



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Glenn A. Youngkin
Governor

May 18, 2023

G. Bryan Slater
Secretary of Labor

Demetrios J. Melis
Director

Complainant: August Neitzel
Association: Regency at Dominion Valley Owners Association
File Number: 2023-02628

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, dated April 8, 2023. The Association provided a response to the association complaints dated April 24, 2023. The Complainant then submitted a Notice of Final Adverse Decision (NFAD) to the Office of the Common Interest Community Ombudsman dated April 26, 2023 and received May 2, 2023.

Authority

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 §54.1-2354.4 (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 and we cannot provide a determination on such a complaint. Common interest community law is limited to the Virginia Condominium Act, the Property Owners' Association Act, and the Virginia Real Estate Cooperative Act.

Pursuant to the Regulations (18 VAC 48-70-90), the only documents that will be considered when reviewing a NFAD are the association complaint submitted by a complainant to the association (and any documents included with that original complaint), the final adverse decision from the association, and any supporting documentation related to that final adverse decision. Other documents submitted with the Notice of Final Adverse Decision cannot be reviewed or considered.

This Determination is final and not subject to further review.

Determination

The Complainant alleges that the Association has failed "to provide, for inspection by the membership, any supplemental data package (except the meeting agendas) that the meetings principals would be referring to" during a meeting. The Complainant is referring to a failure related to both board meetings and committee meetings. The applicable statute from the Condominium Act is §55.1-1816(B).¹

The Association stated in its final determination that "the Regency Owners Association is in compliance with the Property Owners' Association Act, section 55.1-1816." It further noted that a meeting packet is available for review at the front desk several days before the meeting.

The Property Owners' Association Act does not require an Association to provide agenda packets or other materials at the meeting for which they have been prepared. Instead, associations must make at least one copy "available for inspection" at the same time the documents are provided to the board or committee members (which may be before or at the meeting). Making these documents available simply means that should an owner request to inspect the packet or supplementary materials, they could do so, potentially in the association's business office, manager's office, or some other location, which could, but does not have to be, the meeting itself. There does not appear to be a violation of the Property Owners' Association Act, since there is no evidence that the Association failed to make the agenda packets or other materials available for inspection, only that they were not distributed at meetings.

¹ Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of all agenda packets and materials furnished to members of the executive board or subcommittee or other committee of the executive board for a meeting shall be made available for inspection by the membership of the unit owners' association at the same time such documents are furnished to the members of the executive board.

Required Actions

No action is required of the Association. Please contact me if you have questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heather Gillespie".

Heather S. Gillespie
Common Interest Community Ombudsman

cc: Board of Directors
Regency at Dominion Valley Owners Association