COMMONWEALTH of VIRGINIA
Department of Professional and Occupational Regulation

Abigail D. Spanberger
Governor

Jessica K. Looman
Secretary of Labor

Laura V. McClintock
Director

July 6, 2026

Complainant: Evelyn Henson and Cheryll Hutchings
Association: Summerhill at Stony Point Unit Owners Association
File Number: 2025-02743

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainants, Evelyn Henson and Cheryll Hutchings (collectively, "Complainants"), submitted a complaint to the Summerhill at Stony Point Unit Owners Association ("Association"), dated March 16, 2025. The Association provided a response to the Complainants' complaint dated April 11, 2025. The Complainants than submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated May 9, 2025, and the NFAD was received by our Office the same day, May 9, 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 an 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 18 VAC48-70-90, 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 provided a complaint to the Association which had on its cover that the complaint was being filed under Va. Code § 55.1-1959. No other Virginia statute was cited in the original complaint with the Association. The complaint that was filed with this Office in response to the Association's NFAD did contain reference to Virginia statutes that the Complainants believed had been violated by the Association, as well as responses to the Association's NFAD. However, as the Association was not on notice of those specific violations and additional statements, as we stated above, this office will only consider the violations as they were presented to the Association for its response on March 16, 2025.

The first set of allegations concerns whether the Complainants were properly noticed of increased monthly assessments by the Association management company and whether they were appropriately issued late fees for not paying said assessments. The allegation further contends that the Association failed to provide monthly financial reports on time, and the Association failed to notify the membership about the annual meeting in September of 2024, which was alleged to have violated the by-laws of the Association.[1]

The second set of allegations concern the Association's executive board. The Complainants allege that the Association failed to agree to a 2025 budget in a timely manner, that it failed to publish revised previously-agreed-to rules and regulation in a timely manner, and that they attempted to retroactively enforce the rules and regulations. Furthermore, the Complainants allege that the Association has only sent out the rules and regulations via email and that the Association does not have a digital policy in place, as required by the Virginia Condominium Act ("VCA"). The last allegations concern the Complainants' assertion that certain owners have been disparaged by the Association Board, and that the Communications Committee has been "frozen out" by the Board.

[1] Note: this would also be a violation of the VCA, specifically Va. Code § 55.1-1949 (A).

1. *Did the Association fail to notify the Complainants in a timely manner of an increase in assessment for 2025 and were the fees properly noticed to the Complainants and other property owners?*

The Complainants allege that they were not adequately notified of increased monthly assessments for the year and failed to get their computer portal to record correct assessment reports for each property owner. However, there was no specific statute or regulation that the Complainants have alleged was violated. Additionally, the complaint filed with the Association did not state whether this assessment was believed to be an additional assessment or an increase in the annual and/ or monthly assessment. Furthermore, the complaint appears to be lodged against the management company (CPVA Management, Inc.). It is important to note that this Office does not adjudicate violations by property management companies, only the Associations themselves.[2]

Pursuant to Va. Code § 55.1-1964 of the VCA, allows for the Association Board to charge annual assessments as well as additional assessments.[3] Under Va. Code § 55.1-1964(E), if the additional assessment is to be paid in a lump sum, the payment shall be due and payable no earlier than 90 days after deliver or mailing of the notice.[4]

The response from the Association states that this is not a additional assessment, but rather a retroactive addition to the monthly assessment for 2025. However, the letter sent to the homeowners on February 12, 2025, indicates that this is a "special assessment," which would be an "additional assessment." However, even if this were an additional assessment, it would not fall under the 90 days-to-pay provision of Va. Code § 55.1-1964(E), because the additional assessment is being paid in installments, and not as a lump sum, as required to trigger a 90-day payment window.[5] Thus, regardless of what assessment class the 2025 additional assessment falls under, the Association did not violate the VCA.

2. *Did the Association assess late fees without notice, and if so, to what extent does that violate Virginia law?*

The Complainants allege that residents are not adequately notified of late fees and such fees are not posted anywhere easily accessible to association members. As above, there was no specific statute or regulation that the Complainants have alleged was violated. The Association responded that this fee structure is covered in the governing documents of the Association, and also that they are in-line with the fees percentage penalty under the VCA, which cannot exceed the penalty provided for late locality taxes.[6] Further, the VCA gives deference to the condominium instruments, rules, and regulations, when setting the parameters of late fees, including the grace periods ("Except to the extent that the condominium instruments or the association's rules or regulations provide otherwise…").[7]

---

[2] *See* Va. Code § 54.1-2354.3; *see also* 18VAC48-70-10.
[3] *See* Va. Code § 55.1-1964.
[4] *See* Va. Code § 55.1-1964(E).
[5] *Id.*
[6] *See* Va. Code § 55.1-1964(H); *see also* Va. Code § 58.1-3915.
[7] *See* Va. Code § 55.1-1964(H).

Based on the information contained in the record, there is no evidence that any state law has been violated by the imposition of late fees in the manner that was described in the complaint, nor is there evidence that any homeowner would not have at least constructive access to the fee schedule and structure for late fees, as each owner would have access to the governing instruments of the Association. However, in the interest of transparency and good governance, this Office would recommend that the Association periodically remind their membership of the parameters for incurring late fees and any associated costs.

3. *Did the management company fail to provide accurate monthly financial reports on time, despite Association's accommodation, and if so, is that a violation of Virginia law?*

The Complainants allege that the management company does not provide accurate monthly financial reports on time, despite Association accommodations (Note: the complaint does not state specifically what accommodations were made, but the letter that accompanied the review to this Office stated that the monthly reporting date was changed). Again, the Complainants cite no provision of Virginia law to support their assertion. The Association responded that they did not find a violation of common interest community law with respect to the failure of the Management company to provide accurate financial reports monthly. As was stated above, this Office does not adjudicate putative bad acts by management companies.[8] Furthermore, there is no evidence that any common interest state statute or regulation was violated. As a result, this Office finds that it can provide no remedy to this allegation.

4. *Did the management company fail to notify the Association members of the Association Annual Meeting in September of 2024, in a timely manner, and if so, is that a violation of Virginia law?*

The Complainants allege that the management company did not provide Association members notice of the Association Annual Meeting in September of 2024, as required by the by-laws of the Association. As above, the Complainants cite no provision of Virginia law to support their assertion. The Association responded that there was an administrative error with respect to the mailing labels and the original mailing of the notice of the September 2024 Annual Meeting was returned by the United States Postal Service. However, the Association further states that there was no violation of the by-laws of the Association or state law because the meeting was rescheduled with an "adequate notice period."

Under Va. Code §55.1-1949(A), the Association is required to give at least 21 days of notice to the owners.[9] There is no information from the Complainants showing that the Annual Meeting was held without adequate notice, or that the Annual Meeting was rescheduled without the adequate 21 days of notice, as required by the VCA.[10] Thus, this Office can find no violation of Virginia common interest community statute or regulation.

5. *Did the Association Board fail to approve a budget on time and get the required notification to the owners, prior to January 1, 2025, and if so, is that a violation of Virginia Law?*

---

[8] *See* Va. Code § 54.1-2354.3; *see also* 18VAC48-70-10.
[9] *See* Va. Code § 55.1-1949(A).
[10] *See Id.*

The Complainants allege that the Association did not timely approve a budget for 2025 and notify the ownership of said budget. Once again, the Complainants cite no provision of Virginia law to support their assertion. The Association responded that it does not believe that there were any violations of common interest community laws. The Association also responds that there is a provision in the by-laws in the event there is a delay to allow the owners to continue to pay each monthly installment from the prior fiscal year until the ownership receives notice of the new annual or adjusted budget.

Va. Code § 55.1-1965 provides that

> Except to the extent provided in the condominium instruments, the executive board shall, prior to the commencement of the fiscal year, make available to unit owners either (i) the annual budget of the unit owners' association or (ii) a summary of such annual budget.[11]

For good governance and predictability of expenditures for owners, the Association should comply with having a budget completed and disseminated by the Association to the membership by the start of the fiscal year, as the statute states.[12] However, the first clause "except to the extent provided in the condominium instruments," is important to reading this particular statute. The Association claims that there are provisions within the governing documents for when the Association has not adopted a budget, and the response cites to Article V, Section 1(f) of the Association's by-laws. While this Office cannot interpret governing documents, there is not sufficient information that the Association has explicitly violated Va. Code § 55.1-1965, as the Code itself defers to the governing documents of the Association, and only requires the budget or summary made available to the unit owners "...to the extent provided in the condominium instruments."[13] However, this Office strongly encourages the Association to plan a budget timeline to allow for the budget or a summary to be made available to unit owners by the start of the fiscal year.

6. *Did the Association Board fail to publish the Association's Rules and Regulations in a timely manner after their adoption in October of 2024, and if so, was it retroactively applying them for purposes of enforcement?*

The Complainant alleges in complaints number six and seven that the Association Board did not publish revised Rules and Regulations for the Association in a timely manner after they had been approved on October 22, 2024. As with the other assertions, no specific common interest community statute or regulation was cited in support of these allegations.

The Association responded to this allegation by stating that no violations of common interest community law occurred. However, the Association admitted that it failed to send a copy of the revised Rules and Regulations promptly to the unit owners and that this was an oversight on their part. The Association admitted that the revised Rules and Regulations were adopted by the Association in October of 2024 but were not disseminated to the unit owners until March 5, 2025. The Association indicated that it understood that it could not enforce the revised Rule and Regulations until the unit owners were on notice of them.

---

[11] Va. Code § 55.1-1965(A).
[12] *Id.*
[13] *Id.*

The VCA states that, "Rules and regulations may be adopted by resolution and shall be reasonably published or distributed to the unit owners."[14] It would be a violation of the bedrock of due process to enforce rules and regulations to which the unit owners were not on notice. There was an approximately five-month lag in the time that the revised Rules and Regulations were adopted until the time that the unit owners were put on notice of them. Though not an explicit violation of the VCA, that time period is far too long and can lead to problems, such as in the instant case, where the Complainants are alleging that they were subject to the penalties of the revised Rules and Regulations without having been put on adequate notice.

However, in spite of the Complainants' complaints, the Association stated that the previous Rules and Regulations, like the new Rules and Regulations, required that any storm door go through the architectural review process in order for its installation to be proper. There is information in the record depicting a back-and-forth discussion, originating on March 3, 2025, between Complainant Henson and Linda Tiffany, and later Complainant Henson and Barbara Blasch, prior to the revised Rules and Regulations going into effect. There is some disagreement as to whether the Complainant's desire to replace a storm door required Architectural Review Committee approval in the old (i.e., prior to March 5, 2025) regulations, or not.

This Office cannot interpret by-laws, new or old, and as a result, this Office cannot say whether Va. Code § 55.1-1959 was violated due to retroactive application of the rules and regulations.[15] However, it is the recommendation from this Office that the Association review the Complainant's storm door request in light of the previous Rules and Regulations that were in-effect prior to March 5, 2025, as she began the process of seeking approval prior to March 5, 2025, in order to ensure adhering to principles of fair play and substantial justice.

7. *Did the Association Board improperly send the new Association Rules and Regulations out to the unit owners by email, in spite of the fact that there was no digital policy guidelines?*

The Complainants allege that the Association Board improperly sent the new Rules and Regulations for the Association out via email "to most owners," as opposed to publishing them on their management portal or the community website. As stated previously, no specific common interest community statute or regulation was cited by the Complainants, but in the narrative following the complaint allegations, Va. Code § 55.1-1935 was referenced. The Association responded that it did not believe that any regulation or statute was violated by sending the Rules and Regulations out by email.

As above, Va. Code § 55.1-1959(A), allows the Board to adopt rules and regulations but they, "shall be reasonably published or distributed to the unit owners."[16] This could conceivably include sending them via email. The Association also responded that the Complainant, in her complaint, may have been referring to Va. Code § 55.1-1935, related to the Use of Technology by the Association. Va. Code § 55.1-1935 allows for associations to conduct business by electronic means, including meetings of the Association Board or committee, provided that they have adopted guidelines for the use of electronic

[14] *See* Va. Code § 55.1-1959(A).
[15] *See* Va. Code § 54.1-2354.3; *see also* 18VAC48-70-10.
[16] *See* Va. Code § 55.1-1959(A).

means.[17] However, nothing in this section specifically prohibits the dissemination of new Rules and Regulations to unit owners by email, regardless of whether there is a digital policy guideline. As a result, this Office finds that no provision of the VCA was violated.

However, for purposes of consistency, this Office does recommend that the Association post the new Rules and Regulations, in effect as of March of 2025, on the Condominium website and/or portal, as they apparently had done with the old Rules and Regulations, in order to demonstrate good governance through continuity of process, if this has already not occurred. The Association's response indicated that it had occurred, but there was no information in the record to indicate that this had actually taken place. It stands to reason that if unit owners are accustomed to going to a specific location to gain access to the Association's Rules and Regulations, they would want to continue going there to receive those documents, and it also ensures that the Association is utilizing good version control so every unit owner knows what rules are in place for the Association.

8. *Were Certain Owners Disparaged, and was the Communications Committee "frozen out" and if so, is that a violation of Virginia Law?*

The next two complaints from the Complainants concern allegations that certain unit owners were disparaged by certain Association Board members and also that the Communications Committee was "frozen out." No violation of common interest statute or regulation was cited. The Association responded that it believed that there was no violation of common interest statute or regulation. Based on the evidence in the record and in reading the VCA, there is no information that this Office has jurisdiction over either of these allegations, as there is no explicit violation of a common interest statute or regulation alleged or implied. [18] The Complainants are encouraged to speak with counsel to determine whether a remedy for these allegations should be sought in a court of appropriate jurisdiction.

Conclusion

Based on the foregoing, this Office finds that there was no violation of the VCA, but recommends that the Association consider the additional recommendations below.

Required Actions

This Office recommends that the Association periodically publish late fee schedules to ensure that the Association members are aware of the amounts of the late fees and timeframes for when payments are considered late. Furthermore, this Office strongly encourages the Association to plan a budget timeline during the year to allow for the budget or a budget summary to be made available to unit owners by the start of the fiscal year, in accordance with the VCA, so it does not have to rely on its by-laws to circumvent state law. Furthermore, this Office recommends that the Association review the Complainant's storm door request from March of 2025, in light of the previous rules and regulations that were in-effect prior to March 5, 2025, if the Association has not already done so. Lastly, this Office recommends that the Association place a copy of the October 2024, Rules and Regulations on its portal, consistent with what it has done previously, if it has not already done so.

---

[17] *See* Va. Code § 55.1-1935.

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

Please contact me if you have any questions.

Respectfully,

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