



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: John Lihach
Association: The Astoria Condominium Association
File Number: 2026-02311

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, John Lihach ("Complainant"), submitted a complaint to the Astoria Condominium Association ("Association") dated August 7, 2025. The Association provided a response to Complainant's complaint dated November 12, 2025. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated December 8, 2025, and the NFAD was received by our Office on December 15, 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 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; he asks whether the Virginia Condominium Act (“VCA”) was violated, specifically Va. Code §55.1-1939(4), regarding a September 30, 2022, cease and desist letter that was sent on behalf of the Association to the Complainant. This allegation will be addressed more completely below.

1. Did the Association violate the VCA’s notice of violation provisions?

The Complainant contends that the Association Board conducted a meeting contrary to the VCA, specifically Va. Code § 55.1-1939(4), prior to the attorney for the Association issuing the September 30, 2022, cease and desist letter. The cease-and-desist letter alleges that the Complainant was interfering with the Association’s business relationships, and that the Complainant was holding himself out to vendors as an Association Board member and misrepresenting to vendors that he was authorized by the Board to communicate directly with vendors.

The Complainant alleges that the Association’s Executive Board convened a private tribunal prior to the issuance of this letter, and the result of the tribunal was the issuance of the cease-and-desist letter. The Complainant further alleges that it was done to enforce the Association regulations against the Complainant and that the tribunal was held with neither notice to the Complainant, nor allowing the Complainant to be heard.

Pursuant to the VCA, specifically Va. Code §55.1-1939(4), among the rights granted to an Association member in good standing include:

4. The right to have (i) notice of any proceeding conducted by the executive board or other tribunal specified in the condominium instruments against the unit owner to enforce any rule or regulation of the unit owners' association and (ii) the opportunity to be heard and represented by counsel at the proceeding, as provided in §55.1-1959, and the right of due process in the conduct of that hearing¹

¹ Va. Code § 55.1-1939(4).

In its response, the Association denied that any such meeting took place. Rather, the Association argued that the Association Board President directed counsel to send the Complainant the September 30, 2022, cease and desist letter.

The September 30, 2022, cease and desist letter, reads as though it comes from the Association Board as a whole, rather than from the President, acting on behalf of the Association Board. However, that is not evidence of a meeting, *per se*. Absent more direct information that a meeting of the Association Board took place which concerned a violation of the Association's rules and regulations, this Office finds that there is not sufficient evidence to find that the Association is in violation of Va. Code § 55.1-1939(4). The Complainant offered additional evidence that was sent to this Office and received by us on May 7, 2026, and May 8, 2026. However, there is no evidence that this transcript.mp4 was ever given to the Association prior to their issuing the NFAD on November 12, 2025. As a result, this Office is unable to consider this extrinsic evidence of which the Association has not had notice prior to issuing the NFAD.²

This fact pattern raises the question as to whether an Association Board meeting would need to be held under Va. Code § 55.1-1939(4) in order to issue a cease-and-desist letter, such as was done in the instant case. This Office does not believe that sending a cease-and-desist letter alone in this case is an adverse Association enforcement action, which would trigger the provisions of Va. Code § 55.1-1939(4) and Va. Code § 55.1-1959.³

The cease-and-desist letter here concerns the Complainant's alleged interference with the Association Board's business dealings, rather than a rules and regulations enforcement action under Va. Code § 55.1-1959.⁴ Va. Code § 55.1-1959 outlines the Association's authority to undertake enforcement actions by suspending an owner's right to use facilities or utilities or in assessing charges for a violation of the condominium instruments.⁵ Neither is occurring in this case. Rather, the Association is asserting and protecting their authority to act in contractual privity with vendors and putative vendors under the governing documents of the Association. This is a wholly separate act from issuing a violation of the rules and regulations of the Association and engaging in subsequent enforcement against the Complainant. No complaint was issued against the Complainant. No fines were levied. No suspension was handed down. Thus, whether or not the Association board met to discuss the cease-and-desist letter prior to its issuance, the Complainant was not entitled to due process under the VCA in response to it either way.⁶

Conclusion

Based on the foregoing, the Association did not violate the POAA, specifically Va. Code § 55.1-1939(4).

Required Actions

No action is required of the Association.

² See 18 VAC 48-70-90.

³ See Va. Code § 55.1-1939(4); *see also* Va. Code § 55.1-1959.

⁴ See Va. Code § 55.1-1939(4); *see also* Va. Code § 55.1-1959.

⁵ See Va. Code § 55.1-1959(B).

⁶ See Va. Code § 55.1-1939(4); *see also* Va. Code § 55.1-1959.

Please contact me if you have any questions.

Respectfully,

A handwritten signature in blue ink, appearing to read "J.S. Douglas Webster", written over a horizontal line.

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