

**Minutes**  
**Regulatory Council of**  
**Community Association Managers**  
**Conference Call Meeting**  
**October 20, 2003**  
**10:30 a.m.**

**CALL TO ORDER**

Reginald Billups called the meeting to order at 10:36 a.m.

**ROLL CALL**

The following members were present:

Reginald Billups, Council Chair  
Marilyn Battista, Vice-chair Member  
Chris Brown, Council Member  
Steve Czonstka, Council Member  
Debra Glass, Council Member  
Edith Yates, Council Member

**Others Present**

Lianne Acebo, Deputy Secretary, DBPR  
Julie Baker, Deputy Secretary, DBPR  
Barbara Edwards, Assistant Attorney General  
Julie Malone, Executive Director, DBPR  
Donna Salters Thomas, Government Analyst, DBPR  
Charlie Pellegrini, Assistant General Counsel  
Jim Greer, Gulf Coast Professional School  
Mark Benson, Florida Community Association Managers Alliance  
Fred Gray, Gray Systems  
Bill Carter, COMA of Florida  
Molly Foley-Healy, Community Associations Institute  
Pat Ernst, Division of Professions & Regulation  
Rose Coster, Division of Professions & Regulation  
Dawn Berman, NBC CAM  
Bill Carter, Promo Florida  
Nina Vandell, Florida Community Association Managers Alliance  
Ron Safford, Alternative Dispute Resolution, DBPR  
Jerry Wilson, Deputy Director of Professions & Regulation

**Approval of Minutes**

Mr. Czonstka made a motion to approve the minutes from the July 11, 2003 meeting. Chris Brown seconded the motion. The minutes were approved with the following corrections:

- The minutes should read Steve Czonstka and Edith Yates are serving with expired term rather than Edith Battista
- The minutes should reference “council” rather than “board”
- The next meeting was noted for October 10<sup>th</sup>, rather than 20<sup>th</sup>

### **Old Business**

The Council was asked to look at the minor violations for developing citation rules and submit responses to Ms. Malone. Responses were received from Mr. Czonstka, Mr. Billups, Mrs. Battista, and Mrs. Yates.

There was a discussion on the definition for citation, reprimand and notice of non-compliance. Mr. Wilson informed the Council that the notice of non-compliance is for the minor violation and they are given 20 days to clear it and that any enforcement on a community association manager’s license becomes a matter of public record.

Mr. Pellegrini indicated that it must be specified by rule which citations, penalties and notices of non-compliance are eligible offenses –currently the Council has neither.

Mr. Wilson indicated that the exercise to determine which violations are to be considered minor violations will also help identify where a great deal of money is being spent on investigating things that can be addressed with notices and minor citations. He suggested that the Council look at what types of complaints are being investigated, the bulk of the complaints that are received, and determine if there is a better way.

Mr. Brown asked that to reprimand someone, must there be an investigation? And, if the rule existed to issue a citation, would that eliminate the need for an investigation? Mr. Pellegrini responded yes to both questions.

Mr. Brown asked, who makes the determination of the issuance of a reprimand versus minor citation versus the notice non-compliance? Mr. Pellegrini responded that the investigator does, however Mr. Wilson replied that it is based on how the Council establishes the rule.

Mr. Czonstka and Mr. Brown were asked by the Chair to develop a committee that would work with the division to provide clearly defined recommendations to the Council regarding the writing of rules for violations.

Mr. Wilson and Mr. Pellegrini will provide support to the Council in coming up with a list from the department’s database on violations that are taking too much time in investigations –and which may be resolved through issuance of a citation or notice of non-compliance.

Mr. Czonstka and Mr. Brown will work independently with Mrs. Edwards, Counsel for the Council. Ms. Edwards will bring a report back to the Council at the next meeting and copy Ms. Malone.

Ms. Battista requested that the rule contain a definition section defining reprimand, citation, and notice of non-compliance, etc.

## **REPORTS**

### **Executive Director Report**

Ms. Malone reported that the computer-based testing dispute has been settled and exam applicants are able to get results on site. In addition, she reported that the Council does not have a rule drafted regarding renewals for spouses in the military. Ms. Edwards addressed the Council indicating that the Chapter 455, F. S. stipulates that the Council shall adopt this rule. Mr. Czonstka motioned to have the rule drafted to be in compliance with Chapter 455, F.S. Ms. Glass seconded the motion. The motion passed unanimously.

Ms. Malone reminded the Council that they are dealing with sensitive information included in the agendas and it must be disposed of carefully.

Ms. Glass provided an update on the \$200 assessment in the 2002 renewal cycle. Mr. Billups requested a report on the rate of renewal during this cycle. Ms. Malone will provide the rate of renewal report at the next meeting. Ms. Malone will also provide an update on the original projections with regard to the end of the June 30, 2003 fiscal year.

Ms. Edwards provided a report on Rule 61-20.508 (1) F.A.C. that permits eight hours of continuing education to be completed by correspondence, interactive, distance education or the internet. This rule became effective July 21, 2003. Regarding Rule 61-20.504 (2) F.A.C., finger print processing fee increase, she reported that the rule notice was published on September 5, 2003 and is currently waiting for time to pass before the rule can be adopted.

A petition for a declaratory statement was requested from Sam Mackie, P.A. regarding Chapter 468.431 (2) (3), F.S. Ms. Edwards advised the Council to deny the petition as it does not meet the requirements for the rule regarding declaratory statements. The rule has to apply to the petitioner's circumstances, and it is not the appropriate means to determine the conduct of another person or for obtaining a policy statement of general applicability from an agency. She will send a letter to the attorney if he requests it. The motion to deny the petition was offered by Ms. Battista and seconded by Ms. Glass. The motion passed unanimously.

Ms. Edwards submitted a letter to the legislature reporting the Council activities. She reported that the Council had no rules that required clarification of specification; none that are obsolete or unnecessary; none that are redundant in statute; none susceptible of changes to approve, and efficiency reduced paperwork at increased costs. She reported that the Council monitors its rules properly.

She indicated that this letter goes out to the Legislature in October every two years --in the odd numbered years. She proposed that the Council begin in January looking at rules and statutes to submit for changes so that they will have more substance.

### **Department Attorney Report**

Mr. Pellegrini provided a report on recent disciplinary activities, which are enclosed in the agenda. He suggested that the Council gather rules from other boards concerning notices of none-compliance and citations. Ms. Malone will provide this information to Mr. Brown, Mr. Czonstka, and Mrs. Edwards.

### **Regulation Report**

Mr. Patrick Ernst provided two sets of numbers from the Division of Regulation, one set represents the number of complaints from the first calendar quarter, January 1- March 31, 2003 and the second represents complaints from January 1 to September 30<sup>th</sup>, 2003.

Mr. Ernst provided corrections for the first quarter's report from Regulation. The corrections are as follows: the number of complaints is 71; the number of the complaints found legally sufficient is 35; the number of those complaints that were licensed is 19; the number of complaints that are unlicensed is 16, the number of investigations completed is 23, the number of cases assigned is 33.

The corrections through September 30<sup>th</sup> are as follows: the number of complaints is 235, the number of cases found legally sufficient is 99, and the number that were licensed 70, the number unlicensed 29, the number investigations completed was 70, and the number of cases assigned is 90.

### **Chairman Report**

Mr. Billups requested a comparative report of these complaints from the last two years at future meetings.

Mr. Billups reported on the Board Training workshop held in Tallahassee September 30 – October 1, 2003. He reported that they were pleased and provided with a great deal of information that was very helpful. Ms. Battista added that she was extremely appreciative of the presentation. Ms. Acebo informed the Council that the training is one of the first mandates of Secretary Diane Carr for thorough training for the department boards. The plan is to take the presentation regionally which will begin early next year. Mr. Wilson informed the Council that the presentation was recorded on video and a CD will be made available so that each board/council member will receive it as part of training.

Mr. Billups stated that he and Ms. Battista had a conversation with Secretary Carr at the Board member training session concerning CAMs. He stated that Secretary Carr informed them that the department is not pushing for deregulation.

### **Mediation Report**

Ron Safford provided a report on mediation. He reported that the cost for mediation is \$211 per case. In comparison, the cost of an investigation of a case and the minimal legal

review is a saving difference of \$1014. He indicated that to make consumer recovery, the statute requires that the elements of legal sufficiency must have been found and some economic harm or that the licensee can remedy the case. Mr. Safford submitted a copy of the rules on mediation to Ms. Malone. Ms. Malone will provide a copy of these rules to the Council.

Mr. Safford recommended that the Council look at trying to adopt a rule similar to the departments which mirrors the language given the largest possible range of violations. It also has preventive language that can not be mediated for repeat offenders. The language is in Chapter 455.2235. In the next meeting, Ms. Edwards and Mr. Pellegrini will work on creating language for the rule changes.

### **Public Comments**

Mr. Benson commented on the House Select Committee on condominiums, and DBPR Task force and homeowner associations that are going to directly affect the Council and managers. He requested the opportunity to provide information to the Council from the meetings of the Task Force and Select Committee that has taken place to date. This information will be provided so that the Council can possibly make recommendations as to the proper procedure for dealing with community association managers in the problems they are addressing. The Council accepted the recommendation and information will be provided to Ms. Malone for distribution to Council.

### **Next Meeting**

Ms. Edwards instructed the Council to begin looking at any legislation they may want in the 2005 legislative session.

Ms. Yates mentioned the proposal of a fee increase for the 2005 - 2006 legislative session. Mr. Billups commented on the problem of introducing a fee increase as the Council did not have the support of the staff, and it is best to pursue or allow a support organization to draft this kind of legislation. Mr. Benson informed the Council that it is part of the legislative package that the CAM Alliance has already presented to several legislators who have expressed support in introducing that legislation.

Mr. Benson differs with the staff on when it is appropriate to provide information as the committee is looking for information even into January. If the Council will draft some positions, they would be presented to the committees that are debating the bill. The CAM Alliance would make sure the information gets to the legislative committees.

Mr. Billups commented that there are some time lines that must be met at the department, however, the Council can at anytime support a proposed piece of legislation at any meeting. Ms. Edwards commented that to facilitate this kind of review that all the discussed information should be placed on the agenda so the Council may review and determine what they may want to do and issue a letter to the appropriate committee expressing the Council's position on the issue.

Mr. Benson will provide to Ms. Malone the copies of proposed legislation to be included in the next agenda for consideration.

Mr. Safford provided an additional comment regarding mediation. He informed the Council that they could mediate any type of rule for resolution. The advantage of mediation is that it can be accomplished anywhere in the process of discipline, and that it can be any kind of resolution as long as the respondent agrees to the resolution.

Mr. Billups addressed the move from being a Council to becoming a Board. Ms. Edwards informed the Council that it is a legislative process and that it would carry more weight if it were part of the department's packets and this should be prepared and given to the Secretary. Ms. Edwards also recommended having the Secretary attend the next meeting and it was also recommend the disciplinary guidelines be in tact before this idea is approached.

The next meeting is scheduled for January 23, 2004 at 10:30 a.m. in Tallahassee.

The meeting was adjourned at 12:15 p.m.