



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Ralph S. Northam
Governor

Mary Broz-Vaughan
Director

April 13, 2021

Complainant: Jon Husband
Association: Shenandoah Homeowners Association, Inc.
File Number: 2021-01860

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 November 5, 2020. The Association provided a response to the complaint dated January 29, 2021. The Complainant then submitted a Notice of Final Adverse Decision (NFAD) to the Office of the Common Interest Community Ombudsman dated February 22, 2021 and received on February 25, 2021.

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.

Determination

Much of the complaint submitted by the Complainant laid out his concerns regarding a roof project that was being undertaken in the community. These concerns were related to the choice of contractor, possible conflicts of interest, insurance, and a number of other issues, none of which fall under the authority of this office, as they are not related to common interest community law or any violations thereof.

Following the outline of the issues related to the roof, the Complainant did allege several violations of the Property Owners' Association Act (Act), specifically §55.1-1815(A), (B), and (C) and §55.1-1816(G) and (A). Unfortunately, the Complainant provided very little information on these allegations, making it impossible for this office to make a determination about possible violations of common interest community law. The circumstances surrounding each allegation were not provided, and there was no description as to the specifics of the allegations or any evidence supporting the allegations. Without context and evidence, no conclusions can be drawn regarding whether a violation has or has not occurred.

The Association did provide a final determination on the complaint, but because this office was unable to obtain an understanding of the allegations and the context in which they occurred, there is no need to set forth the Association's response here. The Complainant also provided a substantial amount of information with the NFAD that was not part of the original complaint to the association. As such, we cannot consider the additional documents since the Association was not given the opportunity, during its consideration of the complaint, to respond to them.

No determination can be provided on any of the allegations contained in this NFAD. There was simply insufficient information to support the allegations and no context provided that would allow this office to understand the allegations and determine whether a violation of common interest community law has occurred.

Required Actions

Please feel free to contact me if you have questions.

Sincerely,



Heather S. Gillespie
Common Interest Community Ombudsman

cc: Board of Directors
Shenandoah Homeowners Association, Inc.