



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Abigail D. Spanberger
Governor

Jessica K. Looman
Secretary of Labor

Laura V. McClintock
Director

July 30, 2026

Complainant: Jean Vest
Association: Summerlake Homeowners' Association, Inc.
File Number: 2026-03191

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, Jean Vest ("Complainant"), submitted a complaint to the Summerlake Homeowners' Association ("Association") dated April 6, 2026. The Association provided a response to the Complainant's complaint dated April 30, 2026. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated May 5, 2025, and the NFAD was received by our Office on May 8, 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 single allegation against the Association. As described more fully below, the Complainant alleges that the Association violated the Virginia Property Owners' Association Act ("POAA"), specifically Va. Code § 55.1-1819(A), as well as its own Association governing documents with respect to the Association's process for levying an additional assessment against the Association members related to a snow removal bill of \$126,124.24. The Complainant further states that she did not believe that Va. Code § 55.1-1825 did not apply to this situation because the proceeds of an assessment should be used primarily for the maintenance and upkeep of the common area and other such areas of association responsibility including maintenance, repair, and replacement cost of capital components. This is discussed in further detail below.

1. Did the Association violate Va. Code § 55.1-1819 when it imposed an additional assessment against the Association members related to snow removal?

The Complainant contends that the Association violated the POAA, specifically Va. Code § 55.1-1819(A), because it improperly did not allow the Association membership to vote on whether to levy the additional assessment to cover the snow removal shortfall. Rather, the Association Board voted 3-2 to impose the additional assessment (\$101,124.24) on the Association members.

The Complainant argues that this also violates the Association's Bylaws. However, this Office only has the authority to consider violations of common interest community statutes and regulations.¹ Thus, interpreting Association governing documents is outside our scope of authority. If the Complainant believes that the governing documents were violated by the Association, she should speak with counsel about whether additional remedies may exist to her in another forum.

Accordingly, this Office only has the authority to determine if the Association complied with the POAA, here specifically with regard to Va. Code § 55.1-1819(A).² Va. Code § 55.1-1819(A) states that

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

² *Id.*; see also Va. Code § 55.1-1819(A).

A. Except as otherwise provided in this chapter, the board of directors shall have the power to establish, adopt, and enforce **rules and regulations** with respect to **use** of the common areas and with respect to such other areas of responsibility assigned to the association by the declaration, except where expressly reserved by the declaration to the members. Rules and regulations may be adopted by resolution and shall be reasonably published or distributed throughout the development. At a special meeting of the association convened in accordance with the provisions of the association's bylaws, a majority of votes cast at such meeting may repeal or amend any rule or regulation adopted by the board of directors. Rules and regulations may be enforced by any method normally available to the owner of private property in Virginia, including application for injunctive relief or actual damages, during which the court shall award to the prevailing party court costs and reasonable attorney fees.³ (Emphasis Added).

The above POAA statute concerns rules and regulations adopted by the Association Board related to the use of common areas and other areas of responsibility.⁴ However, this does NOT include the imposition by the Association Board of additional assessments to the Association members.⁵ The Association's authority for the imposition of additional assessments is specifically codified in Va. Code § 55.1-1825.⁶ The imposition of an additional assessment in this case appears to have the goal of maintaining the utility of common elements and the usage of those elements during inclement weather, as well as limiting liability for the Association. However, the POAA, at Va. Code § 55.1-1825, does not impose any additional voting requirements in order to effectuate the act of levying an additional assessment beyond those that are found in an association's governing documents.⁷ As stated above, we cannot interpret or determine compliance with governing document provisions.⁸ As a result, we cannot render a decision on whether the Association properly rendered a decision to levy an assessment upon the membership and the Complainant is advised to seek counsel to determine whether she should seek a remedy in a court of appropriate jurisdiction. Based on the information in the record and the authority vested in this Office, we find that there is insufficient evidence to find a violation of Va. Code § 55.1-1819(A).

2. *Did the Association violate the POAA, specifically Va. Code § 55.1-1825, when it imposed an additional assessment against the Association members related to snow removal?*

The authority to impose additional assessments is granted to the Association by Va. Code § 55.1-1825.⁹ Under Va. Code § 55.1-1825(A)

A. In addition to all other assessments that are authorized in the declaration, the board of directors shall have the power to levy an additional assessment against its members if (i) the purpose in so doing is found by the board to be in the best interests of the association and (ii) the proceeds of the assessment are used primarily for the maintenance and upkeep

³ Va. Code § 55.1-1819(A).

⁴ *Id.*

⁵ *Id.*

⁶ See Va. Code § 55.1-1825.

⁷ *Id.*; See also Va. Code § 55.1-1819.

⁸ See Va. Code § 54.1-2354.3; see also 18VAC48-70-10.

⁹ See Va. Code § 55.1-1825.

of the common area and such other areas of association responsibility, including maintenance, repair, and replacement of capital components.¹⁰

The Complainant appears to argue that snow removal is not “maintenance” under the above statute. There is no definition of “maintenance” in the POAA.¹¹ Thus, the canons of statutory construction implore us to the plain language definition of “upkeep” and “maintenance” and “to maintain.”¹² However, these words are subject to more than one definition, so we must apply the interpretation which would carry out the legislative intent behind the statute.¹³

The dictionary definition of maintenance is “the act of maintaining” or “the state of being maintained.”¹⁴ To “maintain” is “to keep in an existing state (as of repair, efficiency, or validity)” or “preserve from failure or decline.” Another definition is “to sustain against opposition or danger” or “uphold or defend.”¹⁵ “Upkeep” is defined as “the act of maintaining in good condition” or “the cost of maintaining in good condition.”¹⁶

Given the nature of the January 2026, snow/ice storm and its impact across this Commonwealth for weeks after, this Office finds that snow removal was critical to keeping roads and sidewalks efficient, preserved from failure, and in good condition. This Office also finds that snow removal kept roads and sidewalks sustained against the danger of the potential injury or death of persons who had to traverse those sidewalks and roads.

As cited previously, the Virginia General Assembly, in its wisdom, set forth a two-part test for the additional assessment:

- (i) the purpose in so doing is found by the board to be in the best interests of the association and
- (ii) the proceeds of the assessment are used primarily for the maintenance and upkeep of the common area and such other areas of association responsibility, including maintenance, repair, and replacement of capital components.¹⁷

Snow removal during a debilitating ice storm and snowstorm is in the best interest of the Association and its members in order to lessen the liability for and the danger of injury or death. Furthermore, snow removal fits the maintenance and upkeep requirements of the second part of the test, based on the plain language definitions of the statutory provisions crafted by the Virginia General Assembly.¹⁸ Therefore, this Office finds that the additional assessment was proper and not a violation of the POAA.

¹⁰ Va. Code § 55.1-1825(A).

¹¹ See Va. Code § 55.1-1800.

¹² *Kozmina v. Commonwealth*, 281 Va. 347, 349, 706 S.E.2d 860, 862 (2011) (quoting *Conyers v. Martial Arts World of Richmond, Inc.*, 273 Va. 96, 104, 639 S.E.2d 174, 178 (2007)).

¹³ *Id.*

¹⁴ *Maintenance*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/maintenance> (last visited May 13, 2026).

¹⁵ *Maintain*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/maintain> (last visited May 13, 2026).

¹⁶ *Upkeep*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/upkeep> (last visited May 13, 2026).

¹⁷ Va. Code § 55.1-1825(A).

¹⁸ *Id.*

Conclusion

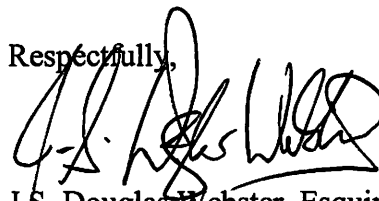
This Office finds that the Association did not violate either Va. Code § 55.1-1819 or Va. Code § 55.1-1825 when it sought to impose an additional assessment for snow removal costs that exceeded what had been budgeted under the authority granted to it under the POAA.

Required Actions

No action is required of the Association.

Please contact me if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "J.S. Douglas Webster", is written over the typed name.

J.S. Douglas Webster, Esquire,
CIC Ombudsman

Compliance & Investigation Division