mr. Fine abstaining.

9. STAFF REPORTS: Staff reported that the monthly report was not ready. Staff spoke to the County Bar association's real estate committee about the CCOC. Staff updated the CCOC website by adding a text version of the mandatory training class. The next project will be to add biographies and photos of the Commissioners and volunteer panel chairs.

10. COMMITTEE REPORTS: Mr. Fine stated that the Legislative Committee will meet on the 17th at the DHCA offices to discuss pending legislation in the General Assembly.

Commissioner Winegar stated that the annual forum committee is planning to hold the 2017 annual forum at Leisure World in the Spring, the contents of the forum have not been finalized but might include a live version of the mandatory training class.

Dr. Fishbein announced that he and Commissioner Fine will comprise the Interview Committee that will meet with applicants to the CCOC. The expiration date for applications will be January 16.

11. OLD BUSINESS: Mr. Zajic reminded the Commission of the seminar on the business judgment rule that will be presented to the Commission before the February meeting.

12. NEW BUSINESS: None.

13. NEXT MEETING: The next meeting will be Wednesday, February 1 and the following meeting will be Wednesday, March 1.