

**DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION**



**OFFICE OF THE
COMMON INTEREST COMMUNITY OMBUDSMAN**

Report to the

**House Committee on General Laws
Senate Committee on General Laws and Technology
Housing Commission**

Annual Report 2013-2014



Department of Professional and Occupational Regulation

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PREFACE

The Office of the Common Interest Community Ombudsman prepared the report contained herein pursuant to § 55-530 of the *Code of Virginia*.

This annual report documents the activities of the Office of the Common Interest Community Ombudsman for the reporting period covering November 26, 2013, through November 25, 2014.

**Office of the Common Interest Community Ombudsman
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EXECUTIVE SUMMARY

In 2008, the General Assembly created the Office of the Common Interest Community Ombudsman (“Office”), and the Common Interest Community Board (“CICB”), at the Department of Professional and Occupational Regulation (“DPOR”). In accordance with statutory requirements, this document reports on the activities of the Office for the period from **November 26, 2013 through November 25, 2014.**

Ombudsman Regulations (“Regulations”) governing the operations of the Office and community association complaint processes became effective July 1, 2012. Nevertheless, even after more than two years, many community associations continue to struggle to comply with the requirement to adopt and implement internal complaint procedures. And those associations that have done so frequently neglect to follow their own procedures or the Regulations when responding to a complaint submission.

Notices of Final Adverse Decision (NFADs) that do meet the statutory and regulatory requirements are reviewed by the Ombudsman, who issues Determinations that are published on the Office’s website (<http://www.dpor.virginia.gov/CIC-Ombudsman/>). NFADs are listed by association name and topic areas, allowing anyone searching for a particular association or subject matter to find the applicable Determination.

Finally, the CICB established an Ombudsman Committee to provide education and outreach to associations, members, common interest community managers, related professionals (e.g., attorneys, accountants, real estate agents), and others.

OFFICE OVERVIEW

Common Interest Community Ombudsman Regulations (“Regulations”) require associations to adopt internal complaint procedures within 90 days of registration with the CICB, providing association members access to a first-resort dispute resolution channel. As a result, rather than receiving complaints directly from association members, the Office now only accepts and reviews “Notices of Final Adverse Decision.”

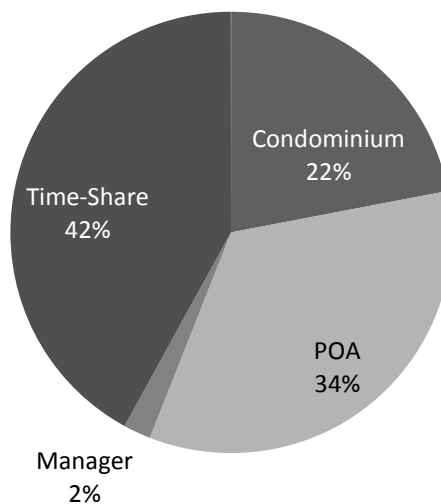
Notices of Final Adverse Decision, specifically defined in the Regulations based on the enabling authority enumerated in § 55-530 of the *Code of Virginia*, can be submitted to the Office only after a complainant has utilized the association complaint procedure and has exhausted any internal appeals process. Upon receipt of the NFAD—and after confirming its timeliness, completeness and appropriateness—the Ombudsman conducts a review and provides a Determination as to whether “the final adverse decision may be in conflict with laws or regulations governing common interest communities.” (18 VAC 48-70-120)

The Office accepts complaints directly from individuals in two related instances. Specific complaint forms may be submitted to the Office if an owner has submitted a complaint to an association and not received a response within a reasonable time, or if the individual has requested a copy of the association's complaint procedure and the association has failed to provide one.

Statistics

During the 2013-14 reporting period, the Office received 1,697 telephone calls and 2,195 email messages. The Office continues its practice of responding to all phone calls and emails by the next business day unless volume or other unusual circumstances make that timeframe unfeasible. The number of phone calls grew substantially over the prior year (23.5%), due in large part to an increase in questions and concerns regarding the association complaint procedure and NFADs.

Total Complaints by Category



The Office received a total of 235 complaints (including NFADs) during the 2013-14 reporting period on the following topics:

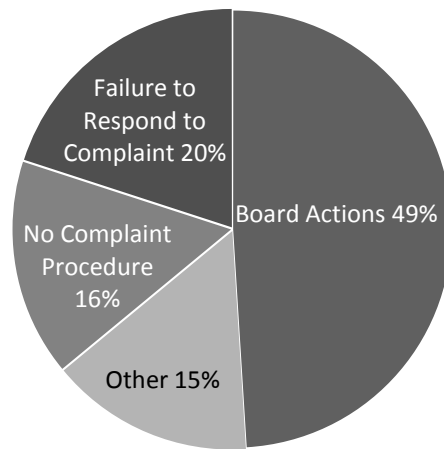
- 34% related to Property Owners' Associations (POAs);
- 22% related to Condominium Unit Owners' Associations;
- 42% related to Time-Shares;
- 0% related to Cooperatives; and
- 2% related to Management Companies*

*Because management company complaints should be submitted through the standard DPOR complaint process rather than through the Office, the numbers above represent complaints submitted that inaccurately cited the management company as being at fault or in violation of common interest community laws or regulations.

The number of complaints related to Property Owners' Associations increased slightly from the prior year, and both Condominium and Time-Share complaints decreased slightly.

The Office closed 226 complaints in 2013-14. Because many of the complaints received are related to an association's failure to adopt the mandatory internal complaint procedure, the time required to obtain compliance is frequently significant and may result in a complaint remaining open for as long as a month or more. Most associations require anywhere from two to six weeks to adopt a complaint procedure, and some have taken even longer. So long as an association is actively pursuing, adopting, and implementing a complaint procedure, the Office will continue to seek compliance without pursuing enforcement action.

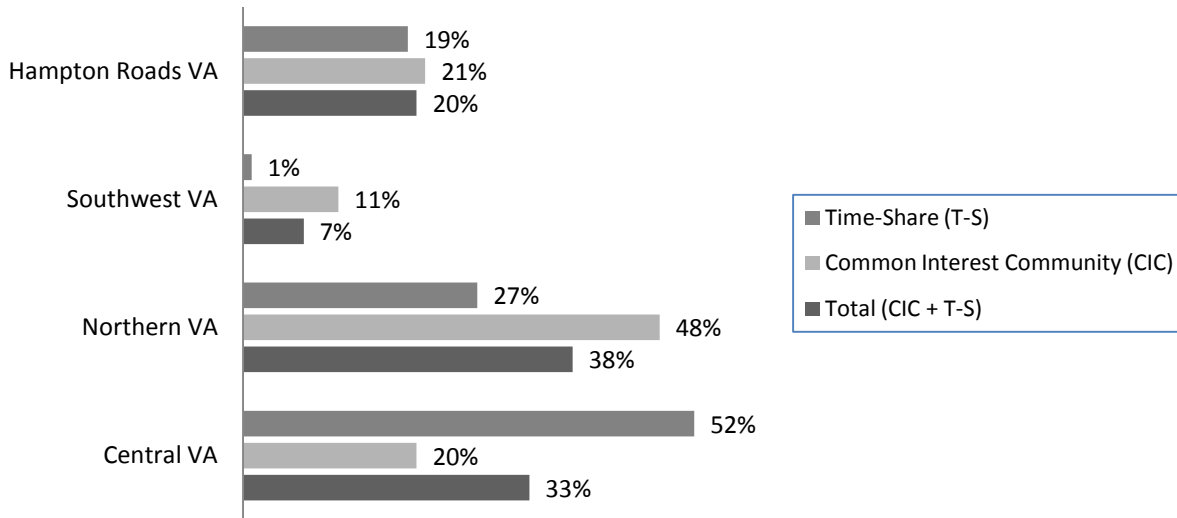
CIC Complaint Breakdown



Of all complaints received by the Office (including NFADs), 49% were related to actions by association boards of directors. Of those board-related actions, the complaints and NFADs covered a wide range of topics, including access to books and records, annual meetings, assessments, budgets, collections, executive sessions, pesticides, recording, reserves, and governing documents.

Two other key complaint areas—both of which grew percentage-wise as compared to last year—related to associations' failure to respond to a complainant's submitted complaint (20%) and associations' failure to adopt a complaint procedure as required by the Regulations (16%).

Complaint Category by Region



Association Complaint Procedures

Despite having more than two years to adopt and implement a complaint procedure as required by the Regulations and enabling statute, many Community Associations in the Commonwealth continue to struggle to comply. Even those associations that have adopted the mandatory internal complaint procedure frequently neglect to follow their own procedure or the Regulations when responding to a complaint.

Associations are required, by common interest community law and the Regulations, to certify on the Annual Report filed with the CICB that they have established the requisite internal complaint procedure. All too often, associations fail to certify that they have a complaint procedure, or they check the box marked “no,” meaning they do not have a complaint procedure in place. In such instances, the Office contacts these associations to seek compliance and provides several weeks for the boards to adopt the complaint procedure and provide a copy as documentation.

If an association fails to do so—as occurred several times this year—the Office refers the matter to the DPOR investigations section for further action. In its ombudsman role, the Office appropriately lacks enforcement capability, so any disciplinary action that may be necessary must result from an agency investigation and subsequent CICB decision.

Ombudsman Determinations

A Notice of Final Adverse Decision (NFAD) is obtained after—and only after—an association member or owner submits a complaint to its association, through the required internal complaint procedure, alleging a violation of common interest community law or regulation (not association

governing documents). After submitting a complaint through an association complaint procedure, a complainant will receive from the association a Final Decision, or, if *contrary* to what the complainant sought, a Final *Adverse* Decision.

Upon receipt of a Final Adverse Decision, a complainant may subsequently submit a Notice of Final Adverse Decision (NFAD) to the Office, along with the statutorily mandated filing fee of \$25. Upon receipt of the NFAD—and after confirming its timeliness, completeness and appropriateness—the Ombudsman conducts a review and provides a Determination as to whether the association’s decision conflicts with common interest community laws or regulations. Processing NFADs and providing Determinations is enormously time-consuming, due in large part to the need to review the vast amounts of documentation submitted by complainants (much of which is, ultimately, unnecessary).

Approximately one-third of the 35 NFADs received by the Office this year consisted of topics inappropriate for submission through the association complaint procedure and, therefore, ineligible for Determination by the Ombudsman. These NFADs alleged violations of the governing documents of an association (rather than common interest community law or regulations), “overthrow” of the association, architectural guideline disputes, and harassment by board members, to name a few.

Of the 70% of NFADs submitted that *were* appropriate for the complaint process, and therefore deemed eligible for Determination, allegations concerned access to books and records (9%), methods of communication (9%), recording of meetings (6%), due process (6%), reserve studies (9%), and annual meetings (6%).

An Ombudsman Determination is not a judicial verdict, court decree, Board order or official opinion.

It is legally non-binding and strictly limited to laws and regulations pertaining exclusively to common interest communities.

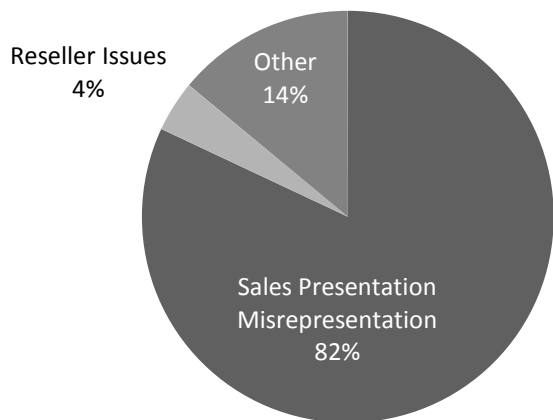
In an effort to provide as much information as possible to anyone wishing to file a NFAD in the future, or who may simply be interested in the nature of the Determinations issued by the Ombudsman, all NFADs issued to-date are published on the Office’s website (<http://www.dpor.virginia.gov/CIC-Ombudsman/>). NFADs are listed by association name and topic areas, allowing anyone searching for a particular association or subject matter to find the applicable Determination.

Time-Shares

The Office continues to review and respond to complaints alleging violations of the Virginia Real Estate Time-Share Act and Regulations. As in prior years, the vast majority of time-share

complaints allege misrepresentation during sales presentations. Of the 97 time-share complaints received during the 2013-14 period, 82% alleged sales presentation misrepresentations, a negligible (1%) decrease from the from the prior year.

Time-Share Complaint Breakdown



Although not legally considered common interest communities, enforcement authority for time-shares falls to the CICB, and the Ombudsman has responded to complaints related to time-shares for the past five years. Time-shares are not subject to the Ombudsman Regulations, however, and therefore individuals can submit complaints concerning time-shares directly to the Office rather than going through an internal complaint procedure as required for common interest communities. At present, pending CICB regulations would allow regulatory oversight over resellers of time-shares, which may provide some assistance to consumers involved with time-share transactions.

EDUCATION & OUTREACH

During the 2013-14 reporting period, the Ombudsman made seven formal appearances to the public in four primary regions of the Commonwealth. Presentations this year included Community Association Day for the Central Virginia Chapter of Community Association Institute (CAI), Prince William County Neighborhood Day, Association of Lake Area Communities, and the Legislative Update for CAI Southeastern Virginia Chapter. The Ombudsman continues to reach out to local groups involved with common interest communities in an effort to facilitate more outreach opportunities.

The Ombudsman continued to meet with General Assembly members and to serve on the Common Interest Communities and Time-Share workgroups of the Housing Commission. The

Ombudsman has continued to participate in in-house training sessions to educate new DPOR employees and other agency sections about the role of the Office, and to provide direction and information for those instances where other staff members may interact with common interest communities.

In addition to responding to periodic media inquiries concerning local association-related news, the Ombudsman also was featured in the January/February 2014 issue of *Common Ground*, in an article entitled “Man in the Middle,” which discussed the positives and negatives of existing ombudsman programs in the United States. Finally, she contributed an article on the Regulations’ complaint process and its benefit for communities in the July 2014 edition of *Quorum Magazine*: “Friend or Foe? The “New” Virginia Association Complaint Procedure.”

CICB Ombudsman Committee

In response to issues raised by the Ombudsman, the CICB established a new committee in March 2014 to review four primary areas:

- unregistered common interest community associations;
- associations lacking internal complaint procedures;
- registration issues for associations with defunct/dysfunctional boards; and
- recommendations regarding House Bill 332 from the 2014 General Assembly session.

The Committee consists of four CICB members, comprising two common interest community managers, an association member, and an accountant involved with associations. Additionally, the board chair serves as an *ex officio* member, and the Ombudsman participates, as well.

The goals of the Ombudsman Committee include education and outreach to associations, members, common interest community managers, related professionals (e.g., attorneys, accountants, real estate agents) and others.

The Committee also drafted recommendations for the CICB’s consideration regarding House Bill 332, legislation proposed during the 2014 General Assembly session that directed the Ombudsman to develop a “bill of rights” for owners in common interest communities. The bill failed to pass, but was referred to the Virginia Housing Commission for additional consideration.

Based on the Committee’s recommendations, the CICB adopted the following official statement for presentation at the workgroup’s October 15, 2014, meeting:

The Board wishes to advise the Common Interest Communities Workgroup of the Virginia Housing Commission that a committee to improve education and outreach from the Board and Office of the CIC Ombudsman has been established. The Ombudsman Committee will oversee the education and outreach initiative in order to maximize such efforts in line with current resource availability.

Further, the Committee will use the “bill of rights” in HB 332 as part of the foundation for educational resources to be developed. The Board indicates that the requirements imposed in the proposed may be far-reaching in terms of codification in the law, but believes that the impetus for the bill—educating owners about their rights—can be achieved through non-legislatively mandated education and outreach methods.

The Committee will meet next in December 2014 to create an implementation plan, budget and timeline.

CONSTITUENT EXPECTATIONS

At present, the majority of the Ombudsman’s time is spent responding to owners who do not understand the association complaint process, as well as members of boards of directors who require guidance on drafting and adopting the required complaint procedure for their associations. While these conversations and emails are often time consuming, the ultimate outcome is positive because owners learn how to use the complaint process and association boards are given sufficient direction to implement a complaint procedure and thus come into compliance with common interest community laws and regulations.

The Office frequently hears from owners who are dissatisfied with the association complaint process, because they believe it will not provide them a suitable or desirable outcome. Individuals often express a belief that associations should be punished for wrongdoing, and find attempts to obtain compliance to be an insufficient and unacceptable resolution.

In such instances, the Office explains that if an association board has failed to carry out its responsibilities under the law or regulations, but is willing to act to come into compliance based on a valid complaint, the process is working as intended. (This is particularly relevant considering that association boards are most frequently run by volunteers acting in good faith who cannot realistically be expected to have a full understanding of the intricacies of common interest community law.) Only in those situations where compliance cannot be obtained, and an association repeatedly ignores the law or regulations and direction by the Office, is the matter referred for enforcement.

Time-share complaints continue to consist of allegations that misrepresentations were made during sales presentations and resulted in purchases that never met the high expectations of the buyer. The Virginia Real Estate Time-Share Act does not require certification, registration, or licensure of time-share salespersons and, as a result, neither the Office nor the CICB is authorized to process complaints involving product misrepresentation or sales tactics.

Another time-share topic that generates many inquiries to the Office, but few complaints due to jurisdictional limitations, relates to the difficulty of an owner to re-sell or transfer a time-share.

Due to market forces, there are no easy methods of selling or transferring a time-share, so owners are left frustrated and financially burdened for any number of reasons (e.g., can no longer afford associated maintenance fees; entering a nursing home or assisted living facility and can no longer enjoy the use of the time-share; heirs inheriting a time-share they do not want).

LEGAL DEVELOPMENTS

State Legislation | 2014 General Assembly Session

Bill No.	Patron	Description
HB 530	Pogge	Clarifies that the developer or owners can sue their condominium or property owners' association for non-compliance with statutes and applicable governing documents.
HB550	Filler-Corn	Extends the advance notice timeframe owners in self-managed associations—those not run by a licensed CIC Manager—must provide to get access to books and records from five to 10 days.
HB690	Massie	Amends Condominium and Property Owners' Association Acts to allow condo and subdivision developments to merge, upon agreement of the unit/lot owners. The bill also allows a judge to "reform" association governing documents—condo instruments or POA declarations—for minor changes related to legal ownership of common areas, such as scrivener's errors, inconsistencies, or ambiguities about disputed rights and responsibilities easily clarified by fact.
HB 791	LeMunyon	Amends the Condominium and Property Owners' Association Acts to require associations to give owners one "last chance" to remedy a violation before being taken to court. Allows boards and owners to go directly to court—rather than pursue due process within the community—in disputes surrounding failure to pay required assessments. Such cases, if appealed, shall be heard <i>de novo</i> .
HB899	Peace	Amends the Condominium Act to cut in half (from 10 days to five days) the timeframe a person has to cancel a purchase contract after developer delivers the Public Offering Statement.
HB900	Peace	Amends the Condominium and Property Owners' Association Acts to prohibit associations or licensed Common Interest Community Managers from charging fees for inspections—unless the declaration explicitly authorizes such inspections for the purpose of preparing resale certificates/disclosure packets—or for access to their websites in order to obtain disclosure information associated with real estate transactions. The bill also places a \$125 cap on fees for electronic copies of a condo resale certificate/POA disclosure packet to be provided to up to five parties to the transaction.

Bill No.	Patron	Description
SB222	Petersen	While not technically a common interest community bill, this amendment to the Virginia Energy Plan statute has tremendous potential impact on associations. It clarifies a community association's authority to prohibit or restrict the installation of solar power devices on common elements or in common areas. However, the measure bars an association from prohibiting a property owner from installing a solar energy collection device on the owner's property unless the community association's recorded declaration establishes such a prohibition.

Virginia Court Cases

A brief summary of some of the past years' cases follows.

- Beasley v. Red Rock Financial Services, LLC, a case appealed to the 4th Circuit resulting from a dues assessment in an association. A couple allowed assessments to become past due, but brought them current the following year. The association's collection agent attempted to obtain payment the plaintiffs supposedly owed, and filed a Memorandum of Assessment Lien against their home. At trial, the judge awarded statutory damages and attorneys' fees; however the \$5,000 in attorneys' fees was significantly below the \$50,000 requested. The 4th Circuit upheld the trial court's fee award.
- Southern Walk at Broadlands HOA Inc. v. OpenBand at Broadlands LLC continued the disagreement between the association and OpenBand regarding the exclusive provision of cable, phone, and internet services. The Plaintiff hoped to invalidate contracts with OpenBand based on grounds that the contracts were unconscionable and violated federal regulation. As a result of an earlier 4th Circuit Court finding in a different case, OpenBand decided to relinquish its rights to be the sole provider of video, thus resulting in the Alexandria U.S. District Court dismissing the first count in this case. The remaining counts were dismissed, at both parties' request, and remanded to Loudoun County Circuit Court.
- In re: Manchester Oaks Homeowners' Association, Inc., No. 11-10179-BFK, Chapter 11 stemmed from a prior trial in which several owners brought action against the association alleging that parking policies violated association governing documents. The association subsequently filed Chapter 11 bankruptcy, and the owners who had obtained awards in their case filed a proof of claim for the awards from the trial. The awards were later reduced by the Supreme Court, but the attorneys' fees and costs were affirmed. The association filed its reorganization plan, which included a special assessment of all association owners to fund the reorganization plan. Ultimately, the bankruptcy court denied confirmation of the plan because it found the use of a special assessment

improper, since special assessments, under the Property Owners' Association Act, can only be "used primarily for the maintenance and upkeep of the common area and such other areas of association responsibility expressly provided for in the declaration, including capital expenditures." The court did not believe the declaration authorized the assessment.

- Virginia Beach Circuit Court Case Number CL13000568-00 was filed in January of 2013 and the trial ended in September of 2014. In this case, members of the condominium association filed suit against its association, Sawgrass Condominium Owners Association, Inc., and members of its board of directors, alleging they were negligent in carrying out their fiduciary responsibilities. The jury found in favor of the plaintiffs, required the defendants pay more than \$50,000 in attorneys' fees, and ruled that the association obtain an audit of its books. The case was prompted by the closure of the association's swimming pool due to a failure to pay pool fees in the amount of approximately \$30,000. As a follow up to the trial, the board members were removed at a meeting in November, and temporary board members were put in place until the annual meeting can be held in January 2015.
- Op. Va. Att'y Gen. 13-106 – Virginia law limits the manner in which a Property Owners' Association (POA) may regulate traffic on its private streets. A vehicle driver may be compelled to stop only if enforcement of the traffic laws is conducted by a local law enforcement agency or by a private security service properly licensed by the Department of Criminal Justice Services (DCJS), and whose employees have also been appointed as conservators of the peace. Otherwise, a POA may not compel a vehicle driver to stop. As to how traffic laws can be enforced on privately owned streets, a POA may request the local law enforcement agency to do so, or the local governing body may designate the private streets as "highways" for law enforcement purposes. In addition, the use of blue or green lights on a private patrol vehicle is strictly prohibited, and amber lights may be used only if the patrol is operated by a DCJS-licensed private security business or an approved neighborhood watch group.

Federal Topics

The primary federal legal topic in the community association world over the past year surrounds the difficulty buyers are experiencing obtaining Federal Housing Administration (FHA) loans, particularly to purchase condominium units. Although other financing options are available to homebuyers, FHA loans are a valuable resource for many potential purchasers due to lower down payment requirements and often lower interest rates.

However, more and more condominiums are failing to qualify for FHA certification as a result of dues delinquency rates, owner-occupancy/rental ratios, or poor financials. Based on the multitude of articles written on the subject, a solution for this housing problem is neither unique to Virginia nor likely to resolve in the near future.

NEWS OF INTEREST

The Ombudsman tracks and collects articles related to common interest communities in an effort to learn about issues and concerns that may impact the Office or are generally noteworthy due to their subject matter.

The following are some issues gleaned from the news which may be of interest to stakeholders.

- Brandermill Community Association struggled with issues involving a home-based daycare business early this year. When a resident attempted to renew the license for her longstanding in-home child-care operation, new state regulations required documentation that her home was zoned for such a business. Her home was not zoned for more than five children, however, and association covenants prohibit home-based businesses that generate traffic in the neighborhood. Although the Board of Supervisors ultimately granted the owner a conditional use permit for the zoning, the association voted down her request to continue operating the daycare in violation of the covenant restriction.
- A house-trained pet pig made the news on several occasions, after a local zoning office learned that he (Tucker) was being kept in violation of county rules governing domestic and farm animals. Brandermill Community Association, where Tucker's family lives, is deferring to the Board of Supervisors as to whether Tucker can remain, since the governing documents of the association are silent as to what constitutes a pet. At this time the ultimate decision on Tucker's fate, and whether to make an exception to allow pigs like him in residential districts, is deferred until after the 2014 holiday season.
- The Springfield Woods Townhouse Association permitted a couple to allow its 20-foot tall plant to die naturally, rather than force them to cut it down in order to comply with aesthetic standards. When the rare agave plant bloomed and, rather unexpectedly, sprouted a 20' tall stalk, the association initially asked the couple to remove the stalk. Upon learning the plant blooms only once in its decade-long life, the association allowed it to remain for the duration of the bloom's relatively short lifespan.
- An owner in Front Royal will soon lose her house—or must pay \$40,000 as a bond in order to appeal the court order allowing the sale of the property—for unpaid assessments and failure to bring her yard into compliance with local ordinances. The case went to trial after Warren County spent approximately \$30,000 for two different cleanups of her property and the neighborhood, Apple Mountain Lake South Property Owners' Association, was unable to collect approximately \$8,000 in past-due assessments. The owner has previously served jail sentences for her failure to carry out responsibilities under prior court orders.

STATUTORY AUTHORITY

§ 55-530. Powers of the Board; Common interest community ombudsman; final adverse decisions.

A. The Board shall administer the provisions of this chapter pursuant to the powers conferred by § 54.1-2349 and this chapter.

B. The Director in accordance with § 54.1-303 shall appoint a Common Interest Community Ombudsman (the Ombudsman) and shall establish the Office of the Common Interest Community Ombudsman. The Ombudsman shall be a member in good standing in the Virginia State Bar. All state agencies shall assist and cooperate with the Office of the Common Interest Community Ombudsman in the performance of its duties under this chapter. The expenses for the operations of the Office of the Common Interest Community Ombudsman, including the compensation paid to the Ombudsman, shall be paid first from interest earned on deposits constituting the fund and the balance from the moneys collected annually in the fund.

C. The Office of the Common Interest Community Ombudsman shall:

- 1. Assist members in understanding their rights and the processes available to them according to the laws and regulations governing common interest communities;*
- 2. Answer inquiries from members and other citizens by telephone, mail, electronic mail, and in person;*
- 3. Provide to members and other citizens information concerning common interest communities upon request;*
- 4. Make available, either separately or through an existing Internet website utilized by the Director, information as set forth in subdivision 3 and such additional information as may be deemed appropriate;*
- 5. Receive the notices of final adverse decisions;*
- 6. In conjunction with complaint and inquiry data maintained by the Director, maintain data on inquiries received, the types of assistance requested, notices of final adverse decisions received, any actions taken, and the disposition of each such matter;*
- 7. Upon request, assist members in understanding the rights and processes available under the laws and regulations governing common interest communities and provide referrals to public and private agencies offering alternative dispute resolution services, with a goal of reducing and resolving conflicts among associations and their members;*

8. *Ensure that members have access to the services provided through the Office of the Common Interest Community Ombudsman and that the members receive timely responses from the representatives of the Office of the Common Interest Community Ombudsman to the inquiries;*

9. *Upon request to the Director by (i) any of the standing committees of the General Assembly having jurisdiction over common interest communities or (ii) the Housing Commission, provide to the Director for dissemination to the requesting parties assessments of proposed and existing common interest community laws and other studies of common interest community issues;*

10. *Monitor changes in federal and state laws relating to common interest communities;*

11. *Provide information to the Director that will permit the Director to report annually on the activities of the Office of the Common Interest Community Ombudsman to the standing committees of the General Assembly having jurisdiction over common interest communities and to the Housing Commission. The Director's report shall be filed by December 1 of each year, and shall include a summary of significant new developments in federal and state laws relating to common interest communities each year; and*

12. *Carry out activities as the Board determines to be appropriate.*

D. The Board may use the remainder of the interest earned on the balance of the fund and of the moneys collected annually and deposited in the fund for financing or promoting the following:

1. *Information and research in the field of common interest community management and operation;*

2. *Expedient and inexpensive procedures for resolving complaints about an association from members of the association or other citizens;*

3. *Seminars and educational programs designed to address topics of concern to community associations; and*

4. *Other programs deemed necessary and proper to accomplish the purpose of this chapter.*

E. The Board shall establish by regulation a requirement that each association shall establish reasonable procedures for the resolution of written complaints from the members of the association and other citizens. Each association shall adhere to the written procedures established pursuant to this subsection when resolving association member and citizen complaints. The procedures shall include but not be limited to the following:

1. *A record of each complaint shall be maintained for no less than one year after the association acts upon the complaint.*

2. Such association shall provide complaint forms or written procedures to be given to persons who wish to register written complaints. The forms or procedures shall include the address and telephone number of the association or its common interest community manager to which complaints shall be directed and the mailing address, telephone number, and electronic mail address of the Office of the Common Interest Community Ombudsman. The forms and written procedures shall include a clear and understandable description of the complainant's right to give notice of adverse decisions pursuant to this section.

F. A complainant may give notice to the Board of any final adverse decision in accordance with regulations promulgated by the Board. The notice shall be filed within 30 days of the final adverse decision, shall be in writing on forms prescribed by the Board, shall include copies of all records pertinent to the decision, and shall be accompanied by a \$25 filing fee. The fee shall be collected by the Director and paid directly into the state treasury and credited to the Common Interest Community Management Information Fund, § 55-530.1. The 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 member. The Director shall provide a copy of the written notice to the association that made the final adverse decision.

G. The Director or his designee may request additional information concerning any notice of final adverse decision from the association that made the final adverse decision. The association shall provide such information to the Director within a reasonable time upon request. If the Director upon review determines that the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the Board, the Director may, in his sole discretion, provide the complainant and the association with information concerning such laws or regulations governing common interest communities or interpretations thereof by the Board. The determination of whether the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the Board shall be a matter within the sole discretion of the Director, whose decision is final and not subject to further review. The determination of the Director shall not be binding upon the complainant or the association that made the final adverse decision.

H. The Board shall issue a certificate of filing to each association which has properly filed in accordance with this title. The certificate shall include the date of registration and a unique registration number assigned by the Board.

I. The Board may prescribe regulations which shall be adopted, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) to accomplish the purpose of this chapter.