COMMONWEALTH of VIRGINIA
Department of Professional and Occupational Regulation

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Secretary of Labor

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Director

October 29, 2026

Complainant: Patricia Jennings
Association: Spring Hill Community Association, Inc.
File Number: 2027-00857

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, Patricia Jennings ("Complainant"), submitted a complaint to Spring Hill Community Association, Inc. ("Association") dated May 14, 2026. The Association provided a response to the Complainant's complaint which was received by the Complainant on August 18, 2026. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated September 4 , 2026, and the NFAD was received by our Office on September 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 ("VCA"), the Property Owners' Association Act ("POAA"), and the Virginia Real Estate Cooperative Act ("VRECA").

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

The Complainant presents several allegations against the Association. Among those allegations is the Complainant's contention that the Association violated the governing documents of the Association, and also that the Association violated the Virginia Nonstock Corporation Act ("VNCA").[1] Governing documents are outside the scope of authority for review of this Office, as are non-common interest community statutes, like the VNCA.[2] This Office recommends that the Complainant speak with an attorney to determine if it is appropriate to seek remedies in a court of competent jurisdiction related to these allegations.

Furthermore, the Complainant makes additional complaints in her letter to this Office asking for review of her May 14, 2026, complaint. These additional complaints are not ripe because the Association has not been given notice and an opportunity to respond to these additional complaints, and because, as stated above, this Office may only consider the complaint and the documents included within the original complaint.[3]

However, the Complainant alleges that the Association violated Va. Code § 55.1-1803 and Va. Code § 55.1-1819 of the POAA, which is within our jurisdiction to issue a determination.[4] These allegations will be discussed in further detail below.

1. *Did the Association violate Va. Code § 55.1-1803 of the POAA regarding its retention of a lawn care company?*

The Complainant contends that the Association violated the POAA, specifically, Va. Code § 55.1-1803, when it hired a lawn care company that the Complainant asserts used herbicides that are contrary to the Association's previously adopted environmental resolution. The Complainant alleges that the Association Board's refusal to require similar standards as the previous lawncare provider without analysis

[1] *See* Va. Code § 13.1-801, et. seq.
[2] *See Id,; see also* Va. Code § 54.1-2354.3 and 18VAC48-70-10.
[3] *See* 18 VAC 48-70-90.
[4] *See* Va. Code § 54.1-2354.3; *see also* 18VAC48-70-10.

or justification, is evidence of arbitrary decision making and a breach of its fiduciary duty. The Complainant believes that in accordance with Va. Code § 55.1-1803, the Association Board must act in accordance with its adopted rules and policies.

In its response, the Association states that in the May (presumably 2026) Association Board meeting, the Association [Board?] voted 6-1 regarding EPA-approved chemicals and removed the listing of chemicals.

However, Va. Code § 55.1-1803 covers provisions on contract limitations entered into by the declarant, hence the statute is not germane to the aforementioned allegation.[5] Therefore, we find that there is no violation of Va. Code § 55.1-1803.

2. *Did the Association violate Va. Code § 55.1-1819 of the POAA regarding its retention of a lawn care company?*

The Complainant further alleges that the Association violated Va. Code § 55.1-1819 when it retained a company for lawn maintenance that uses herbicides in violation of the previously passed environmental resolution.

However, Va. Code § 55.1-1819, allows the board to establish and adopt rules and regulations and to enforce those rules and regulations.[6] While there is language about due process in the enforcement of adopted rules and regulations against a member, it does not explicitly state that any rule or regulation needs to be applied consistently (though we strongly advise, in order to avoid legal action, that all Associations enforce their rules and regulations consistently). However, as a purveyor of due process in the enforcement of rules and regulations that govern the Association, we remind the Association Board that the consistent application of rules and regulations is a hallmark of effective due process.

Furthermore, this statute is inapplicable to the underlying facts of this matter. Va. Code § 55.1-1819 does not place a burden upon the Association to comply with its previously passed resolutions, rules, regulations, but rather it vests the enforcement of rules and regulations in the Association's governing body.[7] It provides a mechanism for the Association Board to create rules, and it further explains the rights and responsibilities of each party when those rules are enforced.[8] However, we, of course, always encourage the Association Boards and any other governing bodies to comply with all rules and regulations promulgated by the Association.

As a result, this Office finds that the Association did not violate Va. Code § 55.1-1819 of the POAA. However, we would remind the Association that it must follow the provisions of Va. Code § 55.1-1818, when it has contractors apply pesticides to common areas.[9]

Complaint Response

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[5] *See* Va. Code § 55.1-1803.
[6] *See* Va. Code § 55.1-1819.
[7] *See Id.*
[8] *Id.*
[9] *See* Va. Code § 55.1-1818.

Lastly, we wanted to address the Association's response to the Complainant's complaint, which was marked "received August 18, 2026" as it did not even have a date of issuance on the face of it. The Virginia Administrative Code has certain regulations related to what must be in the Association's response. The notice must be dated as of the date of issuance and include specific citations to common interest community laws or regulations that led to its final determination.[10] The notice must have the registration number of the Association.[11] The notice must include the Complainant's right to file a notice of adverse decision with this Office and the contact information for this Office.[12] This final decision did not contain any of these required items.

This response from the Association fell woefully short of what Virginia law requires for an Association complaint response. This Office strongly recommends that the Association review the complaint procedures contained in 18VAC48-70-50 to ensure that they are meeting their obligations under the laws of this Commonwealth.

Conclusion

Based on the foregoing, we find that the Association did not violate the POAA. However, we found that the Association's response was defective under the Virginia Administrative Code.

Required Actions

Within 30 days of receipt of this decision, this Office strongly recommends that the Association Board members review the complaint procedures contained in 18VAC48-70-50 to ensure that future complaint responses are fully compliant with the content requirements for complaint responses.

Please contact me if you have any questions.

Respectfully,

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

[10] *See* 18VAC48-70-50(10).
[11] *See Id.*
[12] *See* 18VAC48-70-50(11).