



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

August 24, 2018

Ralph S. Northam
Governor

Brian Ball
Secretary of
Commerce and Trade

Complainant: Robert Sledzaus and James Moran
Association: Purple Sage Cluster Association
File Number: 2019-00488

The Office of the Common Interest Community Ombudsman has been designated to review final adverse decisions and determine if they may be in conflict with laws or regulations governing common interest communities. Such determination is within the sole discretion of the Office of the Common Interest Community Ombudsman and not subject to further review.

Complaint

The Complainant submitted a complaint to the Association, dated February 4, 2018. The Association provided a response to the Complainant dated July 16, 2018. The Complainant then submitted a Notice of Final Adverse Decision (NFAD) to the Office of the Common Interest Community Ombudsman dated August 13, 2018 and received the same date.

Determination

The Common Interest Community Ombudsman (CICO), as designee of the Director, is responsible for determining whether a "final adverse decision may be in conflict with laws or regulations governing common interest communities." (18VAC 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 §55-530(F) (Code of Virginia) and the Common Interest Community Ombudsman Regulations (Regulations). A 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 very 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. In the event that such a complaint is submitted to this office as part of a NFAD, a determination cannot be provided.

The Complainant alleged that the Association failed to provide a method of communication that complied with the requirements of §55-510.2¹ of the Property Owners' Association Act. The Complainant specifically stated that there is "no website, no newsletter, members do not know who is serving on the PSCA board, and the heavily censored PSCA Facebook page is not used."

The Association responded to the submitted Complaint by stating in its decision that "[a]t the hearing, you acknowledged that the new Association website resolved the matter. Accordingly, the Board determined to take no further action regarding this complaint." No other information regarding this complaint was provided.

The Complainant, in a cover letter included with the NFAD stated that it did not believe the complaint had been resolved. As is always the case, we can give little to no deference to anything submitted with the NFAD that was not part of the initial complaint, the association's response, or any other document required under the Common Interest Community Ombudsman Regulations.

Based on the information provided, there is no way for this office to determine if the Complainants did say that the complaint had been resolved during the consideration of the Complaint. I would note as well that there is no requirement in the law for a website, newsletter, or Facebook page, nor is an association required to provide a forum on its website. In the included cover letter, the Complainant does acknowledge that owners can communicate with the board via email. Because there is simply not enough information contained in the Complaint or in the Association's response, this office cannot provide a Determination on this matter.

Required Actions

No action is required.

Please feel free to contact me if you have questions.

Sincerely,



Heather S. Gillespie
Common Interest Community Ombudsman

cc: Board of Directors
Purple Sage Cluster Association

¹ The board of directors shall establish a reasonable, effective, and free method, appropriate to the size and nature of the association, for lot owners to communicate among themselves and with the board of directors regarding any matter concerning the association.