



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Terence R. McAuliffe
Governor

December 21, 2015

Maurice Jones
Secretary of
Commerce and Trade

Jay W. DeBoer
Director

Complainant: Robert Tisdale
Association: Cottage Greene Townes Condominium Owners Association, Inc.
File Number: 2016-01265

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 his complaint to the Association on September 30, 2015. The Association provided a final determination to the Complainant dated October 27, 2015 and the Complainant then submitted a Notice of Final Adverse Decision (NFAD) to the Office of the Common Interest Community Ombudsman dated November 12, 2015 and received November 17, 2015.

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.

Upon a review of the Complaint submitted to the Association, only one allegation was found that indicated an action, inaction or decision had been made that was inconsistent with applicable laws and regulations. This action was related to a request for the names of the current members of the board of directors. The Association, in its Notice of Final Determination, acknowledged the failure to provide this information and confirmed that it has since been provided. While it appears that there was a possible violation of common interest community law, specifically §55-79.74:1 of the Condominium Act, the Association has since rectified the error and no further action is necessary.

Several other complaints were alleged in the original complaint to the Association, but those complaints were related to the condominium instruments, the contract between the association manager and the association, and other civil law issues that do not fall under the jurisdiction of this office.

Required Actions

No action is required of the Association.

Both the Complainant and the Association are welcome to contact me if they have any questions regarding this Determination or the requirements that have been set forth.

Sincerely,



Heather S. Gillespie
Common Interest Community Ombudsman

cc: Board of Directors
Cottage Greene Townes Condominium Owners Association, Inc.