



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

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Governor

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Secretary of Labor

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Director

May 28, 2026

Complainant: Rebekah Nowak
Association: Hunting Creek Club Condominium
File Number: 2026-00407

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, Rebekah Nowak ("Complainant") submitted a complaint to Hunting Creek Club Condominium ("Association") dated July 15, 2025. The Association provided a response to the Complainant's complaint dated July 28, 2025. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated August 2, 2025, and the NFAD was received by our Office on August 4, 2025.

Authority

In accordance with its regulations, this Office, 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 an 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 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 Complainant presents several allegations against the Association. The first allegation is that the Association violated provisions of Va. Code §13.1-839 and Va. Code §13.1-842. The second allegation is that the Association violated Va. Code §55.1-2140. Lastly, the Complainant alleges that the Association violated the Master Deed and bylaws of the Association.

1. Did the Association violate Va. Code §13.1-839 and Va. Code §13.1-842?

The references that the complainant makes allegations of violations of Va. Code §13.1-839 and Va. Code §13.1-842 by the Association are outside the scope of this Office, because those Code sections refer to the Virginia Nonstock Corporation Act, rather than a Common Interest Community statute or regulation.¹ As stated above, the powers and jurisdiction of this Office extends to determining whether the Association's adverse decision may be in conflict with the law or regulations that specifically govern common interest communities or interpretations thereof by the Board.² As a result, this Office lacks jurisdiction over such complaints and is unable make a finding of whether those provisions were violated by the Association. We would refer the Complainant to other remedies through a court of appropriate jurisdiction.

2. Did the Association violate the meeting requirements of Va. Code §55.1-2140?

Furthermore, the Complainant alleges a violation of Va. Code §55.1-2140, concerning meeting notice requirements of the Association. However, Va. Code §55.1-2140 is a part of the Virginia Real Estate Cooperative Act.³ While this statute is a Common Interest Community statute within the jurisdiction of this Office, the code referred to by the Complaint in her complaint is not applicable to the Association, which is instead governed by the Virginia Condominium Act ("VCA").⁴ Under the VCA, meetings of an association's executive board are governed by Va. Code §§55.1-1949, 1952, and 1953.

¹ See Va. Code §§13.1-801 through 13.1-946; see also 18VAC48-70-120.

² See Va. Code § 54.1-2354.3; see also 18VAC48-70-10.

³ See Va. Code §55.1-2140.

⁴ See Va. Code §§ 55.1-1900 through 55.1-1990.

The Complainant alleges on June 3, 2025, that a special meeting was called for June 10, 2025, “6.5 days before the meeting via email” and that the purpose of the meeting was to “discuss and approve the comprehensive façade work and the funding of the entire project.” The Complainant then alleges that on June 9, 2025, a more “robust” topic list was sent out to include

Review, discuss, and vote on key items related to the comprehensive façade renovation project. The agenda will include a vote to approve a contractor to proceed with bidding on the project, the review and approval of the total projected costs- including work currently underway on select tiers- and the proposed funding strategy, which involves full financial participation from ownership.

The Complainant states that no hard copies of a meeting were sent to co-owners and that what occurred in the meeting was outside of the scope of any agenda of which she was provided notice. Regardless of what the Association’s bylaws provide, Va. Code § 55.1-1949 covers the baseline meeting requirements of Association Boards and meeting notice requirements.⁵ Va. Code § 55.1-1949(A)(1) states that

A.1. Meetings of the unit owners' association shall be held in accordance with the provisions of the condominium instruments at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 21 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each unit owner notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the unit owners' association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

2. Notice shall be sent by United States mail to all unit owners of record at the address of their respective units, unless the unit owner has provided to such officer or his agent an address other than the address of the unit, or notice may be hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the person of the unit owner.

3. In lieu of delivering notice as specified in subdivision 2, such officer or his agent may send notice by electronic means if consented to by the unit owner to whom the notice is given, provided that the officer or his agent certifies in writing that notice was sent and, if such electronic mail was returned as undeliverable, notice was subsequently sent by United States mail.⁶

Furthermore, Va. Code § 55.1-1949(B)(2) states that

Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the (i) executive board

⁵ See Va. Code § 55.1-1949

⁶ Va. Code § 55.1-1949(A)

or any subcommittee or other committee of such board or (ii) subcommittee or other committee of the unit owners' association conducting the meeting.⁷

With respect to the allegation that the Association did not provide proper timely notice of the meeting, this Office finds that there is not enough information to determine whether the seven day advance notice was “reasonable under the circumstances” as required by Va. Code § 55.1-1949(B)(2).⁸ Furthermore, there is no information regarding how many, if any, members of the Association (including the Complainant) had opted into receiving the special meeting notice electronically, which can be permitted under the provisions of 55.1-1949(A)(3). The Complainant never asserted that she never opted into receiving electronic notice of meetings, nor did the Association use the Complainant’s opt-in status as a defense in its response to the complaint.

Lastly, the Va. Code only requires that the “purposes of such meeting” should be disclosed within the notice provisions of the VCA.⁹ It does not, however, state with what specificity the purpose must be communicated. The allegation states that the special meeting was called originally to “discuss and approve the comprehensive façade work and the funding of the entire project” and the email which corroborated that assertion was provided into the record. More specific agenda terms were added on June 9, 2025 (approximately one day from the meeting), via email. Those agenda terms were still related to the discussion and approval of the comprehensive façade work and funding of the entire project. The Complainant appears angry that an assessment was levied against Association members in “one sweeping vote by the Board” to fund the façade project. However, while we acknowledge the Complainant’s frustration at the circumstances, approving an assessment to complete the façade work was within the scope of the original meeting notification, which referenced the “funding of the entire project.” As a result, this Office does not find evidence that the VCA, specifically Va. Code § 55.1-1949.

This Office does want to address the content of the Association’s response, however. Virginia law requires that a response to a common interest community complaint contains certain information.¹⁰ In its response, the Association refers properly to the VCA but does not acknowledge the improper citation by the Complainant nor does the Association give an exact citation under the VCA which it is using in its defense of the complaint (for the record, it is Va. Code § 55.1-1935, regarding the use of technology).¹¹ Furthermore, there is no discussion on how Va. Code § 55.1-1935 interacts with the meeting notice provisions of Va. Code § 55.1-1949, and how that may impact the instant case.¹² In its NFAD, the Association must include specific citations to the common interest community laws or regulations that led to its conclusion.¹³ Also, the Association must state in its NFAD that the Complainant may reach out to this Office for review and provide contact information for this Office, and the NFAD must include the registration number of the Association.¹⁴ The NFAD issued by the Association in this case did not contain any of these requirements. This Office strongly suggests that the Association Board review the

⁷ Va. Code § 55.1-1949(B)(2).

⁸ *Id.*

⁹ Va. Code § 55.1-1949(A).

¹⁰ See 18VAC48-70-50.

¹¹ See Va. Code § 55.1-1935

¹² See *Id.*; see also Va. Code § 55.1-1949.

¹³ See 18VAC48-70-50 (10).

¹⁴ See 18VAC48-70-50 (10)-(11).

requirements of 18VAC48-70-50 to ensure that it is complying with state law in how it responds to complaints made by Association members.

3. *Did the Association violate the Association bylaws and Master Deed?*

In her complaint, the Complainant further made reference to the fact that the Master Deed and bylaws were not being complied with by the Association. As stated in the first issue, the powers and jurisdiction of this Office extends to determining whether the Association adverse decision may be in conflict with the law or regulations that specifically govern common interest communities or interpretations thereof by the Board.¹⁵ The Master Deed and the By-laws are neither a common interest community statute or regulation, and thus, this Office has no jurisdiction to determine whether the Association has properly adhered to them. Should the Complainant wish to pursue action that arises from an alleged violation of the bylaws and/ or Master Deed, she is encouraged to seek the advice of an attorney she has retained to advise her on such issues.

Conclusion

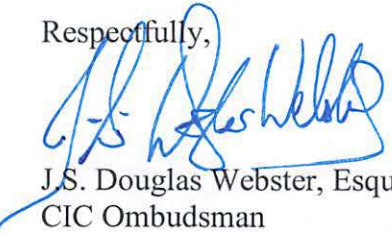
Based on the foregoing, this Office finds that it has no jurisdiction over the alleged statutory violation of the Virginia Non-Stock Corporation Act ("VCNA") and finds that it has no jurisdiction over the Master Deed and bylaw violation set forth in Complainant's third allegation. Furthermore, with respect to complainant's second allegation, this Office finds that the statute cited by the Complainant – the Virginia Real Estate Cooperative Act - was not applicable to the Association, which is governed by the VCA.

Required Actions

No curative action is required by the Association related to a violation of common interest community law in this case. However, as the Association's NFAD did not comply with the applicable regulation in the instant case, we strongly encourage the Association to follow the Regulations governing NFAD's, including specifically addressing each complaint, identifying the reasons for upholding their decision (if applicable), citing referenced statutes specifically, and providing the property management license number (if applicable) and Association registration number, in order to promote transparency and ease of understanding.

Please contact me if you have any questions.

Respectfully,


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

¹⁵ See Va. Code § 54.1-2354.3; *see also* 18VAC48-70-10.