



# COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

September 5, 2023

Glenn A. Youngkin  
Governor

G. Bryan Slater  
Secretary of Labor

Complainant: Ksenia Kameneva  
Association: Council of Co-Owners of Lorcom House Condominium  
File Number: 2024-00507

Demetrios J. Melis  
Director

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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 August 8, 2023. The Association provided a response to the association complaint dated August 15, 2023. The Complainant then submitted a Notice of Final Adverse Decision (NFAD) to the Office of the Common Interest Community Ombudsman dated August 25, 2023 and received August 29, 2023.

## 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 and we cannot provide a determination on such a complaint. Common interest community law is limited to the Virginia Condominium Act, the Property Owners' Association Act, and the Virginia Real Estate Cooperative Act.

Pursuant to the Regulations (18 VAC 48-70-90), the only documents that will be considered when reviewing a NFAD 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.

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 §54.1-2351 or §54.1-2352 as deemed appropriate by the Board.

This Determination is final and not subject to further review.

### Determination

The Complainant has alleged a violation of §55.1-1949 of the Virginia Condominium Act. The complaint referenced owners meeting in person and suggests that the Association reschedule the Annual Meeting held August 7, 2023 to an in-person meeting. Complaints related to the association's bylaws and rules were included as well, but as noted above, this office cannot address any issue related to the governing documents of an association. The Complainant included additional information in the form of a cover letter that contained allegations and information that were not part of the original complaint. This additional information cannot be addressed in this Determination since the Association was not provided the opportunity to respond.

The Association responded to the complaint by noting that "Virginia law has embraced virtual meetings and electronic voting as a permanent option for community associations." The Association referenced House Bill 1816, which was enacted July 1, 2021, and among other things, amended the Condominium Act to include §55.1-1935.<sup>1</sup>

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<sup>1</sup> A. Unless expressly prohibited by the condominium instruments, (i) any notice required to be sent or received or (ii) any signature, vote, consent, or approval required to be obtained under any condominium instrument or any provision of this chapter may be accomplished using electronic means.

B. The unit owners' association, unit owners, and other persons entitled to occupy a unit may perform any obligation or exercise any right under any condominium instrument or any provision of this chapter by use of electronic means.

C. An electronic signature meeting the requirements of applicable law shall satisfy any requirement for a signature under any condominium instrument or any provision of this chapter.

D. Voting, consent to, and approval of any matter under any condominium instrument or any provision of this chapter may be accomplished by electronic means provided that a record is created as evidence of such vote, consent, or approval and maintained as long as such record would be required to be maintained in nonelectronic form. If the vote, consent, or approval is required to be obtained by secret ballot, the electronic means shall protect

The Association wrote that the new law allows for associations, executive boards, and committees to meet via electronic methods.

The Complainant did not provide sufficient information for this office to determine how the Association may have been in violation of §55.1-1949 of the Condominium Act. Nothing in that statute addresses virtual meetings. Instead, the applicable statute is more likely §55.1-1935 and I believe the Association is correct that §55.1-1935 paved the way for the use of electronic methods for association owner and executive board meetings. This statute provides that under §55.1-1035(F): "any meeting of the unit owners' association, the executive board, or any committee may be held entirely or partially by electronic means." This right exists as long as the association has adopted guidelines for electronic meetings.

Because the Condominium Act specifically allows for fully virtual meetings, I do not find the Association in violation of common interest community law for holding its annual meeting virtually.

#### Required Actions

No action is required of the Association.

Please contact me if you have any questions.

Sincerely,



Heather S. Gillespie  
Common Interest Community Ombudsman

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the identity of the voter. If the electronic means cannot protect the identity of the voter, another means of voting shall be used.

E. Subject to other provisions of law, no action required or permitted by any condominium instrument or any provision of this chapter need be acknowledged before a notary public if the identity and signature of such person can otherwise be authenticated to the satisfaction of the executive board.

F. Any meeting of the unit owners' association, the executive board, or any committee may be held entirely or partially by electronic means, provided that the executive board has adopted guidelines for the use of electronic means for such meetings. Such guidelines shall ensure that persons accessing such meetings are authorized to do so and that persons entitled to participate in such meetings have an opportunity to do so. The executive board shall determine whether any such meeting may be held entirely or partially by electronic means.

G. If any person does not have the capability or desire to conduct business using electronic means, the unit owners' association shall make available a reasonable alternative, at its expense, for such person to conduct business with the unit owners' association without use of such electronic means.

H. This section shall not apply to any notice related to an enforcement action by the unit owners' association, an assessment lien, or foreclosure proceedings in enforcement of an assessment lien.

cc: Board of Directors  
Council of Co-Owners of Lorcom House Condominium

Trimark Corporation  
6231 Leesburg Pike, Suite 100  
Falls Church, VA 22044