



COMMONWEALTH of VIRGINIA
Department of Professional and Occupational Regulation

Ralph S. Northam
Governor

January 15, 2021

Mary Broz-Vaughan
Director

Complainant: Robert Sledzaus and James Moran
Association: Purple Sage Cluster Association
File Number: 2021-01361

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 August 17, 2020. The Association provided a response to the association complaint dated November 13, 2020. The Complainant then submitted a Notice of Final Adverse Decision (NFAD) to the Office of the Common Interest Community Ombudsman dated December 11, 2020 and received the same date.

Authority

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 §54.1-2354.4 (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.

Determinations issued by the CICO are based solely on the association complaint submitted to the association, the final decision or determination from the association, and any documents that were part of the original association complaint or the association's decision. New information that was not included with the original complaint or the association's final decision will not be reviewed or utilized as part of the determination, unless such information is related to the way in which an association carried out its complaint process.

Determination

The Complainant has alleged that the Association has failed to establish a method communication for the association. §55.1-1817¹ of the Property Owners' Association Act requires an association to establish a reasonable, effective and free method of communication for lot owners to communicate among themselves and with the board of directors. The Complainant also wrote that the Association has "made no effort to communicate with our Association's membership and that "[t]here is no or [sic] social media platform for lot owners or renters to exchange information with the board," and "[t]here are no newsletters and lot owners are suffering in a communication vacuum."

In its response to the complaint, the Association stated that the Complainant had acknowledged that "email communication is available between members and the Board and management and that the complaint is focused on communications between owners." The Association has directed its manager to investigate the cost of a bulletin board to allow owners and residents to communicate. The Association also wrote that it will provide a monthly newsletter that will include a members' forum for communication between owners.

It does appear that the Association has failed to provide a method of communication that would allow owners to communicate among themselves as required by §55.1-1817 of the Property Owners' Association Act. The Association has agreed to investigate the cost of a bulletin board to be centrally located and will provide a monthly newsletter that will include a forum for communication between owners.

Required Actions

The Association needs to follow through with its intent to provide a method or methods of communication for owners to communicate among themselves. I would ask that this method be in place within 30 days of the date of this determination. A failure to provide a method of communication may result in referral of this matter to the Common Interest Community Board.

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.

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