



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Abigail D. Spanberger
Governor

Jessica K. Looman
Secretary of Labor

Laura V. McClintock
Director

March 24, 2026

Complainant: Anita Diffenderfer
Association: Ridgewood Farm Condominium Owners' Association
File Number: 2025-03031

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, Anita Diffenderfer ("Complainant"), submitted a complaint to the Ridgewood Farm Condominium Owners Association ("Association"), March 11, 2025. The Association provided a response to the Complainants' complaint dated May 19, 2025. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman dated June 2, 2025, and the NFAD was received by our Office on June 10, 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 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 two (2) allegations against the Association. As described more fully below, both allegations stem from a water leak that infiltrated the Complainants condominium. The Complainant first alleges that the Association has violated the Virginia Condominium Act (“VCA”), specifically Va. Code § 55.1-1955. Secondly, the Complainant alleges that the Association violated the Virginia Property Owners’ Association Act (“POAA”), specifically Va. Code § 55.1-1816(A) and (C) because the Complainant alleges that all discussions of the work order request were discussed in executive session and reported in the minutes. The Complainant also alleges that she was never provided a copy of any of the proposals/ bids after inspection. These allegations are discussed in detail below.

1. The Complainant Alleges a Violation of the VCA, specifically Va. Code § 55.1-1955.

The Complainant contends in her original complaint that she found moisture along the wall in the living room of her condominium and had determined that this moisture had seeped from the outside wall. The Complainant’s complaint to the Association contains a timeline of various contractors’ inspections of the situation, but the complaint does not, itself, specifically allege a violation of Va. Code § 55.1-1955, or how the facts of the case may give rise to a violation of the same. However, the Association, in its response of May 19, 2025, interpreted the complaint as a violation of Va. Code § 55.1-1955, which was then seemingly affirmed by the Complainant in her June 2, 2025, letter to the CICO.

The VCA gives associations the powers and responsibilities to make repairs, amongst other things. Va. Code §55.1-1955. It states in pertinent part:

Except to the extent otherwise provided by the condominium instruments, all powers and responsibilities, including financial responsibility, with regard to maintenance, repair, renovation, restoration, and replacement of the condominium shall belong (i) to the unit owners' association in the case of the common elements and (ii) to the individual unit owner in the case of any unit or any part of such unit, except to the extent that the need for repairs, renovation, restoration, or replacement arises from a condition originating in or through the common elements or any apparatus located within the common elements, in which case

the unit owners' association shall have such powers and responsibilities. Each unit owner shall afford to the other unit owners and to the unit owners' association and to any agents or employees of either such access through his unit as may be reasonably necessary to enable them to exercise and discharge their respective powers and responsibilities.¹

In its September 30, 2024, response to the Complainant's attorney, the Association, through counsel, acknowledges that the Association would be responsible for a problem which originates from a common element component of the condominium. However, there is no evidence in the record that points to the proximate cause of the leak actually originating from the common area foundation of the condominium, or from any other common area location where the Association would have a statutory duty to repair, pursuant to Va. Code §55.1-1955(A). There is no evidence that any of the contractors hired in response to the leak that was first discovered by the Complainant on July 29, 2024, determined a nexus between the leak in the Complainant's condominium and the disrepair or damage of a common area, for which the Association would be responsible by statute. Because Complainant's allegation of the source of damage is not substantiated in the NFAD's record, this office cannot determine whether a violation of the VCA occurred.

2. The Complainant Alleges Violations of Va. Code §55.1-1816 A and C by the Association in its Assessing its Liability for the Alleged Leak into the Complainant's Condominium

In the Complainant's complaint to the CICO of June 2, 2025, she alleges that the Association violated the provisions of Virginia Code §55.1-1816 A and C. However, this section of the Virginia Code is the Virginia POAA, which is not applicable to the Association in this case (which is governed by the VCA).²

Furthermore, the Complainant only alleged this specific violation of the Virginia Code in her June 2, 2025, complaint to the CICO, and **not** in her original complaint to the Association on March 11, 2025. The Complainant's complaint reference the fact that executive sessions occurred to discuss the leak her in condominium, and it also makes reference to the fact she had not seen certain reports, but it never makes an allegation that any of these allegations constitute a violation of the Common Interest Community statutes or regulations. Thus, the Association in its May 19, 2025, NFAD in response to the Complainant's complaint, makes no reference to the statute or the allegation. That is because it simply was not on notice of the specific nature of the allegation until the Complainant filed her complaint to the CICO on June 2, 2025.

The CICO does not have the authority under Virginia law to render a decision on a violation of the VCA that has not been the subject of an NFAD.³ Therefore, the Complainant must file a complaint with the Association in accordance with the complaint procedure outlined in the Association's by-laws if she wishes to further pursue this specific allegation, though we would recommend that review the VCA for the appropriate citation.

¹ Va. Code §55.1-1955(A)

² See Va. Code § 55.1-1801 (D)

³ See Va. Code § 54.1-2354.3

Conclusion

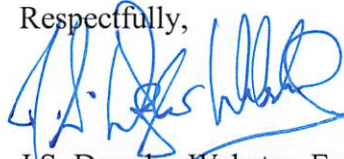
Based on the foregoing, we find that the information in the NFAD record is insufficient to determine that the leak into the Complainant's condominium was the result of disrepair of a common area, of which the Association is liable under the VCA. Furthermore, we find that the Complainant improperly and untimely alleged a violation of the CIC statute, which did not apply to her category of CIC.

Required Actions

No action is required of the Association.

Please contact me if you have any questions.

Respectfully,

A handwritten signature in blue ink, appearing to read "J.S. Douglas Webster", is written over the typed name.

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