

COMMISSION ON COMMON OWNERSHIP COMMUNITIES

Minutes of the Monthly Meeting March 1, 2017 (Approved)

The monthly meeting of the Commission on Common Ownership Communities was called to order at 7:03 pm by Chairperson Rand H. Fishbein.

Present: Commissioners Branda, Burrows, Ethier, Fine, Fishbein, Fonoroff, Gardner, Gelfound, Majerle, Oxendine, Radcliff, Winegar, Viney,, Zajic

Absent: None. (There is 1 vacancy.)

Also attending: Walter Wilson, Associate County Attorney; Peter Drymalski and Mark Anders, CCOC Staff; Timothy Reynolds, Dallas Valley

1. MINUTES. Mr. Fine moved to table approval of the February, 2017, minutes until the next meeting because he had changes to offer, and the Commission voted unanimously to table the motion to approve the minutes.

2. COMMUNITY FORUM: Dr. Fishbein introduced Mark Anders, Esq., who is the CCOC's new investigator. Mr. Anders is a former city attorney for Frederick, Maryland and has a background in municipal and real estate law.

3. NEW CASES PRESENTED FOR REVIEW: The Commission voted unanimously to reject jurisdiction of #79-16, Reynolds v. Parkside Plaza, on the grounds that because the association withdrew a disputed rule, the dispute was now moot. Mr. Reynolds asked for a refund of his filing fee on the grounds that he essentially prevailed in his complaint; but Mr. Wilson stated that as drafted Chapter 10B does not provide for such a refund. Only a hearing panel can do so, and only as part of an order disposing of a case.

The Commission voted unanimously (Mr. Fine abstaining) to accept jurisdiction of ##30-16, 41-16, 54-14 and 76-14 (Greencastle Lakes CA v. Kim, Levien, Gunn and Bailey, in that order) and to consolidate them for hearings before a single panel on the same evening. The hearings will be April 6 and the panel will be Ethier, Winegar and Viney.

The Commission voted unanimously to accept jurisdiction of #43-16, GLCA v. Begum, and to order the respondents to answer the complaint within 30 days or face entry of default should they fail to do so. (The panel is Ethier, Winegar and Viney.)

The Commission voted unanimously to accept jurisdiction of #44-16, GLCA v. Mustafa, and of #57-16, GLCA v. Robinson, and to issue an order of default and to show cause. The panel is Ethier, Winegar and Viney.)

4. REQUESTS TO THE COMMISSION:

None.

5. DECISIONS AND ORDERS ISSUED; OTHER LITIGATION:

Mr. Gardner summarized the recent decision in *Berman v. New Mark Commons Homes Association*, CCOC #53-16. In that case, the panel found that the association improperly charged townhome owners an excessive assessment to cover the association's stormwater management fees from the City of Rockville. The panel ordered the association to refund all the affected townhome owners the excessive portion of the fee. Mr. Gardner stated that this was the first time the CCOC had awarded a refund on assessments.

Ms. Winegar discussed a pending class action in the Circuit Court involving G&G Towing. The towing company agreed to refund \$22 million in improper towing fees, and then went out of business after having paid only a tiny portion of that sum. The plaintiffs have now stated their intentions to sue all of G&G's customers, including many common ownership communities, on the basis of the County Code, which declares a towing company's customers are jointly and severally liable for the company's improper fees. The communities' insurers are defending the cases. Ms. Winegar moved that the Legislative Committee consider asking the County to amend the towing law either to remove common ownership communities from the law or to remove the provision on joint and several liability. The Commission voted unanimously to do so.

6. COUNTY ATTORNEY'S REPORT:

Mr. Wilson reported he had two draft Decisions under consideration and had completed his review of a third.

7. STAFF REPORTS:

Mr. Drymalski reported that the CCOC staff has concentrated on reducing its backlog of pending cases, and has 43 active cases. This is down from 73 at this time in 2005 and 75 a year ago.

8. COMMITTEE REPORTS:

Mr. Fine reported for the Education Committee that it has reviewed and updated several of the CCOC brochures that are online, especially regarding obsolete addresses and other contact information. It also represented the CCOC at the annual CAI conference in DC at the end of February. It intends to soon devote its attention to

updating the CCOC's online manuals. The committee has also drafted a form to use for speaker requests. He concluded by asking the Commission to authorize Dr. Fishbein to send a letter to a person who had complained about the presentation he and Mr. Burrows intended to make to an association. Mr. Wilson advised that such a letter should be coordinated with the DHCA director. The CCOC voted unanimously to authorize such a letter (Oxendine, Fine abstained.)

Mr. Majerle asked if the CCOC could publicize third-party training classes on its website. He also moved that the CCOC staff look into establishing venues that can be used for third-party training classes and to provide funding for them. The CCOC voted unanimously to approve this.

Ms. Branda reported for the Legislative Committee. It is considering amendments to Chapter 10B and will circulate a draft of them to the CCOC. She also reported on the progress of various bills in the General Assembly.

Mr. Burrows reported for the IT Committee that it had met with DHCA's IT staff but made little progress. He thinks that the committee should not get lost in details but rather request specifications which the program must be able to produce, and which will do more than track case histories. For example, it should also be able to track the mandatory director training program. He said the DHCA staff wants CCOC input on what fields and menus the CCOC wants the program to include.

Dr. Fishbein reported for the Budget Committee that the County Executive will announce his proposed FY18 budget in mid-March, after which the County Council will begin to hold public hearings on it. He asked that the CCOC approve a request for two new staff members and for renewal of the \$75,000 allocated this year to development of the CCOC's case management system. He also wants to eliminate or reduce the current DHCA charges to the CCOC for "overhead. Mr. Fonoroff suggested that the DHCA budget should include a specific line item charge to the CCOC for "overhead" so that it's more clear where the CCOC funds go. The CCOC unanimously approved these recommendations.

9. OLD BUSINESS:

None.

10. NEW BUSINESS:

None.

11. NEXT MEETING: The next meeting will be Wednesday, April 5, and the following meeting will be Wednesday, May 3.