



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

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Governor

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Secretary of Labor

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Director

July 20, 2026

Complainant: Kyleigh Hupfl
Association: Stafford Lakes Community Association
File Number: 2026-02620

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, Kyleigh Hupfl ("Complainant"), submitted a complaint to the Stafford Lakes Community Association ("Association") dated January 13, 2026. The Association provided a response to the Complainant's complaint dated February 13, 2026. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated March 9, 2026, and the NFAD was received by our Office on March 11, 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 several allegations against the Association. As described more fully below, the Complainant's first allegation contends that the Association violated the Virginia Property Owners' Association Act ("POAA"), specifically Va. Codes §§ 55.1-1819 and 55.1-1828, when it initiated enforcement of its instruments prior to providing notice of membership in the Association or access to the enforcement procedures. The first allegation also states that the Association did not provide procedural notice under Policy Resolution #2. However, this Office cannot render a decision on whether Policy Resolution #2 was complied with because we can only render decisions on violations of common interest community laws or regulations.¹

The second allegation alleges that the Association did not provide the complaint procedure, as required by Association's policy, and under the POAA, specifically Va. Code § 55.1-1833. As above, this decision will only address the alleged violation of the POAA as the violation of the Association policy is outside the scope of this Office's authority.²

The third allegation from the Complainant alleges that the Association had knowledge prior to the Complainant closing on her lot that her lot had not been annexed but did not disclose that material fact when the Complainant inquired about getting her fence approved in January of 2025. The complaint further alleges that the Association knew about her fence being installed and had authority over the fence as a result of the annexation of her property into the Association but failed to notify her, instead allowing the fence installation to be completed and then initiating enforcement. The Complainant alleges violations of the POAA, specifically Va. Codes §§ 55.1-1803 and 55.1-1833.

In her fourth allegation, the Complainant asserts that the Association initiated retroactive enforcement against her, and she further alleges that she detrimentally relied on the Association. The Complainant states that because she had no notice that her property had been annexed into the Association, her due process rights were violated when the Association initiated enforcement proceedings against her. The Complainant asserts that this was done in violation of the POAA, specifically Va. Code § 55.1-1833.

¹ See Va. Code § 54.1-2354.3; see also 18VAC48-70-10.

² Id.

In her fifth allegation, the Complainant cites that she was on the receiving end of arbitrary and non-uniform enforcement, in violation of the POAA, specifically Va. Code § 55.1-1819.

In her sixth allegation, the Complainant contends that she was obstructed in her request to inspect Association records, and improperly quoted \$810.00 in charges by the Association, in violation of the POAA, specifically Va. Code § 55.1-1819.

In her seventh and final allegation, the Complainant alleges that she was the victim of improper assessment practices by the Association. This allegation further alleges that the Association assessed the Complainant dues during periods when the Association denied her access to benefits of membership and services, backdated assessments, delayed depositing the Complainant's payment, and refused refund requests. The Complainant alleges that she was improperly assessed and that the Association was improperly enriched. The Complainant cites that this is a violation of Va. Codes §§ 55.1-1805 and 55.1-1833.

Each of these complaints is discussed in more detail below.

- 1. Did the Association violate the POAA when it engaged in enforcement against the Complainant prior to putting the Complainant on notice that she was a member of the Association and entitled to utilize the Architectural Review Committee process?*

The Complainant contends that she was not yet annexed into the Association when she closed on her home, despite statements to the contrary by the builder and the community. As such, the Complainant alleges that she was not permitted to utilize the Architectural Review Committee when she sought approval for a fence for her dog. The Association responded that Va. Code § 55.1-1819 of the POAA makes no mention of notice of membership, and there is no requirement that a provision of services or opportunity to use Architectural Review Committee processes be provided prior to instituting enforcement procedures in accordance with Va. Code § 55.1-1819.

The Association is correct in that there is no requirement that a provision of services or opportunity to use Architectural Review Committee processes be provided prior to instituting enforcement procedures in accordance with Va. Code § 55.1-1819. However, there needs to be analysis in this response from the Association on when the Association determined that the Complainant was incorporated into the Association, and thus the Complainant was subject to the governing documents of the Association.

The Association is permitted to only adopt and enforce rules with respect to the common areas and other areas of responsibility that are assigned to the association by the declaration.³ Likewise, Va. Code § 55.1-1828 requires that the lot owner shall comply with the provisions of the POAA and the provisions of the declaration. However, again, that assumes that the lot owner is subject to the POAA and the declaration of the Association. Based on the documentation provided into the record, there is significant doubt that the Association had jurisdictional control over the Complainant's lot at the time that she began to build her fence.

³ See Va. Code § 55.1-1819(A).

This Association should have stated when it assumed jurisdiction over the Complainant (and her fence) in its response to the Complainant. If the Association applied its rules against the Complainant before her property was part of the Association, then it may be that the Association violated the POAA, specifically Va. Code § 55.1-1819 and/ or Va. Code § 55.1-1828, by applying and attempting to enforce its rules against a non-member. Thus, there is certainly a question about whether the Complainant is entitled to other, equitable remedies. However, as this Office does not have the authority to grant equitable remedies, the Complainant is advised to speak with counsel on whether she should seek a remedy in a court of appropriate jurisdiction to hear this matter.⁴

2. Did the Association comply with the POAA in providing the complaint procedure to the Complainant?

The Complainant alleges that she was not provided with the Association's complaint procedure until December 13, 2025, following an initial filing with this Office that had been rejected and after she had received a hearing from the Association on the instant matter on October 21, 2025. The Complainant further states that the Association's failure to provide her with the required complaint procedure deprived her of a meaningful opportunity to exhaust internal remedies in a timely manner and directly impeded her statutory right to seek state review, in violation of Va. Code § 55.1-1833.

The Association responded by stating that this allegation did not reference any violation of the POAA or common interest community regulations. It also states that Va. Code § 55.1-1833 is related to the Association's processes for securing a lien and/ or foreclosure. The Association further states that, to the extent that the Complainant experienced a delay in receiving the Association complaint procedure, the Complainant was not prejudiced.

While we understand the Complainant's frustration with the process, there is no violation of the POAA in not receiving the complaint form. The violation of state statute that the Complainant cited, Va. Code § 55.1-1833, is, in fact, related to the Association's processes for securing a lien and/ or foreclosure for unpaid assessments against a lot owner.⁵

However, this Office does want to state that it should be best practice for the Association to make the lot owner aware of the internal complaint procedure as well as other processes and procedures, such as Architectural Review Committee reviews, prior to or upon initiating enforcement against a lot owner.⁶ We would also remind the Association that it provides a service – governance – to its association members, and a best practice is to be proactive, not reactive or adversarial, in discharging its duties under the POAA. Because the goal is compliance, and not punishment, every effort should be made to inform its association members of the complaint process and their rights under the Regulations that govern associations.

3. Did the Association engage in material nondisclosure and procedurally deficient administration when it processed the Complainant's internal complaint?

⁴ See Va. Code § 54.1-2354.3; see also 18VAC48-70-10.

⁵ See Va. Code § 55.1-1833.

⁶ See 18VAC48-70-60.

In her third allegation, the Complainant asserts that the Association had actual knowledge that her lot was not within the jurisdiction of the Association, but it did not disclose this material fact when she inquired about the fence approval for her dog in January of 2025, which subsequently deprived her of understanding her legal status and availability of Association procedures to her situation. The Complainant again argued that she was not put on adequate notice of having been annexed into the jurisdiction of the Association.

In its response, the Association again states that the Complainant's allegation does not allege any specific common interest community statutory or regulatory violation. The Association also points out that Va. Codes §§ 55.1-1803 and 55.1-1833 of the POAA are not relevant to the instant allegation.

This third allegation by the Complainant is primarily an argument that needs to be made in a forum that has equitable remedies at its disposal. Equitable remedies are outside the scope of authority for this Office.⁷ Furthermore, neither Va. Codes §§ 55.1-1803 nor 55.1-1833 appear relevant to the allegations made above. Va. Code § 55.1-1803 concerns limitations on contracts and leases between the declarant of a community and an association governed by the POAA.⁸ As previously stated, Va. Code § 55.1-1833 is related to an association's processes for securing a lien and/ or foreclosure for unpaid assessments against a lot owner.⁹ Thus, this Office finds no violation of the POAA. However, the Complainant should discuss this allegation with her counsel to determine whether it would be prudent to seek relief in a court of law.

4. Did the Association violate the POAA when it allegedly engaged in retroactive enforcement and detrimental reliance?

Here, the Complainant alleges that the Association violated the POAA, specifically Va. Code § 55.1-1833, when it sought removal and replacement of the fence that had been installed, which would cost \$25,000.00, despite the fact that the Complainant had no notice that she was a part of the Association, nor did she have access to the Association's procedures. The Complainant also contends that enforcement cannot serve as a first notice of membership or annexation. The Association again argues that the allegation does not allege any violation of the POAA or regulation related to common interest communities, and also again points out that Va. Code § 55.1-1833 refers to the Association process when filing liens and/ or foreclosures. While the Association is correct that the Code section cited by the Complainant is not applicable here, it is wrong when it states there was no violation of the POAA.

Though not identified expressly, there is a clear violation of Va. Code § 55.1-1819(C) because the Association failed to serve notice on the Complainant of a violation of its rules before it initiated action to correct the alleged violation at issue here.¹⁰ Thus, while the Complainant cited a statute of the POAA that is not germane to the instant allegation, it would be improper for this Office to overlook the Association's failure to provide the Complainant the notice required by the POAA.¹¹ If the Association believed that its rules had been violated by this lot owner because the property was part of its community, then it owed the lot owner the duty of providing notice of that violation.

⁷ See Va. Code § 54.1-2354.3; *see also* 18VAC48-70-10.

⁸ See Va. Code § 55.1-1803.

⁹ See Va. Code § 55.1-1833.

¹⁰ See Va. Code § 55.1-1819(C).

¹¹ *Id.*

Ultimately, the allegation and fact pattern here may belong in a court of law, where equitable remedies could make the Complainant whole, should she prevail on her allegations. This is not such a forum.¹² This Office would again refer the Complainant to her attorney, for discussion on whether a remedy for this allegation should be sought in a court of appropriate jurisdiction.

5. Did the Association engage in arbitrary and non-uniform enforcement in violation of the POAA?

In the Complainant's fifth allegation, she alleges that the Association is selectively enforcing the fence that she put up when there are over 100 permanent privacy fences that are already up and may remain up indefinitely, with enforcement that is deferred until transfer of ownership. The Complainant alleges that because of this non-requirement of existing fence removal, the Association is essentially estopped from enforcing the fencing requirements against her. The Complainant alleges that this is a violation of the POAA, specifically Va. Code § 55.1-1819.

In its response, the Association once again alleges that the Complainant's allegation does not reference or allege any violations of common interest community statutes or regulations. The Association further responds that the POAA, specifically Va. Code § 55.1-1819, only sets forth the minimum due process standards for enforcement. The fact that the Association is aiming for the minimum is short-sighted and not in the spirit of good governance.

Again, the Association is technically correct, in that Va. Code § 55.1-1819 merely sets forth the minimum due process requirements for enforcement, rather than establishing statutory affirmative defenses, mitigating or aggravating circumstances, or equitable remedies, which may be helpful to the Complainant in this case.¹³ Nevertheless, it would be wise for parties to recognize the value of having these issues raised in an internal complaint process so that both parties are fully informed and may be able to make decisions that avoid the costs and inconvenience of litigation. It is good governance to fully consider issues early rather than governing in an intimidating fashion. While this allegation may be ripe for adjudication in a court of law that possesses equitable authority, it is not an issue within this Office's jurisdiction. While there may not be a direct violation of the POAA here,¹⁴ the Association's efforts to meet the spirit of the provisions of Va. Code § 55.1-1819 are lacking and not in the Association's long-term best interest. This Office, again, suggests that the Complainant discuss this allegation with her counsel to consider her options and possible remedies in a court of appropriate jurisdiction.

6. Did the Association unlawfully obstruct the Complainant's access to Association records, and charge her \$810.00 in labor charges to inspect Association records in violation of Va. Code § 55.1-1815?

In her sixth allegation, the Complainant alleges that the Association demanded \$810.00 in labor charges and withheld responsive records in spite of her having the right to inspection, and in spite of her willingness to inspect said records electronically or in person, in violation of Va. Code § 55.1-1815.

¹² See Va. Code § 54.1-2354.3; *see also* 18VAC48-70-10.

¹³ See Va. Code § 55.1-1819.

¹⁴ See Va. Code § 54.1-2354.3; *see also* 18VAC48-70-10; *see also* *Id.*

The Association responded that it has fully responded to any books and records request submitted by the Complainant, which includes withholding certain confidential records under Va. Code § 55.1-1815(C). The Association also states that it will be charging for material and labor costs in compiling the request books and records, pursuant to Va. Code § 55.1-1815(E) of the POAA.

In this instance, the Association is operating in violation of Va. Code § 55.1-1815(E) of the POAA. Va. Code § 55.1-1815(E) states that:

Prior to providing copies of any books and records to a member in good standing under this section, the association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs of such materials and labor. Charges may be imposed only in accordance with a cost schedule adopted by the board of directors in accordance with this subsection. The cost schedule shall (i) specify the charges for materials and labor, (ii) apply equally to all members in good standing, and (iii) be provided to such requesting member at the time the request is made. (Emphasis added).¹⁵

The right to inspect Association books and records is a right statutorily granted under the POAA.¹⁶ The allowance for a cost to be assessed to Association members, such as the Complainant, is for copying, not mere inspection. Thus, when the Association admits that it is assessing labor costs for “compiling” and not “copying,” as the statute requires, it is admitting to operating contrary to law.¹⁷ This Office strongly suggests that the Association review the POAA to ensure that it is not subjecting itself to unnecessary liability by charging the Association members unlawfully to inspect association records, in violation of Va. Code § 55.1-1815(E).¹⁸

With respect to the allegation by the Complainant that the Association has withheld certain, responsive records, the Association is permitted to withhold certain records under Va. Code § 55.1-1815(C).¹⁹ It is unclear whether these withheld records fit in any of the categories under Va. Code § 55.1-1815(C), so this Office cannot speak to whether the POAA has been violated in this particular instance.²⁰ However, the Complainant is advised to speak with counsel about the nature of what she believes is being withheld, as there may be an alternative method through subpoena and the discovery process, by which she may gain access to the withheld records. In sum, this Office cannot determine, due to limited information, whether the excluded records were properly withheld from the Complainant. The Office does, however, find that the Association violated the POAA by seeking to charge the Complainant costs to view and inspect the records – the POAA does not provide for charges to inspect records.

7. Did the Association engage in improper assessment practices in violation of the POAA?

¹⁵ Va. Code §55.1-1815(E)

¹⁶ See Va. Code §55.1-1807(1)

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See Va. Code §55.1-1815(C)

²⁰ *Id.*

In her seventh and final allegation, the Complainant alleges that she is suffering from a billing dispute concerning when she joined the Association. The Complainant alleges that she was assessed dues when she was expressly denied membership in the Association, received backdated assessments, delays in the Association depositing her payment, and refusal by the Association to refund payment upon request. The Complainant further states the Association has been unjustly enriched. The Association once again responds that this allegation does not reference any common interest community statutory or regulatory provision. The Association further states that it does not believe that this allegation is appropriate for the complaint policy.

Va. Code §55.1-1805 specifically addresses that the Association cannot impose a charge against one or more owners but less than all the owners an assessment, unless that is a fee for services provided, related to common area use, or a fee specifically authorized in Va. Code §55.1-2316.²¹ It does not refer to a prohibition by the Association in unjustly collecting fees. As discussed above, Va. Code §55.1-1833 refers to the Association process when filing liens and/ or foreclosures.

Nevertheless, the fact that the Association has, in some instances, sought to retroactively bring the Complainant into the Association when it apparently sues, but then in the next breath contends that the Complainant is not entitled to due process or notice of violations is troubling. If the Complainant was not actually a lot owner in their community at the time that it was assessing dues to the Complainant, then the Association has violated the POAA (and possibly other laws) because it only has the power to take those actions against lot owners.²² If the Complainant was a lot owner within the community when it has taken its actions against the Complainant, then the Association was obligated to provide the Complainant with her full rights under the POAA.²³ The Association cannot have it both ways. This is why we firmly assert that good governance would include fully vetting issues like this through collaborative discussions between the parties, and perhaps counsel, and if necessary, in a properly noticed enforcement proceeding where the parties can fully address such issues.

Indeed, if the Complainant was charged fees when she was not a member of the Association, that situation presents legal issues that must be addressed by a court of law. While it is an open question if the POAA violated, given the facts here, this Office finds the Association's response to this difficult situation and the fee assessment to be flippant and evidence of poor governance. Given the fact pattern of this case, it is the recommendation and expectation of this Office that the Association undertake a review of the Complainant's assessment payment history to ensure that she has not been overcharged by the Association for any time period that she was not a member and/ or did not enjoy the blessings and benefit of Association membership.

Conclusion

Based on the foregoing, this Office finds no violation of the POAA with respect to allegations one, two, three, five, and seven. However, this Office finds that the Association did violate the POAA in allegation four, specifically Va. Code §55.1-1819(C), when it failed to properly serve notice on the Complainant of a violation of the Association's rules and regulations, prior to initiating enforcement action

²¹ See Va. Code §55.1-1805.

²² *Id.*

²³ See Va. Code § 55.1-1807.

against the Complainant. The Association also violated the POAA with respect to allegation six, specifically Va. Code §55.1-1815(E), when it attempted to unlawfully charge the Complainant for compiling records.

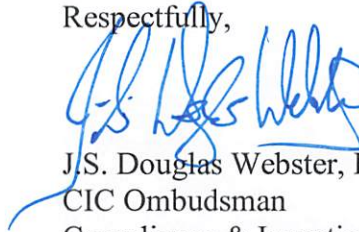
Required Actions

The Association should review how it responds to complaints to ensure that core issues and facts are addressed so that this Office can conduct the depth of review that the Association members deserve. The Association should also revisit its processes and procedures to ensure that all lot owners that are part of the Association have notice of the rules and regulations that govern the Association. Furthermore, it is also recommended that the Association revisit its fee schedule with respect to record inspection under Va. Code §55.1-1815(E), to ensure that they are not acting contrary to Virginia law.

Lastly, given the facts and allegations related to the instant case, this Office strongly encourages the parties (and their attorneys, to the extent that they are retained), to consider whether the core issue in the instant case could be resolved without the need to involve a court of competent jurisdiction. Good governance starts and ends with a willingness to negotiate and compromise.

Please contact me if you have any questions.

Respectfully,



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