



# COMMONWEALTH of VIRGINIA

## Department of Professional and Occupational Regulation

Ralph S. Northam  
Governor

Brian Ball  
Secretary of  
Commerce and Trade  
Mary Broz-Vaughan  
Director

December 2, 2019

Complainant: Thomas Lutes  
Association: Westwood Village at Charter Colony CUOA, Inc.  
File Number: 2020-01122

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*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.*

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### Complaint

The Complainant submitted a complaint to the Association, dated September 24, 2019. The Association provided an undated response to the Complainant. The Complainant then submitted a Notice of Final Adverse Decision (NFAD) to the Office of the Common Interest Community Ombudsman dated October 18, 2019 and received October 25, 2019.

### Determination

The Complainant has alleged that the Association is in violation of §55-79.74:1<sup>1</sup> (now §55.1-1945) based on the requirement in that statute that "[a]ll financial books and records shall be kept in accordance with generally accepted accounting practices." The Complainant references two methods for handling bad debt – the Direct Write-Off and the Allowance method in his Complaint. The Complainant believes that the method of maintaining the books and records used by the Association should adhere to "GAAP" standards and specifically, he believes that the Association should book all write-offs and all recoveries to the Allowance and not the income statement.

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<sup>1</sup> A. The declarant, managing agent, unit owners' association, or person specified in the bylaws of the association shall keep detailed records of the receipts and expenditures affecting the operation and administration of the condominium and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or on behalf of the association. Subject to the provisions of subsections B, C, and E, upon request, any unit owner shall be provided a copy of such records and minutes. All financial books and records shall be kept in accordance with generally accepted accounting practices.

There are really two issues here that make it impossible for this office to provide a determination on this matter. The first is the fact that this office simply does not have the jurisdiction, or for that matter, knowledge, to determine what method of accounting should be used by an association. The statute itself does not specify this and therefore this office cannot conclude what method is appropriate. The second difficulty is that the phrase "generally accepted accounting practices" is not defined in the Condominium Act and therefore there is no way for this office to determine what exactly that phrase requires in terms of the financial books and records. I would further note that it does not appear that "generally accepted accounting practices" is the same as GAAP, which, upon a quick review of available information, stands for "generally accepted accounting *principles*" and is a known standard for accounting practices. As has often been said, we can only read statutes using their plain language, and in the present case, the General Assembly chose to use a phrase that is not identical to a well-known phrase that is accepted and understood in the accounting world. Because this office is not trained in accounting and has no jurisdiction over matters related to accounting methods, and because the phrase "generally accepted accounting practices" is not defined in the Condominium Act, I cannot determine if the Association has violated common interest community law by failing to follow "generally accepted accounting practices."

#### Required Actions

The Association is not required to take any action in relation to this NFAD. However, in the future, the Association does need to ensure that it includes a date on any final decision it provides to a Complainant. There was no date on the copy of the final decision received with the NFAD. Dating the letter is a requirement under the Common Interest Community Ombudsman Regulations and the only way for this office to determine if a NFAD has been submitted in the required timeframe.

Please feel free to contact me if you have questions.

Sincerely,



Heather S. Gillespie  
Common Interest Community Ombudsman

cc: Board of Directors  
Westwood Village at Charter Colony CUOA, Inc.



