



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Abigail D. Spanberger
Governor

Jessica K. Looman
Secretary of Labor

Laura V. McClintock
Director

August 10, 2026

Complainant: Helen Zhang and Hualin (Wally) Feng
Association: Highland Oaks Homeowners' Association
File Number: 2026-03477

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainants, Helen Zhang and Hualin (Wally) Feng ("Complainants"), submitted a complaint to the Highland Oaks Homeowners' Association ("Association") dated April 7, 2026. The Association provided a response to the Complainants' complaint dated May 22, 2026. The Complainants then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated May 29, 2026, and the NFAD was received by our Office on June 2, 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 Complainants present several allegations against the Association. These allegations all stem from enforcement undertaken by the Association to fine the Complainants for an ultraviolet (“UV”) window that was installed in the Complainants’ home and the subsequent hearing that was held in that matter on March 18, 2026. The Complainants argue that they were not given adequate notice of the hearing and access to requested documentation, in violation of Va. Codes §§ 55.1-1815 and 55.1-1819 of the Virginia Property Owners’ Association Act (“POAA”). The Complainants also allege retaliation and harassment, related to a violation of Va. Code § 55.1-1819.1. The Complainants further allege that the Association Board failed to acknowledge community consensus and a petition containing 78 Association member signatures which supported the allowance for the UV window to be installed and arbitrary and disparate enforcement. The following issues are discussed in further detail below.

1. Did the Association violate Va. Code § 55.1-1815 in failing to produce requested documentation, as required by the POAA?

The Complainants contend that the Association failed to provide a response to a requested record examination request that was made on August 14, 2025, that was regarding records related to the 2019 assignment of common area property to individual homeowners. The Association responded that it acknowledged that it did not timely process the Complainants’ document examination request. The Association further stated that it enclosed a letter, dated April 29, 2026, “evidencing the Association’s response to your request to demonstrate cure of the alleged violation.” This Office reads the nature of that response as the documentation being remitted to the Complainants on April 29, 2026. However, that is eight months later than the requirement that such documentation be made available upon five business days’ written notice for an association managed by a common interest community manager or ten business days’ written notice for a self-managed association, which is what Virginia law requires.¹

It is unclear to us how this failure to produce the documentation may have impacted the hearing of March 18, 2026, especially in light of the fact that the evidence indicates from the Complainants’ March 14, 2026, email that the Complainants would be unable to attend the hearing. However, it is a best practice that, in circumstances such as those of the Complainants, associations make every effort to accommodate

¹ See Va. Code § 55.1-1815(B)(2).

their members, especially when it comes to circumstances such as those faced by the Complainants. For example, if this been an administrative hearing under the Virginia Administrative Process Act, the Complainants certainly would have been granted good cause for a rescheduling of the hearing, both for the reason that they were not able to attend, and also because they had not been granted proper discovery. Inherent in the requirement that hearings under the POAA be properly noticed is the principle that the association member should have adequate time to prepare its response and, if necessary, obtain counsel as permitted in Va. Code 55.1-1819. While we cannot order a new hearing to take place, in the spirit of transparency and good faith, this Office recommends that the Association consider granting the Complainants a new hearing, based on their admitted violation of the POAA, specifically Va. Code § 55.1-1815.

2. Did the Association violate Va. Code § 55.1-1819 in failing to adhere to the enforcement hearing timeline, as required by the POAA?

The Complainants allege that the Association failed to give less than fourteen days of notice for their hearing regarding the installation of the UV window. The emails that accompanied the Complainants' complaint indicate that the hearing occurred on March 18, 2026, but that the Complainants allege that they did not receive the notice of the hearing until March 9, 2026. The March 15, 2026, email between the Complainants stated that they were currently in California, related to medical treatment for one of the Complainants. The Association responded by stating that the letter was "dated and issued" on March 4, 2026, for the hearing on March 18, 2026.

Va. Code § 55.1-1819(C) reads, in part, that

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

The information provided by both parties is insufficient to determine whether a violation of the POAA existed because neither the Association's decision nor the complaint made reference to how the letter was mailed. However, the Complainants make a statement against interest in their letter to the Ombudsman. In that letter, the Complainants state that "the Board's hearing notice was printed with a date of March 4, 2026, **but it was sent via certified mail** and was not delivered or signed for at the property until March 9, 2026. (Emphasis added). The statute requires that the letter be mailed to the Complainants at least 14 days prior to the hearing.³ It does not state that the letter must be received by the Complainants at least 14 days prior to the hearing.⁴

Given the circumstances, this Office would have encouraged the Association to work with the Complainants so they could be present and prepared for the hearing. However, there is not sufficient evidence that the Association violated the POAA, because as the Complainants admit, the letter was sent

² Va Code § 55.1-1819(C).

³ *Id.*

⁴ *Id.*

to them by certified mail, and the date on the letter was March 4, 2026, 14 days prior to the March 18, 2026, hearing.

3. Did the Association violate Va. Code §55.1-1819.1 for retaliation and harassment?

In its third allegation, the Complainants allege retaliation and harassment by the Association President, as a result of a 911 call threat against a family member of the Complainants for delivering correspondence to the Association President on March 15, 2026. The Association responded that it denies any violations of law exist concerning this particular matter and that no common interest community law or regulation was cited that would apply.

Va. Code § 55.1-1819.1, which was cited by the Complainants concerns the limitation of smoking in a development.⁵ It does not concern the harassment alleged by the Complainants.⁶ As such, this Office does not find a violation of common interest community law or regulation that is justiciable in this forum.⁷ Thus, we find that no violation of the POAA occurred as a result of this allegation.

4. Is the Complainants' allegation that the Association failed to acknowledge community consensus a violation of common interest community law?

Lastly, the Complainants argued that the Association ignored community consensus regarding the enforcement action related to the instillation of their window. To that end, they produced a petition into the record from their neighbors. While we acknowledge this information, this Office may only render determinations on common interest community law violations, and this allegation is outside the scope of our authority.⁸ However, this Office will always remind Associations that they represent association members, and associations should consider the thoughts and feelings of the members whom they represent, and from whom they are elected.

Conclusion

Based on the foregoing, we find that the Association violated the POAA, specifically Va Code § 55.1-1815, when it failed to timely respond to a request to examine documents. However, the Association did not violate Va Code § 55.1-1819, as it timely mailed the notice of the March 18, 2026, hearing.⁹ Furthermore, there was no violation of the POAA with respect to the alleged harassment by the Association President, nor was there a violation of the POAA as a result of the Complainants' allegation that the Association did not represent the consensus of the membership.

Required Actions

⁵ See Va. Code § 55.1-1819.1

⁶ *Id.*

⁷ See Va. Code §54.1-2354.3; *see also* 18VAC48-70-10.

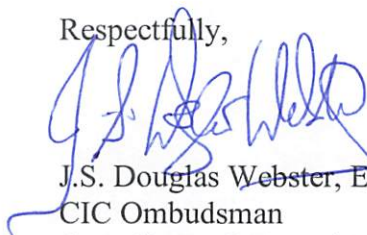
⁸ *Id.*

⁹Note: While this Office did not find a violation of Va Code § 55.1-1819, we would encourage the Complainants to speak with the Fair Housing Office at the Department of Professional & Occupational Regulation about whether they meet the criteria for a modification. They can be reached at fairhousing@dpor.virginia.gov.

The Association should consider the material impact of their failure to comply with the POAA by failing to grant access to requested documents on the March 18, 2026, hearing. If the Association's failure to produce access to the documents had any conceivable impact on the Complainants' defense, or the final decision, the Association should vacate the hearing decision for the case heard on March 18, 2026, and convene a new hearing within 60 days of this determination.

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 printed name.

J.S. Douglas Webster, Esquire,
CIC Ombudsman

Compliance & Investigation Division