



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Robert F. McDonnell
Governor

July 12, 2013

James S. Cheng
Secretary of
Commerce and Trade

Gordon N. Dixon
Director

Complainant: James Knupp
Association: The Coves at Wilton Creek Owners Association
File Number: 2013-03189

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

Complainant submitted a complaint to the Association dated February 20, 2013. The Association provided a response to the Complaint but there did not appear to be a date on the response. According to the certified letter receipt, Complainant signed for the Final Adverse Decision on May 8, 2013. Complainant submitted his Notice of Final Adverse Decision (NFAD) to the Office of the Common Interest Community Ombudsman and it was received on May 21, 2013 by the Finance Department and May 28, 2013 by this office.

Determination

The Office of the Common Interest Ombudsman (OCICO) has reviewed the NFAD in its entirety. Any additional information submitted by Complainant that was not part of the original Complaint submitted to the Association was reviewed but not utilized in the Ombudsman's determination.

The Complainant has alleged that the Association failed to provide requested information and as a result was in conflict with the letter and spirit of the law. Complainant alleges that the Association did not make materials available to him at the same time and in the same manner that the board members had access to the materials in violation of §55-510 and §55-510.1. Complainant believes that meeting packages emailed to board and committee members could as easily be distributed to him rather than making them available at the management office. Complainant has also asked in his Complaint that the budget and minutes be posted to the Association web site promptly.

I do not find that there has been a conflict with or violation of common interest community laws or regulations. The association is not required to distribute the agenda packets to owners; it simply must make the documents *available for inspection* by the

owners at the same that such packets are furnished to the board or committee members. While it is unfortunate that the management company appears to be a substantial distance from the Complainant, such distance does result in a different outcome nor does it mean that the management company or the Association are required to provide copies to the Complainant via email or any other method of more immediate communication.

Complainant's request that budgets and minutes be posted promptly is not appropriate for review by this office. There is no requirement under common interest community law or regulation that such documents be posted on an association's website, therefore we have no authority to dictate within what timeframe these documents must be posted.

Required Actions

In its Final Adverse Decision, the Association failed to provide a date of the Final Adverse Decision. Under 18 VAC 48-70-50, "the notice of final determination shall be dated as of the date of issuance..." Not only is the date required but without it, this office cannot determine if the Notice of Final Adverse Decision submitted by the Complainant has been submitted in an appropriate timeframe. The Association must ensure that the date is clearly provided on any future Final Adverse Decisions (final determinations). The Final Adverse Decision must also include the "complainant's right to file a Notice of Final Adverse Decision with the Common Interest Community Board via the Common Interest Community Ombudsman and the applicable contact information." This was not included and must be included in all future Notices of Final Adverse Decision.

Sincerely,



Heather S. Gillespie
Common Interest Community Ombudsman

cc: Board of Directors
The Coves at Wilton Creek Owners' Association