

Meeting of  
**Community Association Managers**  
**Department of Business and Professional Regulation**  
**Friday, May 13, 2011 @ 9:00am**  
**Orlando Marriott Lake Mary, 1501 International Parkway, Lake Mary, FL 32746**

**General Business**

**CALL TO ORDER**

The meeting was called to order at 9:00a.m. by Patricia Rogers, Chair. The meeting was opened with the roll call and a quorum was established.

**ROLL CALL**

Patricia Rogers, Chair  
Kelly Moran, Vice Chair (Called-in)  
Terence Brennan  
Margaret A. Rogers  
David Beswick  
Dawn Warren

**APPROVAL OF MINUTES (February 4, 2011)**

**Motion:** Terence Brennan moved to approve the February 4, 2011 minutes as presented.

**Second:** Margaret Rogers seconded the motion and it passed unanimously.

**CHAIR REPORT – Patricia Rogers**

Patricia Rogers: This was a very difficult legislative session and states important topics for discussion discipline and education.

Agenda items 5, 6, & 8 regarding complaints on the web and Mr. Warren's letter were tabled. Mr. Spivey and Mr. Vaccaro were researching the issue and it would be considered at the next meeting.

**Opening Remarks:**

Patricia Rogers: Protocol for call in meeting. Please avoid background noises. Counsel will go over the Agenda items; if anyone has any questions please wait until after the counsel has opened discussion before speaking and each individual should state their first and last name before speaking.

**COUNSEL REPORT – Khai Patterson**

Mrs. Patterson discussed with the Council Rule 61E14-1.001 and 61E14-4.001 and stated that the rules did not meet the 90 day deadline and this was required by statute.

Page 7 executive order #11-72 supersedes the first order and stops publication for the review of the entire rule section.

Patricia Rogers: In the executive order there is nothing about protecting the consumer?

Khai Patterson: Was not able to speak on this unless there is a specific question because this was a Governor's Executive Order.

Patricia Rogers: Page 12 section 6, agencies must conduct an annual review and comprehensive review of existing rules and regulations, along with recommendations as to whether any rules and regulations should be modified or eliminated. So we did not make that deadline?

Anthony Spivey: The role is basically placed on the department; we will review all the rules if there is a situation where we need to bring rules to the council for clarification we can do that.

Margaret "Maggie" Rogers: So how far are you in the review? And did you find things you wanted to change?

Anthony Spivey: There were not many that we changed in this profession.

Patricia Rogers: Are there any comments from the public?  
If there are no comments, we will go on with the prosecuting attorney's report.

**PROSECUTING ATTORNEY REPORT** – C. Erica White, Prosecuting Attorney: page 14 to page 36 shows 251 active cases. Looking at trends of complaints coming into the department I have divided them into four areas.

- 1). Licensure cases divided: CAM firm license, CAM persons.
- 2). Failure of a CAM or CAM Firm license to provide records to an association member.
- 3). Failure to maintain accurate records.
- 4). Criminal activity a person taking an associates credit card or external activity like a DUI.

Terence Brennan: Does the prosecuting attorney get a report on cases that are already closed?

C. Erica White: All complaints are looked at by the department but when cases are closed they do not come to my office. Cases can be reopened if the department gets additional information.

Margaret "Maggie" A. Rogers: Is there a way that a complaint can be done anonymously and the complainant can be notified?

C. Erica White: All CAM complaints are public record.

Kelly Moran, Vice Chair: Is there anything the Council can do to help the department expedite cases?

C. Erica White: The department is getting a lot more complaints. CAM has a high case load.

Margaret A. Rogers: In the four points you have brought up, additional education would be good for two and three but not one and four.

Patricia Rogers: I don't think additional education would help for un-license activity.

Terence Brennan: Does any information on a case that has gone to the State Attorneys office show on the web site?

C. Erica White: No I don't believe it does.

**EXECUTIVE DIRECTOR – Anthony B. Spivey**

Legislative Update: House Bill 5005 referencing de-regulation of CAM Council did not pass. House Bill 1824 referencing the renewal process of an inactive, delinquent, and reactivation status did not pass.

Financial Statements: Mr. Spivey The operating account showed a balance of \$357,264. The financial reports ending December 31, 2010 unlicensed activity account showed a balance of \$122,716.

Board had no questions.

Mr. Spivey: On page 43 the most recent report ending March 31, 2011; operating account shows a balance at the end of that period of \$301,948.

Patricia Rogers: There is a difference of about \$56,000. Do you know where the money went?

Mr. Spivey: March, 2011 report increase in expenditures was based on the increase of revenue.

Mr. Spivey: On page 46 March 31, 2011 unlicensed activity account ending balance of \$105,898.

**VIII. COUNCIL DISCUSSION TOPICS**

Selection of Expert Witnesses for Disciplinary Cases:

Patricia Rogers: Expert witnesses list has been provided but not their qualifications.

Mr. Spivey: The list provided includes all professions that the department regulates so there are no qualifications.

Terrence Brennan: I requested information on Community Associations Managers; there are three consultants? And you never search out for additional services from anyone else?

Mr. Spivey: At this time, yes.

Patricia Rogers: Any questions?

Kelly Moran: Does the association need additional expert consultants to move cases through the legal department?

C. Erica White: In the past three months I have only referred two cases to expert services. The department has adequate expert services at this time.

Patricia Rogers: When is it decided that a case needs to go to an expert?

C. Erica White: When there is a complex case or a lot of documentation. I refer those cases to an expert.

Terrence Brennan: What is the expert's perspective of the out of state experts?

C. Erica White: I review what the expert find and then I make my own determination. I go with their recommendation or I move forward when I find a legal violation.

Terrence Brennan: The final decision is made in the department?

C. Erica White: Yes.

Patricia Rogers: Any other questions? Do you know how much experience these experts have?

C. Erica White: No.

Patricia Rogers: When cases are referred to the expert are they asked if they know this manager.

Mr. Spivey: Yes, the managers are required to notify the department.

C. Erica White: If the expert knows the person or respondent then they are to notify the department.

Mr. Spivey: I know of a few that have had extensive background checks.

Terrence Brennan: Has an expert ever been considered from a different state?

Mr. Spivey: That would be up to the prosecuting attorney's office.

Khia Patterson: The purpose for the expert is to determine if there is evidence to move forward with the case. Where they are located really does not come into play and expert experience can be requested.

Margaret A. Rogers: How are experts selected?

Mr. Spivey: I am not directly involved with the selection process but can get that information.

Patricia Rogers: I would like to see qualifications.

### **Review of Disciplinary Fines and Actions:**

Patricia Rogers: State of Florida statutes  
468.60-20 and 61E14

Patricia Rogers: Would the council make recommendations on any changes to the penalty ranges. I find violations to be vague and not clear.

Patricia Rogers: Gross misconduct \$500.00 fine is low and needs to be higher.

Terence Brennan: Discussion on word gross means significant.

Erica White: Gross misconduct is 61E14-2.001(6) not providing records.

Terence Brennan: Suggested making clear that not providing records on an education issue and they know it is gross misconduct.

Khia Patterson: You may want to change the definition of gross.

Erica White: Florida Statute, rule page (32) 61E14-2.001 (6): Standards of professional conduct it shall be considered gross misconduct, as provided by Section 468.436(2). This would be an example of misconduct.

Patricia Rogers: Any comments? Do you have any other samples of misconduct other than records?

Eric White: It would be defined in Rule 61E14-2.001 (8)(a) page (33), It shall be presumed that gross negligence or gross misconduct has been committed where a licensee's or registrant's other professional license has been suspended or revoked for reasons other than non-payment of dues or noncompliance with applicable continuing education requirements. That would be another example of gross misconduct.

Patricia Rogers: In order for us to strengthen the application of the disciplinary fines and rules we need to strengthen the professional conduct.

Erica White: In your rule.

Patricia Rogers: Is there any interest in doing that?

Terence Brennan: It would be something to look at. We should go back and look at the comment that was made ever so long ago and define gross misconduct.

David Beswick: I agree with Mr. Brennan.

Margaret Rogers: I also agree. And I have a question for Ms. White.

Patricia Rogers: Kelly do you have any comments?

Kelly Moran: I agree with the council about getting a better understanding and changing the standards.

Dawn Warren: Made a motion that the council review the standards and improve or define gross misconduct.

Margaret Roger: Seconded the motion and it passed unanimously.

Margaret Rogers: Questioned a CAM hiring someone that does not have the right standards and have criminal records, how do we protect those people?

Khai Patterson: Any issues that could be discipline under disciplinary guidelines can be reviewed prior to licensing.

Anthony Spivey: When an application comes into the department if the applicant has a criminal background then the application is forwarded to the board office for review. If there are convictions found the application is reviewed before a license issued. If a CAM hires an individual that has a criminal record there is no CAM statute or rule that prevents them from doing so.

Margaret Rogers: If a CAM hires a person that has criminal record; is that a disciplinary matter?

Anthony Spivey: I can not give you a clear cut answer because each case that comes in would be reviewed on a case by case basis.

Khai Patterson: I have not gone through all your statutes but unless you have a statute that says a CAM cannot hire someone that has a criminal record and they do, there is nothing that can be done about it and I'm not sure that the statute addresses that.

Margaret Rogers: That is one of the biggest problems we have in the whole state. Is there not a way we could have something under the standards of conduct?

David Beswick: I have some experience with this; I have an employee that has a criminal record that was committed when this person was 17. He is now in his forties and has a collage degree and I do not think that should disqualify him.

Patricia Rogers: We should look at the standards of professional conduct; we need to be very careful in how we word things and what we include. I would start thinking about what you would like to change and send that to Tony Spivey so that it could be included in the next agenda.

Kelly Moran: Completely agrees with CAM'S hiring someone with a criminal background. This is very important for the associations through out the State of Florida.

Terence Brennan: Is there anyway we could determine to what extent this is a problem?

Khai Patterson: I think that would be very difficult to monitor because having a criminal record does not preclude you from having a license.

Margaret Rogers: Could we say require that people that are hired have the same requirements as the people licensed. Would that work?

Khai Patterson: Not sure if that would be enforceable

Anthony Spivey: This would not be enforceable because we do not have regulatory authority over people that licensed individuals hire.

Terence Brennan: We are dealing with people that are a risk factor.

Margaret Rogers: I am just suggesting that somehow CAM'S be responsible and the license be at risk if they are not responsible for the protection of the people.

Terence Brennan: Could the CAM'S be required to do a background check?

Patricia Rogers: Here is the problem with that, a manager could suggest doing a background check on all the employees and the board would not agree.

Margaret Rogers: Then if the board says no then the board should take responsibility.

Khai Patterson: You cannot make that a rule unless you have statutory authority.

Anthony Spivey: All applicants applying for a license that have criminal backgrounds are issued a notice of intent to deny. Most of the time when a license is issued to an individual with a criminal background will hire others with a criminal background.

Margaret Rogers: Is Tim Vaccaro the one to ask?

Patricia Rogers: We can make recommendations on changing the statute but we need to be specific in what we want to change.

Margaret Rogers: I am contacted all the time from people that have been robbed and nothing is done by the department.

Anthony Spivey: If the department is not advised to what is going on with the licensee then nothing can be done.

Dawn Warren: An association hired a convicted felon that was charged with a home invasion.

Patricia Rogers: A manager can only do so much; if a board decides to hire a person convicted of home invasion the CAM cannot prevent that. We have to be very careful not to hold a CAM responsible for something that he/she cannot control.

Terence Brennan: Maybe we could provide information on how to do a background check through the educational requirement.

Anthony Spivey: Agreed.

Terence Brennan: Are there restrictions for hiring a person with a criminal record?

Khai Patterson: Nothing that I'm aware of.

Dawn Warren: What about education for board members? If you want to be on a board you would have to have some education.

Patricia Rogers: Condominiums, Timeshares & Mobile Homes determines education for board members. There is nothing in the HOA requirements but again that is legislation and I am not sure we could make that recommendation.

Kelly Moran: Board members don't have to take the education course as long as they sign an affidavit that they read the documents and statutes.

Dawn Warren: It might cut down on some of the crime.

Dawn Warren: Moved that the Council require new board members have some education requirements in background checks for hiring employees.

Khai Patterson: Consider adding an education requirement.

Terence Brennan: Seconded the motion.

Kelly Morgan: Could you repeat the motion?



Patricia Rogers: The motion was that the Council recommend that the Division of Condominiums, Timeshares & Mobile Homes strengthen its education program to train board members on background checks.

Patricia Rogers: Called the question, it passed with one member opposed.

Margaret Rogers: Left the meeting.

Patricia Rogers: Definition on changing or standards on disciplinary fines and action page 21 subsections (I) & (J) need more definitions on what those meant or what standards they should be meeting. The next one page 22 (L) need to be clarified, and on page 23 (Q) thinks that its miss-worded it says "Use funds for intended purpose" I think it should say "not use the funds for intended purposes". Page 26 (DD), It should be more specific in what we are talking about in or standers of professional conduct. We should take a look at other States that have standards in professional conduct and send ideas to Mr. Spivey about a month before the next meeting.

#### Education Requirements for Managers

Patricia Rogers: Education requirements would go hand-in-hand with the standards so when looking at this I think we should refer to standards. Is there a motion to defer?

David Beswick: Moved that the Council defer.

Dawn Warren: Seconded the motion and it passed unanimously.

#### Public Information Program:

Kelly Moran: I forwarded a draft brochure of what a public brochure would look like and more information was requested from department. Comments?

Patricia Rogers: I don't think we are required to have a time share manager anymore?

Kelly Moran: The requirement says we may; it does not say it's required.

Anthony Spivey: It says one may be employed as a community association manager employed by a timeshare.

Patricia Rogers: Suggested changing to "may be".

Kelly Moran: Requested that the department provide a draft with additional input.

Anthony Spivey: Recommended that unlicensed activity regulation be included and he would have the department provide a draft.

Patricia Rogers: Any comments?

Terence Brennan: It was a challenge to create a one or two page brochure. He recommended using bullet points for duties and responsibilities of a CAM and less information on the council.

Patricia Rogers: I would like to see in big red letters "You got to be licensed to manage".

Margaret Rogers: Could we add a toll free complaint number?

Anthony Spivey: Yes. I would also like to remind everyone that renewal notices for CAM firms is coming up and this is their first year. Renewal notices will be coming out in June CAM firms make sure you renew your license, because if you don't renew you can not operate.

Terence Brennan: Kelly what's the time frame on sending you suggestions?

Kelly Moran: If I could have a template within thirty days I could have the brochure at the next meeting.

Anthony Spivey: Any information that needs to go to Kelly will need to go through me first. You cannot send information directly to her because that would be in violation of the Sunshine Law.

Patricia Rogers: Any comments? As I noted earlier we are deferring the following items to the next meeting for additional research by the department; Complaints appearing on DBPR Web Site and Dennis Warren letter to the next meeting.

### **PROPOSED FUTURE MEETING DATES**

August 5, 2011

November 4, 2011

February 3, 2012

May 4, 2012

### **OLD BUSINESS**

No old business

### **SUGGESTED TOPICS FOR THE NEXT MEETING**

**August 5, 2011 – Telephone conference**

**November 4, 2011 – Live meeting**

**February 3, 2012 – Telephone Conference**

**May 4, 2012 – Telephone Conference**

Dawn Warren: Made a motion to approve the dates and the next face to face meeting be held November 4, 2011.

David Beswick: Seconded the motion and it passed unanimously.

## **ADJOURNMENT**

Patricia Rogers adjourned the meeting at 11:45