

COMMON INTERESTS



World of Possibilities

As we welcome the second edition of COMMON INTERESTS, we reflect on the achievements of the Common Interest Community Board and its future objectives. Since 2008, the Board has continued to develop new programs, refine existing processes, and educate its regulants, industry professionals, interested citizens, and Department of Professional & Occupational Regulation staff about the Board's activities, responsibilities, and purpose. The Board is continuously evolving as new issues arise and the statutes affecting the Board change. The Board, along with staff, carefully monitor relevant legislation, especially legislative proposals that may require regulatory amendments. For example, in just three years, the Board and its staff have followed more than 75 legislative proposals, initiated 24 regulatory actions, and conducted more than 40 board and committee meetings. There is never a dull moment!

The goal of this newsletter continues to be cost-effectively sharing news and information about the Board and the Office of the Common Interest Community Ombudsman. As a reminder, in order to reduce expenses, the newsletter is published exclusively on-line. As always, if you have suggestions or ideas for future issues of COMMON INTERESTS, please share them with us!

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NEW CIC BOARD

E-FAX NUMBER

After exploring the cost effective benefits of electronic faxing, the Board has decided to implement E-fax on a permanent basis. The previous analog number has been disconnected. Therefore, please make note of our new e-fax number below.



1-866-490-2723



MESSAGE FROM THE CHAIR



Lucia Anna Trigiani*
Chairperson

COMMON INTEREST COMMUNITIES

BENEFITS WITH BURDENS

We have heard the periodic outcries about the harsh tactics of community associations in enforcing rules and covenants - even though the criticism may be at times well-deserved, the role of common interest community associations in Virginia is sometimes misunderstood:

- ♦ Community associations set and enforce standards for maintenance and design that preserve and protect value.
- ♦ Community associations protect neighbor from neighbor - ensuring sanitary and safe property conditions, as well as consistency in architectural design.
- ♦ Community associations provide essential services like trash removal, open space, utilities, security, and insurance - services that relieve local government of significant burdens.

Over the last ten years, in separate surveys of community association residents sponsored by the Foundation for Community Association Research, affiliated with Community Associations Institute, we have learned that residents are mostly satisfied with their community associations. The first survey was conducted in 1999 by the Gallup Organization. In 2009, 2007 and 2005, surveys were conducted by Zogby International. In the most recent Zogby survey, a national representative sample of 700 adults in telephone interviews responded to questions about their experience of living in a community association:

- ♦ 71% said it was a positive experience;
- ♦ 70% said rules protect and enhance property values; and
- ♦ 82% said the return on their assessments is great or good.

These are interesting numbers and certainly strong support for the proposition that people who live in community associations choose living in a community governed by an association.

The Common Interest Community Board and the Office of Common Interest Community Ombudsman were created in 2008 to provide some regulatory oversight of common interest community management firms and managers, and to serve as a resource for homeowners in common interest communities.

While the Board and the Ombudsman do not have authority to advocate for homeowners or associations, the Ombudsman can be an excellent source of information. In addition to being a ready resource for community association homeowners in search of information, the Ombudsman, Board staff, and Board members are committed to educating common interest community leaders and homeowners. The Board and Board staff are committed to engaging homeowners in conversation about good governance for community associations.

***Pia Trigiani is a partner with MercerTrigiani. She was president of the Washington Metropolitan Chapter of Community Associations Institute in 2000. She recently concluded a term as president of the Virginia Bar Association. She also serves as chairperson the Virginia Common Interest Community Board.**





NEW BOARD MEMBER PROFILES

The Common Interest Community Board consists of 11 members appointed by the Governor. The two newest Board members were appointed by the Governor in November. Enrico Cecchi was appointed to fill the developer seat on the Board, and Elena Ferranti was appointed as one of the Board's three common interest community managers. In addition, the Board Chair, Lucia Anna Trigiani was reappointed to the Board. Individuals appointed to the Board must fulfill specific criteria set forth in §§ 54.1-2348 and 54.1-107 of the *Code of Virginia*. Mr. Cecchi's and Ms. Ferranti's board member profiles follow:

ENRICO CECCHI

Enrico Cecchi was appointed to the Board in November 2011 to serve as a representative of a developer of Virginia common interest communities.

Mr. Cecchi is Vice President and Counsel of the IDI Group Companies, a diversified real estate development firm based in Arlington, Virginia. At IDI, Mr. Cecchi has participated in the development of numerous successful condominium communities in Virginia and Maryland. Mr. Cecchi is a former Board member of the Signature Theatre in Arlington, Virginia, and the Elsie Whitlow Stokes Community Freedom Public Charter School in Washington, D.C. Currently, Mr. Cecchi serves as a Board member of the Greater Washington Board of Trade and a Trustee of the Potomac School in McLean, Virginia. Mr. Cecchi is a graduate of the University of Virginia College of Arts and Sciences and the University of Virginia School of Law.

ELENA FERRANTI

Elena Ferranti was appointed to the Board in November 2011 to serve as a representative of Virginia common interest community managers.

Ms. Ferranti recently joined The Shockoe Company, a full service real estate company headquartered in Richmond, Virginia. Ms. Ferranti handles all customer relations for the condo management division. The Shockoe Company offers services in residential and commercial property management, condominium association management, commercial and residential sales and leasing, and real estate development. Ms. Ferranti previously served as Project Manager for Virginia Management, Inc., at Rocketts Landing in Richmond, Virginia. Ms. Ferranti is also active in the property management industry through the Central Virginia Apartment Association and holds an Advanced Instructor designation from the National Apartment Association.



FAREWELL...

The Board and staff would like to thank Ronda DeSplinter and Scott Sterling, members of the inaugural CIC Board, for their service and dedication to the Board. In recognition of their service, the Board adopted resolutions for service for Ms. DeSplinter and Mr. Sterling. Thank you from all of us!





NEW REGULATIONS FOR COMMON INTEREST COMMUNITY MANAGERS!

The revision to the Common Interest Community Manager Regulations that began in 2010 has been completed. The new regulations become effective March 1, 2012. You can review the announcement bulletin at http://www.dpor.virginia.gov/dporweb/CIC_Manager_Regulations_Announcement.pdf. In addition, you can review the final text of the regulations as published in the Virginia Register at <http://register.dls.virginia.gov/vol28/iss11/v28i11.pdf>.

Please take the time to review these regulations as they include important provisions for current common interest community manager licensees, substantial changes for potential licensees to qualify for a common interest community manager license, as well as the entry requirements for certified principal and supervisory employees.

If you have questions about the new regulations, the application process, or any other matter related to licensing, please contact the Board staff at (804) 367-8510.



ATTENTION LICENSED COMMON INTEREST COMMUNITY MANAGERS!

Did you know that all licensed common interest community managers are required to provide the Board with any changes to their fidelity bonds or employee dishonesty insurance policies within **five days** of the change? This reporting is required whether a bond or insurance policy is cancelled, amended, expired, or changed in any other manner. In addition, the Board must be notified when your bond or insurance policy is extended or renewed, otherwise, the Board's records will reflect that the manager's bond or insurance policy is **expired**, which could have a negative impact on your license from a regulatory perspective or with actual or potential clients should they contact the Board office regarding the status of your bond or insurance policy.

A common interest community manager license that has an expired bond or insurance policy on file cannot be renewed or updated until the bond or policy is updated. In addition, if Board staff is unable to promptly obtain proof of compliance with the bond/employee dishonesty insurance policy requirements found in § 54.1-2346.D of the *Code of Virginia* and 18 VAC 48-50-30.E of the Board's Common Interest Community Manager Regulations, your license may be referred for investigation and possible disciplinary action.

Don't let an oversight affect your license! Make it a part of your business routine to forward the Board a copy of your certificate of insurance, insurance policy, or updated bond when your policy or bond is renewed or amended.





2011 LEGISLATION AFFECTING COMMON INTEREST COMMUNITY MANAGER LICENSING

The 2011 General Assembly Session resulted in two changes that significantly affect common interest community manager licensing. The first change extended the expiration date of provisional licenses from June 30, 2011 to June 30, 2012. This change was supported by the Board to allow provisional licensees additional time to comply with the common interest community manager licensing requirements. All provisional licenses have been re-issued with the new expiration date.

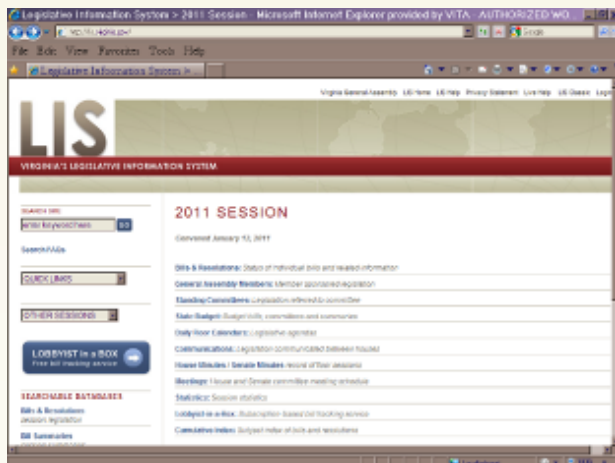
The second change extended the implementation of the individual certification requirements until July 1, 2012. The law requires certain employees of common interest community managers to obtain individual certification by meeting specific Board requirements. Previously, the implementation date for the certification program was July 1, 2011.

This means that provisional managers must apply for and obtain the common interest community manager license under the standard provisions for entry before June 30, 2012, in order to continue providing common interest community management services. In addition, individuals who need to obtain certification as principal or supervisory employee must do so when the certification requirements become effective on July 1, 2012.



TRACKING VIRGINIA LEGISLATION

The 2012 Legislative Session convened on Wednesday, January 11, 2012. To view the legislative history, full text, and current status of bills, visit the Virginia Legislative Information System at <http://lis.virginia.gov/>. You can search by bill number, patron, committee, or keyword to locate legislation on particular topics of interest to you. For additional information there is a Citizen Guide provided by the General Assembly at http://legis.virginia.gov/1_cit_guide/how_track.html.



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**Here Are The
Numbers!**

**Total Regulant
Population as of
February 1, 2012
7,209**

Categorized:

Condominium Associations
1,460

Property Owner's Associations
4,965

Cooperative Associations
18

CIC Managers (Provisional)
98

CIC Managers
55

Time-Share Registrations
101

Condominium Registrations
492

Time-Share Exchange
Programs
20

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CIC MANAGERS



ASSOCIATIONS



TIME-SHARE INDUSTRY



CIC MANAGEMENT INFO FUND



OMBUDSMAN





MAINTAINING ASSESSMENT BONDS AND LETTERS OF CREDIT FOR REGISTERED CONDOMINIUMS



When filing the registration application for a condominium project, declarants are required to file with the Board a bond or letter of credit - to insure the payment of assessments on units owned by the declarant - in the amount of \$1,000 per unit (with a minimum of \$10,000 and a maximum of \$100,000). Section 55-79.84:1 of the *Code of Virginia* requires this bond or letter of credit be maintained until the declarant owns less than 10 percent of the registered condominium units, or in the case of a condominium containing less than 10 units, until the declarant owns only one unit.

Effective immediately, declarants filing annual reports will be asked to submit documentation from the bond or letter of credit issuer to verify the information on file with the Board. This verification may be submitted via a document prepared by the issuer or on the Board's verification of bond or letter of credit form, available at http://www.dpor.virginia.gov/dporweb/cicb_form.cfm.

Please verify with the issuing surety company or bank that the bond or letter of credit filed with the Board is still current and active. If the bond or letter of credit is not current and active, please contact the surety company or bank to have it either reinstated or replaced. Should the Board obtain evidence that the bond or letter of credit has expired or has been terminated, further action may be taken by the Board.



2012 CIC BOARD MEETING DATES

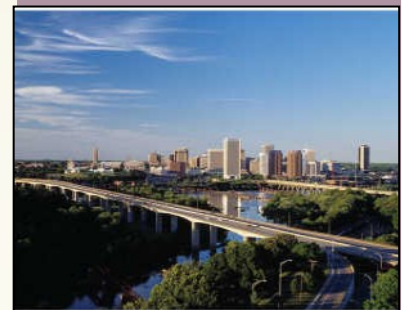
MARCH 22

JUNE 7

SEPTEMBER 20

DECEMBER 6

All meetings are held at
the Department of
Professional &
Occupational Regulation
Perimeter Center
9960 Mayland Drive
2nd Floor
Richmond Virginia 23233





WELCOME TO MY WORLD

Observations from the Common Interest Community Ombudsman

A product of legislation enacted July 1, 2008, the Office of the Common Interest Community Ombudsman has been responding to questions, providing guidance and reviewing complaints for three years. This column will provide a way for the Ombudsman to share some of the issues and ideas that she deals with daily, in the hope that by doing so, she may provide guidance to help associations find solutions.

When I was a kid and I had helped myself to a particularly sweet cookie or piece of candy from the kitchen cupboard that I knew full well I was not supposed to be eating prior to dinner, I would quickly cover, hide, stash or devour said treat the moment my parents asked me what I was eating. These attempts at covert action only raised their interest further and provoked them into unfurling my tightly curled fingers, reaching into my pocket, or (I am not kidding) telling me to open my mouth and show them what I had inside. I was and still am a bit of a sugaraholic, so nothing was safe from me and many a cookie and candy was pried from my grip.

The lesson learned from my juvenile attempts at secrecy is that if I have to pry something out of someone else, it is probably because they are attempting to hide something from me. This may not be an entirely fair or accurate assessment, but it is a reality and it is something I see nearly every single day in the community association world. Association boards and, sometimes, managers, are under the impression that they can pick and choose what information they provide to assessment

paying association members. I hypothesize that there are a host of reasons for why this happens. New association boards, composed of volunteers as many are, simply may not know that they are legally required to permit association members in good standing to review the books and records of the association. An association member may be particularly annoying, and the board may fear that allowing the member to review the books and records will only add fuel to the fire that is building within that member. The worst reason for not making the books and records available is because the association may actually have something to hide.

Ultimately, the message I would like to share with all association boards is this: the association records are not yours. The records belong to the association members. As long as a member is in good standing (frequently defined as meaning current in association dues but your governing documents may provide a different definition or additional definition), they have the right to review those documents and see how their association is carrying out the business of being an association. The moment you deny any member the right to see those records, he or she and

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WELCOME TO MY WORLD

Observations from the Common Interest Community Ombudsman CONTINUED

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every one of his or her friends, will assume you are hiding something. Seriously.

And I can assure you that any member who has the legal right to review those books and records (and plenty who do not) will tug and pull and dig until they are finally granted that right. Unfortunately, it may end up costing the association a good bit of money in the process – whether the member hires an attorney to represent him or her and the issue goes to court or the member submits a complaint to my office and I have to ask the association for a response which often will be redirected to association counsel. This is a silly way to spend money, especially in a tough economy full of foreclosures. And it does nothing to improve morale or relationships within an association.

Instead of trying to hide your books and records, or trying to control the books and records that a member can see, why not adopt an air of transparency and assume that nearly every book and record you have should be available to association members. Why? Because, unless you are up to something dastardly, you should have nothing to hide. Of course, there are clear exclusions to this examination right under the common interest community laws and I am not suggesting that you ignore those exclusions.

Make sure you know them and make sure that

you practice careful management of the books and records. But don't be lulled into thinking that you must deny the right to review those exclusions – the language is actually "may" as in "books and records kept by or on behalf of an association "may" be withheld from inspection and copying..."(*Code of Virginia § 55-510*)

The association can make a choice. But if the books and records being requested don't fall under those exclusions, please, please, please, don't try to keep your members from reviewing them. Throw open the doors and let the light in. Your association will be a better place for it and your members will stop worrying that the board is up to no good. Go ahead, you can do it.

(If you would like to refresh your understanding of the applicable provisions in the *Code of Virginia*, please review [§ 55-79.74:1](#) (Condominium Act) and [§ 55-510](#) (Property Owners Association Act). [§ 55-474](#) (Cooperative Act) approaches this topic in a slightly different way than described above but still provides for similar access. Don't forget to touch base with your association attorney if you have questions about the application of these provisions to your own association.)

By Heather S. Gillespie
Ombudsman



The CIC Ombudsman regulations are currently undergoing Final Executive Review. Please refer to the Regulatory update on page 10 for more information!

Please view the 2010-2011 Annual Report from the Ombudsman's Office available on the web at [http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD3402011/\\$file/RD340.pdf](http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD3402011/$file/RD340.pdf).

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DISCIPLINARY ACTIONS

The following is a list of cases that have been handled through the disciplinary process *since March 1, 2011*. The outcome listed is an *abbreviated* description of the final action taken by the Board. Although every effort is made to ensure that the information is correct, before making any specific decisions based upon this information, you should contact the Board office or review a complete copy of the order at http://www.dpor.virginia.gov/regulantlookup/DisciplinaryActions_SearchForm.CFM.

File Number:
2011-02721

Case Name:
Liberty Management and
Development Corporation
and
Ahmed H. Motawie,
Responsible Person

License No. 0501000024

Type: Standard
Management Company

Date Issued: March 10, 2011

Outcome:

CONSENT ORDER

The Consent Order incorporated the following terms:

- 1.) report any final judgment rendered against Liberty Management and Development Corporation and/or Ahmed H. Motawie within 30 days after judgment is Final;
- 2.) provide the Board a copy of a comprehensive financial review and audit for 2011 in accordance with § 54.1-2346.E *Code of Virginia*;
- 3.) acknowledge items One and Two listed above supersede the terms outlined in sections Three and Four of its previous Agreement for Licensure with the Board;
- 4.) submit 2010 financial year review and audit; and
- 5.) pay monetary penalty Board costs of \$2,000.00 .

File Number:
2010-04291

Case Name:
Alexander Properties, Inc.
dba Creekside Village Time-
Share

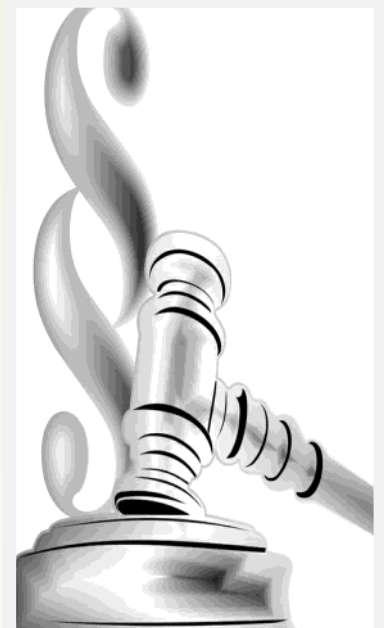
Registration No.
0515960001

Type: Time-Share
Registration

Date Issued: June 9, 2011

FINAL ORDER

Alexander Properties, Inc. dba Creekside Village Time-Share willfully failed to comply with the terms of the Cease & Desist Order by the deadline December 31, 2010, constituting a breach of the Cease & Desist Order pursuant to § 55-396.F *Code of Virginia*, therefore it was resolved revocation of registration number 0515960001.





REGULATORY UPDATE

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The following Board regulatory actions are currently in process:



Common Interest Community Ombudsman Regulations

This action is to implement regulations governing the resolution of written complaints by the association, including submittal of notices of final adverse decisions to the Board, in accordance with § 55-530.E of the *Code of Virginia*.

- ☞ Regulatory Process: Standard
- ☞ Current Stage: Final—Executive Branch Review
- ☞ Current Status: Governor's Review

Note: The proposed text of the regulations is available at <http://www.townhall.virginia.gov/L/viewstage.cfm?stageid=5362&display=documents>.



TIP!

You may obtain applications and other forms, current Board roster, current regulations & laws, and other information related to Board activity at http://www.dpor.virginia.gov/dporweb/cic_main.cfm.



Condominium Regulations

This action is to implement the Board to conduct a general review of the regulations by the Board. Since the regulations have not undergone substantial revision since 1988, a thorough review is necessary to ensure that the regulation complements the current Condominium Act, provides minimal burdens on regulants while still protecting the public, and reflects current procedures and policies of the Department of Professional and Occupational Regulation and in accordance with § 54.1-2349.1 of the *Code of Virginia*.

- ☞ Regulatory Process: Standard
- ☞ Current Stage: Notice of Intended Regulatory Action (reissued)
The Condominium Regulatory Review Committee is preparing a draft for Board recommendation.
- ☞ Next Step: Committee Recommendation presented at March 22, 2012, Board meeting.



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TIP!

Make sure your
insurance and/or
bond information
is current and
submitted to the
Board!



DECLARANT REPORTING RESPONSIBILITIES FOR REGISTERED CONDOMINIUMS

Attention all registered condominium declarants: Have you filed your annual report? Section 55-79.93 of the *Code of Virginia* requires the declarant of a registered condominium to file an annual report with the Board until all of the units have been conveyed and the registration has been terminated. The annual report is due within thirty days of each anniversary date of the order registering the condominium. If the annual report is delinquent, the Board can take disciplinary action. A copy of the annual report form can be found online at <http://www.dpor.virginia.gov/dporweb/forms/cicb/cdoannrep.pdf>. Please don't forget your annual obligation.



DPOR EXECUTIVE STAFF

- ◆ Gordon N. Dixon
Director
- ◆ Steven L. Arthur
Deputy Director for
Administration & Finance
- ◆ Mark N. Courtney
Deputy Director for
Licensing and Registration
- ◆ Nick A. Christner
Deputy Director for
Compliance and
Investigations

CIC BOARD STAFF

- ◆ Trisha L. Henshaw
Executive Director
- ◆ Thomas K. Perry
Property Registration
Administrator
- ◆ Jesstina Adelman
Program Analyst
- ◆ Betty C. Jones
Administrative Assistant
- ◆ Lisa T. Robinson
Licensing Specialist
- ◆ Raymond B. West
Licensing Specialist

OFFICE OF CIC OMBUDSMAN

- ◆ Heather S. Gillespie
Ombudsman



If you do not have access to the Internet, please contact our office for a copy of the regulations referenced on page 10. If you have questions regarding the regulatory process or other Board regulations, you may refer to the Town Hall website or contact the Board office.

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CONTACT US

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