



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Abigail D. Spanberger
Governor

Jessica K. Looman
Secretary of Labor

Laura V. McClintock
Director

July 13, 2026

Complainant: Gregory Mercer
Association: Flintwood Community Association
File Number: 2026-02540

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, Gregory Mercer ("Complainant"), submitted a complaint to Flintwood Community Association ("Association") dated November 20, 2025. The Association provided a response to the Complainant's complaint dated February 6, 2026. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated March 3, 2026, and the NFAD was received by our Office on March 6, 2026.

Authority

In accordance with its regulations, this Office, as designee of the Agency Director, is responsible for determining whether a "final adverse decision may be in conflict with laws or regulations governing common interest communities." (18 Va. Admin. Code ("VAC") § 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 of the Code of Virginia of 1950, as amended ("Va. Code") and the Common Interest Community Ombudsman regulations ("Regulations"). An 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 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.

The only documents that will be considered when reviewing an NFAD, in accordance with Regulation 18 VAC 48-70-90, 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. Further, this Determination is final and not subject to further review or appeal pursuant to Va. Code § 54.1-2354.4(C).

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

Determination

The Complainant presents a sole allegation. That allegation is that the Association has unreasonably prohibited the Complainant from installing an electric vehicle (“EV”) charging station. It is also of note that the Complainant is currently seeking remedy through the Fairfax County (VA) Circuit Court, related to this same matter. The allegation is discussed in more detail below.

1. *Did the Association violate the Virginia Property Owners’ Act (POAA) when it denied the Complainant’s request to have an EV charging station on property that is within his exclusive use or on common interest community property?*

The Complainant argues that he should either be allowed to have an EV charging station placed in a “reasonable” place by a neighborhood watch sign, in a common area adjacent to his property, or to have the charging station installed on one of the Complainant’s assigned parking spaces (“parking space 12”), which is also a common element. In the alternative, the Complainant has also asked to switch his parking space 12 with another common element parking space, which would allow him to park closer to his property. In its decision, the Association stated that it believes that it has the right to prohibit EV charging stations from the Association’s common area property, and thus, it denied the Complainant’s request.

Va. Code § 55.1-1823.1 states that

- A. Except to the extent that the declaration or other recorded governing document provides otherwise, no association shall prohibit any lot owner from installing an electric vehicle charging station for the lot owner’s personal use on property owned by the lot owner. An association may establish reasonable restrictions concerning the number, size, place, and manner of placement or installation of such electric vehicle charging station on the exterior of property owned by the lot owner.
- B. An association may prohibit or restrict the installation of electric vehicle charging stations on the common area within the development served by the association and may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of electric vehicle charging stations on the common area.

C. Any lot owner installing an electric vehicle charging station shall indemnify and hold the association harmless from all liability, including reasonable attorney fees incurred by the association resulting from a claim, arising out of the installation, maintenance, operation, or use of such electric charging station. An association may require the lot owner to obtain and maintain insurance covering claims and defenses of claims related to the installation, maintenance, operation, or use of the electric vehicle charging station and require the association to be included as a named insured on such policy.¹

The statute allows for an EV charging station to be located on the property owner's property, but it gives the Association the option to prohibit charging stations within the common area served by the Association.² What has occurred in the instant case is consistent with the statute.³ Based on what has been alleged by the Complainant, in all cases, he wishes to install the charging station in a common area served by the Association, rather than on the lot that he owns. As a result, the Association may prohibit the installation of such a charging station, and in this case, they chose to exercise that prohibition.⁴

The Complainant cites CICO Decision 2024-01930, as a decision that is favorable to his situation.⁵ This Office finds these two cases distinct based on the facts, which leads to the different outcome between the two. In the Office's Determination in File number 2024-01930, the Complainant requested to place the EV charging device on her own property and to have the cord run from her property to her vehicle.⁶ The location of the Complainant's charger on her own property required the Association to allow the EV charger to be constructed.⁷ In the instant case, the Complainant is seeking to have the charging station apparatus located within a common area controlled by the Association. This permitted the Association to prohibit the Complainant's EV charger construction.

Conclusion

Based on the foregoing, this Office finds that there has been no violation of the POAA, specifically Va. Code § 55.1-1823.1, by the Association, notwithstanding any equitable remedies that may be granted by the Fairfax County Circuit Court in connection with the facts of the instant case as a result of the pending litigation therein.

Required Actions

No action is required of the Association.

¹ Va. Code § 55.1-1823.1.

² *Id.*

³ *Id.*

⁴ *Id.*

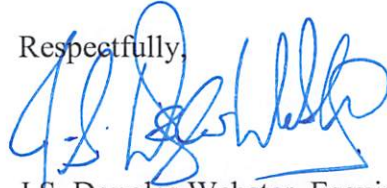
⁵ See CICO Decision 2024-01930.

⁶ *Id.*; see also Va. Code § 55.1-1823.1.

⁷ See Va. Code § 55.1-1823.1 (the plain language of this statute apparently does contemplate situations in which the installation of an EV charging station is on the association member's property but the charging cord must cross onto Association's common elements in order to charge an electric vehicle).

Please contact me if you have any questions.

Respectfully,

A handwritten signature in blue ink, appearing to read "J.S. Douglas Webster", written over the word "Respectfully,".

J.S. Douglas Webster, Esquire,
CIC Ombudsman
Compliance & Investigation Division