



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Abigail D. Spanberger
Governor

Jessica K. Looman
Secretary of Labor

Laura V. McClintock
Director

July 6, 2026

Complainant: Constance Frant
Association: Barcroft Mews Homeowners' Association
File Number: 2026-02310

DETERMINATION - NOTICE OF FINAL ADVERSE DECISION

Introduction

The Complainant, Constance Frant ("Complainant"), submitted a complaint to Barcroft Mews Homeowners' Association ("Association"), dated December 15, 2025. The Association provided a response to Complainant's complaint dated January 29, 2026. The Complainant then submitted a Notice of Final Adverse Decision ("NFAD") to the Office of the Common Interest Community Ombudsman ("Office") dated February 4, 2026, and the NFAD was received by our Office on February 9, 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 six allegations against the Association. As described more fully below, the allegations range from failing to acknowledge and respond to homeowner communications, to failure to provide required meeting materials, the distribution of factually incorrect and procedurally improper meeting minutes and pressure applied by the Association to approve those minutes, failure to establish a method for member-to-member communication, and the failure to distribute the 2026 Association budget. This determination will address each separately.

1. Did the Association violate the Virginia Property Owners' Association Act ("POAA") when it allegedly failed to respond to Complainant's concerns?

The Complainant contends she emailed the board on September 23, 2025, to point out that the 2024 Association Annual Meeting Minutes contained omissions, errors, and procedural issues, and she also suggested corrections, based on the audio recording of the meeting. However, the Complainant states that neither the Association Board nor the property manager acknowledged this communication. The Complainant further stated that this is part of a broader pattern of poor email communication from the Association.

As we stated above, the purpose of this Office is to make determinations on whether the Association has complied with the Virginia common interest community statutes and regulations.¹ The Complainant did not allege any specific violation by the Association of any relevant statute or regulation related to this claim and this Office knows of no statute or regulation that requires the Association to communicate via email with a homeowner, or that requires that the Association alter its minutes, based on a homeowner's allegation of inaccuracies. With that said, if the Association's annual minutes were, in fact, inaccurate and this was done for some specific purpose, other remedies may exist in other forums. However, the Complainant would need to speak with counsel to assess what remedies may be available to her. Based on the information in the record, there is no evidence that the Association violated the POAA with respect to this first complaint.

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

2. *Did the Association violate the POAA when it allegedly failed to provide required meeting materials in the Association Annual Meeting notice?*

The Complainant alleges that the notice for the 2025 Annual Membership Meeting of the Association did not include the 2024 draft meeting minutes, the 2025 Association budget approved at the October Association Board meeting, and candidate statements. The Complainant further states that she emailed the Association Board on December 5, 2025, and only then were the 2024 draft meeting minutes, the 2025 Association budget, and candidate statements sent to the Association members, giving the members only one day to review the documents before the meeting. The Complainant also alleges that she still has the resolutions included in her 1999 Association purchase packet and that to her knowledge, these resolutions have never been amended or repealed. The Complainant further states that the Board has not communicated how much end-of-year retained earnings will be distributed, or how that amount would be determined.

In their January 29, 2026, response, the Association responded by stating that it did not believe that there was a violation of common interest community law related to these allegations. The Association further stated that it circulated the minutes, candidate statements, and budget prior to the 2025 annual meeting, but that there is no common interest community law that mandates the practice. The Association further stated that the records of the Association, which include the minutes of the Board and membership meetings, remain available to any member seeking production of them, in accordance with Va. Code § 55.1-1815.

The Complainant cites no specific violation of common interest community state law or regulation in relation to her complaint. However, under the POAA, specifically Va. Code § 55.1-1816, at least one copy of the agenda packets and materials furnished to members of the Association Board or a subcommittee or other committee for a meeting shall be made available for inspection by the membership of the association at the same time that it is available to the Board members or subcommittee.²

The Complainant's complaint centers around what she was provided, rather than what may have been available for inspection. While the meeting packet must be made available for inspection at the time that it is given to the Association Board, there is no law that says that the packets must be disseminated by the Association to the Association Membership.³ This Office will, however, caution the Association and remind them that they must make the meeting packet available for inspection when they release it to the Board members. However, based on what is in the record, there is no information that the Association violated the POAA by not disseminating the meeting packet materials to the homeowners directly.

3. *Did the Association violate the POAA when it allegedly distributed factually incorrect and procedurally improper minutes, and did the Association improperly force the membership to approve the minutes?*

In her third and fourth allegations, the Complainant asserts that the Association has not acted on the revised 2024 meeting minutes that she submitted in September of 2025, and that the Association pressured the Association membership to approve the incorrect minutes. The Complainant alleges that

² See Va. Code § 55.1-1816(B).

³ *Id.*

the Association distributed minutes that had incorrect sequences of events, that the minutes had omitted information, that they made reference to actions that cannot occur during a membership meeting, and that they had statements that were inconsistent with the audio recording.

The Complainant also argued that during the Association Board meeting, her motion to lay the minutes on the table was not adequately addressed, and that a Board member and another homeowner encouraged the membership to approve the minutes.

As with the first two complaints, the Complainant did not cite a common interest community state statute or regulation that was directly applicable to these allegations.

In its January 29, 2026, response, the Association does not directly address the third complaint, but does address the fourth complaint, where the Complainant alleged that the Association pressured the membership to approve the disputed 2024 meeting minutes. The Association stated that it believed that no common interest community statute or regulation was violated. Furthermore, it also argued that the membership had an opportunity to review those minutes and make any changes or recommendations to those minutes.

Va. Code § 55.1-1816(A) requires, in part, that the Association Board record and make available, pursuant to Va. Code § 55.1-1815, the minutes of their meetings.⁴ However, the statute does not dictate how they should be taken and what would constitute an improper recordation of the minutes. This Office does not find that there is a violation of the POAA, as it is silent on the contents of the minutes, or under what circumstances the minutes can be approved. As this Office may only make a determination on whether the common interest community statutes or regulations were violated, this Office can grant no further remedy.⁵ However, if the Complainant still believes that the Association improperly recorded the 2024 meeting minutes and improperly coerced the membership into voting for those 2024 minutes, she may desire to speak with an attorney about whether a remedy may be pursued in a court of appropriate jurisdiction.

This Office wants to bring one point to the attention of the Association. In its January 29, 2026, response, as was stated above, the Association did not appear to address the alleged improper recordation of the 2024 meeting minutes, and instead, discussed only the alleged improper coercion by the Association to approve said minutes. In order to fully comply with the spirit of 18VAC48-70-50, the Association is reminded that it needs to fully respond to every allegation and complaint that is alleged to be a violation of common interest community statute or regulation in order to provide adequate due process.

4. Did the Association violate the POAA when it allegedly failed to establish a method for member-to-member communication?

Here, the Complainant alleges that the Association has not established a method for the Association members to communicate with each other. The Complainant then cites an example where this could have been helpful, and she also states that not all homeowners have access to the same capabilities when accessing the internal Board messaging system and email channel, which is the only

⁴ See Va. Code § 55.1-1816(A); see also Va. Code § 55.1-1815.

⁵ See Va. Code § 54.1-2354.3; see also 18VAC48-70-10.

method for widespread member-to-member communication. As with the other complaints, the Complainant did not cite a specific common interest community statute or regulation that was violated in the specific complaint.

In its response, the Association stated that it met the requirements that were required under Va. Code § 55.1-1817. The Association further responded that it utilizes a secure online platform which gives owners access via password and username. The Association states that this portal contains a homeowner directory that owners can access. However, the Association further states that the owners can opt out of sharing their email addresses and phone numbers in the directory.

Va. Code § 55.1-1817 states that

The board of directors shall establish a reasonable, effective, and free method, appropriate to the size and nature of the association, for lot owners to communicate among themselves and with the board of directors regarding any matter concerning the association.⁶

The statute itself does not give any guidance as to whether a platform for which someone could opt out meets the requirements intended under the statute. As a general rule, this Office believes that allowing someone to opt out of the message board may decrease the effectiveness of the medium of communication, and thwart the intent of Va. Code § 55.1-1817.⁷ With that said, the Association certainly cannot force a member to read an email or portal posting any more than they can force a member to read a bulletin board. A best practice would be allowing an individual to keep their email and/ or contact information private on the listserv/ portal while still allowing members to send messages to the entire membership. At the very least, the Member should be opted in to receiving the messages until they affirmatively opt out from all messages.

While it is not conclusively a violation of the POAA, it is the recommendation of this Office that the Association should perhaps look at alternative means (like a physical bulletin board that is accessible to all Association members, or a place on the portal where all member-generated-announcements may be accessed by all members). The Association should also be responsive to the membership if there appears to be an inability of some members to appropriately utilize the communication method mandated by Va. Code § 55.1-1817.

5. Did the Association fail to properly distribute the 2026 budget, in violation of the POAA?

In her final allegation, the Complainant contends that the draft of the 2026 budget was included in the October board meeting packet, but that during the October meeting, there were several adjustments made to that draft. The Complainant further goes on to say that the budget remained incomplete but that the Association Board still approved a “working version” of the budget. The Complainant further alleges that no complete budget was distributed to the homeowners before the Annual Membership Meeting, nor was it included in the Annual Meeting mailed notice. As with all of the other complaints, the Complainant did not specifically cite a violation of any common interest community statute or regulation.

⁶ Va. Code § 55.1-1817.

⁷ *Id.*

In its response, the Association states that it believes that there was no violation alleged of any common interest community statute or regulation. The Association further states that the Board circulated its final budget for 2026 on November 20, 2026 (which, based on context, was probably a typographical error and, based on context of the issues, actually November 20, 2025).

The POAA, specifically Va. Code §55.1-1826(A), states that, “Prior to the commencement of the fiscal year, the board of directors shall make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.”⁸

The POAA does not specifically state when a draft budget should be disseminated to membership, or how far in advance of a meeting.⁹ Furthermore, there is nothing in the Code that requires that the budget be completed and/or distributed prior to an annual meeting.¹⁰ Rather, the statute states that a budget or budget summary must be made available prior to the commencement of the fiscal year.¹¹ There is nothing in the Complainant’s original complaint that indicates when the fiscal year starts for the Association. Thus, this Office finds that there is not sufficient information in the record to indicate that the Association violated the POAA, with respect to the Complainant’s last complaint.

Conclusion

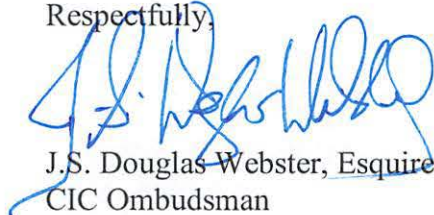
Based on the foregoing, this Office finds that there is not sufficient evidence that the Association acted contrary to law regarding any of the Complainant’s complaints.

Required Actions

While there is no clear evidence of a violation of the POAA, this Office reminds the Association to fully respond to each complaint in its NFADs. This Office further suggests that the Association consider whether its communication method, enacted under Va. Code § 55.1-1817, is adequately serving the membership, considering the spirit and intent of Va. Code § 55.1-1817.

Please contact me if you have any questions.

Respectfully,

A handwritten signature in blue ink, appearing to read "J.S. Douglas Webster".

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

⁸ Va. Code §55.1-1826(A).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*