COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

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Director

September 24, 2026

Complainant: David Gillette
Association: Winchester Landing Homeowners' Association
File Number: 2027-00184

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, David Gillette ("Complainant"), submitted two complaints to the Winchester Landing Homeowners' Association ("Association") dated May 11, 2026, and June 12, 2026. The Association provided a response to Complainant's complaint dated June 12, 2026. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated June 15 , 2026, and the NFAD was received by our Office on June 23, 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 a single allegation against the Association. As described more fully below, the allegation concerns two requests made by the Complainant to the Association that the Association provide documents. The first complainant is dated May 11, 2026, and concerns a request from the Complainant to the Association that the Association provide first-notice covenant violation letters to the Complainant, with the personally identifiable information ("PII") redacted, but that the Association failed to do so. The second complaint is dated June 12, 2026, and concerns a request from the Complainant to the Association that the Association provide final approved architecture change request applications for several specific lots with the PII redacted. The Association also denied the second document request.

The Complainant asserts these two denials of records requests are violations of the POAA, specifically Va. Code § 55.1-1815.

1. *Did the Association violate Va. Code § 55.1-1815 when it denied the Complainant's record request for first-notice covenant violation letters?*

The Complainant contends that the Association violated the POAA, specifically Va. Code § 55.1-1815, when it denied the Complainant's request for first-notice violation letters and for architecture change request applications for several specific lots. The Complainant requested the first-notice violation documents on April 29, 2026, and the final approved architecture changes for the several lots on June 2, 2026.

The Association's "response" via email on June 12, 2026, stated that it was denying both requests. While not citing any applicable statute, the Association responds that

> the ARC applications/ decisions and violation letters will not be provided to you. Only ARC applications discussed in open meetings can be disclosed to members and according to our records, Winchester Landing does not discuss their ARC applications during these meetings. Application decisions are discussed with owners individually.

Violation letters regarding individual lots will also not be disclosed to individual owners who's [sic] lots they do not pertain to.

The POAA requires that the Association allow a member in good standing to inspect books and records of the Association.[1] Va. Code 55.1-1815 reads, in part, that

> B. Subject to the provisions of subsection C and so long as the request is for a proper purpose related to his membership in the association, all books and records kept by or on behalf of the association shall be available for examination and copying by a member in good standing or his authorized agent, including:
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> 1. The association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation; and
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> 2. The actual salary of the six highest compensated employees of the association earning over $75,000 and aggregate salary information of all other employees of the association; however, individual salary information shall not be available for examination and copying during the declarant control period.
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> Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five business days' written notice for an association managed by a common interest community manager and 10 business days' written notice for a self-managed association, which notice reasonably identifies the purpose for the request and the specific books and records of the association requested.
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> C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:
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> ...
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> 9. Individual lot owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.
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> D. Books and records kept by or on behalf of an association shall be withheld from inspection and copying in their entirety only to the extent that an exclusion from disclosure under subsection C applies to the entire content of such books and records. Otherwise, only those portions of the books and records containing information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the books and records that are not so excluded shall be available for examination and copying, provided that the requesting member shall be responsible to the association for paying or reimbursing the association for any reasonable costs incurred by the association in responding to the request for the books and records and review for redaction of the same.[2]

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[1] *See* Va. Code § 55.1-1815

[2] Va. Code § 55.1-1815(B)-(D).

There appears to be no dispute that the Complainant is in good standing and the request was made for a proper purpose. There is also no dispute from the Association that the requested records are books and records within the meaning of Va. Code § 55.1-1815.[3]

The only question is whether the books and records that the Complainant has requested meet one of the categories for exemption from examination under Va. Code § 55.1-1815(C). The Association does neither the Complainant, nor this Office any favors in their response, because they do not identify specifically, under what provision, they are claiming statutory exemption of record disclosure for either of the Complainant's records requests.

April 29, 2026, document request

The Association does directly, informally respond to the first record request on April 29, 2026, stating that the April 29, 2026 , request from the Complainant, which concerns the Complainant's request for first-violation letters, is confidential because it is part of the homeowners' individual lot owner/ member files. The Association also stated the violations of the governing documents were confidential records to the extent that they were used in an executive session under Va. Code § 55.1-1816(C).

As this Office has not seen the first-violation letters, either *in camera*, or by any other means, it will defer to the Association in its determination that first-violation letters contain information that is wholly subject to withholding under Va. Code § 55.1-1816(C).

With that said, the Association needs to be extremely careful in understanding the limitations on withholding documents from production or examination under Va. Code § 55.1-1816(C). Va. Code § 55.1-1816(D) makes it clear that just because a document contains some of the protected information under Va. Code § 55.1-1816(C), that the entire document is not exempt, unless the entirety of the document is permitted for exclusion under Va. Code § 55.1-1816(C).[4] Furthermore, we would remind the Association that just because a document is discussed in an executive session, held in accordance with Va. Code § 55.1-1816(C), that alone does not automatically render that document to be exempt from examination under Va. Code § 55.1-1815(C). However, given what is contained in the record, and the subject matter of the first-violation records, which concern individual home lots, we find no violation of the POAA as they are protected from examination by Va. Code § 55.1-1815(C)(9) as part of the individual lot owners' member files.[5]

June 2, 2026, document request

The June 2, 2026, books and records examination request concerns final approved architectural change request applications for various lots. Unlike the previous record examination request of April 29, 2026, the Association appears to have only replied in its "final decision" of June 12, 2026. In that decision, the Association states that only the architectural review committee applications that are discussed in open meetings can be discussed, and that the architectural review committee only discusses applications individually with owners.

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[3] *Id.*
[4] *See* Va. Code § 55.1-1815(C)-(D).
[5] *See* Va. Code § 55.1-1815(C).

There was no Va. Code § 55.1-1815(C) citation provided as to why these documents could not be produced. As we stated above, just because a document was utilized in an executive session, it does not automatically render that document unable to be disclosed. Furthermore, approvals for architectural review committee applications should be done in open session of that committee, in accordance with Va. Code § 55.1-1815(C). To the extent that applications are being approved by vote in an executive session, that itself would be a violation of Va. Code § 55.1-1815(C).

An architectural review petition is not among the classes of documents that are appropriate from being withheld under Va. Code § 55.1-1815(C), to the extent that they do specifically fit a category for being withheld under Va. Code § 55.1-1815(C), , and as we stated above, even then, the documents are only eligible to be withheld only to the extent that an exclusion from disclosure under subsection C applies to the entire content of such books and records.[6] As a result, this Office finds that the Association acted contrary to law with respect to the June 2, 2026, record access request made by the Complainant.

2. *Did the Association comply with Virginia law when it responded to the Complainant's two complaints?*

Finally, this Office wants to draw attention to the Association response to the Complainant's two complaints. The email that was sent by the Association on June 12, 2026 (and subsequently confirmed by the Association's counsel that it was the final complaint response) falls well short of what Virginia law requires for an Association complaint response under 18VAC48-70-50.[7] The complaint response requires that the Association provide appropriate citations to common interest community law that led to the decision, the license number of the common interest community manager, and the registration number of the Association.[8] This Association response had none of these. Furthermore, the notice of final determination must include the complainant's right to file a notice of final adverse decision with this Office and our contact information.[9] The Association response had none of these. Furthermore, there is no evidence of a notice of consideration of the complaint, nor is there information that the Association Board actually considered the complaint.[10]

This Office reminds the Association that responding to a complaint in Accordance with Virginia law is not only required by our Regulations, but it demonstrates good stewardship to the members of the Association and promotes transparency and good governance.

Conclusion

With respect to the May 11, 2026, document request we find that Va. Code § 55.1-1815 was not violated. With respect to the June 2, 2026, we find that the Association acted contrary to Va. Code § 55.1-

[6] *See* Va. Code § 55.1-1815(C)-(D).
[7] *See* 18VAC48-70-50.
[8] *See* 18VAC48-70-50(10).
[9] *See* 18 VAC 48-70-50(11).
[10] *See* 18 VAC 48-70-50(5)-(8).

1815. Furthermore, we find that the Association's response to the two complaints filed by the Complainant was not in compliance with 18VAC48-70-50.

Required Actions

Within five business days of the receipt of this decision, the Association shall fill the Complainant's document access request and redact or withhold any information that is permitted to be withheld in accordance with Va. Code § 55.1-1815(C) and Va. Code § 55.1-1815(D). Within 60 days of the receipt of this decision, it is recommended that the Association receive training on responding to Association member complaints in accordance with Virginia law.

Please contact me if you have any questions.

Respectfully,

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