

**DELAWARE DEPARTMENT OF JUSTICE
COMMON INTEREST COMMUNITY ADVISORY COUNCIL
APPROVED MINUTES**

Meeting Date: March 25, 2020

Meeting time: 1:00 pm – 2:39 pm

Meeting Location:

Telephone Only

TELEPHONE ACCESS:

DIAL IN TOLL FREE: (877) 643-6951

PARTICIPANT CODE: 51438603

Call to Order: Gail Launay-Tarlecki, Chair

1. Attendance:

Present: Frederick Fortunato, Chris Curtin, Patricia Abernethy, William Brady, Esq., Tony Campisi, Doug Denison, Sarah Keifer, Delores McLamb, James Smith, Charles Stirk, Jr., Chad Toms, Esq., Pat Woodring

QUORUM.

Absent: Michael Costello, Robert Goff, Esq., Ruth Visvardis, Excused: Leslie Ledogar, Esq.

Ad Hoc: Jack Hilaman – Present

Public present: Howard Simons, Fred Pioggia, Melissa Esham, Jesse White, Anne Bartel, Russ Werneck, Harry Anapa

Commented [CK(1)]: I'm not sure of Melissa last name, Gail recognized her maybe she remembers ?

1. Approval of Minutes: January 22, 2020

Chad Toms, Esq moved for approval. Charles Stirk Jr. seconded. Bill Brady moved for corrections spelling of Sen. Hansen's name. Approved as amended.

2. Public Comment:

- a. Harry Anapa had questions regarding elections in his community and his concerns regarding meeting and the difficulty in meeting with restrictions due to coronavirus. His question concerned postponing elections. Gail asked him to check his bylaws, Chad shared frequently asked questions and answers available on firm's website.
- b. Fred Pioggia-manages a community where more homes are being converted into rentals. His questions related to coronavirus. Chad explained a general answer addressing behavior, and to use best practices to put in place.

c. Gail added that whether they rent or own is not the concern, discrimination by age is not tolerated in State of Delaware. Gail suggested contacting Human Relations Commission, for guidance.

3. **Council Membership status:** Chris reported the Council still has two vacancies. Anyone who would like to recommend a Kent County candidate can contact Chris or the Governor's Boards Appointment Director. Pat Woodring referred someone to Chris, who suggested contacting Senate Pres. *pro tem* for follow up, as he must fill one position.

4. **Guest Speaker:** Chad Toms, Esq. – Chad HOA frequently asked questions coronavirus: Chad's firm represents 1000 communities from Kentucky to Pittsburgh. Governors orders are different in each state, he suggests going to his firm's website for more information.

March 16-clients started asking COVID-19 questions. Can't give legal advice, only generalities, and best practices:

1) What is boards responsibility when we learn someone is self-quarantining-privacy issues. Individual has a right of privacy. Remind associations they don't have a designated responsibility to keep members safe. They have a duty to make the clubhouse, pool, roads... clean and safe. But no responsibly to keep neighbor A or B safe.

Chad encouraged associations to assume someone in community has virus and follow health guidelines; to post and announce cleaning of common areas, posting notices for expectations; wiping down machine. He recommends being cautious about privacy.

2) Clubhouse- keep it closed or open? Varies, State by state. In Delaware there is no order that community associations must close clubhouse. He suggests using common sense. The association has authority to close clubhouse; it might not be the best idea to keep it open. If you are keeping amenities open, follow COVID-19 guidelines: follow cleaning requirements, 6 ft social distance. Chad noticed very few communities are keeping clubhouse open as of this week.

3) Can board meetings and annual meetings occur? If over 10 attend in person, it should not be held. Nothing prevents annual meetings to occur electronically. If all participants can hear and be heard they can be conducted consistent with DUCIOA. Check bylaws.

Associations must provide services; Chad suggests going to Governors order to check what services are optional.

4) What should Associations be doing? Chad recommends continuing to communicate and share as much information as possible.

William Brady, Esq. suggested meeting by videoconferencing. He is doing it for his client consultations. His only concern would be some older people in communities might not have access or may not be comfortable using videoconferencing and don't have family around to help. He discussed landlord tenant issues: landlord may not charge late fees or interest, and lenders may not charge fees on mortgages. As of now, homeowners in a

condo and/or HOAs still have an obligation to pay. Boards may choose to voluntarily not charge interest or late fees.

Chris commented to look at CAI for additional questions. He discussed how the best advice from CAI is that "We are all in this together, and neighbors should try to take care of each other, during times like this." He has seen no Emergency Orders involving waving or delaying payment of assessments or mandatory funds needed. Boards should consider that some people might have income disruption and may ask to schedule payments over time, and boards should exercise judgment on these requests. They can collect assessments as income is restored.

Public Comments: Chad answered Fred's questions about cleaning pool and trash area. He also asked about elections. Chad commented that if meetings can't occur due to Governor's Emergency order then the previous directors stay in position until an election can occur. If not, Board may need to notify association about postponing elections. Fred commented his election is not until May 23 so may have time to discuss options.

5. **Committee Reports** on study and advice to Ombudsman on statutorily required and other subjects:

- a. **Community Conflict Resolution /ADR & Feasibility of Mandatory ADR:** No chair person, still looking for a chair, Gail suggested last meeting to continue to meet even if no chair. Chris has projects for committee to work on, Leslie stated she has researched and reported on one-online dispute resolution. All the Committees should look off the council for committee persons with interest in a committee subject to join the committee.
- b. **Mechanisms for Registering Common Interest Communities:** No Chair. Chris reported. He is working with Department of Technology to coordinate a conversation with the Division of Corporations. DTI unavailable Jan and Feb and with COVID-19 it is at a standstill. The software we obtained for organizing scanned pdf tax reports went with Geneer when she went to DOJ IT. So far, the office doesn't have time or resources to make that approach work.
- c. **Mechanisms to Increase Collections & Legislative Issues & Processes:** Chad reported the collections manual and legislative bill to update DUCIOA are moving slowly due to COVID. Chris commented Legislative Council could not provide assistance, so we got help internally. The DUCIOA "clean-up" Bill is ready, and sponsors have been identified. But Legislature is dealing with only COVID legislation for the next couple weeks. We will pick that bill up. Chad welcomed anyone that would like to participate in meetings to let him know.
- d. **Operation of the Ombudsman's Office:** Chris asked to incorporate this into his Status of the office report. The committee still needs a chair. The committee members should meet to reach out beyond the committee to identify someone who might be interested in the area and projects with in the Ombudsman's Office.
- e. **Mentoring:** Delores stated they have not met since last meeting. Goals and objectives for 2020 are to meet before Advisory Councils next meeting, to talk about goals for the next year. Gail will set up a meeting date for conference call. Chris mentioned Ruth contacted him about mentoring she has been doing. Chris stated

he would offer tuition for anyone on the Advisory Council who would like to take the "Joint CAI, Board Leadership Development Workshop." The CAI materials are worth the time and effort.

f. **Education:** Gail, Chair reported. Gail and Chris met telephonically and discussed 3 presentations scheduled but are now cancelled due to COVID-19. Committee will discuss possibility of Zoom conferences if the Governors orders continue into the summer. Chris mentioned DOJ will be purchasing a Zoom Enterprise platform, and maybe using that for future education seminars. Gail suggested a phone meeting before next meeting. Chad stated his CAI event in May was cancelled and not rescheduled.

g. **Nominating Committee:** Charles Stirk reporting; nothing to report.

h. **Status of the Office:** Chris Curtin, Ombudsman: See attached report.

HOA Governance Workshop was a great success with 140 in attendance. Gail, Chris, Chad, Bill, Mike and Leslie participated. The next morning Chad, Bill and Chris also presented to the Bar Association panel to discuss "HOA Disputes." Chris commented that he appreciates everyone on the Council and the wealth of their experience. Chris reported DOJ made an offer to a Financial/Compliance Investigator to start next week. Chris is charging him with investigating compliance with bylaws and other governing document violations, to help address our backlog. Chris mentioned April 20th workshop is cancelled due to COVID. Chris responded to questions from legislators about the federal "OTARD" bill (Over the Air Reception Devices) Bill. It has similar language on "reasonable restrictions" to the Solar Panel Amendment and will attach the Legislative Council's one-page handout on that language.

New Business:

Patty has articles about leadership during a stressful time and will send them to Chris to distribute to email lists.

Gail would like to hear from committees at next meeting in May, she will help with the Mentoring Committee.

Member of the public Howard Simons asked to have things forwarded to him, Chris will add him to list. Chad will send him information.

Adjournment: Moved by Gail. Seconded by Charles. Adjourned at 2:39 pm.