



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

May 3, 2018

Ralph S. Northam
Governor

Esther Lee
Secretary of
Commerce and Trade

Complainant: John Ward
Association: Captains Cove Golf & Yacht Club
File Number: 2018-02569

The Office of the Common Interest Community Ombudsman has been designated to review final adverse decisions and determine if they may be in conflict with laws or regulations governing common interest communities. Such determination is within the sole discretion of the Office of the Common Interest Community Ombudsman and not subject to further review.

Complaint

The Complainant submitted a complaint to the Association with no visible date. The Association provided a response to the Complainant dated February 28, 2018. The Complainant then submitted a Notice of Final Adverse Decision (NFAD) to the Office of the Common Interest Community Ombudsman dated March 14, 2018 and received March 19, 2018.

Determination

The Common Interest Community Ombudsman (CICO), as designee of the Director, is responsible for determining whether a "final adverse decision may be in conflict with laws or regulations governing common interest communities." (18VAC 48-70-120) The process of making such a determination begins with receipt of a NFAD that has been submitted to this office in accordance with §55-530(F) (Code of Virginia) and the Common Interest Community Ombudsman Regulations (Regulations). A NFAD results from an association complaint submitted through an association complaint procedure. The association complaint must be submitted in accordance with the applicable association complaint procedure and, as very specifically set forth in the Regulations, "shall concern a matter regarding the action, inaction, or decision by the governing board, managing agent, or association inconsistent with applicable laws and regulations.

Under the Regulations, applicable laws and regulations pertain solely to common interest community laws and regulations. Any complaint that does not concern common interest community laws or regulations is not appropriate for submission through the association complaint procedure. In the event that such a complaint is submitted to this office as part of a NFAD, a determination cannot be provided.

The Complainant has alleged that the Association violated §55-510(B)(2) of the Property Owners' Association Act by making individual salary information available.

The Association responded by stating that the Complainant has never been an employee of the Association and therefore the statute that the Association has been alleged to have violated would not be applicable.

There was simply not enough information submitted in the Complaint to the Association for this office to determine exactly what happened and therefore no Determination can be provided. There was no explanation as to how the salary information was shared or whose salary information it was. Additional information was submitted in a brief letter from the Complainant but it was not part of the Complaint submitted to the Association and therefore cannot be considered as part of this Notice of Final Adverse Decision.

Required Actions

Nothing further is required.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather S. Gillespie". The signature is fluid and cursive, written over a white background.

Heather S. Gillespie
Common Interest Community Ombudsman

cc: Board of Directors
Captains Cove Golf & Yacht Club