



# COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Abigail D. Spanberger  
Governor

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Secretary of Labor

Laura V. McClintock  
Director

August 14, 2026

Complainant: Daniel Koh  
Association: Hearthstone Court Homeowners' Association  
File Number: 2026-03587

## **DETERMINATION - NOTICE OF FINAL ADVERSE DECISION**

### Introduction

The Complainant, Daniel Koh ("Complainant") submitted a complaint to Hearthstone Court Homeowners' Association ("Association") dated April 25, 2026. The Association provided a response to the Complainant's complaint dated May 12, 2026. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated May 31, 2026, and the NFAD was received by our Office on June 10, 2026.

### 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 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

The Complainant presents a single allegation against the Association. The Complainant alleges that he had no notice of the Association's meetings in 2025, aside from the Association's annual meeting. The Complainant alleges a violation of Va. Code § 55.1-1816 of the Virginia Property Owners' Association Act ("POAA").

#### *1. Did the Association comply with the open meeting requirements of Va. Code § 55.1-1816?*

The Complainant contends that the Association violated the POAA, specifically Va. Code § 55.1-1816, because it failed to notify him of any of the 2025 meetings, aside from the Annual meeting of the Association. The Complainant appears to believe that there were additional closed meetings of the Association Board taking place without proper notice.

The Association responded by stating that they only held one meeting in 2025, which was the Annual meeting. The Association response goes on to state that "ample notification will continue to be provided through electronic means, consistent with the Association's standard communications practices."

Va. Code Va. Code § 55.1-1816 states that

**A. All 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. The board of directors shall not use work sessions or other informal gatherings of the board of directors to circumvent the open meeting requirements of this section. Minutes of the meetings of the board of directors shall be recorded and shall be available as provided in subsection B of § 55.1-1815.

**B.** Notice of the time, date, and place of each meeting of the board of directors or of any subcommittee or other committee of the board of directors shall be published where it is reasonably calculated to be available to a majority of the lot owners.

A lot owner may make a request to be notified on a continual basis of any such meetings. Such request shall be made at least once a year in writing and include the lot owner's name, address, zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent to any lot owner requesting notice (i) by first-class mail or email in the case of meetings of the board of directors or (ii) by email in the case of meetings of any subcommittee or other committee of the board of directors.<sup>1</sup>

...

Furthermore, Va. Code § 55.1-1815(G) states that

Meetings of the association shall be held in accordance with the provisions of the bylaws at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 14 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each member notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the 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.

Notice shall be sent by United States mail to all members at the address of their respective lots unless the member has provided to such officer or his agent an address other than the address of the member's lot. In lieu of sending such notice by United States mail, notice may instead be (i) hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the member, or (ii) sent to the member by electronic mail, provided that the member has elected to receive such notice by electronic mail and, in the event that such electronic mail is returned as undeliverable, notice is subsequently sent by United States mail. Except as provided in subdivision C 7, draft minutes of the board of directors shall be open for inspection and copying (a) within 60 days from the conclusion of the meeting to which such minutes appertain or (b) when such minutes are distributed to board members as part of an agenda package for the next meeting of the board of directors, whichever occurs first.<sup>2</sup>

Other than the Complainant's assertion that non-noticed meetings are being held, there is no information in the record to indicate that the Association is holding meetings without adequate notice, in violation of Va. Code § 55.1-1816.<sup>3</sup> With that said, it seems strange that the Association only held a single annual meeting in 2025.<sup>4</sup> This Office would suggest that the Association consider whether more regular

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<sup>1</sup> Va. Code § 55.1-1816(A-B) (Emphasis added).

<sup>2</sup> Va. Code § 55.1-1815(G).

<sup>3</sup> Va. Code § 55.1-1816.

<sup>4</sup> We further note that even a closed meeting must start with an open meeting in which a governing board would then move to go into closed session pursuant to Va. Code § 55.1-1815(C) in order to discuss items that are statutorily permitted to be the subject of a closed meeting. Moreover, any official actions resulting from a closed session must be taken through motions once the governing board has reconvened in the open meeting.



meetings would keep Association members engaged and prevent concerns that Association business is being done in the shadows, rather than in the sunlight.

The response from the Association also indicates that the Association will continue to provide notice to the membership of meetings via electronic notice. While there is no evidence that the Association has violated the POAA in this regard, this Office would like to remind the Association that in order to utilize electronic mail to provide notice of meetings, the Association member must elect to receive meeting notices by electronic mail, and in the event that said electronic meeting notice is returned as undeliverable, the Association is required to deliver the meeting notice by United States Mail.<sup>5</sup>

Lastly, this Office wants to address the Association's response to the complaint, which failed to include several required items. Virginia law expressly requires that the Association respond to a complaint by providing specific citations to common interest laws, the Association's registration number, the license number of the common interest community manager, and the complainant's right to file a Notice of Final Adverse Decision with this Office and the applicable contact information.<sup>6</sup> None of that was present in the Association's May 12, 2026, response. This Office strongly suggests that the Association and its manager review the requirements of Virginia law concerning complaint responses in order to ensure that they are compliant with the law.

#### Conclusion

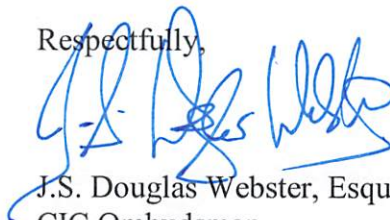
Based on the foregoing, this Office finds that there is no information to indicate a violation of the POAA, specifically Va. Code § 55.1-1816.

#### Required Actions

The Association should consider whether it should be having more regular meetings of the Association Board to promote transparency and efficiency. The Association and its manager are also required to review the requirements to responding to complaints under 18VAC48-70-50 within 30 days of the receipt of this determination and to send written confirmation to this Office that it has implemented corrective measures to ensure that its future final decisions will comply with the above-referenced statutory obligations.

Please contact me if you have any questions.

Respectfully,



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

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<sup>5</sup> See Va. Code § 55.1-1815(G).

<sup>6</sup> See 18VAC48-70-50(10-11).