

IVY LAKE HOMEOWNERS ASSOCIATION, INC.

ASSOCIATION COMPLAINT PROCEDURE

I. Definitions and general provision

A. Definitions. The following terms shall have the following meanings:

1. **“Adverse decision”** or **“final adverse decision”** means the final determination issued by the association pursuant to this association complaint procedure that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the complaint. Such decision means all avenues for internal appeal under this association complaint procedure have been exhausted. The date of the final adverse decision shall be the date of the notice as specified in section II.C.3 below.
2. **“Association complaint”** means a written complaint filed by a member of the association or citizens pursuant to the association complaint procedure. An association complaint shall concern a matter regarding the action, inaction, or decision by the governing board, managing agent, or association inconsistent with applicable laws and regulations.
3. **“Association complaint procedure”** means this written process adopted by the association to receive and consider association complaints from members and citizens. This complaint procedure includes contact information for the Office of the Common Interest Community Ombudsman in accordance with § 55-530 of the Code of Virginia. An appeal process, if applicable, shall be set out in the association governing documents or in the complaint procedure adopted by the association, including relevant timeframes for filing the request for appeal. If no appeal process is available, the association complaint procedure shall indicate that no appeal process is available and that the rendered decision is final.
4. **“Association governing documents”** means collectively the applicable organizational documents, including but not limited to the current and effective articles of incorporation, declaration, and bylaws of a property’s owners’ association, all as may be amended from time to time. Association governing documents also include, to the extent in existence, resolutions, rules and regulations, or other guidelines governing association member conduct and association governance.
5. **“Complainant”** means an association member or citizen who makes a written complaint pursuant to this association complaint procedure.

6. **“Record of complaint”** means all documents, correspondence, and other materials related to a decision made pursuant to this association complaint procedure.

B. General provisions

1. This association complaint procedure shall be readily available to all members of the association and citizens.
2. This association complaint procedure shall be distributed using the association’s established reasonable, effective, and free method, appropriate to the size and nature of the association, for communication with the governing board pursuant to §§ 55-79.75:1 or 55-510.2 of the Code of Virginia.
3. This association complaint procedure shall be included as an attachment to the association disclosure packet.
4. Members of the association shall be reminded by the association annually of the availability of the association complaint procedure by using the method of communication established pursuant to §§ 55-79.75:1 or 55-510.2 of the Code of Virginia.
5. This procedure is only for members and citizens to submit complaints related to violations of common interest community law or regulations. Common interest community laws include the Property Owners' Association Act which our association comes under.

II. Procedures

A. Submission and receipt of association complaint.

1. The association complaint must be in writing.
2. The form on which to submit an association complaint is attached to the association complaint procedure as Attachment A and is available upon request from:

Ivy Lake Homeowners Association, Inc.
ATTN: President
P.O. Box 332
Forest, VA 24551

3. The association complaint shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the following address:

Ivy Lake Homeowners Association, Inc.
ATTN: President
P.O. Box 332
Forest, VA 24551

4. The association shall provided written acknowledge of receipt of the association complaint to the complainant within seven days of receipt. Such acknowledgement shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided, or if consistent with established association procedure, delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery.

B. Contents of association complaint.

1. The complaint shall provide with the association complaint copies of all documents that the complainant believes the Board of Directors should consider in connection with the association complaint. In addition, to the extent the complainant has knowledge of the law or regulation applicable to the association complaint, the complainant shall provide that reference, as well as the requested action or resolution.
2. If the association identifies additional information necessary for the complainant to provide in order to continue processing the association complaint, the association shall request such information from the complainant within 30 days of receipt of the association complaint, unless the need for such additional information is not reasonably apparent within that time. The request shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided, or if consistent with established association procedure, by electronic means, provided the sender retains sufficient proof of the electronic delivery. The association shall specify a time by which such additional information shall be provided, not less than 14 days from the date the request is sent to the complainant.
3. The request for additional information shall identify the consequences of a failure to provide the additional information. Such consequences are at the sole discretion of the Board of Directors and may include, but are not limited to, the making of inferences adverse to the complainant or dismissal of the association complaint without further consideration.

C. Consideration of association complaint and final determination.

1. Notice of the date, time, and location that the matter will be considered shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided, or if consistent with established association procedure, delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery, at least 7 days prior to consideration. The date of consideration shall be no more than 31 days after the association complaint is complete, including any additional information requested pursuant to sections B.2 and B.3 above.
2. After a final determination is made, written notice of final determination shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided, or if consistent with established association procedure, delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery, within 7 days of the making of the final determination. No appeal process is available, and the rendered decision is final.
3. The notice of final determination shall be dated as of the date of issuance and include specific citations to applicable association governing documents, laws, or regulations that led to the final determination, as well as the registration number of the association. If applicable, the name and license number of the common interest community manager shall also be provided.
4. The notice of final determination shall include the complainant's right to file a Notice of Final Adverse Decision with the Common Interest Community Board via the Common Interest Community Ombudsman and the applicable contact information. This requirement may be met by including with the notice of final determination a copy of the "Notice of final Adverse Decision" form attached to this association complaint procedure as Attachment B.

D. Maintenance of record of complaint and cooperation with State agency.

1. The record of complaint shall be maintained by the association for at least one year following the date of issuance of the notice of final determination.
2. The association shall provide to the director of the Department of Professional Regulation or his designee, within 14 days of receipt of a request, any document, book, or record concerning the association complaint. The director or his designee may extend such timeframe upon a showing of extenuating circumstances prohibiting delivery within 14 days of receiving the request.

IVY LAKE HOMEOWNERS ASSOCIATION, INC.
P.O. Box 332, Forest, Virginia 24551

ASSOCIATION COMPLAINT FORM

Pursuant to Chapter 29 of Title 55 of the Code of Virginia, the Board of Directors (Board) of the IVY LAKE HOMEOWNERS ASSOCIATION, INC. (Association) has established this complaint form for use by persons who wish to file written complaints with the Association regarding the action, inaction or decision by the governing board, managing agent or association inconsistent with applicable laws and regulations.

Legibly describe the complaint in the area provided below, as well as the requested action or resolution of the issues described in the complaint. Please include references to the specific facts and circumstances at issue and the provisions of Virginia laws and regulations that support the complaint. If there is insufficient space, please attach a separate sheet of paper to this complaint form. Also, attach any supporting documents, correspondence and other materials related to the complaint.

Sign, date and print your name and address below and submit this completed form to the Association at the address listed above.

_____ Printed Name	_____ Signature	_____ Date
_____ Mailing Address		
_____ Lot/Unit Address		
_____ E-mail Address	_____ Phone Number	Contact Preference <input type="checkbox"/> Phone <input type="checkbox"/> E-mail <input type="checkbox"/> Other _____

If, after the Board's consideration and review of the complaint, the Board issues a final decision adverse to the complaint, you have the right to file a notice of final adverse decision with the Common Interest Community Board (CICB) in accordance with the regulations promulgated by the CICB. The notice shall be filed within 30 days of the date of the final adverse decision, shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman (Ombudsman), shall include copies of any supporting documents, correspondence and other materials related to the decision, and shall be accompanied by a \$25 filing fee. The Ombudsman may be contacted at:

Office of the Common Interest Community Ombudsman
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400
Richmond, VA 23233
804/367-2941
CICOmbudsman@dpor.virginia.gov



Notice of Final Adverse Decision

9960 Mayland Drive, Suite 400	Inquiries and Questions: (804) 367-2941
Richmond, VA 23233-1485	TDD: (804) 527-4290
E-Mail: cicombudsman@dpor.virginia.gov	Fax: (804) 527-4405
Website: www.dpor.virginia.gov	Hotline for Older Virginians: (804) 367-2178

A complainant may give notice to the Common Interest Community Board via the Common Interest Community Ombudsman of any final adverse decision issued by a common interest community association.

As defined in regulation 18 VAC 48-70-20, a final adverse decision means the final determination issued by an association pursuant to an association complaint procedure that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the complainant. Such decision means all avenues for appeal have been exhausted.

*Any Notice of Final Adverse Decision must be filed within **30 DAYS** of the date of the final adverse decision. Notices of Final Adverse Decision must be complete at the time of filing.*

A complete Notice of Final Adverse Decision consists of:

1. *a copy of the association complaint;*
2. *a copy of the final adverse decision;*
3. *a reference to the laws and regulations the final adverse decision may have violated;*
4. *any supporting documents, correspondence, and other materials related to the final adverse decision;*
5. *a copy of the association complaint procedure or form;*
6. *any applicable association governing documents; and*
7. *a filing fee or a request for waiver of filing fee.*

Anonymous Notices of Final Adverse Decision will not be accepted.

FEE FOR FILING A NOTICE OF FINAL ADVERSE DECISION

Complainant must submit a \$25.00 filing fee with the Notice of Final Adverse Decision. The Notice of Final Adverse Decision will not be considered complete until the filing fee has been received by the Department of Professional and Occupational Regulation. The Office of the Common Interest Community Ombudsman will not begin reviewing any Notice of Final Adverse Decision until it is complete.

WAIVER OF FILING FEE

The Common Interest Community Board may, for good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will cause undue financial hardship for the complainant. A waiver form must be completed and submitted with the Notice of Final Adverse Decision. The Waiver Request form can be obtained at www.dpor.virginia.gov. If a waiver is requested, the Common Interest Community Ombudsman will not review the Notice of Final Adverse Decision until the waiver has been granted or the Complainant has submitted a filing fee of \$25.00.

WHAT HAPPENS WHEN YOU FILE A NOTICE OF FINAL ADVERSE DECISION?

The Office of the Common Interest Community Ombudsman may request additional information from the association. The Office of the Common Interest Community Ombudsman will review the final adverse decision, and if the final adverse decision is in conflict with laws or regulations governing common interest communities or interpretations thereof by the Common Interest Community Board, the Common Interest Community Ombudsman may provide the complainant and the association with information concerning such laws or regulations or interpretations thereof by the Common Interest Community Board.

The determination of whether the final adverse decision may be in conflict with Virginia laws or regulations or interpretations thereof by the Common Interest Community Board shall be a matter within the sole discretion of the Common Interest Community Ombudsman whose decision is final and not subject to further review. This determination shall not be binding upon the complainant or the association.

NOTICE OF FINAL ADVERSE DECISION FORM INSTRUCTIONS

NOTE: Anonymity cannot be guaranteed. By law, all Notices of Final Adverse Decision and any accompanying documents received by the Department of Professional and Occupational Regulation are subject to public disclosure once a case is closed.

- ✓ Fill in complainant information.
- ✓ Fill in the date of the final adverse decision
- ✓ Fill in the name, address, and telephone number(s) of the association.
- ✓ Include a copy of the association complaint, the final adverse decision received from the association, the laws and regulations the final adverse decision may have violated, any supporting documents, correspondence, and other materials related to the final adverse decision, the association complaint procedure, and any applicable association governing documents.
- ✓ Include a check in the amount of \$25.00 made payable to the Treasurer of Virginia.
- ✓ If a waiver of the filing fee is requested, include the Request for Waiver of Filing Fee along with the Notice of Final Adverse Decision.
- ✓ Sign and date the form at the bottom of the page.

Submit the completed form, supporting documents, correspondence, and other related materials to:

Department of Professional & Occupational Regulation
Office of the Common Interest Community Ombudsman
9960 Mayland Drive, Suite 400
Richmond, Virginia 23233-1485

The processing of the Notice of Final Adverse Decision will be conducted in a timely manner. The complainant will be contacted if additional information is required and at the conclusion of the review. Thank you for your patience during the review process.

NOTICE OF FINAL ADVERSE DECISION

(PLEASE PRINT LEGIBLY OR TYPE)

NOTE: The Department cannot guarantee anonymity. By law, all complaints received by the Department are subject to public disclosure once a case is closed. Anonymous Notices of Final Adverse Decision will not be accepted.

COMPLAINANT INFORMATION

Name: _____

Mailing Address: _____

City, State, and Zip: _____

Phone: Home _____ Business _____ Cell _____

E-mail Address: _____

City/County: _____

Date of Final Adverse Decision: _____

ASSOCIATION INFORMATION

Name of the Association: _____

Contact Name: _____

Address: _____

City, State, and Zip: _____

Phone: Business _____ Cell _____ Other _____

E-mail Address: _____

Management Company (if applicable): _____

I understand this Notice of Final Adverse Decision will not be complete until I have submitted all required documents and the filing fee. A financial hardship waiver may be submitted in lieu of the filing fee, but this will delay review of my Notice of Final Adverse Decision and there is no guarantee that I will be granted the waiver.

Signature: _____ Date: _____

COMMON INTEREST COMMUNITY OMBUDSMAN REGULATIONS

Frequently Asked Questions (FAQ)

Q. What is a "common interest community?"

A. A "common interest community" means real estate located within the Commonwealth subject to a declaration which contains lots, at least some of which are residential or occupied for recreational purposes, and common areas to which a person, by virtue of his ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration. (§55-528 of the Virginia Code)

Q. We just learned about the regulations. How long do we have to put our complaint process together?

A. You have 90 days from July 1, 2012, to prepare your complaint process and to implement that process. This means that by September 28, 2012 you must have the complaint process in place.

Q. My association is very small. Do we have to implement the new regulations?

A. Yes, all common interest communities in the Commonwealth of Virginia, regardless of their size, must adhere to the requirements outlined in the regulations.

Q. My association is self-managed. Do we have to implement the new regulations?

A. Yes, both self-managed and professionally managed associations must follow the new regulations.

Q. Do we have to hire an attorney to draft our complaint process?

A. Not necessarily. Nothing in the regulations requires an association to hire an attorney. In fact, most associations should be able to draft their own complaint processes without too much trouble. An attorney may, however, be beneficial in helping an association review its existing governing documents and ensuring that the complaint process drafted by the association is not in conflict with those documents or any law or regulation.

Q. Can our association submit a copy of our complaint process to the CIC Ombudsman or CIC Board for review and approval?

A. Neither the CIC Ombudsman nor the CIC Board can provide review or approval of your process. If a Notice of Final Adverse Decision is submitted to the Ombudsman's office and in reviewing that Notice the Ombudsman determines the complaint process is not in compliance with the regulations, the Ombudsman will make the association aware of such noncompliance. Continued noncompliance after notice could result in further action by the CIC Board.

Q. Does this new complaint process address complaints related to internal issues in the association, for example, architectural guideline violations or violations of our declaration or bylaws?

A. No, this complaint process is only for members and citizens to submit complaints related to violations of common interest community law or regulations. Common interest community laws include the Property Owners' Association Act, the Condominium Act, and the Virginia Real Estate Cooperative Act.

Q. What if I have a complaint about our manager or management company?

A. Manager complaints fall under two possible categories. If the complaint is related to a violation of common interest community law, the member or owner should utilize the association complaint process required by the new regulations. If the complaint is from the association board itself or is related to a violation of the Common Interest Community Manager Regulations (a specific set of regulations for common interest community managers), the complaint should be submitted directly to DPOR on a DPOR complaint form.

Q. Why are citizens included as individuals that can file a complaint with an association?

A. The citizen language was included in the legislation that was enacted July 1, 2008 and created both the CIC Ombudsman's office and the CIC Board. While rare, there may be cases where a citizen, who is not a member or unit owner of an association, has a valid complaint related to a violation of common interest community law. An example would be real estate agents who are unable to obtain disclosure packets or resale certificates.

Q. What kind of complaints will the association be receiving from its members or owners?

A. Some of the key areas that we anticipate will be the focus of complaints are access to books and records, notice of meetings, open meeting requirements, methods of communication, and open forums. These are among the most frequent complaints the Ombudsman receives now.

Q. Why can't members and owners just keep submitting complaints to the Ombudsman?

A. The Ombudsman's office was never created to accept complaints. The office was created to accept Notices of Final Adverse Decision and has only accepted complaints while the regulations were pending approval. The Ombudsman will still be available as an information resource to all association members, unit owners and boards of directors.

Q. What should associations do about the other complaints types of complaints they receive – maintenance, architectural guidelines, parking, etc.?

A. Associations should continue to address those types of internal complaints in whatever manner they have always addressed them. They must be certain, however, that they follow the due process requirements under common interest community law or members or unit owners may file a complaint through the new complaint process alleging a lack of compliance with notice and hearing requirements.