



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

March 24, 2026

Complainant: Chase Alix
Association: Collington Community Association
File Number: 2025-03020

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, Chase Alix (“Complainant”), submitted a complaint to the Collington Community Association (“Association”), dated April 25, 2025. The Association provided a response to the Complainant’s complaint, dated May 13, 2025. The Complainant then submitted a Notice of Final Adverse Decision (“NFAD”) to the Office of the Common Interest Community Ombudsman dated May 21, 2025, and the NFAD received by our Office on June 3, 2025.

Authority

In accordance with its regulations, the Common Interest Community Ombudsman (CICO), 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 an 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 a 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 or Issues to be Decided

The Complainant presents one (1) allegation against the Association. As described more fully below, the allegation concerns the Association's implementation of CellBadge as a mandatory security tool for accessing the community swimming pool, and the belief by the Complainant that this security tool was implemented in violation of the Virginia Property Owner's Association Act ("POAA"), specifically Va. Code §55.1-1819, because the Complainant was not provided adequate required notice and an opportunity to be heard. This is discussed below.

1. The Complainant Alleges that the Association Violated the Virginia Condominium Act when the Association Utilized CellBadge as the Sole Method to Access the Common Pool Area

Pursuant to Va. Code §55.1-1819, which concerns "Adoption and Enforcement of Rules," the Association's Board has the authority to establish and adopt rules with respect to the common areas, and other areas established by the declaration.¹ Typically, areas for use by all association members, such as swimming pools, are common areas.

To that end, the Association Board selected and approved a vendor, CellBadge, a mobile application, to allow members of the Association secure access to the pool area. The Complainant has raised an objection to utilizing CellBadge, due to privacy concerns that he has with the vendor. In his complaint, the Complainant states that he has raised the privacy concerns, and that he has declined to sign up for CellBadge. As CellBadge is the only approved method to access the Association pool area, the Complainant does not have access to the pool area.

Because he has been denied access, the Complainant alleges that under Va. Code §55.1-1819, he should have received procedural due process in the form of a notice and opportunity to correct the violation.² The problem with the Complainant's argument is that he has not had adverse action or

¹ See Va. Code § 55.1-1819 (A).

² See Va. Code § 55.1-1819 (C).

enforcement taken against him by the Association, such that the due process protections of Va. Code §55.1-1819 (C) would apply.

There is no evidence that the Complainant failed to pay required assessments that led to the suspension of his pool rights, nor is there evidence that he had been assessed for any charges for a violation of the declaration or rules and regulations for which he is responsible.³ The Complainant simply does not want to download and utilize the CellBadge app to access the Association's pool area. Presumably, he could do this at any time and would have access to the pool area. The evidence in the record further indicates that all members of the Association must use CellBadge to access the Association pool area. Therefore, we find that the Complainant was neither singled out for disparate treatment, nor was he subject to a violation notice and resulting enforcement action by the Association. Thus, the provision cited by the Complainant in his complaint is not applicable to this case, and no violation of Va. Code §55.1-1819 occurred.

While there is no evidence that the Association violated the POAA, the Association may still want to consider whether having only a mobile application as the sole means to access common area spaces is a good idea and right for the membership of the Association. It would stand to reason that not every individual would want to utilize a mobile application (and some may not have smart phones), for a variety of reasons, including the privacy reasons cited by the Complainant in the instant case. Developing an alternative method for accessing common areas that still prioritizes security may be possible, allaying residents' concerns, and alleviating the need for the involvement of this office.

Conclusion

For the foregoing reasons, we find that the Complainant mis-applied the provisions of Virginia Code Va. Code §55.1-1819(C) to a situation where he is not entitled to due process, because no adverse action or enforcement action has been taken against him by the Association. Hence, based on the evidence, the Association does not appear to have violated the POAA.

Required Actions

No action is required of the Association.

Please contact me if you have any questions.

Respectfully,



J.S. Douglas-Webster, Esquire,
CIC Ombudsman

Compliance & Investigation Division

³ *Id.*