



# COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

August 24, 2018

Ralph S. Northam  
Governor

Brian Ball  
Secretary of  
Commerce and Trade

Complainant: Frank and Dawn Wolzien  
Association: Sawgrass Pointe Community Association  
File Number: 2019-00491

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*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.*

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## Complaint

The Complainant submitted a complaint to the Association, dated May 18, 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 has not alleged a violation of common interest community law, which in this case would be the Property Owners' Association Act. Instead, the allegation is related to the application of the Association's governing documents. Specifically, the Complainant believes the Association should alter its assessment methodology, which includes assessments for the maintenance and capital improvement of a dock, and assess owners based on dock ownership or usage. The Complainant believes that owners who do not have dock slips should not have to pay the same amount as those who do.

As noted in prior paragraphs, this office has no authority to review governing documents or provide a determination based on those documents. No allegation of any violation of common interest community law or regulations was made in the Complaint. The concerns outlined in the Association Complaint and the response from the Association make it clear that the reason the Association assesses as it does is based directly on the covenants. Because this is not a complaint over which this office has any jurisdiction, no determination can be provided.

#### Required Actions

No action is required that pertains to this NFAD. However, upon review of the complaint form included with the NFAD, I noted that an improper email was used for contacting this office. If the Association wishes to include an email address for this office on its complaint form, I would ask that it update the email address it currently provides, which is no longer a valid email address, and use [cicombudsman@dpor.virginia.gov](mailto:cicombudsman@dpor.virginia.gov) instead.

Please feel free to contact me if you have questions.

Sincerely,



Heather S. Gillespie  
Common Interest Community Ombudsman

cc: Board of Directors  
Sawgrass Pointe Community Association