

## **Meeting Minutes**

### **REGULATORY COUNCIL OF COMMUNITY ASSOCIATION MANAGERS**

Friday, May 11, 2012 at 9:00 a.m. EST

Conference Call Meeting

Conference: 1-888-808-6959 Conference Code: 4879597

#### **I. CALL TO ORDER**

Meeting original called to order at 9:04 a.m.

Due to technical problems the Court Reporter was not able to stay connected with the conference call. The meeting was delayed in starting. The problem was not with the number of people who called into the meeting, it was an isolated problem on the court reporters end.

Patricia Rogers called the meeting to order at 9:28 a.m.

#### **II. ROLL CALL**

Patricia Rogers – Chair

David Beswick

Terence Brennan

Margaret (Maggie) Rogers

Dawn Warren

Kelly Moran -excused absence

#### **Staff Present**

Dr. Anthony Spivey, Executive Director

Mary Alford, Government Analyst

Michael Flurry, Assistant Attorney General

C. Erica White, Prosecuting Attorney

Elizabeth Henderson, Prosecuting Attorney

#### **III. APPROVAL OF MINUTES – February 17, 2012**

Motion: David Beswick made a motion to approve the meeting minutes for February 21, 2012 meeting.

Second: Terence Brennan seconds the motion. Motion passes unanimously.

#### **IV. CHAIR REPORT – Patricia Rogers**

Chair, Patricia Rogers: I sent out information that I gathered on professional standards a little late yesterday, if the Council wishes we can differ to the next meeting. The other

thing is we need to keep in mind at our August meeting we should be thinking about legislative priorities. I would ask that everybody remember in the public that we will invite you to speak after each agenda item.

#### **V. COUNSEL REPORT – Michael Flury**

Michael Flury: There are no rules currently in the hopper. There is a rule we will discuss later regarding a statutory change for requirements going to activating or reactivating an inactive license. That was sent out by Mr. Spivey yesterday. That is later on the agenda. Other than that there is nothing to report.

#### **VI. PROSECUTING ATTORNEY REPORT – C. Erica White**

C. Erica White: On pages 10 – 46 of the materials for the meeting you will find a copy of the complaint case report for all public cases and that should be listed out by who is handling what case and their status.

Patricia Rogers, Chair: At the last meeting or a couple meetings ago you reported that you were overwhelmed with cases and that you got additional assistance. Has that assisted you in reducing the case load?

C. Erica White: Yes, we have two persons who are helping with reviewing the cases. Also, we have Attorney Henderson who is assisting us with reviewing cases. So, yes, that help has been helpful to me with getting cases looked at.

Patricia Rogers, Chair: Have you seen the number of cases increasing or decreasing?

C. Erica White: The cases are still increasing.

Patricia Rogers, Chair: Is that because of the dual complaint with the manager and the management company. Or is there a different reason?

C. Erica White: I believe it is that and a combination that there are just more people making complaints in this area. Some are duplicative and some are just brand new complaints. I believe in this quarter we have seen an increase in complaints.

Patricia Rogers, Chair: Any question from the Council?

Terence Brennan: On the very last page of the summary for 2011 – 2012 (page 53), it shows there were almost 600 complaints and 261 were legally sufficient. On the second page, is the end results of everything? The only figure that is marked is 1 citation. Does that mean out of those 592 complaints that only one went to a citation of some sort?

C. Erica white: Let me first say, I did not prepare this report so I am not exactly sure what the 1 case means. I really can't speak to that.

Elizabeth Henderson: I can talk a little bit about the way that works. A citation is something that is not issued by legal. A citation would only be issued if Regulation was able to close a case, they basically hand out like a traffic ticket is what a citation is. That is not a result of a litigation of a case by us. That means only 1 time did they find a violation that was sufficiently handled by giving a ticket that someone could pay a fine or dispute the citation. If they dispute the citation it would become a case in legal, but in that case it looks like just one. This is not unusual from what I understand, this profession is not one that has a lot of offenses that can be handled by citations. In some professions you do, cosmetology and barbers for instance, probably half of their offenses the inspectors give out tickets for them rather than turning them into a legal case. Since the community association managers are more typically complaints filed by individuals, they can't be resolved by a citation.

Terrance Brennan: Does this suggest that the table is missing a few columns? My recollection from previous reports was that they would start out with a total number of complaints, then the number of legally sufficient, and then the number of probable cause found. We don't have a probable cause column here.

Elizabeth Henderson: Again, that is a different report than this one, as Ms. White said. This particular report is not one that is prepared by our office. It is a different combination of cases that was put together by a different portion of the agency.

Terrance Brennan: I see. Looking at the complaints listing, almost all of them, maybe 2 or 3 hundred are just showing as received in legal. They don't show a stage in processing. My impression is that you must be completely overwhelmed by the number of cases and there isn't sufficient staff or funding to actually deal with them.

Elizabeth Henderson: We can address that as well. This particularly group of profession, because there is no probable cause panel or any intermediary disciplinary action, these cases stay in a received in legal status even if I've looked at them, the review analyst has looked at them, my law clerk has drafted material on them. There is no intermediary status until an administrative complaint is filed or a closing order is filed. So, it ends up being somewhat misleading. It stays in that Status 30, which is the received in legal, until we take some final action on the case. There are no intermediate statuses it can really go into. So it makes it look like we have not actually looked at them, which most of the time is not true.

Terrance Brennan: It must have been tabulated differently in the past. I do remember the status numbers, and there was a series of them. With out knowing when they were applied the listing from a few years ago anyway, would have different status numbers.

Elizabeth Henderson: I can address that as well. We use to enter our actions and the last action taken would show up on the report. That is not the way we are keeping track of our actions anymore. We have a series of status codes the Department is no longer using.

Terrance Brennan: In November, unfortunately I was unable to attend the November meeting, there was discussion on the Department's decision to stop reporting on the website the cases that had been received. It was only going to report them at a certain threshold. If that threshold isn't being reported, it seems like almost nothing is going to. I don't understand how this whole process works. If you can clarify how that works that would help.

C. Erica White: I can clarify for you. In other professions the only time the public gets to see what's happening on a case or the status of a case is after probable cause is found. However, for CAM's we were putting information out there if a complaint was filed. So what the Department simply did for this profession, is it made it like every other profession and only allows for information to be displayed on a case were probable cause is found. If probable cause is not found you can not, for example, pull up information on a licensee, it will show that there is nothing there. That is the difference that was implemented by the Department last year. Maybe the later part of last year and that is how we are currently operating.

Terrance Brennan: I am aware of that and I have some serious problems with that. But, without starting a debate on that particular point, the fact that there is a point at which probable cause is determined or not determined is not indicated on the report we get here apparently.

C. Erica White: Yes it is. If there is probable cause that has been found it will be status code 37. It is on the report you have between the pages 10 – 46. There is a code if you go back that says status number that is the code, if that code is 37, that means probable cause. Let me see if I can find one real quick for you.

Terrance Brennan: Ok, page 43 has a few. Or in the case of individuals there were about 6 out of 300.

Anthony Spivey: Mr. Brennan, on page 12 there is a list there that shows status code 37.

Terrance Brennan: Yes, that is the corporation, right. This is broken down by corporation, the management companies, and the manager. There were about 4 or 6 and about half dozen for the individuals. I am just trying to get a handle on what is happening with the cases. It is very difficult to do looking at the list here because everything says received in legal. Are these then cases that should be posted on the website or not. Also, I will say one thing regarding the Department's decision last year. The statute, as I am sure you are aware, is different for CAM's than it is for any other profession. And records are public at the time of filing.

Patricia Rogers, Chair: If you recall we did discuss this at length at our last meeting as well. What the DBPR pointed out, was that in fact you can get any records and it is very clear online that you can write DBPR by email and get a record. I don't want to re-discuss this.

Terrance Brennan: No, I understand. As I said a moment ago, I wasn't going to open a discussion on that at the moment. I kinda like to in the future at some point. Just for the information we are receiving here, trying to perceive what stage this is at as it goes through whatever the process is. Is there somehow this can be improved, internally you must have this through different filters.

C. Erica White: To be clear, I believe, Attorney Henderson covered it very well. The cases are received in legal and we are reviewing them. If we find probable cause and file an administrative complaint you will see it in status 37. If it is not in a status code 37, either it means it hasn't been reviewed or it has been reviewed and is being considered for case closure. So the status only changes if probable cause is found. Therefore, based on the report you have been given there are about, approximately on pages 4 and 44, 6 cases where probable cause was found. Now, there may be more that are in process of the documents being prepared. I can tell you based on the fact that I review these cases. A lot of complaints do not have legal sufficiency, meaning that the allegations can not be proven and they are closed.

Terrance Brennan: Last year, according to the summary, out of 600 cases almost 60% of the cases had legal sufficiency.

Elizabeth Henderson: Mr. Brennan, I would like to address the phrase legal sufficiency and talking about that report being a little different. We want to make sure we do not compare apples and oranges. The phrase legal sufficiency is one that is used by Regulation and our complaint analyst that receive complaints. When they make a determination of legal sufficiency all they do is look to see is this allegation a violation of the CAM statute and if it has any validity. That legal sufficiency is a very small threshold and then they send the case out to the field to be investigated. What we do is make a determination of probable cause and that is very different and that is what Ms. White is talking about. Your concern about there being no intermediate status of once a case is received in legal and we have started working on it, is one we are well aware of. When we sit down with our Chief Attorney to try and explain what we are doing on cases, it still looks like even internally just the same, that there is no action taken on them. It is a problem we have discussed and it is a problem I mentioned earlier in the cosmetology and barber cases they also have the same problem, their cases do not move into a status 35 with other boards, which is set for probable cause. For instance, with my veterinarian board I review a case, I make a decision on it, I give it to my law clerk to draft something on and it moves into a 35, awaiting consideration by the panel. So you can look at the report and tell it has been reviewed and worked on. This profession as well as a couple other ones, there is no intermediate status for. And that is a problem we have discussed internally and no one has come up with a satisfactory status code that could be added. I understand your concern, it is something we are all well aware of. It makes the report somewhat difficult to review on your end because it looks like we have a big stack of papers we are not working on. Ms. White and I can assure you, that we are both working about as hard as we can go. The Department has been fabulous in hiring the additional help Ms. White talked about earlier. So we have attorneys, non attorneys and law clerks

all working on these cases. It is difficult to read the reports and that is something that we can continue to talk about. There is not anything we are not aware of.

Terrance Brennan: Since you have said that you actually do make a determination of probable cause internally. Is it not possible to generate a report that would show what is happening at a given point of time at every three months?

Elizabeth Henderson: Actually, you have that report. As Ms. White said, there are about six cases on the report showing they moved into a 37, which means probable cause has been found, but an administrative complaint has not been filed. They move into a status 36 when an AC (Administrative Complaint) has been filed. Which seems backwards, but that is the way it has always been.

Terrance Brennan: It is very hard to picture, the number of complaints actually has over the number of years varied from a long ago about 2002 it's like 350 and then got up to 550 for a while. So, it is back up in the 500 – 600 range. Out of all of those complaints it seems that something doesn't quite match up when looking at the number of actual disciplinary actions or even scolding's, letter of reprimand or whatever that goes out. They all kind of just disappear towards the end. That was my observation looking at when I reviewed a number of years of data some time ago. Some way to report this where it clarifies what is actually happening. Another thing I was curious about.

C. Erica White: Let me quickly address that. If a person got a letter of guidance that's not going to show on your report because the case would be closed. So you will not see situations on your report where we did send a letter of instruction to a licensee. Just so you are aware of that.

Elizabeth Henderson: The cases that are closed, that will never show on your report.

Terrance Brennan: Does that show on the website? Does it show on the report, is that considered a case where something was actually done?

C. Erica White: No, because probable cause was not found when we send a letter of guidance. So it will not show on the website. It will just show closed. You will not be able to see that because the case was closed.

Terrance Brennan: That would not be appropriate. It would seem that if the Department takes some action...

Patricia Rogers, Chair: It seems to me this is an issue we discussed in length before. We are rehashing a lot of places where we have already been. The Council needs to decide, and I did put on the agenda complaint categories, in part to discuss some of these issues again. The Council needs to decide do they want to continue this discussion or if this is perhaps something Terrance you need to discuss with Ms. White directly.

Terrance Brennan: Well. Patricia may I address this for a second?

Anthony Spivey: Mr. Brennan, I want to add also we do put the final outcomes of the disciplinary cases in the newsletter so you do have information as to what the outcome was on a particular case if a CAM has been disciplined.

Elizabeth Henderson: And Mr. Brennan, I can also address. When you are talking about a letter of guidance you made the comment that you think that should be on the website because that is some action taken. I actually can tell you that a letter of guidance is not considered disciplinary action, because it closes the case. And there is no point of entry for anybody to dispute that. It is not considered action taken by the Department which is why it won't show on the website.

Terrance Brennan: I won't extend this discussion any further. I would request if there is some way, I think that you understand my concerns here, whether or not you feel they are being addressed or not. In some way I would feel much better if it would be possible to clarify on how this procedure is being done. At what point things are put on the website or not. How would I go about getting or discussing this further and who should I discuss it with?

C. Erica White: I want to be clear on something. The decision of the website was made at the Secretary, Deputy Secretary level. So, I don't have any control over that. Now as it relates to you getting information about the disciplinary actions, having more information clarified, I am happy to have that discussion. Respectfully to the Council Members, the Council does not do discipline. So, I don't know if we can take the action to change what we are displaying to you because this is all we have to display. These are reports we do internally and this is how we are operating. So I don't know how to change the nature of these reports as this is how we operate.

Patricia Rogers, Chair: I would suggest that there are some issues you have brought up and again, I did put on items VIII # 3 to discuss some of the CAM complaint issues. We may want to have Ms. White again review the procedures and what the categories mean. And that would be the point we would discuss what we need from her.

Terrance Brennan: The final statement to my question. The Department made the change, my question would be to follow up on how that change has been working out. And just what actually is being done. That is the purpose of my inquiry. I am just trying to see how that process is actually working and if it is working the way it should.

C. Erica White: Just so we can be clear, all of the records are still available to the public. The change has not affected the number of inquiries; in fact we probably have gotten more. If a constituent makes a request to the Department, that information is sent to us and then sent to them by the office of Public Records. There is no hindrance of anyone getting access to a CAM complaint. Of course, the Council is aware that CAM Firm complaints are not available to the public unless probable cause has been found and that has always been the case. We have not had any issues with anyone not getting access to any file of any licensee upon request.

Terrance Brennan: Maybe I misheard you, did you just say the files are not available until probable cause is found?

C. Erica White: In a CAM Firm, the statute only allows for the public to see the investigatory file if probable cause has been found and that is statutory.

Terrance Brennan: I didn't hear the word firm, my apologies. I have nothing further to discuss, so we can move on.

Maggie Rogers: Erica, you said the Secretary and Deputy Secretary made those decisions. Are they actually made in those departments? Who actually or where are those decision actually made. Are those not made by staff?

C. Erica White: To be clear I believe Deputy Secretary Tim Vaccaro came to a Council meeting last year and made a presentation on that. So, he is the one who has information to the change to the website.

Anthony Spivey: Let me say one thing here. I have been listening to the conversation, Erica is correct; this was discussed in front of the Council last year. While you were speaking, what I was thinking, probably what would make the Council more comfortable, we will be meeting in August and this may be a discussion that needs to be made face to face to re-clarify any concerns you may have on access to information. As Erica has already said there has been no hindrance to anyone obtaining information when requesting it on CAM issues.

Terrance Brennan: I think that it is an excellent suggestion.

Patricia Rogers, Chair: Yes. I think any of the issues we identify in VII #3 can be added to that so we can have a full discussion of the complaint process. Then the DBPR can take any of our comments and suggestions back and act upon them as they see appropriate.

Anthony Spivey: If you have any specific concerns, send them to me or Mary before the meeting that way you will have a more beneficial and fruitful meeting as far as the outcome of information. If you wait until the day of the meeting you may not get the answers you are looking for because it may take research to obtain some of the information depending on what you ask. Provide your questions or concerns to me well in advance to our meeting in August. Thank you.

Patricia Rogers, Chair: Are there any other comments from the Council? Ms. White and Ms. Henderson, thank you for your report.

## **VII. EXECUTIVE DIRECTOR – Dr. Anthony Spivey**



## 1. Financial Statements ending March 31, 2012

Anthony Spivey read the information from the Financial Statements.

Unlicensed Account balance = \$82, 935

Patricia Rogers, Chair: Are there any questions? Tony, I have a question. I noticed that we spent eleven (11) thousand on General Counsel in 2012 and nothing in 2011. Is that the step up activity for unlicensed activity? Does that reflect that?

Dr. Anthony Spivey: No, that is the re-calculations of the monies from last year to this year. There is nothing to compare it to last year. That is why the figure is showing that way.

Patricia Rogers, Chair: Okay. Remind me what DOAH is?

Dr. Anthony Spivey: That is the Division of Administrative Hearings. That's when the attorneys take a case to that body to be heard by an administrative judge because the individual has disputed a charge before them.

Operating Account balance = (\$557,681) negative balance

Patricia Rogers, Chair: Is that because money has been swept?

Dr. Anthony Spivey: That is based on cash sweeps, the amount of revenue that comes in versus the amount of expenditures that goes out. If you look at your account in the total expenses you have a balance of \$1,216,168. Your revenue was \$653, 871. That is part of the negative balance. As you come into your renewal period, more cash will come in to the account.

Patricia Rogers, Chair: That's still a great concern that we have an half a million plus deficit. That seems to be increasing from the last meeting. Are you concerned about that? Do you think we need to take action on it?

Anthony Spivey: What type of action are you considering?

Patricia Rogers, Chair: Will we come into balance once we get renewals or do we need to consider a change in fee structure?

Anthony Spivey: I think you will be okay once you start your renewal period and see fees come back in. I would not push towards a fee assessment to the licensees at this time. That is not what we are trying to do to the businesses, having them pay more into the account, trying to actually stimulate growth in the economy by getting businesses started. That would be counter to what the Governor is trying to do.

Patricia Rogers, Chair: Right, I recognize that. At the same time it worries me that we are operating in a deficit.

Anthony Spivey: What I will do, because I am working with another board in this same aspect as well. I will ask accounting to do a revenue review for you and at the August meeting we will look at the account then. I am pretty sure you will be okay.

Patricia Rogers, Chair: Okay, do we have anything else?

Anthony Spivey: No, not for the financials.

## **2. Quarterly Complaint Report**

Handout was reviewed by Council.

## **VIII. COUNCIL DISCUSSION TOPICS**

### **1. HB-517 – Change to Inactive CE requirement**

Anthony Spivey: HB 517 mandates statutory changes which require only one cycle of continuing education for renewals when an individual is coming from inactive to active status. I emailed the Council members and staff proposed rule for 61E-4.004 which is the reactivation continuing education rule. I have inserted and extracted language in that rule as a proposal for your discussion and review. This is not a finished rule, this is for discussion to go on to show how the new language should read per the statutory requirement now. Prior to the new statute, the rule required 10 hours of CE for each year that they were inactive. That no longer will be in effect come the 1<sup>st</sup> of July.

Patricia Rogers, Chair: Any comments or questions from the Council? I have a couple, when it says one renewal cycle required continuing Ed. Are we now saying they must take the total 20 hours?

Anthony Spivey: That is the language I put in the rule as a proposal. When they come from inactive to active status to be required to have one cycle of continuing education which would be the 20 hours, so that is how I proposed it in the rule.

Patricia Rogers, Chair: Okay. Then, the last sentence in one would have to say the remaining hours of reactivation must be, wouldn't be maybe in any of the areas, it must be consistent with the areas. Am I correct?

Anthony Spivey: I will differ to the attorneys on the legal requirements on the language.

Patricia Rogers, Chair: After the 4 legal, it is 4 HR, 4 insurance and finance, 4 operations and physical property, and any other areas approved by DBPR. So, maybe that should be spelled out a little more clearly. Any comments from Council members?

Motion: David Beswick made a motion to proceed with the Council Comments.

Second: Terrance Brennan seconded the motion.

Michael Flurry: Tony this statute goes into affect in July?

Anthony Spivey: Yes.

Motion passes 5-0

## **2. Distance Learning Rule for Pre-Licensure Education**

Patricia Rogers, Chair: As you know the law changed last year saying any profession can now have distance learning. There is no CAM rule for pre-licensure. I did discuss it with Tony and Mary and they assured me there are rules under F.S. 455 that would address this. My question to the CAM Council is, do we want anything specific or given the current environment do we want to allow things to continue under F.S. 455?

Anthony Spivey: Just for some clarification to the Council it is Section, 455.2122, Florida Statute. All boards or non boards shall approve distance learning courses. The individual has an option to take the course in residence or online and that is in statute.

Maggie Rogers: Is there a reference, I can not find a reference in my paperwork, can you tell me if this is on a particular page?

Anthony Spivey: No, that one is not in there. The subject line was just given to us by the Chair for discussion. When we talked yesterday I gave her the information for the specific statute site. The subject is on here because of a concern if the Council should have a rule. After we talked yesterday, it is my opinion that there is no rule required because the statute clearly defines what an individual can and can not do.

Terrance Brennan: I am still a little fuzzy on what we are trying to decide here. It sounds like we don't really have to do anything. The situation it is pretty much taken care of.

Patricia Rogers: This is what Tony and Mary have advised me. They feel it is under control in the current language. Knowing the law has changed I did want to bring it up to the Council.

Anthony Spivey: Read specific statute into the record from Section 455.2122, Florida Statute.

Patricia Rogers, Chair: Does everyone agree that we don't need any action?  
All Council members agreed.

## **3. CAM Complaint Categories**

Patricia Rogers, Chair: I think we have discussed a lot of that and Terrance brought up a lot of the issues. I think when we go through it in August, it would be good if we can go through each of the various numbers, Ms. White, on the form that says they are in category status. Letting us have a copy of what the status means may help to answer some of the questions and in addition reviewing the possible outcomes again. I think that would kind of answer a lot of confusion we seem to have.

C. Erica White: Yes, I will have that ready.

Terrance Brennan: I seem to recall, sometime ago we got a training session in which a lot of that was spelled out. Maybe it has changed since then.

Patricia Rogers, Chair: As there seems to be some confusion and as Tony suggested we will review it again. The other thing, Ms. White that may be helpful is if you could pinpoint areas where community association managers are in particular having problem with. We do have a new educational cycle coming up and it may be a good idea to identify those and let the education providers know these are the particular areas CAM's are having problems with and maybe you can focus on these.

C. Erica White: Yes, that is a very good suggestion. I do see trends in vary similar violations, for example providing records and licensure. I think that is an excellent idea to cover at the next meeting.

Patricia Rogers, Chair: Usually providers do get some instruction on what we need to cover for the next period. And this was a relatively light legislative year this would be a good opportunity to focus on these things for educational providers.

C. Erica White: Yes. I will have that ready.

#### **4. Background / Drug Testing**

Maggie Rogers: I brought this up because as you know I am not a CAM, I am a person who is very interested in representing the residents in communities. I believe this is an idea that might protect residents. I certainly don't think random drug testing or even criminal background is an end all to all the problems with in a community. I do think that it could severely curb any of these problems. We all know there is a huge problem with drugs and alcohol. This is not limited to CAM's, but to the workers and the boards. I realize there is nothing we can do with board members and drug testing, but the presences of these problems makes it understandable how it involves all these aspects of the community association, the CAM's, the boards and the people they hire, it makes it understandable. I believe that anyone, CAM's or anyone that they hire that has access to any residence or their money should have random drug testing and criminal background check. It would cost the state nothing. My plumber has to have a criminal background check and a random drug testing. The independent drug testing company calls him on whatever day they choose and he goes in for the test and he has to pay for it. I called a

couple independent drug testing companies and that is how it works, the individuals pay for it. I do not know all the aspects of everything. I would like to hear how the Council members feel about this and if there are any downfalls of random drug testing. As I said before, my real interest is protecting the residents. I would like to hear from everybody on this.

Patricia Rogers, Chair: Are there comments on this?

David Beswick: The condo I currently manage is the second one I brought a mandatory drug testing system into. The benefits for your insurance coverage are phenomenal when you institute a policy like this. And you are also covered in employee accidents when workman's compensation kicks in. I think anyone that does not have a policy is just being foolish.

Maggie Rogers: Thank you so much for saying that. I agree with that completely. The problem is, you are a very reputable person, but through out the state there are CAM's who are not as reputable. They don't want drug testing for themselves or the workers because they got a little click going on. That is why I bring it to the State, there must be some kind of regulation or law that we bring to legislatures to have passed. Or maybe this is something we can do within our own system. Erica or Libby could be the person to answer that.

Terrance Brennan: I certainly agree with background checks, I think there is no problem, in my opinion, this is definitely a good thing to do. I may be on the conservative side with the drug testing. I can see the value of it and apparently from what Mr. Beswick is saying there are certainly some benefits to be found on the insurance issue. I have to admit I have not thought about it that much. My immediate impression is that I would be cautious in proceeding with that, but I am certainly going to think about it and look into it. It may be a good thing.

Maggie Rogers: Terrance, why would you be cautious about proceeding with random drug testing?

Terrance Brennan: I have never felt that random drug testing or drug testing in general never use to be done. Of course drugs weren't being used the way they are now. The world has changed. I felt like it is a very intrusive thing to do to people and I don't think necessarily it relates to someone's job performance. For my part, I have never used drugs and never intend to, I'm quite happy with life without them. So, it's not a personal issue at all, it is more just a matter of freedom in the country and civil liberties. I am not going to say I'm not going to think about it, because I am. I'm not speaking in opposition to you on this. At the moment my position is neutral. I will be thinking about this.

Maggie Rogers: Thank you so much. The problem in condominiums is that people have access to people's home. They have the keys, they have their monies, for the number of people who are doing drugs in the world today. I am sure all of us get emails relating to these kinds of things, there are lawsuits.

Terrance Brennan: Maggie, I completely agree with you on that, that is very persuasive and almost by itself would be enough to line up with you there.

Maggie Rogers: The less government the best government. That's my firm belief about everything.

Patricia Rogers: Let me mention one problem I see. If you recall the Governor and the Legislature moved forward this year with a bill to drug test all state employees. Regardless of what view we may take on that the courts have ruled that was not legal. From a practical point of view, I would ask what exactly is it that you want the CAM Council to do with regards to drug testing. We can't come out with a rule saying CAM's have to be drug tested.

Maggie Rogers: That was just done at one level of court. The Governor is fighting that and he is determined from everything I have heard and talked to with the people in his office he is determined that it is going to be overturned. I think that will pave the way for us to come in and be able to do something if it does. I think we should be ready to make a request to the legislature or within our own system to make a rule that this is to be done.

C. Erica White: I don't think the Council has any authority to require licensees be drug tested. So, I have concerned about moving forward with that. Since the Council does not really have any disciplinary authority. I'm a little bit concerned with moving forward with something that I don't know if you have the authority to proceed on.

Maggie Rogers: I recently had a meeting with a representative of my area and he pretty much said the same thing. It does have to be brought to the legislature as a perspective law. In August we are coming up with things that are important. I am bringing this up now so that in August we can come up with a request for perspective law concerning this. That is what I am hoping we are headed towards. Then if the Governor does get his wish to have the lower courts overruled then it will have paved the way. We can't be sure what's going to happen anywhere in any of the courts or anything now with the ACLU running ramped through our lives. But, we can certainly try, I think that is about all we can do is try. I want everyone to please think about it and come up with ideas and for it to be on our August agenda.

Terrance Brennan: I would say one thing, her argument that the CAM's have access to people's property in a unique way is a very persuasive agreement to me. One of the problems with drug users can be that they desperately need money and will do anything to get it. So, someone in a position of trust it can be a real problem, I understand that. That's very significant to me. Regardless of how we proceed with it, I realize we can suggest anything we want to and it may not have any effect.

Maggie Rogers: Patricia and Tony, can we have this on the August agenda to determine if we can have a request sent to legislature for this to become a law. I know that people are very discouraged within the state legislature are about the state drug testing. It seems like a given. Also, welfare recipients with drug testing that were overturned too. I realize all

this is happening. It could come around the corner and if we are ready to go we can get help.

Anthony Spivey: I will put it on the agenda for discussion.

Patricia Rogers: And lets include that in one of the legislative items. Any other discussion about drug testing? Any other comments from the public?

Matt (caller): The reason I found this tele-conference is I started looking into CAM licensing requirements after some issues in my own neighborhood association. I discovered the person who was hired to run our association is neither licensed and after doing some additional public records searches determined the individual was also a convicted batterer. Any efforts you all could do to institute criminal screening, background checks as a consumer, I would certainly be in favor of. We don't need persons working in this profession who have anger problems, who have struck another individual and been convicted of it. It is just not somebody we want serving in that capacity that has access to our community parks, our association funds. In general it is someone we don't want roaming around our neighborhoods. As a consumer advocate I would certainly encourage the Council to move with great haste to institute any policies they have authority to institute with reference to background checks.

Anthony Spivey: The Department does do background checks to anyone applying for a license of a CAM.

Matt: Right, this particular individual is not licensed and I will be delivering to the Department a complaint.

Anthony Spivey: Okay, there is a separate office that will handle the unlicensed activity issues and you can deal directly with them.

Maggie Rogers: One of the problems that residents have is that they can not make a complaint about a manager. This is true, isn't it Erica.

Patricia Rogers, Chair: Why can't they?

Maggie Rogers: Because the board has to make the complaint, isn't that right?

Patricia Rogers, Chair: No. Correct me if I am wrong, Erica, can't anyone make a complaint?

Elizabeth Henderson: Erica had to step off the call for a moment. Anyone can file a complaint against a community association manager.

Anthony Spivey: That is correct.

Michael Flurry: I think the confusion may be that regarding administrative complaint the actual charging document the Department does issues those, but it is based on the complaint from the public.

Elizabeth Henderson: That is correct.

Patricia Rogers, Chair: Maggie is that clarified for you?

Maggie Rogers: Yes, I am glad to hear that. I was recently told that wasn't so over the 800 line.

Terrance Brennan: The complaint of course has to be in order to be, as we were discussing earlier legally sufficient, it has to be something that addresses the statutes and rules that apply to CAM's. That there are many things that CAM's can do that are undesirable and the complaint isn't going to have any validity. Yes, anybody can make a complaint. They should refer to the statute and rules to make sure they are complaining about something that something can be done about.

## **5. CAM Newsletter**

Anthony Spivey: we have a CAM newsletter that should be coming out shortly. I would like to give some credit to Mary, she did some articles and put some information in there that is very informative. I read the draft yesterday and it is moving forward. I was very pleased to see the job she did on it. I think you all will be pleased on it.

Patricia Rogers, Chair: I am sure we will be. Thank you, Mary. Please note in the minutes that we want to recognize Mary for doing a great job.

Mary Alford: I just want to let the Council members know I do understand your concerns with these violations and charges. One of the things we would like to start putting in the newsletter on a regular basis to help not only our licensees, but the consumers, what are the most common violations we see in this profession. There are two or three of them listed in this upcoming newsletter that should be out before the end of the month.

Patricia Rogers, Chair: Any other comments?

## **IX. PROPOSED FUTURE MEETING DATES**

1. August 3, 2012 – Tallahassee
2. November 16, 2012 – Telephone Conference
3. February 8, 2013 – Telephone Conference
4. May 17, 2013 – Telephone Conference

Anthony Spivey: Your next meeting is August 3, 2012 and it is a live meeting in Tallahassee. The information you want to discuss at the meeting, please provide your



questions or concerns early so we can get those questions vetted out and have a valuable discussion.

Patricia Rogers, Chair: On that agenda we will include the information for the standards. Hopefully everyone will have reviewed them because I know I sent them out at the last minute. If anyone has something to add perhaps we can add before the meeting. I do apologize for getting them out at the last minute.

Maggie Rogers: You are talking about the Ethics statements.

Patricia Rogers, Chair: That is actually on the agenda under the old businesses, let's wait on that.

No problems with these dates for the Council Members.

## **X. OLD BUSINESS**

### **1. Discussion of Rule 61E14-4.001(3)(a), F.A.C.**

Anthony Spivey: This is the rule that you were discussing at the last meeting and you wanted it back on the agenda for further discussion. It is about the 2 hour legal update course.

Patricia Rogers, Chair: Just to remind everyone, this was the discussion that the fact the way the law is written and the rules are written. A manager is supposed to take one legal update in the even/odd year and the second legal update in one odd/even year. What is happening is that a lot of managers are taking both legal updates in a single year, usually the second year. My concern about that is that if there are significant law changes in the first year they will not necessarily be getting them until such time as they actually go to the second educational session. This could actually increase complaints because of the fact they don't know the law is changed and they are doing things wrong. Tony said there were some technical difficulties, that we would either have to make it a violation if they did not take it in the first year or we could leave things as they are and they could take it in either year.

Anthony Spivey: What you all basically decided from my understanding was that you were going to leave the language as it is now, that is why you wanted it back on there to see if you do want to change it or make any adjustments. I believe your decision was to leave everything as it.

Patricia Rogers, Chair: Is there any discussion to changing it or are we going to leave it the way it is.

Terrance Brennan: I think leaving the way it is they would take a seminar each year.

Patricia Rogers, Chair: No, leaving it the way it is means they would be able to take both seminars in the second year.

Terrance Brennan: Going back to what you said a moment ago, I would think it would be more sensible for them to do it separately each year. When coupled with what we were discussing earlier with the statute and distance learning it seems like that would not be any inconvenience at all and that would keep people current. I suppose it might be better to change it unless I'm running into something, a problem I don't understand.

Maggie Rogers: I am with Terrance, unless there is something I don't understand from you people who are involved with this, would you let us know if there is a problem.

Anthony Spivey: It is really not the licensee, it is really the way the courses are being provided by the providers. I think one of the providers actually contacted the Department to get some type of reading on how the courses would be listed out when they issue them.

Maggie Rogers: Patricia, you are a provider, right? How do you feel about it?

Patricia Rogers, Chair: Yes, we provide in the even/odd year we always offer the legal course and in the second year we offer both legal courses because a lot of managers are just not taking them in the first year.

Maggie Rogers: What do you think it should be?

Patricia Rogers, Chair: I think it should be taken in the year that it is required.

Maggie Rogers: Then I agree with that.

Patricia Rogers, Chair: There are a number of things we have to consider with that. Number one, that is a rule change and number two, are we going to be able to make a rule change that would make it more difficult for the profession at this time.

Anthony Spivey: The way your rule reads is does require the licensee to take it one year at a time. I would have to get more information from the testing bureau, I am not sure if their system can track it that way.

Maggie Rogers: Can't they track it just like the real estate division does? If you take it, you send it in. If you haven't taken it then you loose your license or it is put on hold or something.

Mary Alford: I just want to clarify a little bit. Part of the concern is that the rule does require them to take it at separate times, 2 hours the first year and 2 hours the second. Part of the problem the Department receives too is that individuals, CAM licenses that are forgetting that first year to take the first part of the law courses, then the second year they are stuck, and there are no options for them. There would be no way for them to renew their license.

Patricia Rogers, Chair: They have to do it then the same way that people who haven't taken the 2010 would have to do it. They would have to take a legal update to bring their license current.

Anthony Spivey: You have a lot of factors involved in tracking this.

Patricia Rogers, Chair: Tony, do you think this is something you need to do more research on and put on the August agenda.

Anthony Spivey: Sure, I can have BET to do a presentation on it for you.

Patricia Rogers, Chair: I think it is important that they take it in the required year. I want to make sure that we make a decision it is reasonable decision.

Maggie Rogers: I agree with you. If I don't take my real estate education then my license would be gone. I don't see why it should be any different with CAM's. But, there are other aspects of this that are practical and Tony knows that and the report will certainly show how this affects the entire license process. I look forward to your report Tony and Mary.

## **2. Professional Standards of Conduct**

Patricia Rogers, Chair: I did get to a number of codes of ethics for us to look at. Since I sent it to you all at the last minute I think it is better if we defer it to August. Is that acceptable to everyone?

Terrance Brennan: It's fine here. What is the ultimate view here?

Patricia Rogers, Chair: Remember we had discussed updating the Professional Standards of Conduct to raise the level. And this goes back several meetings to raise the level of professionalism among CAM's. That is what we would be looking to do.

Maggie Rogers: If we enact these, if that is the correct word for that, what are the implications of the enactment of it?

Patricia Rogers, Chair: I think then we would want them adopted into the current rules. We have a Professional Standards now. I believe it would be changing the rule to improve or raise level of standards.

Maggie Rogers: I think it is wonderful that they are spelled out this clearly. Who did all of this work?

Patricia Rogers, Chair: I gathered them together.

Maggie Rogers: What a lot of work.

Patricia Rogers, Chair: I didn't write them, I just gathered them.

Maggie Rogers: Well gathering them is a lot of work. So, thank you.

Patricia Rogers, Chair: And there may be more you all want to add before the next meeting.

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

Patricia Rogers, Chair: Are there any other items for the next meeting. Are there any other comments from the Council?

Anthony Spivey: I just want to go over for the Agenda for August as a recap. What I have on my list now is; discussion of complaint categories, financial review of your accounts to determine if the balances will be good come the renewal period, access to public records policy, statutory discussion of possible drug testing, discussing with Bureau of Education and Testing on 2 hour rules, discussion on professional standards code of conduct.

Patricia Rogers, Chair: And the Public Information Brochure. I think that is everything. Is there anything else, any comments from the public?

No additional items or comments.

## **XII. ADJOURNMENT**

Motion: Maggie Rogers made a motion to adjourn the meeting.

Second: David Beswick seconds the motion.

Meeting was adjourned at 10:43 a.m.