

COMMISSION ON COMMON OWNERSHIP COMMUNITIES

Minutes of the Monthly Meeting November 2, 2016 (Approved)

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

Present: Commissioners Branda, Burrows, Coyle, Ethier, Fine, Fishbein, Gardner, Gelfound, Majerle, Radcliff, Winegar, Viney, Zajic (13).

Absent: Commissioner Oxendine. Commissioner Fonoroff attempted to attend but could not enter the building because it had been locked down.

Also attending: Associate County Attorney Walter Wilson, Esq.; Peter Drymalski, DHCA staff; Dallas Valley, Lawrence Dorney, Asadur Ozkanian, Charles Bruno

1. MINUTES. The minutes of the October, 2016, meeting were approved as drafted (Coyle, Branda, and Ethier abstaining).

2. COMMUNITY FORUM: Mr. Dorney reminded the CCOC that he has attended almost all of its meetings for the last decade or more. Mr. Bruno stated that CCOC cases take too long to complete, he referred to the recent case of *Potowmack Preserve v. Ball* which he said the hearing officer completed in 5 months but in which the CCOC hearing panel took 8 months to issue its decision. He added that the Circuit Court, on appeal, took less time than the CCOC did, to issue its decision. Dr. Fishbein replied that the CCOC was also concerned with the problem and that its Process and Procedures Committee has been at work for many months to propose new procedures to improve the process.

3. NEW CASES PRESENTED FOR REVIEW:

None.

4. REQUESTS TO THE COMMISSION:

None.

5. DECISIONS AND ORDERS ISSUED; OTHER LITIGATION:

The staff reported on the recent Partial Summary Judgment issued in *Usui v. Americana Finnmark Condominium*, in which the panel held that the association failed to investigate properly whether second-hand smoke violated the association's bylaws

banning annoying odors and smoke even though the common areas might not have been involved. The panel sent the case back to the board to investigate and if necessary to hold a hearing on the merits of the complaint.

Mr. Drymalski also reported that the Circuit Court issued a final order upholding the Commission's decision in *Kobernick v. Fallstone HOA*, #15-15, in which the hearing panel ruled that an HOA had the right to regulate parking in private driveways. The Commission's ruling in *Potowmack Preserve v. Ball*, #72-13, is now on appeal in the Court of Special Appeals. Oral argument in the appeal of *Ozkanian v. Walnut Grove Condominium*, #22-15, will be held in the Circuit Court November 3, 2016.

6. COUNTY ATTORNEY'S REPORT:

None.

7. STAFF REPORTS:

Mr. Drymalski circulated the monthly statistical report for October. He informed the CCOC that DHCA asked for input from the commissioners on how to use funds currently allocated for the CCOC to create a modern IT system. The Council had appropriated \$70,000 for this purpose in the FY17 budget; this was a one-time appropriation, and the funding will be lost in the FY18 budget unless the DHCA can offer a new program to replace it. The CCOC agreed to send its suggestions for a new program to Dr. Fishbein by the end of the week; and he will then offer the CCOC's suggestions to the Department.

8. COMMITTEE REPORTS:

Mr. Fine reported that the CCOC Legislative Committee was considering proposals for State legislation on removing limits on how much a board can raise the assessments and also whether to require periodic reserve studies. On Council Bill 39-16, the committee recommended that the CCOC take no position, and the CCOC agreed.

Ms. Ethier reported that the Process and Procedures Committee will issue its report and recommendations in December.

Mr. Zajic moved that the CCOC adopt his proposals on commissioner training, beginning with the commissioners appointed in 2017. Ms. Gelfound asked if the requirement applied to commissioners who were appointed in 2017 but who had served on the CCOC previously. Ms. Gelfound moved that the training program be adopted with the amendment that only commissioners appointed in 2017 or later, who have not previously served on the CCOC, must take the training. The motion was adopted unanimously. Mr. Zajic also moved that the CCOC send letters of appreciation to the attorneys who had assisted in the development of the syllabus, and this motion was also adopted unanimously. Finally, Mr. Zajic moved that the CCOC sponsor a seminar for all

commissioners and panel chairs on the topic of the “business judgment” rule in February or March, 2017, and the CCOC unanimously agreed.

9. OLD BUSINESS:

None.

10. NEW BUSINESS:

None.

The Commission voted to adjourn at 8:35pm.

11. NEXT MEETING: The next meeting will be Wednesday, December 7, 2016, and the following meeting will be Wednesday, January 4, 2017.