

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
TELECONFERENCE MEETING
MAY 1, 2009
DEPARTMENT OF BUSINESS AND INDUSTRY
2501 E. SAHARA AVE.
SUITE 303
LAS VEGAS, NEVADA 89104**

MINUTES

MAY 1, 2009

9:02 A.M.

1-A) Introduction of Commissioners in attendance.

Michael Buckley, Jeannie Redinger, Marilyn Brainard, Gary Lein, Randolph Watkins, Deputy Attorney General Sarah Bradley as Commission Counsel.

1-B) Introduction of Division staff in attendance.

Joanne Gierer, Legal Administrative Officer; Bruce Alitt, Chief Compliance Investigator; Sonya Meriweather, Program Officer; Lindsay Waite, Ombudsman; Teralyn Thompson, Commission Coordinator.

2-C) Discussion and possible action to approve minutes of the March 27, 2009 Commission meeting.

Commissioner Brainard stated that on page 2 under Assembly Bill 311 it should state “analyze and compare” not “analysis and compare”.

Commissioner Watkins stated that under Assembly Bill 350 in the last sentence where it reads “Commissioner Watkins stated that” the words “stated that” should be deleted.

Commissioner Brainard moved to accept the minutes with corrections noted. Seconded by Commissioner Watkins. Chairman Buckley abstained. Minutes approved with one abstention.

2-D) Discussion and possible action to approve minutes of the April 10, 2009 Commission meeting.

Commissioner Brainard stated that she found where there were numerous omissions in the minutes regarding the Commission’s position on legislative bills that were listed on the Commission’s legislative bills “recap worksheet”. Commissioner Brainard stated that she is concerned because if the Commission looks back at a later date to find its positions on different legislative bills, the Commission’s positions would not all be included in the minutes.

Chairman Buckley stated that when he does the “recap worksheet” items might be added after the Commission meeting which is why the worksheet is circulated to the Commission later by email. Chairman Buckley stated that this is in case the Commission has comments on items that were missed or added in error.

Commissioner Brainard stated that under Senate Bill 182 in section 21 it should state “assess” and not “access”.

Ms. Thompson stated that all of the documentation that is provided to Ms. Thompson during the meeting is kept in the Commission meeting file. Ms. Thompson stated that if the Commission wanted to go back and look at its position for a legislative bill it would be in that file.

Commissioner Brainard stated that under Senate Bill 182 in section 24 it should state “broad”.

Commissioner Brainard stated that under Senate Bill 351 at the end of the third paragraph it should end with “competent in” not “confident in”.

Commissioner Brainard stated that under Senate Bill 216 it should state “considered common area” and not “concerned common area”.

Commissioner Redinger moved to accept the minutes with corrections. Seconded by Commissioner Brainard. Unanimous decision.

2-B) Discussion and possible action regarding the Commission for Common-Interest Communities and Condominium Hotels’ guidelines on attendance, participation and taking legislative positions during legislative hearings.

Chairman Buckley stated that the Senate Judiciary hearing will be held May 5, 2009 at which time Assembly Bills 207, 251, 350 and 361 will be heard. Chairman Buckley stated that he will be in attendance at that hearing.

Chairman Buckley stated that on May 7, 2009 Senate Bill 183 will be heard.

Chairman Buckley stated that on May 11, 2009 Assembly Judiciary would hear Senate Bills 261 and 351.

2-A) Discussion and possible action regarding the 2009 Legislative Bills that may impact the Commission, Ombudsman’s Office or the Real Estate Division.

Assembly Bill 204

Chairman Buckley stated that the change referring to a type of a unit fitting into Fannie Mae’s regulations made sense.

Commissioner Brainard stated that someone had approached Assemblywoman Spiegel and suggested the change because there was a question about what will be in Fannie Mae and Freddie Mac as far as 6 months versus 2 year.

Chairman Buckley stated that over the past several years a lot of financing was not done through FHA. Chairman Buckley stated that FHA has raised its limits and should be added into the bill also.

Chairman Buckley stated that he sent an email to Assemblywoman Spiegel suggesting that associations be allowed some period of time to adopt the new collection policies. Chairman Buckley stated that he would send Assemblywoman Spiegel an email suggesting that FHA be added to the bill.

Senate Bill 129

Chairman Buckley stated that the language that states “the governing documents of an association must be consistent and not conflict with” is a problem. Chairman Buckley stated that it would make more sense to state “if there is any conflict, these rules prevail”. Chairman Buckley stated that would make it consistent with section 8 of Senate Bill 182.

Chairman Buckley proposed that the Commission suggest rather than stating “the governing documents have to be consistent with” the language state “the tariffs, rules and standards would prevail over the governing documents”.

John Leach stated that Pam Scott proposed a modest amendment for this bill so that emergency vehicles are being used for emergency situations and not being parked at the residence for convenience.

Assembly Bill 251

John Leach stated that NRS 116.31034(5) is the section that refers to making sure that the disclosure is sent with the ballot. Mr. Leach stated that if this bill passes, there would not be a ballot and the language should state “consistent with this provision with the next communication mailed to the membership”. Mr. Leach stated that this would remove any uncertainty about when the disclosure would have to be sent out.

Chairman Buckley read section 8 line 29. Chairman Buckley stated that this section does not give a time frame.

Kevin Ruth stated that it should at least be within 90 days since every homeowner association has to generally have communication sent out every 90 days.

Assembly Bill 350

Section 1.5:

Chairman Buckley stated that this section does not mention interest and another section states that interest can be charged. Chairman Buckley stated that he believes that means that interest is not a part of the cost of collecting.

Chairman Buckley stated that as long as the cost or expense can be placed under the definition of obligation, it is okay to limit the cost of collection. Chairman Buckley stated that if the investigation of a violation is a cost of collection, you are undermining the process.

Jan Porter went over the investigative process for her association. Ms. Porter stated that a lot of the investigative duties are going to be deferred to the attorney and the cost of the investigation would be legal fees.

Chairman Buckley stated “reasonable attorney’s fees” could be added.

Chairman Buckley stated that this section is broad.

Section 3:

Chairman Buckley stated that the Commission has discussed and opposed this section.

The Commission agreed to suggest that this section be deleted.

Section 6:

Chairman Buckley acknowledged Pam Scott’s stating that NRS 116.31177 says twenty-five cents per page.

Mr. Ruth stated that NRS 116.31175 and NRS 116.31177 are poorly written. Mr. Ruth stated that NRS 116.31177 allows you to charge twenty-five cents per page but it states “for documents referenced in subsection 1 above”. Mr. Ruth stated that subsection 1 above is financial records including the reserve. Mr. Ruth stated that NRS 116.31175 does not give a right to copy a record of the association only to inspect and to view.

Mr. Alitt stated that the Division integrates these statutes because a unit owner has a right to review records of the association.

Chairman Buckley stated that the changes should be made in NRS 116.31175 and NRS 116.31177 rather than in this bill.

Section 8:

Chairman Buckley suggested that the Commission agree that public comments should be during the beginning and the end of the meeting rather than two minutes on each agenda item.

Commissioner Watkins stated that he does not agree to have public comment at the beginning and at the end of a meeting. Commissioner Watkins stated that it should be either before or after and not at both times because it drags out the meeting.

Commissioner Redinger stated that she can live with having public comments at the beginning and the end of a meeting but not after every agenda item otherwise there will be a shortage of community managers and board members.

Chairman Buckley stated that four commissioners are for having public comment at the beginning and the end of board meetings and one commissioner is against.

Section 9:

The Commission would support the legislature striking the 60 days and having a cap.

Section 10:

Chairman Buckley suggested for subsection 1(a)(3) to state “an itemized list by category”.

Commissioner Watkins stated that this section is addressing the budget and the budget is already set. Commissioner Watkins stated that this section should be referring to unusual expenses not bills that are already budgeted for the next 12 to 24 months, monthly utility bills or the cost of the management contract. Commissioner Watkins stated that you should not have to re-itemize those items every month for the board.

Commissioner Lein stated that by breaking the expenses down by month, it makes the budget report more meaningful. Commissioner Lein stated that some management companies will take, for example, a budget line item of \$12,000.00 and spread \$1,000.00 per month instead of taking the time to break it down.

Commissioner Lein suggested that the Commission make a recommendation that there be language that the community manager of the association could make an attempt to spread the budget on a monthly basis based on prior year activity.

The Commission agreed that this provision would put an additional burden on associations.

The Commission agreed that subsection 1(a)(4) is not necessary because the expense is a known expense that has already been budgeted and approved by the board.

Chairman Buckley read Temporary Regulation T011-08 in reference to subsection 2(a) which stated “reasonably convenient location no more than 60 miles away”.

The Commission objected to the language in subsection 3.

Section 12.3:

Chairman Buckley stated that subsection 2 is not necessary because NRS 116.4117 has a general provision that says that there is a right to civil action.

Section 17:

Chairman Buckley stated that the Commission's position has been in support of arbitration. Chairman Buckley stated that the Commission's jurisdiction is sufficient with violations of statute and the Commission is opposed to hearing violations of governing documents.

Mr. Ruth read CAMEO's position on this section. Mr. Ruth stated that this section takes away the board's ability to use business judgment.

Chairman Buckley stated that the Commission has discussed that they want associations to be run by informed board members rather than the State of Nevada.

Section 18.1:

Chairman Buckley stated that he will look into how the word "client" is used.

Section 18.4:

Chairman Buckley stated that in subsection 1(b) it should state "Be entered into between the association and the community manager".

Chairman Buckley stated that subsection 1(e)(5) should state "The portion of fees that are to be retained by the association".

Chairman Buckley stated that the statute should say "executive board" or "association" where appropriate instead of it stating "client".

Section 18.5:

Chairman Buckley stated that subsection 14 probably means that the executive board has been informed by the manager of all legal requirements. Chairman Buckley stated that the language "all legal requirements" is a broad statement.

Senate Bill 216

Ms. Gierer stated that this bill received a due pass from Assembly Judiciary.

Senate Bill 128

Ms. Gierer gave the Commission all of the information on this bill and amendments.

Assembly Bill 140

Ms. Gierer stated that this bill would be heard before Senate Commerce and Labor at 1:30 p.m.

3) Commissioner Comments

None

4) Public Comments

Jan Porter asked the Commission to look at Senate Bill 137 which deals with recycling capabilities. Ms. Porter stated that this bill started initially regarding apartments but was amended before it passed into the other house to include condominiums. Ms. Porter stated that there are some responsibilities that fall within a property manager's purview but not under the authority that a board may give a community

manager. Ms. Porter stated that she is concerned about these issues based on a hearing that the Commission had in the past and how that may impact a community manager.

Mr. Ruth stated that Assembly Bill 350 does not have much value and there is a lot of cost that will be put on associations. Mr. Ruth stated that he is willing to put together a cost summary so that the legislators who keep putting more and more onus on associations and management companies to provide things realize the costs. Mr. Ruth stated that because one person complained about one thing that happened one time, every association will have to deal with the onerous burden of thousands of extra dollars.

2-E) Discussion and possible action on date, time, place and agenda items for upcoming meetings.

None.

5) Adjournment

Meeting adjourned at 10:56 a.m. on May 1, 2009.

Respectfully Yours,

Teralyn Thompson
Commission Coordinator