

COMMISSION ON COMMON OWNERSHIP COMMUNITIES

Minutes of the Monthly Meeting
100 Maryland Avenue, Room 225, Rockville, MD
October 5, 2017

The monthly meeting of the Commission on Common Ownership Communities was called to order at 7:00 p.m. by Chairman Rand H. Fishbein.

Commissioners Present: Burrows, Ethier, Fine, Fishbein, Fonoroff, Gardner, Gelfound [left at 9:10], Radcliffe, Winegar, Viney, and Valley [left at 8:30]

Commissioners Absent: Branda, Koonin, Majerle, Oxendine

Also attending: Walter Wilson (Associate County Attorney), Mark Anders (CCOC staff).

Visitors: Carole L. Portis (Leisure World), Sheryl Katzman (Leisure World), Suzanne Gray (Leisure World), Elaine Muhdrow-Malloy (Leisure World), John Palmisano, John Kester (Dumont Oaks), Farouk & Nicole Youssef (Cloverleaf Center Condos), Peter & Yu-Yun Franke (Cloverleaf Center Condos), Patrick Fleming (Cloverleaf Center Condos), and Jamie Sly (Cloverleaf Center Condos).

1. Commissioner Winegar moved to appoint Commissioner Kathy Viney to the position of Recording Secretary for the commission meetings. The motion was approved by unanimous vote.
2. Minutes: After offering amendments that: a) in future, minutes should end with "Submitted by: K. Viney, Commissioner" the Commission voted to accept the minutes of the September 2017 meeting as amended, with a majority in favor, none opposed, Commissioner Gelfound abstaining.
3. Chair's Comments:
 - a) Minutes: The Chair thanked Commissioner Viney for doing an excellent job in preparing September's meeting minutes along with those who assisted with editing.
 - b) New Commission Calendar: The Chair announced the creation of a new Commissioners' online Calendar, developed by Commissioner Fine that will be unveiled tonight after cases are reviewed. The Calendar is outside of the DHCA digital network and will be regularly updates by several administrators. The Chair expressed the gratitude of the Commission to Mark Fine for doing such an excellent job.
 - c) Case Management System Progress: Tim Goetzinger (Chief, Division of Finance and Administration, DHCA) has informed the Commission that the DHCA IT team has completed its work on the CCOC Case Management System (CMS) at the end of Sept. However, Commissioners have noticed that problems remain, in particular, the manner in which cases are numbered. The Commission still does not know if all of its recommended changes from last May have been included in the final product. Commissioner Burrows (IT Committee Chair) is tracking progress on the CMS, will speak with Gael/IT developers and report back to Commission at the November meeting.
 - d) October CCOC Budget Report: Tim Goetzinger provided the Commission with the October report on CCOC Revenue and Expenditure. Randy asked all Commissioners to review the document for issues and questions and to provide the Chair with feedback. It appears that not all of the unobligated and unexpended funds from the last fiscal year (FY 2017) were not rolled over to FY 2018 in July as required by statute.

- e) New Case Intake Forms: Commissioner Viney led an effort to revise the Commission's antiquated Case Intake Forms. A vote is needed by the full Commission approving the changes. Commissioner Viney will present her work and a motion to accept the changes to the revised forms at the Commission's November meeting.
 - f) Proposed Revisions to Chapter 10B: The Legislative Committee has completed work on amendments to Chapter 10B. Commissioner Branda (Legislative Committee Chair) could not be in attendance this evening so the presentation of the amendments will be made at the November meeting. A vote of the full Commission will be needed to approve the recommended changes.
 - g) New Hearing Panel Exhibit Training Booklet: The Chair expressed the Commission's gratitude to Commissioner Fine for producing a *Hearing Panel Exhibit Training Booklet*. The Booklet (a binder) provides a soup-to-nuts outline of how a Hearing Panel should be constituted, the hearing room set up, and the order of the proceedings. Commissioner Fine held a seminar this past Monday for a group of Commissioners to discuss the Booklet and the supporting documents it contains.
 - h) New Office Hire: The Chair expressed the Commission's gratitude to the group of Commissioners who recently provided Jay Greene (Chief, Division of Housing, DHCA) with a memorandum listing the requirements that the CCOC believes should guide the selection of a new head of the office staff (i.e. Peter Drymalski's replacement). Chapter 10B requires that the Commissioners participate in the selection process. To date, DHCA has not provided the Commission with any information of potential candidates for the job, nor has the Commission been invited to join meetings to discuss the search for the new hire.
 - i) Dir. Snuggs' Reply: The Chair reported on the reply of DHCA Director Snuggs to the checklist memo of *Issues and Concerns* sent to him by the Commission on August 15, 2017. The Chair sent the memo to all Commissioners and requested their feedback. He observed that many of the matters cited in the memo have languished on the Director's desk for nearly a year awaiting DHCA approval or action by DHCA staff. The Director's comments fell far short of the positive, action-oriented reply he has repeatedly promised the Commission.
 - j) Committee Membership: The Chair reminded Commissioners to review the revised committee membership list he sent out the day before. Please notify the Chair if you wish to change or add to your committee assignments.
 - k) CCOC Accomplishments: The Chair is announced he is compiling a list of Commission accomplishments over the last three years and asked all Committee Chairs to send him a list of all the projects and initiatives they and their teams have undertaken. The Chair is compiling these into a report.
4. Community Forum: Yu-Yun Franke (Cloverleaf Center Condominiums) thanked the CCOC for their service and for creating a place where homeowners can air their grievances. Mr. Fishbein responded that the commissioners are all volunteers and work very hard to serve the community.
5. Submission of disputes for Commission consideration:
- a) #29-17 Ashton Village v. Estate of Debra Summer: Respondent has not replied. Association's management company is named as complainant, instead of association. Commissioner Fonoroff moved that the commission accept jurisdiction of complaint re authority to compel any person to take an action, and refer the matter to a default judgment hearing panel; approved by unanimous vote.
 - b) #78-16 Longmead Crossing v. Ebinezer/Robinson: Commission already accepted jurisdiction and will refer to a default judgment hearing panel.
 - c) #81-16 Ginsberg v. Avenel Community Association: Commissioner Gelfound moved to deny jurisdiction on business judgment grounds; Gelfound & Ethier in favor, Fishbein abstained, motion failed. Discussion followed re implication of the business judgment rule and private property rights. Commissioner

Gardner moved that commission accept jurisdiction, Gelfound & Ethier opposed, Fishbein abstained, motion passed and commission will refer the matter to a hearing panel.

- d) #26-17 Morris v. Big Pines HOA: Commissioner Ethier moved to reject complaint as complainant failed to exhaust all remedies, approved by unanimous vote.
- e) #24-17 Bennett v. Timberlawn HOA: Parties could not agree on mediation dates; Commissioner Ethier moved to accept jurisdiction re authority to compel any person to take an action, approved by unanimous vote, and referred the matter to hearing panel.
- f) #43-16 Greencastle Lakes v. Ahmed: Commissioners expressed concern at disarray of file. Staff to contact parties to try to re-construct file. Commissioner Fishbein move to defer the matter until November meeting, approved by unanimous vote.
- g) #28-17 Lorenzen v. Park Bradford Condominium: Commissioner Viney moved to reject complaint over towing contract as it does not fall within the definition of a dispute, approved by unanimous vote.
- h) #05-17 Youssef v. Cloverleaf: Complainant provided further clarification on complaint. Commissioner Ethier moved to accept jurisdiction re failure to properly conduct a meeting, approved by unanimous vote, and referred to hearing panel.
- i) #36-17 Portis v. Mutual 22 "The Pines" (or Leisure World Community Corp?): Complainant was asked at September meeting to provide further clarification of complaint but had difficulty getting documents from respondent. Staff recommended further time. Commissioner Ethier moved to defer the matter until November, Fine and Radcliffe abstained, approved by majority vote.

6. Hearing calendar:

- a) Commissioner Fine demonstrated the Team-up calendar and how it can be used to access hearing panel information. Commissioner Fishbein moved to acknowledge the commission's appreciation; the motion passed by acclamation.
- b) Corrections of panelists were made to two cases scheduled last month; panelist chosen for current submissions:

Nov. 16	#18-16 Longmead v. Perez - Burrows & Radcliffe [Fine assisting] w/Birchman
Nov. 30	#81-16 Ginsberg v. Avenel Community Assoc – Burrows & Winegar
Dec. 13	#05-17 Youssef v. Cloverleaf – Viney & Gardner
Dec. 14	#24-17 Bennett v. Timberlawn – Fishbein & Gelfound

7. Decisions and Orders Issued (summaries included)

#73-16 Creitz v. Meadow Ridge Villas Condo Association: Final draft presented at September meeting.
#41-16 Greencastle Lakes Community Assoc. v. Levien: Final draft not properly included in meeting pack.

8. Decisions and Orders on Appeal:

#72-13 Potomac Preserve v. Ball: Remains in the Court of Special Appeal

9. County Attorney's Report: No report.

10. DHCA Staff Report: Statistical report distributed at meeting. Mr. Anders advised that Larita Carney is responsible for preparing the report.

11. Chair's Reports:

Commissioner Fishbein asked again for written comments from commissioners re Director Snuggs' response to our concerns as mentioned earlier in Chair's Comments [#3(i)], particularly in re Process & Procedures Committee submission of February 2017.

12. Committee Reports:

- a. Education (Mark Fine, Chair):
 - i. Modifications are being made to the Board Training module;
 - ii. Commissioner Fine intends to speak with Tim Goetzinger re failure of CCOC survey responses, COC registration errors, etc.
 - iii. Commissioners Fine & Burrows were invited to Annapolis to meet with Delegate Holmes, Counsel for the Atty. Gen'l, Director of Mediation for Atty. Gen'l, PG County delegation, etc. to discuss solutions and assistance for HOA boards. General Assembly considering reversing Elvaton case [prohibits limiting access to amenities in cases of delinquency] and Rees Broome drafting a proposed bill. Commissioners tried to discuss reserve funding measures and registration requirements but no interest shown because of builders' lobby.
- b. Legislation (Ilana Branda, Chair): No report.
- c. Process & Procedures (Marietta Ethier, Chair):
Commissioners Ethier & Branda met with Jay Greene & Steve Brown [DHCA Procurement] last month. Three RFP's will be ready for review and comment in November.
- d. IT (Mike Burrows, Chair): No report.
- e. Budget & Policy (Rand Fishbein, Chair): See Chair's Comments [#3(d)].

13. Old Business:

Commissioner Ethier presented a summary of Torres v. Top of Park Condominium, and moved that the commission direct staff, through DHCA, to issue a Class A civil citation under Section 10B(13)j on the representation of the panel chair that she believes that the complainant has made a prima facie case that the respondent is not in compliance with the Commission's orders. Approved by unanimous vote.

Walter Wilson said complainant's motion to enforce is improper. The failure of a party to comply with an order of the commission is a code violation and the complaint should have gone directly to staff for investigation. On being questioned by Commissioner Gardner, he also suggested that the County Attorney could seek an abatement order or other remedy. While the motion is unnecessary, it does put the Commission's desire for better enforcement powers on the record.

14. New Business:

Commissioner Fine, in response to a resident's complaint, moved to direct staff, through DHCA, to issue a Class A civil citation for two Governor Park IV board members who are in violation of the training requirement included under Section 10B(6)f. Approved by unanimous vote.

15. The Commission's next monthly meeting will be held on November 1, 2017 at 7:00pm.

16. Adjournment: The meeting was adjourned at 9:30 pm.

Minutes submitted by:

Kathy Viney,

Commissioner & Recording Secretary