

**MINUTES
REGULATORY COUNCIL OF
COMMUNITY ASSOCIATION MANAGERS
May 15, 2020
10:00 a.m. EDT
The telephone number is 1.888.585.9008
Conference Room Number: 241687833#**

CALL TO ORDER

The Regulatory Council of Community Association Managers was called to order at approximately 10:05 a.m., by Chair Sharon Cunningham.

MEMBERS PRESENT

Sharon Cunningham, Chair
Gary Pyott, Vice Chair
Robert "Bob" Sibley

PERSONS PRESENT

Krista Woodard, Executive Director, Department of Business and Professional Regulation (DBPR)
James Richardson Senior Attorney, Office of the General Counsel, DBPR
Ronald Thomas "Tom" Jones, Assistant Attorney General, Office of the Attorney General
Melinda Gray, Government Analyst, DBPR
Doreen Mannino, Court Reporter, For the Record Court Reporting
Matthew Green, Community Association Managers International Certification Board

APPROVAL OF THE MINUTES OF THE MEETING ON FEBRUARY 28, 2020

Mr. Pyott moved to approve the meeting minutes of February 28, 2020. Mr. Sibley seconded the motion. The motion passed unanimously.

REPORTS

PROSECUTING ATTORNEY REPORT – James Richardson

Mr. Richardson provided the Council with an overview of the reports. Mr. Richardson indicated that legal closed 35 cases and that there are currently 195 cases in legal. Mr. Richardson also stated that due to the coronavirus legal office had ceased filing administrative complaints. However, the Legal Office has now begun filing administrative complaints.

COUNSEL REPORT – Tom Jones

Mr. Jones informed the Council that Rule 61E14-1.005, Null and Void Status, will be effective on May 24, 2020.

Advertising

Rule 61E14-2.001 Standards of Professional Conduct

The Council discussed Rule 61E14-2.001, Standards of Professional Conduct. During the discussion, the Council requested that Mr. Jones amend the language submitted to the Council for approval. Mr. Pyott made a motion to approve the below proposed language. Mr. Sibley seconded the motion. The motion passed unanimously.

Mr. Pyott made a motion to proceed with rulemaking to have the proposed rule language amended and adopted to the below language. Mr. Sibley seconded the motion. The motion passed unanimously.

Mr. Jones asked the Council if this proposed rule amendments will have an adverse impact on small business. Mr. Pyott made a motion that the proposed rule amendments will not have an adverse impact on small business. Mr. Sibley seconded the motion. The motion passed unanimously.

Mr. Jones asked the Council if the proposed rule will be likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within 1 year after the implementation of the rule. Mr. Pyott made a motion that the proposed rule would not directly or indirectly increase regulatory costs in excess of \$200,000 within 1 year after the implementation of the rule. Mr. Sibley seconded the motion. The motion passed unanimously.

Mr. Jones asked the Council if a violation of the proposed rule be a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. Should this rule, or any part of this rule, be designated a minor violation? Mr. Pyott made a motion that this proposed rule would not constitute a minor violation. Mr. Sibley seconded the motion. The motion passed unanimously.

Mr. Jones asked the Council if the proposed rule should have a sunset provision. Mr. Sibley made a motion that this proposed rule should not have a sunset provision. Mr. Pyott seconded the motion. The motion passed unanimously.

61E14-2.001 Standards of Professional Conduct.

Licensees shall adhere to the following provisions, standards of professional conduct, and such provisions and standards shall be deemed automatically incorporated, as duties of all licensees, into any written or oral agreement for the rendition of community association management services.

(1) Definitions. As used in this rule, the following definitions apply:

(a) "Licensee" means a person licensed pursuant to Sections 468.432(1) and (2), F.S.

(b) "Community Association Management Services" means performing any of the practices requiring specialized knowledge, judgment, and management skill as defined in Section 468.431(2), F.S.

(c) "Funds" as used in this rule includes money and negotiable instruments including checks, notes and securities.

(d) "Advertisement" and "Advertising" in this rule shall mean any statements, oral, written, or by electronic means disseminated to or before the public or any portion thereof, with the intent of furthering the purpose, either directly or indirectly, of selling professional services, or offering to perform professional services, or inducing members of the public to enter into any obligation relating to such professional services. The terms advertisement and advertising shall include the name under which professional services are performed, and include business stationary but not promotional novelties such as balloons, pencils, trinkets, or articles of clothing.

(2) Professional Standards. During the performance of community association management services, a licensee shall do the following:

(a) Comply with the requirements of the governing documents by which a community association is created or operated.

(b) Only deposit or disburse funds received by the community association manager or management firm on behalf of the association for the specific purpose or purposes designated by the board of directors, community association management contract or the governing documents of the association.

(c) Perform all community association management services required by the licensee's contract to professional standards and to the standards established by Section 468.4334(1), F.S.

(d) In the event of a potential conflict of interest, provide full disclosure to the association and obtain authorization or approval.

(e) Respond to, or refer to the appropriate responsible party, a Notice of Violation or any such similar notification from an agency seeking to impose a regulatory penalty upon the association within the time frame specified in the notification.

(f) The license number of a licensee shall be stated in each offer of services, business proposal, advertisement, or advertising, regardless of medium, used by the licensee.

(3) Records. During the performance of community association management services pursuant to a contract with a community association, a licensee shall not:

(a) Withhold possession of the association's official records, in violation of Sections 718.111(12), 719.104(2) or 720.303(5), F.S., or original books, records, accounts, funds, or other property of a community association when requested by the association to deliver the same to the association upon reasonable notice. Reasonable notice shall extend no later than 10 business days after termination of any management or employment agreement and receipt of a written request from the association. The manager may retain those records necessary for up to 20 days to complete an ending financial statement or report. Failure of the association to provide access or retention of accounting records to prepare the statement or report shall relieve the manager of any further responsibility or liability for preparation of the statement or report. The provisions of this rule apply regardless of any contractual or other dispute between the licensee and the association.

(b) Deny or delay access to association official records to an owner or his or her authorized representative who is entitled to access within the timeframe and under the procedures set out in Sections 718.111(12), 719.104(2) or 720.303(5), F.S.

(c) Create false records or alter the official records of an association in violation of Sections 718.111(12), 719.104(2) or 720.303(4), F.S., or of the licensee except in such cases where an alteration is permitted by law (e.g., the correction of minutes per direction given at a meeting at which the minutes are submitted for approval).

(d) Fail to maintain the records for a community association manager or management firm or the official records of any applicable association, as required by Sections 718.111(12), 719.104(2) or 720.303(4), F.S.

Mr. Sibley asked Ms. Woodard whether or not the changes to Rule 61E14-2.001 Standards of Professional Conduct, could be posted on the Department's website. Ms. Woodard said she can post a blurb and have it directed to the rule.

EXECUTIVE DIRECTOR REPORT – Krista Woodard Continuing Education Courses – Ratification List

The Ratification List of continuing education courses was provided to the Council for their review and approval. Mr. Pyott moved to approve the Ratification List as submitted. Mr. Sibley seconded the motion. The motion passed unanimously.

Future Meeting Dates

August 21, 2020 – Conference Call
November 6, 2020 – St. Augustine Beach
February 26, 2021 – Conference Call
May 21, 2021 – Conference Call
August 6, 2021 – Conference Call

OLD BUSINESS

There was no old business to come before the Council at this time.

NEW BUSINESS

There was no new business to come before the Council at this time.

PUBLIC COMMENT

There was no public comment to come before the Council at this time.

ADJOURNMENT

There being no further business to come before the Council, Chair Cunningham made a motion to adjourn. Mr. Pyott seconded the motion. The motion passed unanimously, with the meeting adjourning at 11:05 a.m.