Abigail D. Spanberger
Governor

Jessica K. Looman
Secretary of Labor

Laura V. McClintock
Director

March 24, 2026

Complainant: Eleaner Loos, et al.
Association: Celebrate by Del Webb Community Association
File Number: 2025-01448

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainants, Eleaner Loos, Ellen Laden, Craig Witt, and Marcia Stein (collectively, "Complainants"), submitted a complaint to Celebrate by Del Webb Community Association ("Association") dated July 11, 2025. The Association provided a response to Complainants' complaint dated November 7, 2025. The Complainants then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman dated November 17, 2025, and the NFAD was received by our Office the same day on November 17, 2025.

Authority

In accordance with its regulations, the Common Interest Community Ombudsman (CICO), as designee of the Agency Director, is responsible for determining whether a "final adverse decision may be in conflict with laws or regulations governing common interest communities." (18 Va. Admin. Code ("VAC") § 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 of the Code of Virginia of 1950, as amended ("Va. Code") and the Common Interest Community Ombudsman regulations ("Regulations"). An 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 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.

The only documents that will be considered when reviewing a NFAD, in accordance with Regulation 18 VAC 48-70-90, 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 but not provide to the Association with the complaint cannot be reviewed or considered. Further, this Determination is final and not subject to further review or appeal pursuant to Va. Code § 54.1-2354.4(C).

If within 365 days of issuing a determination that an adverse decision is in conflict with laws or regulations governing common interest communities we receive a subsequent NFAD for the same violation, the matter will be referred to the Common Interest Community Board to take action in accordance with Va. Code §54.1-2351 or §54.1-2352 as deemed appropriate by the Board.

Determination or Issues to be Decided

The Complainants raise the following issue in their complaint - that the Board is not complying with the provisions of the open meeting statute regarding executive sessions of the Virginia Property Owners' Association Act ("POAA").

1. Is the Board properly utilizing the executive sessions provisions of the POAA?

In general, the POAA provides that "[a]ll meetings of the board of directors, including any subcommittee or other committee of the board of directors, where the business of the association is discussed or transacted shall be open to all members of record."[1] The POAA recognizes, though, that there instances in which the governing body may need to meet privately to discuss sensitive or confidential matters. Thus, the POAA allows governing bodies to meet in an executive session for four enumerated categories: (1) personnel matters; (2) consultation with legal counsel; (3) discussion and consideration of contracts, pending or probable litigation, and matters involving violations of the declaration or rules and regulations of the association; and (4) discussion and consideration of the personal liability of members to the association.[2]

In order for an Association to properly enter into an executive session, the governing body must have a vote in the affirmative to enter into an executive session and must expressly identify which of the specific permissible purpose(s) will be discussed in the executive session.[3] Further, the governing body is only allowed to discuss the matters that were specifically identified in the motion for the executive session.[4] Further, any action, e.g., contract approval, motion, or other action, that stems from the executive session "shall not become effective unless governing body, following the executive session,

[1] *See*, Va. Code § 55.1-1816(A).
[2] *See*, Va. Code § 55.1-1816(C).
[3] *Id.*
[4] *Id.*

reconvenes in an open meeting and takes a vote on such action, which shall have its substance reasonably identified in the open meeting."[5]

In this case, the complainants assert that the Board has on several occasions, including the meetings of February 18, 2025, March 12, 2025, April 9, 2025, May 14, 2025, and June 11, 2025, moved to go into executive session, and in doing so, identifying multiple purposes for executive sessions. While not patently in violation of the POAA, this leaves open the question of whether some purposes were identified in the motion even though there was no related open meeting action, a violation of Va. Code Va. Code §55.1-1816(C), which states that the "motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes."[6] The complainants further assert that the Board is discussing matters in executive session that more properly should be discussed in the open meeting portion of the meeting. Various examples of non-executive topics cited by the Complainants include the disallowance of display cases, replacing bulletin boards, how many easels should be allowed, the location of the coffee station, requests for additional storage, denials of requests to advertise, amending the Ballroom Rental Agreement, and the disapproval of the Celebrate Veterans Group's request for assistance for a July 4, 2025, barbeque.

With respect to this allegation, it is difficult for the Office to determine whether the Board has acted out of compliance with the POAA's executive session provisions because neither this Office nor the Complainants are privy to how the topics were discussed during the executive sessions in question. Each of these discussion topics may have had aspects to their determination that involved a personnel matter, or required the discussion of contracts, or discussion of violations, or required consultation with legal counsel. We simply do not know.

The goal of the POAA's provisions is to strike a reasonable balance between allowing a governing body to have sensitive/confidential discussions on limited topics in private and ensuring that association members are sufficiently informed by governance that is in the open. Here, and on this topic in general, the Office determines that as long as the purposes given for an executive session are actually discussions held in the executive session, then governing bodies are in compliance with the POAA. But when a governing body states purposes for executive session for which there will be no actual discussions, then it is our view that the governing body is not complying with the POAA. However, in the instant case, there is no evidence, other than the belief of the Complainants that this occurred, and it does not appear that any of the members had personal knowledge of what was actually discussed in the executive sessions. Thus, this Office cannot say that the Association violated the POAA with respect to its conduct regarding executive sessions. We would recommend to the Association, however, that when it makes its motions to go into executive session, it is more intentional about stating the enumerated reason(s) for doing so in order to ensure transparency in complying with Va. Code § 55.1-1816.

[5] *Id.*
[6] *Id.*

Conclusion

Based on the foregoing, this Office finds that the information provided with the NFAD is insufficient to find that Association violated the Virginia POAA.

Required Actions

In order to promote transparency and demonstrate compliance with § 55.1-1816, we recommend that the Association's motions to go into executive session invoke only those reasons that will result in actual discussions in order to make it clear to the Associaion members what enumerated reason under the POAA they are evoking to go into executive session.

Please contact me if you have any questions.

Respectfully,

J.S. Douglas Webster, Esquire,
CIC Ombudsman
Compliance & Investigation Division