



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Abigail D. Spanberger
Governor

Jessica K. Looman
Secretary of Labor

Laura V. McClintock
Director

April 6, 2026

Complainant: Jigar Shah
Association: Towns at Discovery Square Homeowners' Association
File Number: 2026-00163

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, Jigar Shah ("Complainant"), submitted a complaint to the Towns at Discovery Square Homeowners' Association ("Association"), dated May 20, 2025. The Association provided a response to the Complainant's complaint dated June 25, 2025. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated July 3, 2025, and the NFAD was received by our Office on July 7, 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 18VAC 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

There also is an allegation made by the Complainant regarding whether his camera should be grandfathered in by a new covenant, which appears to limit the type of doorbell camera that a member of the Association may display. However, this Office does not have authority to interpret the governing documents of an association.¹ The Complainant is encouraged to speak with counsel on what the best options are for him to pursue those claims in the appropriate forum, should he still so desire. The Complainant further asserts that he was not provided the Association complaint form in a timely manner as required by Va. Code §54.1-2354.4 and he also questions whether the Association has a complaint procedure.

1. Did the Association violate the POAA, specifically Va. Code §55.1-1819(C).

The Complainant contends that the Association violated the POAA, Va. Code §55.1-1819(C), because he was originally given a First Notice of Covenants Violation, dated April 2, 2025, and then issued a second First Notice of Covenants Violation, dated April 23, 2025, and not given enough time to cure the problem following the first notice, by the time that the second notice was issued. Both notices were issued as a result of an unapproved doorbell.

The April 2, 2025, First Notice of Violation gave until June 1, 2025, for the Complainant to cure the violation with the doorbell. However, the April 2, 2025, First Notice of Violation cited no covenant or regulation or statutory violation. The April 23, 2025, second First Notice of Violation contains specific language to the declaration that the Association believes was violated and also moved the date to cure the violation up from June 1, 2025, to May 23, 2025. The Complainant advises that he was told by the Association manager that the April 2, 2025, First Notice, “has been closed” based on the response to the Complainant’s appeal and the April 23, 2025, notice that was sent.

¹ See Va. Code §54.1-2354.3; See also 18VAC48-70-10.

This is a case where words matter. If, in fact, the Association manager told the Complainant that the April 2, 2025, First Notice of Violation had been closed, even though he had filed a complaint, that would create the perception that there was a lack of due process. Looking at the information in the record, what likely happened is that the Association submitted the April 2, 2025, First Notice of Violation without the appropriate citation to the violation in the declaration. The Association then effectively rescinded the April 2, 2025, First Notice of Violation. However, instead of explaining to the Complainant that instead of two active violations, there was one violation notice (April 2, 2025) that was subsequently rescinded in favor of the April 23, 2025, First Notice. However, when the Complainant heard that the complaint had been “closed” versus “being rescinded,” it created the impression that the Association had closed the case without affording him due process.

This Office does not expect that Association staff be experts in procedural due process and adverse action, but they have an important role in conveying information and helping Association members navigate the complaint process when the Association begins its enforcement process. This Office would remind the Association that using appropriate language in describing enforcement actions is paramount to good governance and we would encourage Association management and staff to be trained on enforcement principles and the importance of using the proper phraseology in dealing with member complaints.

With that said, the April 23, 2025, First Notice of Violation gives the Complainant 30 days to cure the violation by removing the unapproved video doorbell in the front and garage or to complete an ARC application for the board to review. The POAA, under Va. Code §55.1-1819(C) states that

Before any action authorized in this section is taken, the member shall be given a reasonable opportunity to correct the alleged violation after written notice of the alleged violation to the member at the address required for notices of meetings pursuant to §55.1-1815. If the violation remains uncorrected, the member shall be given an opportunity to be heard and to be represented by counsel before the board of directors or other tribunal specified in the documents.

Notice of a hearing, including the actions that may be taken by the association in accordance with this section, shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the association at least 14 days prior to the hearing. Within seven days of the hearing, the hearing result shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the association.²

It appears that no action to fine or suspend, as allowed under Va. Code §55.1-1819(B) was undertaken by the Association.³ Rather, the Complainant was given 30 days to correct the violation, either by removing the doorbell cameras or by submitting an ARC application. The Complainant contends that the ARC application is inapplicable to his situation, because he was essentially grandfathered in and thus compliant, having purchased the cameras in 2021, prior to the effective date of the ARC guidelines.

² Va. Code §55.1-1819(C)

³ See Va. Code §55.1-1819(B)

Whether the Association is violating its own governing documents by not grandfathering in the Complainant's doorbell cameras, this Office cannot say because that is outside the scope of the authority of this Office. This Office finds, however, that 30 days is a reasonable amount of time to either remove the doorbell cameras or to seek retroactive approval from the ARC, either of which would have been a curative step.⁴ Here, there is no evidence that the Complainant ever attempted to submit an ARC application, so it is hard to argue that such a curative step was inapplicable, and thus unreasonable, to his situation.

Further, we note that moving up of the compliance date a week, from June 1, 2025, in the April 2, 2025, First Notice of Violation, to May 23, 2025, in the April 23, 2025, First Notice of Violation, is problematic. It is good governance to give the Association member a consistent timeline, especially after the Association is having to issue new enforcement documents and rescinding a prior document for a technical error. Moving the date up can open the Association to allegations of prejudice, or retaliation, or a variety of other allegations, whether the Association was acting with scienter or not.

Based on the totality of the circumstances, however, this Office finds that the Association was compliant with the POAA, specifically Va. Code §55.1-1819.

2. Did the Association violate Va. Code §54.1-2354.4 and the Regulations Governing Complaint Procedures?

The Complainant alleges that that he was not given a copy of the Association's complaint procedure, nor was he sure that there was, in fact, a complaint procedure. Va. Code §54.1-2354.4(A) requires that the Association Board establish a reasonable complaint procedure to address common interest community member complaints.⁵ The Association disputes the allegation that the Complainant ever requested the complaint procedure.

Be that as it may, the information in the record later determined that there was a complaint process for the Association, as required by Va. Code §54.1-2354.4.⁶ The regulations that govern the complaint procedure, 18VAC48-70-50(2), states that a sample of the complaint form must be given to the Complainant upon request. It appears that the Complainant was given a copy of the complaint form, given the cover sheet of his May 20, 2025, complaint, and the email that the Complainant sent to this Office on May 13, 2025. The Association manager also stated that all residents get access to the complaint form through the resident portal.

While this Office cannot say what occurred regarding the complaint form being requested or given in this case, based on the information in the record, we remind the Association that it must give a copy of the Complaint form to association members upon request to comply with 18VAC48-70-50(2). Additionally, this allegation was not addressed in the NFAD of June 25, 2025. This Office further reminds the Association to always address and answer specifically the common interest community laws or regulations being cited by the Complainants' complaints, even when the allegations seem unfounded. Good governance starts with responsiveness to concerns.

⁴ We believe it would follow that the compliance would be tolled while the ARC application was pending.

⁵ See Va. Code §54.1-2354.4(A).

⁶ See Va. Code § 54.1-2354.4.

Conclusion

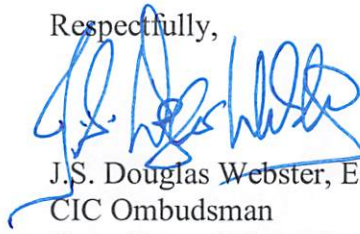
Based on the foregoing, this Office finds that there was no information that the Association acted contrary to any common interest community law or regulation.

Required Actions

No action is required of the Association in the instant case. However, we remind the Association to be consistent in their timelines and in their language when they undertake enforcement processes, to ensure that the Association members fully understand the processes that accompany enforcement of the Association's governing documents. Furthermore, this Office reminds the Association to always provide a copy of the complaint form to association members in a timely manner, regardless of whether it is believed they already have access to the document.

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