

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met virtually via Google Meet on March 4, 2021, at 9:30 a.m. Board staff was present at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia 23233. The meeting was held virtually due to the current public health emergency related to COVID-19 declared by the Governor, which made it impracticable or unsafe for the Board to assemble in a single location. The purpose of meeting was to discuss or transact business statutorily required or necessary to continue operations of the Board.

The following members were present:

Drew Mulhare, Chair
Maureen Baker
Tom Burrell
Jim Foley
Amanda Jonas
David S. Mercer, Vice-Chair
Lori Overholt
Anne M. Sheehan
Scott Sterling
Katherine Waddell

DPOR staff present for all or part of the meeting included:

Mary Broz-Vaughan, Director
Trisha L. Henshaw, Executive Director
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Tanya M. Pettus, Administrative Assistant

Joshua Laws, Assistant Attorney General with the Office of the Attorney General, was present.

Mr. Mulhare, Chair, called the meeting to order at 9:30 a.m. Ms. **Call to Order** Henshaw took roll of Board members and advised those in attendance at the meeting of staff present.

Ms. Henshaw advised the Board of procedures in place for conducting **Announcements** the meeting virtually.

Mr. Mercer moved to approve the agenda as presented. Mr. Foley **Approval of Agenda** seconded the motion which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Mr. Mercer moved to approve the September 3, 2020, Board meeting minutes as presented. Ms. Overholt seconded the motion which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Approval of Minutes

There were no members of the public present to comment on matters other than the case files to be presented.

Public Comment Period

Ms. Baker recused herself from the meeting for deliberation and discussion of File Numbers 2019-02440, 2020-01152, and 2019-00655.

Recusal of Board Member

In the matter of **File Number 2019-02440, Association Community Services West Inc, t/a ACS West**, the Board members reviewed the Consent Order.

File Number 2019-02440, Association Community Services West Inc, t/a ACS West

Lawrence Dunn, counsel for ACS West, was present to address the Board. Mr. Dunn asked that the Board accept the Consent Order as written.

ACS West neither admits to, nor denies, four violations of 18 VAC 48-50-190.7 as outlined in Count 1, but agrees to the imposition of monetary penalties totaling \$600.00, and Board costs of \$150.00. Mr. Mercer moved to approve the Consent Order as presented. Mr. Foley seconded the motion which was unanimously approved by: Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

In the matter of **File Number 2020-01152, Association Community Services West Inc, t/a ACS West**, the Board members reviewed the Consent Order.

File Number 2020-01152, Association Community Services West Inc, t/a ACS West

Lawrence Dunn, counsel for ACS West, was present to address the Board. Mr. Dunn asked that the Board accept the Consent Order as written, and added that ACS West takes responsibility for the violations within the Consent Order and would like to bring closure to this situation.

ACS West neither admits to, nor denies, a violation of 18 VAC 48-50-190.17 as outlined in Count 1, but agrees to the imposition of a monetary penalty of \$1,500.00, and Board costs of \$150.00. Mr. Mercer moved to approve the Consent Order as presented. Ms. Waddell seconded the motion which was unanimously approved by: Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Ms. Baker remained recused from the meeting, and Ms. Jonas, Mr. Mercer, and Ms. Sheehan recused themselves from the meeting for deliberation and discussion of File Number 2019-00655.

Recusal of Board Members

In the matter of **File Number 2019-00655, DCRE Management LLC**, the Board members reviewed the record which consisted of the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference.

File Number 2019-00655, DCRE Management LLC

Dan Catlett, owner of DCRE Management LLC, was present to address the Board. Mr. Catlett stated he agrees with the recommended finding that there was no violation for Violations 1, 3, 4, and 5 of Count 1 outlined in the Summary. Mr. Catlett does not agree to the recommended finding of violation for Violation 2 of Count 1 outlined in the Summary and feels that a finding of a violation was due, in part, to the misrepresentation of the facts by the complainants. Mr. Catlett asked that the Board reject the finding of a violation in Violation 2 of Count 1 outlined in the Summary and advised that his actions were based on the advice of his attorney. Mr. Catlett also stated that this complaint as well the actions of the complainants has caused damage to his reputation.

Debra Storms, complainant, was present to address the Board. Ms. Storms asked the Board to consider evidence within the record and stated that she disputed Mr. Catlett's claim that he provided proper invoices to the complainants. Ms. Storms agreed with the recommended finding of a violation for Violation 2 of Count 1 outlined in the Summary, but did not agree with recommended findings of no violation for Violations 1, 3, 4, and 5 of Count 1 outlined in the recommendation.

The Board considered each of the five charged Violations under Count 1 individually.

After review of Violation 1 of Count 1, Mr. Foley moved to accept the recommendation of the Presiding Officer and find no violation as outlined in the Summary. Ms. Waddell seconded the motion which was unanimously approved by: Burrell, Foley, Mulhare, Overholt, Sterling, and Waddell.

After review of Violation 2 of Count 1, Mr. Foley moved to accept the recommendation of the Presiding Officer and find DCRE Management LLC in violation of 18 VAC 48-50-190.7 as outlined in the Summary.

Ms. Waddell seconded the motion which was unanimously approved by: Burrell, Foley, Mulhare, Overholt, Sterling, and Waddell.

After review of Violation 3 of Count 1, Mr. Burrell moved to accept the recommendation of the Presiding Officer and find no violation as outlined in the Summary. Mr. Sterling seconded the motion which was unanimously approved by: Burrell, Foley, Mulhare, Overholt, Sterling, and Waddell.

After review of Violation 4 of Count 1, Mr. Foley moved to accept the recommendation of the Presiding Officer and find no violation as outlined in the Summary. Mr. Burrell seconded the motion which was unanimously approved by: Burrell, Foley, Mulhare, Overholt, Sterling, and Waddell.

After review of Violation 5 of Count 1, Mr. Burrell moved to accept the recommendation of the Presiding Officer and find no violation as outlined in the Summary. Ms. Overholt seconded the motion which was unanimously approved by: Burrell, Foley, Mulhare, Overholt, Sterling, and Waddell.

Ms. Waddell then moved to accept the recommended sanction for the violation of 18 VAC 48-50-190.7 as outlined in the Summary as presented, which imposed a monetary penalty of \$1,000.00. Mr. Burrell seconded the motion which was unanimously approved by: Burrell, Foley, Mulhare, Overholt, Sterling, and Waddell.

Ms. Baker, Ms. Jonas, Mr. Mercer, and Ms. Sheehan returned to the meeting.

Return of Board Members

Mr. Mulhare recused himself from the meeting for deliberation and discussion of File Number 2020-01868. Mr. Mercer assumed Chair of the Board.

Recusal of Board Member

In the matter of **File Number 2020-01868, Debra Kaye Beagley**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference (IFF), and the Summary of the Reconvened Informal Fact-Finding Conference.

File Number 2020-01868, Debra Kaye Beagley

Janeen Koch, attorney for Ms. Beagley, was present to address the Board. Ms. Koch thanked the Board and Mr. Mulhare for reconvening an IFF at its September meeting in order to present additional evidence for the

Board's consideration. Ms. Koch stated that the information Ms. Beagley supplied on her application was due to confusion and an honest mistake. Ms. Koch stated that Ms. Beagley continues to provide excellent service to her clients, and asked the Board to accept the recommendation of the Presiding Officer and approve Ms. Beagley's application.

Ms. Beagley was present to address the Board. Ms. Beagley thanked the Board for their time and stated that she has learned from her mistake. Ms. Beagley stated that she will work with honesty, integrity, and professionalism and asked the Board to accept the recommendation of the Presiding Officer and approve her application.

Mr. Sterling moved to accept the Presiding Officer's recommendation and approve Ms. Beagley's application for a principal or supervisory employee certificate. Ms. Overholt seconded the motion which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Overholt, Sheehan, Sterling, and Waddell.

Mr. Mulhare returned to the meeting and resumed Chair of the Board.

Return of Board Member

Mr. Haughwout provided an update on the current status of the regulatory review processes for the Board's regulatory packages:

Update on Regulatory Actions

Final amendments to the Time-Share Regulations in order to conform to changes in the Virginia Real Estate Time-Share Act resulting from Senate Bill 584 became effective on December 1, 2020.

Final amendments to the CIC Management Information Fund Regulations are currently undergoing Executive Branch review, after which a final 30-public comment period be held, prior to becoming effective.

Mr. Haughwout presented the Board with staff recommendations for amendments to the Board's guidance document regarding the distribution of time-share public offering statements in order to conform to amendments made to the Virginia Real Estate Time-Share Act. After review and discussion, Mr. Mercer moved to accept staff recommendations for amendments to the guidance document. Ms. Jonas seconded the motion which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Staff Request for Authorization to Update Time-Share Guidance Document to Reflect Amendments to the Virginia Real Estate Time-Share Act

Mr. Haughwout and Ms. Henshaw asked the Board to consider a general review of the Common Interest Community Manager Regulations. Ms. Henshaw advised that a committee of Board members and other stakeholders would be formed in order to undertake the general review of the regulations. Mr. Foley moved to authorize staff to establish a committee for the general review of CIC Manager Regulations, to include members of the public, with membership selected in coordination with the Board Chair. Ms. Sheehan seconded the motion which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

**Discussion on
General Review of
Common Interest
Community
Manager
Regulations**

Ms. Henshaw advised that as Chair of the Board, Mr. Mulhare would serve on the committee as an Ex-Officio member. Ms. Henshaw also advised that former Board member Paul Orlando had expressed interest in serving on the committee. Mr. Foley, Ms. Jonas, and Ms. Sheehan volunteered to serve on the committee. Ms. Henshaw advised that a meeting date would be decided within the coming months.

Mr. Haughwout asked the Board to consider authorizing staff to file a Notice of Intended Regulatory Action (NOIRA) for the general review of the CIC Manager Regulations after the formation of the committee. Mr. Mercer moved to authorize staff to file a NOIRA for the general review of CIC Manager Regulations. Ms. Jonas seconded the motion which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Ms. Henshaw provided the Board with a summary of current complaint and file statistics as of February 26, 2021.

Ombudsman Report

Ms. Henshaw advised the Board that going forward, time-share complaints will be handled by the Department's Complaint Analysis and Resolution team consistent with the handling of other regulatory complaints received by the Department. As background, the CIC Ombudsman, Heather Gillespie, agreed to handle time-share complaints during the early development of the Office of the CIC Ombudsman even though, per § 54.1-2300 of the Code of Virginia, time-shares are not a common interest community. Due to changes in resources, priorities, and operations, it is no longer feasible for the Office of the CIC Ombudsman to handle the preliminary review and processing of time-share complaints.

Discussion was held on outreach opportunities to address recurring complaint types.

Mr. Sterling departed the meeting at 11:00 a.m.

Departure of Board Member

Ms. Henshaw provided an update of legislative proposals that could affect DPOR and the Board.

2021 Legislative Update

Ms. Henshaw advised the Board that due to a vacancy on the Board, there is a vacancy on the Training Program Review Committee. In addition, Mr. Burrell will be moving outside the Commonwealth and will no longer be eligible to serve on the Board effective April 1, 2021, resulting in an additional vacancy on the Committee. Ms. Henshaw asked the Board to consider waiting to fill the vacancies on the Committee until the Board vacancies have been filled. The Board agreed by consensus.

Discuss Training Program Review Committee Membership

Ms. Henshaw advised the Board of temporary waivers of certain regulations pursuant to Executive Order 51 in response to COVID-19. During the current state of emergency, the validity of licenses, certifications, registrations, and other authorizations issued by the Board that would otherwise (i) expire during the state of emergency and (ii) be eligible for renewal or reinstatement during the state of emergency under applicable regulations, will be extended until the 30th day after the date by which the state of emergency is lifted. In addition, regulations that prohibit or limit online, electronic, or distance learning have also been waived until the 30th day after the date by which the state of emergency is lifted. Ms. Henshaw noted that the waivers do not apply to statutory requirements.

DPOR Updates as it Relates to COVID-19 Response

In addition, Ms. Henshaw advised the Board of a recent waiver that waives any regulatory requirement that a licensee be physically present at a place of business.

Ms. Henshaw advised the Board that in order to comply with public health emergency recommendations, the agency remains closed to the public and staff scheduling adjustments have been made, including telework for those employees who are eligible.

Mr. Mulhare commended Ms. Broz-Vaughan and DPOR staff for extraordinary efforts to maintain continuity during the pandemic.

Ms. Henshaw provided the Board with the most recent financial statements. There have been no claims from the Recovery Fund.

Board Financial Statements

Ms. Henshaw provided an overview of recent and upcoming virtual events attended by Board staff and the Ombudsman.

**Staff Event
Calendar**

Ms. Henshaw advised the Board that during a CIC Workgroup Meeting with the Virginia Housing Commission in December 2020, Delegate David Bulova was complimentary of the Board newsletter, *Common Interests*, which is written and assembled by staff.

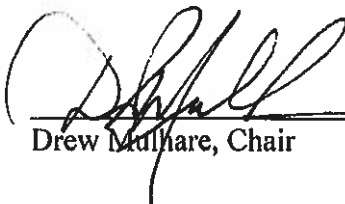
Ms. Henshaw opened the floor for annual nominations of the Board Chair. Mr. Mercer moved to nominate Mr. Mulhare. Mr. Mulhare accepted the nomination. Ms. Overholt seconded the motion, which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell. By acclamation, Mr. Mulhare was named Board Chair.

Election of Officers

Mr. Mulhare opened the floor for annual nominations of Board Vice-Chair. Ms. Waddell moved to nominate Mr. Mercer. Mr. Mercer accepted the nomination. Ms. Sheehan seconded the motion, which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell. By acclamation, Mr. Mercer was named Board Vice-Chair.

There being no further business, the meeting was adjourned at 10:38 a.m.

Adjourn



Drew Mulhare, Chair



Mary Broz-Vaughan, Secretary

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

- 1. Name: Drew R. Mulhare
- 2. Title: Board Member
- 3. Agency: Common Interest Community Board
- 4. Meeting/IFF Date: Board Meeting March 4, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

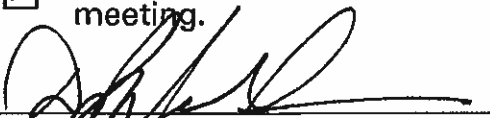
2020 - 01868 PRESIDING OFFICER FOR IFF

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any ^{OTHER} transactions taken at this meeting.



Signature

3/4/21

Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Maureen A. Baker
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting March 4, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

Received from File #2019-02440, File #2020-011529
File #2019-00655

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Maureen A. Baker
Signature

3/4/2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Tom Burrell
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting March 4, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Tom F. Burrell
Signature

March 4, 2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Jim Foley
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting March 4, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.



Signature

03/04/2021

Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Amanda Jonas
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting March 4, 2021

5. I have a personal interest in the following transaction:
File Numbers 2019-02440, 2020-01152 & 2019-00655
-

Nature of Personal Interest Affected by Transaction:

File Numbers 2019-02440 & 2020-01152 – personal knowledge, but not
contracted with, able to vote fairly.

File Number 2019-00655 – recused for IFF affiliation


I declare that I am a member of the following business, profession,
occupation or group, the members of which are affected by the
transaction:

I am able to participate in this transaction fairly, objectively, and in the
public interest. (File #s 2019-02440 & 2020-01152)

or

I did not participate in the transaction. (File # 2019-00655)

6. I **do not** have a personal interest in any transactions taken at this
meeting.


Signature

03.04.21

Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: David Mercer
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting March 4, 2021

5. I have a personal interest in the following transaction:

File Number 2019-00655
File Number 2020-01828

Nature of Personal Interest Affected by Transaction:

Prior Representation of Association
Legal involved.

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

NI

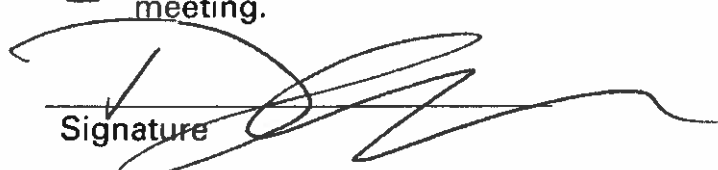
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Signature



Date

3/4/2021

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Lori Overholt
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting March 4, 2021

5. I have a personal interest in the following transaction:

N/A

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Lori Overholt
Signature

3/4/2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Anne Sheehan
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting March 4, 2021

5. I have a personal interest in the following transaction:

File Number 2019-00655 DCRE Management LLC

Nature of Personal Interest Affected by Transaction:

My firm provides audit and tax service to Lakes at Red Rock HOA and to other mutual clients managed by DCRE

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

Goldklang Group CPAs PC - Auditor

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Anne Sheehan
Signature

3/4/2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Scott E. Sterling
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting March 4, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Scott E. Sterling
Signature

4 March 2021.
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Katherine E. Waddell
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting March 4, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Katherine E Waddell
Signature

03/04/2021
Date