

# 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 2024-2025



Department of Professional and Occupational Regulation

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# **PREFACE**

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The Office of the Common Interest Community Ombudsman prepared the report contained herein pursuant to § 54.1-2354.3 of the Code of Virginia of 1950 (“Va. Code”).

This annual report documents the activities of the Office of the Common Interest Community Ombudsman for the reporting period covering November 1, 2024, through October 31, 2025.

**Office of the Common Interest Community Ombudsman**

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## EXECUTIVE SUMMARY

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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 1, 2024, through October 31, 2025.

This year, the Office assisted citizens with an unusually high number of complaints and advised on an increased number of inquiries. Likewise, there was a significant increase in the filing of Notices of Final Adverse Decision (NFAD). Our Office continues to field a high volume of emails and phone calls. Each inquiry receives careful attention, as most require thorough review, detailed research, and meaningful discussions to ensure that every concern is addressed with the highest level of service.

Like past years, several associations have not adopted association complaint procedures and to respond to submitted association complaints in a manner that fully complies with the Common Interest Community Ombudsman Regulations (Regulations) that were adopted in 2012. As a result, the Office dedicates significant resources to aiding and encouraging associations to obtain compliance and implement a proper complaint process that ensures association members know how to file complaints with their associations and when to expect to receive decisions by their association Boards.

Establishing a proper complaint process is a straightforward and achievable task. Any association, whether professionally managed or self-managed can successfully carry out the required steps and provide members with a fair and transparent process. The complaint process components are straightforward. First, the association must establish a complaint form and a submission process in accordance with the regulatory guidance. Once those are shared with the association members, the complaint process requires three actions from the association: (1) acknowledge receipt of a complaint within seven days of receiving a properly submitted association complaint; (2) provide the complainant with the notice of the date, time, and location that the matter will be considered by the association; and (3) provide a final decision on the complaint that comports with regulatory requirements. The Office, as it has in past years, offers explanations and resources to associations and their members regarding the complaint process and the expectations placed on an association by the Common Interest Community Ombudsman Regulations (“CICO Regulations”), specifically at 18 Virginia Administrative Code (“Va. Admin. Code”) § 48-70-50.

Another common occurrence is that many association NFADs do not comply with regulations. Typically, these noncompliant NFADs omit multiple required components of an NFAD as specified in the regulations, such as: (1) Date of issuance; (2) Specific citations to applicable association governing documents, laws or regulations that support the final determination; (3) The

association's registration number; (4) The name and license number of the common interest community manager, if applicable; (5) The complainant's right to file a Notice of Final Adverse Decision with this Office; and (6) The necessary contact information of this Office. CICO Regulations, 18 Va. Admin. Code § 48-70-50. A properly drafted NFAD could reduce the growing numbers of complaints to the office. It could also satisfy some complainants or inform them that they do not have a common interest community complaint.

This past year, the Office did not refer any matter to the Common Interest Community Board (CICB) for enforcement. The Office referred three cases for investigation, but those matters were resolved without any further action. However, DPOR remained engaged in enforcement efforts regarding CIC communities. Acting on regulatory complaints, multiple staff members from the Agency's Investigations Section conducted detailed investigations that resulted in two property management companies – Rosewood Management and Tagare Corporation – being placed in receiverships with local circuit courts. In each case, DPOR's Investigation Section worked with the Office of the Attorney General to successfully petition the courts to place the management companies into receivership.

## **OMBUDSMAN REGULATIONS & ROLE OF OFFICE**

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The CICO Regulations, enacted in 2012, require community associations to establish an internal association complaint procedure. The statutory framework for complaint processing, established by the legislature when the Office and CICB were initially formed, generally provides for the Office to accept and review only "Notices of Final Adverse Decision," not new or direct complaints from association members or owners.

Notices of Final Adverse Decision, as described in Va. Code § 54.1-2354.4 and the Regulations, are appropriate only after an owner or citizen submits a complaint to an association through the mandatory association complaint procedure and then receives the association's decision on that complaint. Complaints subject to review by the Ombudsman are restricted by law and regulation to allegations of violations of common interest community law or regulations.

Upon receipt of an eligible complaint from an association member or owner—meaning the complaint is appropriate for the complaint procedure and was submitted in accordance with the association's internal complaint process—the association board is required to provide a final decision to the complainant. If that final decision is "adverse" or contrary to whatever action or outcome the complainant sought, the complainant may *then* submit a NFAD to the Office for review by the Ombudsman (along with the statutorily mandated \$25 filing fee or a fee waiver request).

If a complainant fails to receive a response from the association in a reasonable timeframe, or if an individual requests a copy of the association's complaint procedure and the association fails to provide one (either because it has not adopted a complaint process or because it is simply being nonresponsive), a complaint alleging either of these regulatory violations may be

submitted directly to the Office using a form specific for that purpose. The Office will then follow up with the association to ensure that it adheres to the requirements for responding to complaints, adopting a complaint procedure, or making the complaint process readily available.

## OFFICE ACTIVITIES

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### Constituent Response Statistics

During the 2024-2025 reporting period, the Office responded to 834 telephone calls and 2,738 email messages. The Office's goal is to respond as quickly as reasonably possible to all inquiries, and every effort is made to provide a response within 24 hours to any phone call or email. The Office was unable to fully meet this goal during the reporting year, due to the absence of an Ombudsman and during periods when its sole support staff member was unavailable. The Office did, however, work through its backlog once it returned to being fully staffed. Each time, the Office recovered promptly to respond to nearly all inquiries within one business day.

The number of phone calls, emails, and complaints received by the Office are substantial. The number of contacts was slightly higher than those of last year. The increase in emails is a conscious effort by the Office, as citizens' emails often provide more information than voicemails or calls, thus providing staff with sufficient time to research the initial issues raised. This enables subsequent discussions, whether by phone or email, to be more productive. Overall, the number of citizen contacts remains significantly high. This provides valuable opportunities for the Office's staff to connect with residents and address important issues with care and dedication, but this level of engagement limits available time for other tasks .

Most notable is the number of NFADs (87) received by the Office this year, compared to the 69 NFAD submissions last year. The NFADs subjects included the normal issues about meetings, access to records, and communications. But the Office was also presented with an increase in complaints about elections of the boards of directors, reserve studies, and the ability to borrow. There was a particularly troubling complaint that involved a board member's application for a PPP loan resulting in a civil investigative demand by the U.S. Department of Justice that led to a six-figure penalty being assessed against an association. In addition, a less significant concern was noted and addressed in which an association seemed to not recognize its ability to prohibit its contracted grounds maintenance service from dumping collected leaves in parts of the association. Once again, there were several instances of boards not issuing their final decisions in the appropriate format as called for by statutes and regulations.

The Office's Administrative Coordinator continues to conduct the initial review and response to most of the phone calls and emails that come into the Office (other than those that come directly to the Ombudsman). Whenever necessary, the Office staff collaborate to provide citizens with responses. Further, the CICO Administrative Coordinator assists with carrying out our efforts to bring associations into compliance when they have failed to respond to an association complaint or have not adopted an association complaint procedure. The Ombudsman and interim Ombudsman continue to be responsible for reviewing and responding to NFADs.

Due to the legislation passed in recent years, several new requirements have been codified that impact the Office. Changes to Va. Code §54.1-2354.3 and §54.1-2354.4 of the Code of Virginia allow, but do not require, the Ombudsman to refer NFADs directly to the Common Interest

Community Board (CICB). To maintain continuity, the Ombudsman has not referred any NFADs to the CICB over this past year. New changes also require the Office to provide its determinations to both the governing board and the association's common interest community manager, if applicable. This continues to be a challenging task because the Agency does not always have contact information for both. This issue has, though, been somewhat addressed by the updated Annual Report and Registration Application forms that specifically request such information. Another recent statutory change that requires the Ombudsman to refer a subsequent NFAD to the CICB if, within 365 days of issuing a determination that an association was in violation of common interest community law or regulation, the Ombudsman receives a subsequent NFAD for the same violation. The Office did not have such a situation occur this year, but we note that a recent statutory change requires the Office to maintain data on referrals made to the CICB.

Virtual meetings continue to be an issue for owners and associations, with the Office receiving many inquiries regarding associations that choose to hold virtual rather than in-person meetings. As discussed last year, this creates a bit of a conundrum since associations can, under current common interest community law,<sup>1</sup> hold meetings that are either fully or partially held by electronic means. If an association chooses to hold a meeting fully electronically, such decision can preclude any form of in-person meeting. Based on our anecdotal information, meetings held via electronic methods seem to be better attended since it is often easier for an owner to appear virtually than it is to appear physically at a meeting, and meetings seem to be held more frequently and regularly.

## **Complaint Statistics**

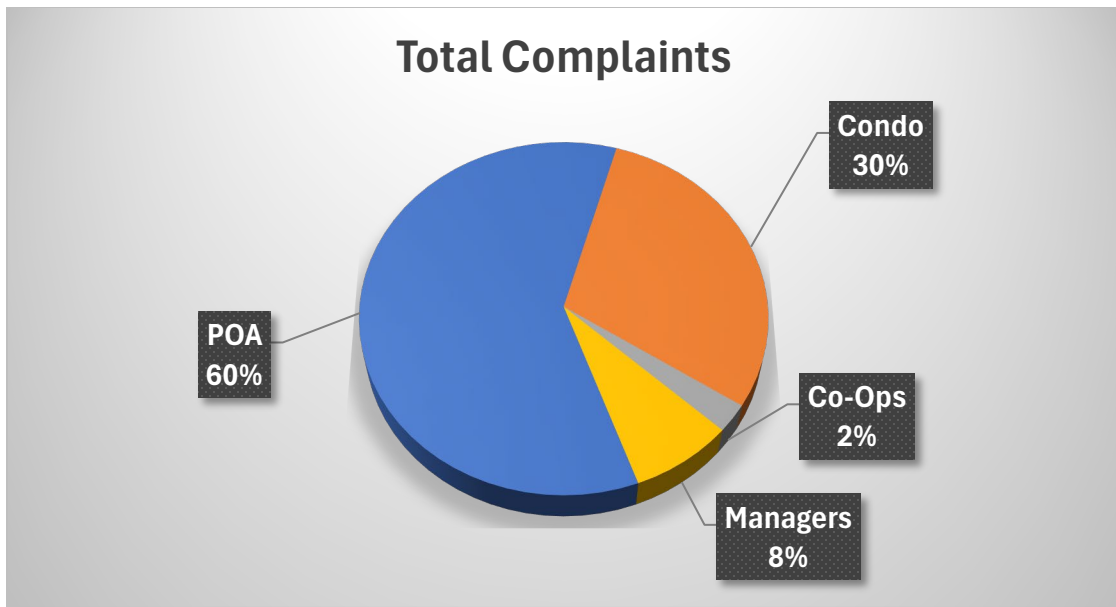
In the 2024-2025 reporting cycle, the Office experienced almost double the number of complaints than last year, receiving 310 complaints.<sup>2</sup> This is an 81 percent increase over the 171 complaints received in the previous year. The breakdown of the 310 complaints is as follows: 161 from Northern Virginia; 74 from Tidewater; 57 from Central Virginia, and 18 from Southwest Virginia.

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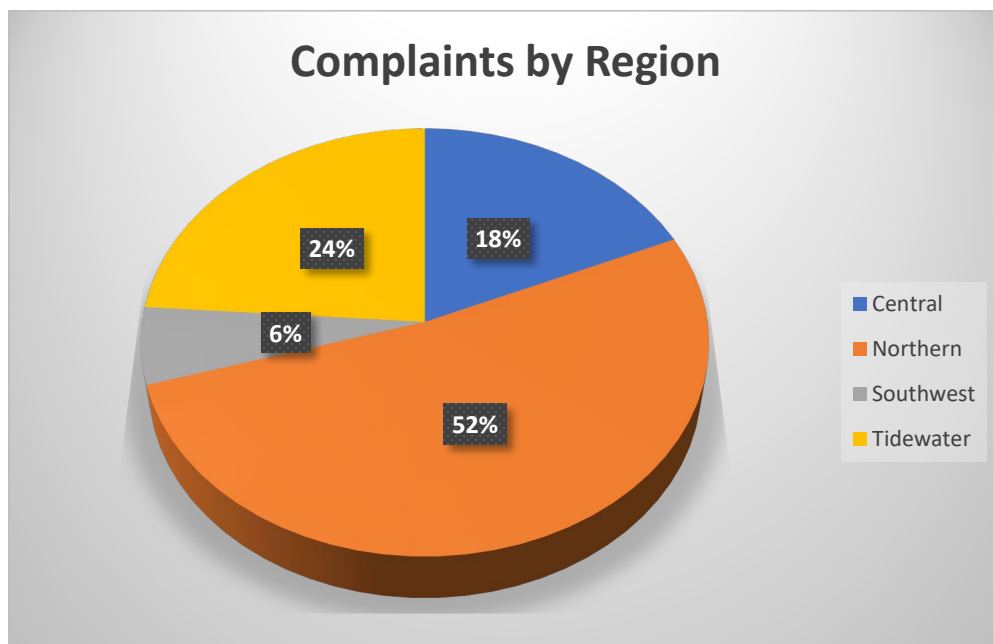
<sup>1</sup> Any meeting of the association, the board of directors, or any committee may be held entirely or partially by electronic means, provided that the board of directors has adopted guidelines for the use of electronic means for such meetings. Such guidelines shall ensure that persons accessing such meetings are authorized to do so and that persons entitled to participate in such meetings have an opportunity to do so. The board of directors shall determine whether any such meeting may be held entirely or partially by electronic means.

<sup>2</sup> As used in this Annual Report, the term "complaints" includes Notices of Final Adverse Decisions (NFADs); complaints related to an association failure to adopt a complaint procedure or respond to a submitted complaint; and complaints that have been improperly submitted directly to the Office when they should have been submitted through an association's internal complaint process.



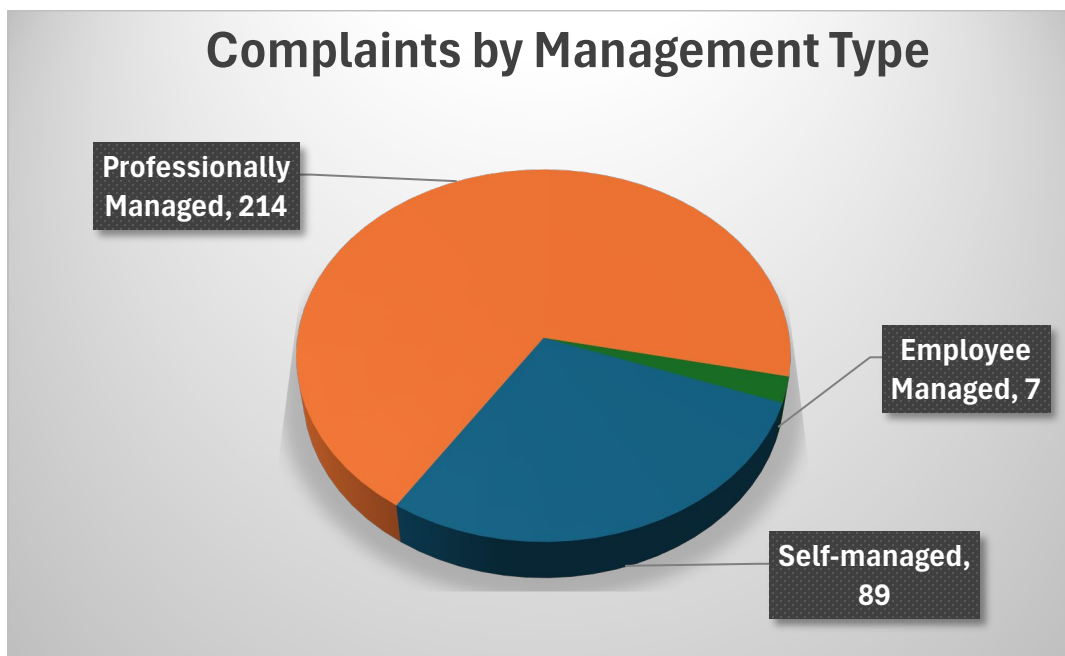


Again, this year, a vast majority of the complaints (90%) focused on issues at either condominiums or property owners' associations. Likewise, slightly over half of the complaints originated from the Northern Virginia region, which has been the case for three consecutive years. The number of cases from both the Tidewater and Central Virginia regions increased this year compared to last year (196% and 119%, respectively). There was a slight decrease in complaints from the Southwest Virginia region over last year (-10%).



## Management Type

As for the breakdown by management type, professionally managed associations were the source of the most complaints received by the Office. Self-managed properties ranked second in this category. Notably, the Office only received seven complaints from associations that are employee managed.

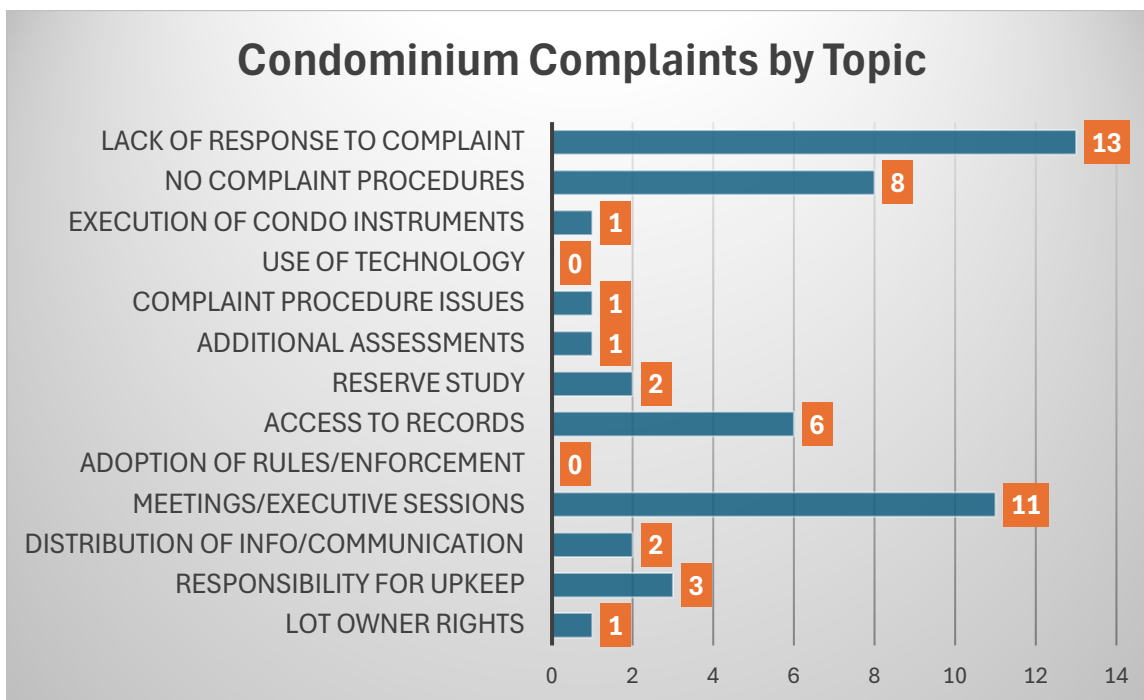


The Office continues to receive a significant number of complaints outside of its jurisdiction, especially regarding issues with boards exceeding or ignoring their powers under their governing documents, discrimination, civil issues over property damage, etc. Although the Office is limited in the guidance it can provide for matters outside of its authority, it is committed to providing excellent constituent services by providing information to complainants that may assist the citizens. Where appropriate, the Office refers allegations of discrimination to the appropriate government agency with jurisdiction over those matters. Similarly, the Office will also direct citizens to consult attorneys for matters that appear to be civil or their local Commonwealth's Attorney if an issue is criminal in nature.

## Condominium Complaints

Of the 310 complaints received by the Office this year, 49 were related to condominiums. The primary topics raised in these complaints were complaint procedure issues, meetings and executive sessions, access to books and records, responsibility for upkeep, and methods of

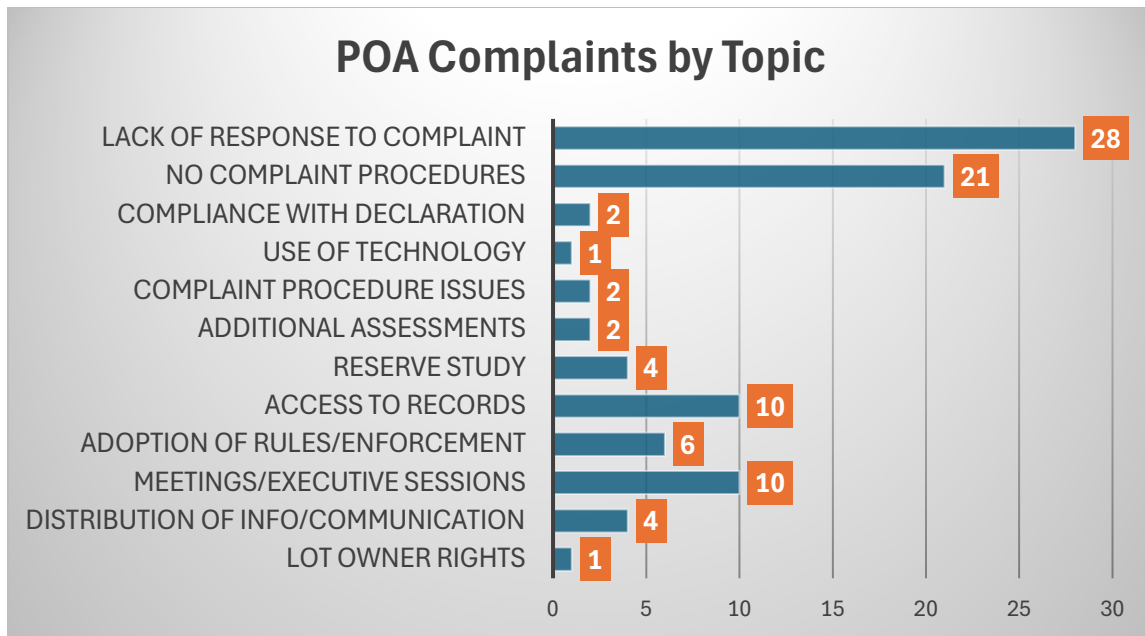
communication. There were a variety of topics raised in the Miscellaneous – NFAD category, including issues with governing documents, and amending the declaration, among others.



The most often raised topics in complaints involving condominiums were the lack of a complaint procedure and the failure to respond to a complaint. If an association fails to respond to a submitted complaint, that means the association has a complaint procedure in place but has failed to adhere to it. There will certainly be occasions when a complaint is improperly submitted. Based on the complaints the Office received, however, there are many instances where condominium associations are simply not carrying out their responsibilities under the Regulations and their own complaint process. Unlike property owners' associations, most condominium associations are professionally managed. So, whether establishing a proper complaint process or responding appropriately to a complaint, a knowledgeable common interest community manager should have no difficulty helping an association navigate the requirements of the CIC Regulations.

### Property Owners' Association Complaints

There were 91 complaints filed against Property Owner Associations (POA) with the Office. These complaints spanned a wide range of topics. The largest grouping of complaints was related to an association's failure to adopt a complaint procedure and failure to respond to a submitted association complaint. As with condominiums, the goal is stronger compliance with the CIC Regulations, thus leading to fewer of these types of complaints.

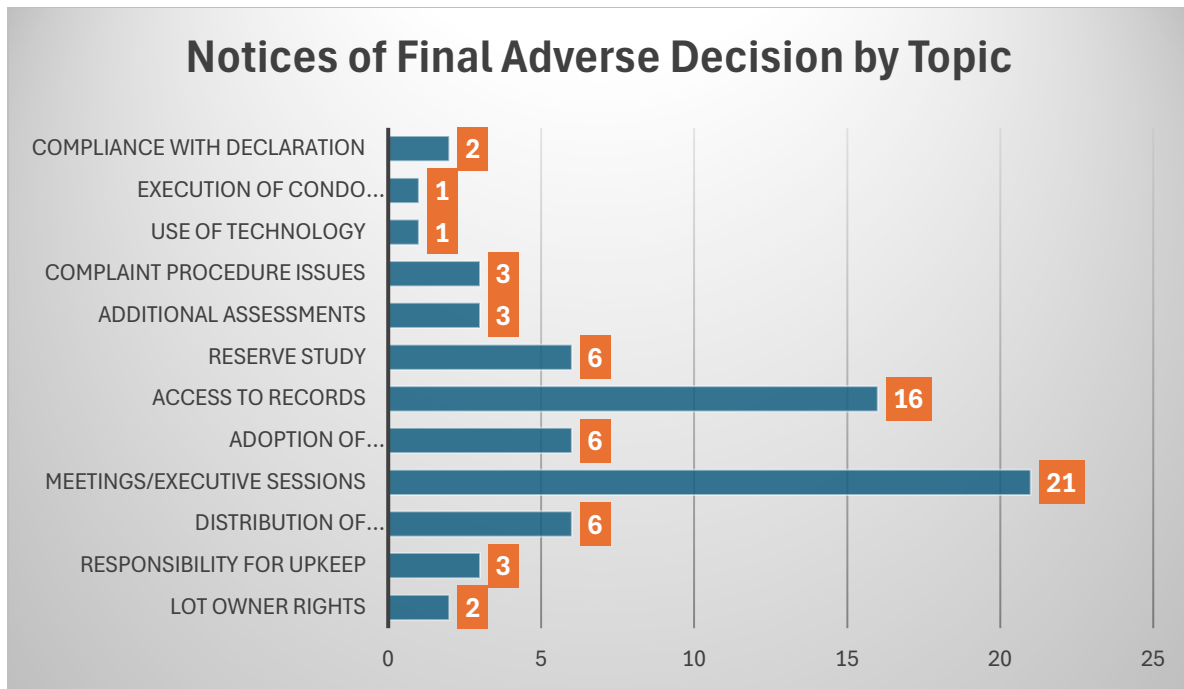


The Office is continuing with its efforts to make it easier for owners and members to understand the limits of our authority. Despite our efforts, a large number of complainants express frustration with the Office's limited authority for issues related to violations of the association's governing documents, civil or criminal law issues, or violations of the Virginia Nonstock Corporation Act. This is true for condominium complainants as well.

## Ombudsman Determinations

This year the Office received 87 Notices of Final Adverse Decision (NFADs), which is up 18 from last year's total of 69. As noted in prior reports, most of these NFADs asserted more than a single issue or topic. Thus, each NFAD often presented multiple issues for the Office to review and conclude whether a determination must be issued. Of those 87 NFAD submissions, 46 were appropriate for the Office to issue NFAD determinations.

As was the case with the previous reporting year, access to association books and records made up the largest number of complaints (excluding miscellaneous complaints on various topics) while issues related to notice and executive sessions again were second. While the number of complaints about assessments and enforcement fell, we saw slight increases in the number of complaints about reserves and methods of communication. There were new topics such as voting issues. Among the miscellaneous NFAD topics, we saw issues related to insurance policies, fiduciary duties of board members, reserve studies, governing documents, landscaping, and additional assessments and the power to borrow.



The leading two issues of complaints this year are both in which the statutory provisions are quite clear: meetings and notice of meetings and access to records. It is very rare that an association does not have to conduct business in an open meeting with notice provided to the association members. Similarly, unless the statutes provide otherwise, a board should not fail to provide owners in good standing with access to the books and records of the association. It is a hallmark of good governance of a community that its business is conducted in the sunshine, not the shadows. Therefore, withholding such information from their members in clear contravention to the applicable common interest community laws often leads to further issues.

Another hallmark of good governance is providing association members with proper notice of meetings and adhering to the statutory requirements for executive sessions. Owners often misunderstand notice requirements, since they can easily confuse the difference between notice of member/owner meetings and notice of board meetings. Improperly held executive sessions should not be a common complaint, as the applicable statutes set forth the precise requirements and acceptable reasons for holding an executive session.

As in years past, the Office had to reject several NFADs because they were not submitted in a timely manner, or the necessary documentation was not included. Under the statute and regulations that govern the NFAD complaint process, an NFAD must be filed with the Office in a timely fashion, meaning it must be received by the Office within 30 days of the date of the final decision issued by the association. Unfortunately, complainants often wait until the last minute to submit their NFAD, and the Office receives it a day or a few days past the deadline. Since the 30-day period is a statutory requirement, the Office is unable to provide additional time for the constituent, regardless of the facts surrounding the reason for the late submission. Another timeliness issue that we see regularly are NFADs received in the last days before the statutory deadline but that are submitted improperly, lack a required document, or the filing fee. Although

the Office performs an initial review of NFAD complaints as quickly as practical, there is not always sufficient time to review a submission to ensure that it is complete before the 30-day statutory deadline expires. Staff overcame significant challenges this year as the Office adapted to the departure of the CIC Ombudsman in January 2025. With the interim Ombudsman balancing responsibilities across two positions, the Office maintained operations and continued to serve citizens effectively. Moreover, as referenced above, this effort was further compounded by a very high complaint load, not to mention the increased volume of constituent contacts and complaints received by the Office.

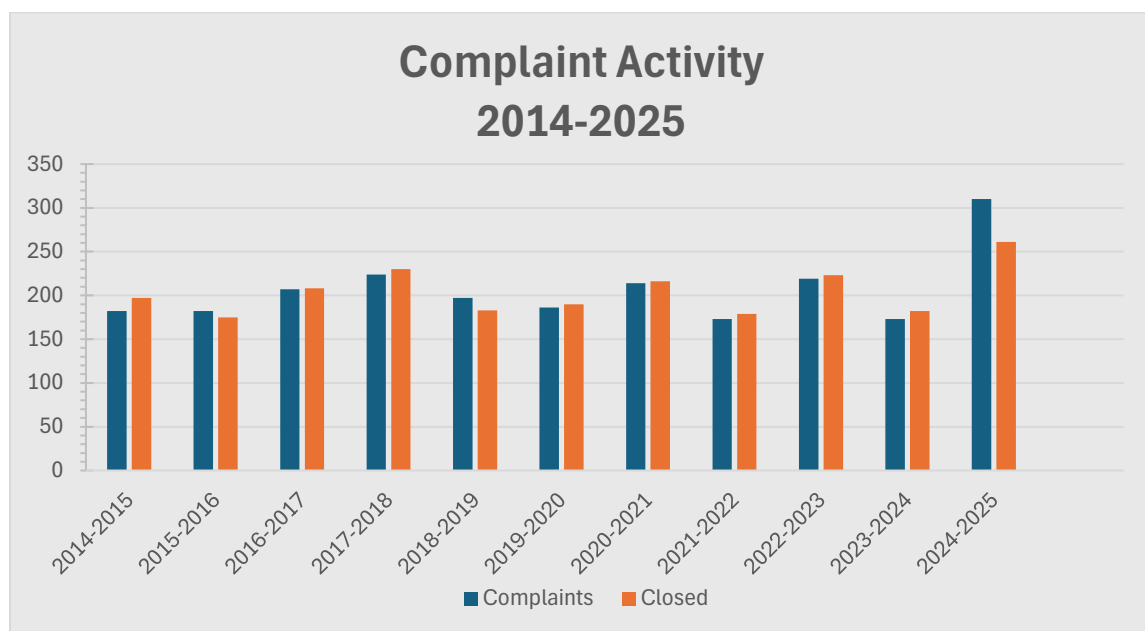
Another challenge faced by the Office is that it receives NFADs that seek to have a ruling on whether their board of directors have violated the association's governing documents, not the applicable CIC laws and regulations. While certain requests that fall outside the Office's jurisdiction are a source of frustration for association members, especially those who cannot seek to challenge their association's actions in a court of law, they highlight the importance of established procedures and communication between associations and their members. As in previous years, the Office continues to receive NFAD complaints that do not allege violations of common interest community laws or regulations but instead ask whether associations have complied with their governing documents. Although this determination is beyond the Office's authority, these inquiries reinforce the Office's value in guiding communities toward proper processes and resources.

The Office continues to post Determinations issued by the Ombudsman as a resource for owners and citizens who may wish to file NFADs, or who are interested in learning more about similar issues. The published Determinations are listed by association name and subject matter at <http://www.dpor.virginia.gov/CIC-Ombudsman/Determinations>. Further, during this reporting year, the Office is providing detailed references to both the nature of the complaint(s) in each NFAD determination and the statutory or regulatory citation for such complaint(s). We continue to maintain the Determination database searchable to provide the public with the ability to search on specific topics. Most determinations are posted within a week, and often much sooner.

## CONSTITUENT SERVICES

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Reflecting the trust that citizens place in the Office to address their concerns and perhaps the otherwise limited avenues of redress, the Office received a significant increase in the number of complaints, phone calls, and emails this year. Those numbers remain higher than average since the Office was created and the Common Interest Community Ombudsman Regulations (Regulations) were adopted. Phone calls and emails covered a wide range of topics, including complaint processes, access to books and records, meeting notices, resale certificates (remaining higher than normal after the introduction of the new Resale Disclosure Act in July 2023), and methods of communication.

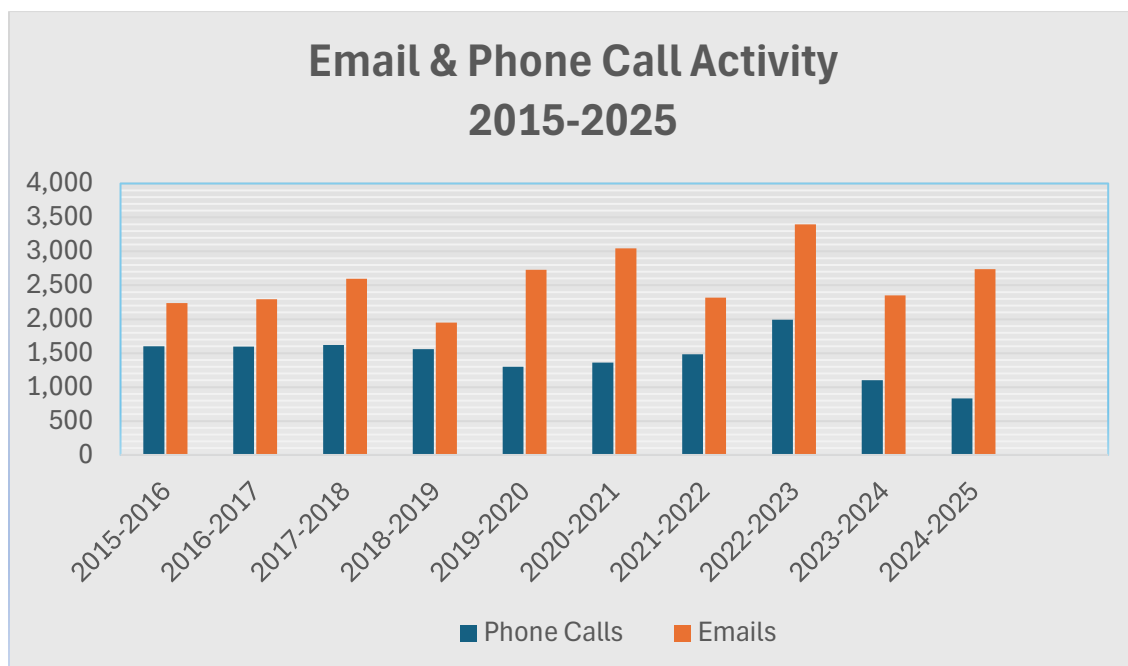


\*2020-2021 is the first full year the Office ceased its review of time-shares and focused solely on common interest communities.

This year was very similar to the prior reporting year, except for one noticeable exception. After filling the vacancy left by the retirement of the Office's first Ombudsman in December 2023, the most recent Ombudsman left the Agency in January 2025, for another position. The prolonged Ombudsman vacancy was necessary to allow the Agency to address internal issues. In the early part of the year, Office productivity was impacted as staff dedicated significant effort to supporting the Agency's project to upgrade its operational software. These factors were offset by the Administrative Coordinator's continued growth and experience, which strengthened the Office's capacity to serve the public. As in prior years, some citizens remain highly energized by the issues they raise, resulting in extensive communications with the parties to complaints. While these interactions can be demanding, they also reflect the Office's commitment to ensuring that concerns are heard and addressed thoroughly.

## Email and Phone Call Statistics

Contacts with the Office increased again this year. In many cases, phone calls are lengthy and can easily exceed fifteen to thirty minutes. It is not unusual to have hour-long conversations. Emails often take considerable time for response since we often must research the topic or track prior emails to pinpoint the concerns of the constituent. We continue to find that the Office invests about 20 minutes per email response; and utilizing these quantitative measures, it becomes apparent that a significant amount of the Office's time is consumed by responding to citizen contacts. Because common interest community laws provide the Office with little latitude to respond to many inquiries and complaints since we cannot interpret governing documents of an association or provide information that could be construed as legal advice, several constituents become frustrated by their interactions with the Office. There are, however, rewarding instances in which the Office is able to engage with constituents in a manner that leads to positive outcomes.



One topic that continues to require significant time to explain to associations and constituents is the association complaint process required by the Common Interest Community Ombudsman Regulations. In doing so, our goal is to assist associations understanding the process so that they can comply with the Regulations. In particular, the Office instructs community members, managers, and governing bodies on the requirements of the process and review of draft complaint procedures. Likewise, the Office offers guidance to constituents so they understand the process for filing a complaint through their own association's complaint procedure. As noted by the large numbers in our annual statistics, the number of associations that either have failed to adopt a complaint procedure or have failed to respond to a submitted association complaint



is significant. Therefore, the Office continues to devote a significant amount of time to assisting these associations in complying with their regulatory obligations.

The Office is committed to providing excellent guidance to constituents and meeting its responsibilities under the law that created it. The Office has returned to responding to email and phone inquiries within a day in most cases. As noted in last year's Annual Report, the Agency had embarked on a project to update its operational software, as the existing systems are nearly two decades old.

This operational software update was terminated in the spring of 2025; however, the Agency remains committed to upgrading its systems. Agency staff are currently working on projects that may offer promising upgrades that will serve as intermediate solutions that will offer efficiencies over our legacy software systems.

## **EDUCATION & OUTREACH**

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The CIC Ombudsman did not participate in any outreach events this year. This was due to the Ombudsman position being vacant for an extended period this reporting year. Nevertheless, the Office continues to focus on updating its website to make it easier for constituents to find information that explains the Office's jurisdiction, as well as how to complete and submit a complaint or file an NFAD. Moreover, the Office's personnel were deeply involved in the Agency's effort to implement new operational software that was intended to replace and improve its legacy systems until that project was terminated. The Office, with assistance from DPOR staff, worked to increase the library of digitized determinations available on its website for the public in a searchable format so the Office's Determinations on the laws that govern common interest communities are more accessible.

As of date of this report, the Office's recruitment effort to select a new Ombudsman is underway. Once selected, the new Ombudsman will continue to work on the Office's goals for education and outreach, including the creation of a newsletter to help educate constituents on the law and issues arising in associations and this office, creating teaching videos, seminars, a strengthened FAQ section, and possibly some form of online forum for questions and answers.

The Ombudsman has always served and will continue to serve as a resource for DPOR and the public by providing guidance related to common interest communities and common interest community law when there are investigations or questions related to CIC Managers and community associations.

## **THE VIRGINIA RESALE DISCLOSURE ACT**

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Chapter 23.1 in Title 55.1 of the Code of Virginia

(<https://law.lis.virginia.gov/vacode/title55.1/chapter23.1/>) aka the “Resale Disclosure Act” became law in 2023. This is a single set of laws that will govern all resale disclosures for property owners’ associations, condominium associations, and real estate cooperatives. This new legislation brings all the disclosure requirements into a single act and standardizes nearly every aspect of disclosure. The act follows prior legislation related to resale disclosure but adds substantial changes as well.

The Resale Disclosure Act has generated numerous questions from owners, buyers, sellers, real estate agents, board members, and CIC managers seeking clarification of the Act. As noted below, two bills passed this year that clarify the Act’s requirements.

## LEGAL DEVELOPMENTS

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### State Legislation

There were several bills related to common interest communities filed at the General Assembly in 2025, and the following bills that have substantial impact on common interest communities were enacted by the General Assembly and took effect on July 1, 2025.

Bill No.	Patron	Description
HB 1704/ SB 808	D. Bulova/ C. Craig	<b>Resale Disclosure Act; resale certificate, responsibility for payment of insurance deductible:</b>  This bill amends Va. Code § 55.1-2310 known as the Resale Disclosure Act enacted in 2023 (HB 2235 & SB 1222). This legislation requires that resale certificates include statements that make clear whether the association’s governing documents may require the owner making a claim under insurance coverage provided by association for all or part of the deductible of such insurance coverage.
HB 2110	M. Simon	<b>Resale Disclosure Act; resale certificate, prohibition on requiring purchaser’s name:</b>  HB2110 amends Va. Code § 55.1-2310 to prohibit associations from requiring the name of purchaser prior to preparing a resale certificate or on the prepared resale certificate.
HB 2750	D. Oates	<b>Common interest communities; termination of certain management contracts:</b>  This bill amends Va. Code § 54.1-2353 to specify that CIC managers shall transfer and release all funds and close all bank accounts within a reasonable time after the termination of the management contract. Further, an amendment in the Property Owners’ Association Act, at Va. Code § 55.1-1837 and in the Virginia Condominium Act, at Va. Code § 55.1-1940.1, expressly prohibits CIC managers whose contracts include

		automatic renewal clauses from charging any penalties if the association cancels the contracts with not less than 60 days' notice.
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## Virginia Court Cases

This past year, there were several cases related to common interest communities, many of which may have a lasting impact on associations. Some of which are as follows:

### **George Schiano, et al. v. Falkland Farm Estates Homeowners' Association, Inc.** **Unpublished opinion; Court of Appeals of Virginia. (September 2025).**

The Petitioners sought to overturn a jury verdict for unpaid assessments of \$2,900 and an award of attorney's fees in the amount of \$140,005.53 from the Prince William Circuit Court. The dispute arose under Petitioners' assertion that their lot was not subject to the provisions of the Association's governing documents, apparently relying on the vague terms describing an exempt parcel. The trial court found, and the Court of Appeals upheld, that the Petitioners' lot was part of the association. In doing so, the Court noted that an association's power is "contractual in nature" and is based on the governing documents that "all unit owners subjected themselves to in purchasing their lots." Moreover, although the Association allowed its corporate status with the State Corporation Commission to lapse for several years, the association had reincorporated before the Petitioners failed to pay their assessments. Therefore, the reincorporated Association did have standing to sue for the unpaid assessments. And because the governing documents contained provisions for the award of attorney's fees in actions to uphold the governing documents, the award of attorney's fees was likewise upheld.

### **Catoctin Ridge Homeowners' Association v. George Biller** **Court of Appeals of Virginia, Loudoun County, March 2025.**

This is an appeal from Loudoun County Circuit Court where the Appellant Association challenged the trial court's ruling that the deed of development that created the association did not grant a right of easement to adjacent lots outside of the association. The Association argued that under the common law stranger rule, which provides reservations or exceptions in favor to a stranger of an instrument but not any right or interest in the conveyed property, Biller did not have a right to continue to use what Biller contended was an easement of access. The Court of Appeals held that Biller that the deed of declaration expressly granted the access easement to the owner of Biller's lot. Biller's crossclaim for attorney's fees, however, was denied because he failed to include in his responsive pleading a claim for an award of attorney's fees.

**Becker Building Company, LLC, et al. v. Scott W. Keller, et al**  
**Unpublished, Court of Appeals of Virginia, Fauquier County, April 2025**

In a case that involved multiple sales and subdividing of several parcels in Fauquier County, the Court held that an express easement that granted two subdivided parcels access to the fronting highway was not extinguished by the doctrine of merger. The Appellant had asserted that because all the affected parcels, at one point in time were subject to common ownership, the road created by the express easement was extinguished. The Court, in rejecting this contention, noted that such express easements were not subject to extinguishment, and that the Appellants' reliance on the Property Owners' Association Act did not abrogate the common law rule that such easements are not exempt from the doctrine of merger.

**Norfolk Southern Railway Company v. State Corporation Commission, et al.**  
**Supreme Court of Virginia, May 2025**

Although this ruling does not directly deal with common interest community laws, it may nonetheless have an impact on some communities throughout the Commonwealth. In 2023, the General Assembly enacted a statute that allows broadband service providers to install fiber optic cables across railroad property, including railroad tracks, bridges, and all rights of way or easements. The Appellant filed a petition with the State Corporation Commission (SCC) that challenged the constitutionality of the statute, asserting that it was a taking of its property for a nonpublic use. The SCC rejected the petition, and the Appellant appealed. The Supreme Court of Virginia overruled the SCC's ruling, and held that because the broadband service provider, Cox Cable, was a private, for-profit entity and not a government entity, public service entity whose product was not for "public use" under the law, such installation would amount to a taking of the Appellant's property for a nonpublic use.

## **NEWS OF INTEREST**

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The Ombudsman tracks articles related to Virginia common interest communities to stay abreast of issues and concerns that may impact the Office or are generally noteworthy due to their subject matter. The following are some of the items gleaned from media reports over the past year which may be of interest to stakeholders:

The Common Interest Community Board ("CICB") revised the Common Interest Community Ombudsman regulations to update requirements and rights under the complaint review process. In particular, the CICB regulations were amended to provide that an association's notice of final determination be dated on the date that it is issued, to clarify that the CIC Ombudsman can only has jurisdiction to review whether the association's final decision complies with applicable CIC laws and regulations, and that association final determinations must include information about

an appeal process, if available, or that no appeal process is available and the determination is final. There are other technical amendments as well. These regulations went into effect on August 1, 2025, and more information about these regulatory changes can be found on the Virginia Town Hall website, at <https://townhall.virginia.gov/L/viewstage.cfm?stageid=10745> (last visited November 17, 2025).

The federal government shutdown may affect home purchases in Tidewater Virginia and other areas where flood insurance is required, as reported by a local public radio station. This is because flood insurance issued by the National Flood Insurance Program, a federal agency, may not be able to issue policies during the federal government shutdown. Traditional homeowners' insurance does not cover flood damage, and most buyers using federally-backed mortgages for properties in affected areas in 100-year floodplain must have flood insurance. Nearly a third of the land area in Norfolk, Portsmouth, and Virginia Beach are located within such areas. From WHRO, by Katherine Hafner, October 8, 2025.

In a blog published on its website, Virginia Realtors published an article on homeowner trends to watch in 2025. Among the topics covered is homeownership growth in Virginia and other trends such as ownership by race ethnicity and age. From Virginia Realtors blog, Published Jun 2, 2025.

At the time this story was published, a Virginia legislator was considering whether to file legislation that would prohibit large investors from buying single family homes in Virginia. The Virginia legislator stated that large investment firms drive up home prices and comparables for surrounding properties. Their participation in the housing market hampers the free market and results in higher home prices for families. The legislator proposed legislation in 2024 to address this issue, but it failed. The article also noted a Federal Reserve Bank of Richmond study that found that Virginia's activity is mostly from small-scale investors and that approximately 6% of single-family homes in Virginia are owned by investors, with more than half owned by small-scale (10 or fewer homes owned) investors. Virginia Public Media/WHRO, by Ryan Murphy, January 14, 2025.

## **STATUTORY AUTHORITY**

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### **§ 54.1-2354.3. Common Interest Community Ombudsman; appointment; powers and duties**

A. 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 Office). The Ombudsman shall be a member in good standing in the Virginia State Bar. All state agencies shall assist and cooperate with the Office in the performance of its duties under this article.

B. The Office shall:

1. Assist members in understanding rights and the processes available to them according to the laws and regulations governing common interest communities and respond to general inquiries;
2. Make available, either separately or through an existing website, information concerning common interest communities and such additional information as may be deemed appropriate;
3. Receive notices of final adverse decisions and may either (i) refer such decision to the Board for further review of whether such decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board or (ii) make a determination of whether a final adverse decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board and promptly notify the complainant of such determination. If the Office determines that such conflict exists, the Office shall promptly notify the governing board, and if applicable the common interest community manager, of the association that issued the final adverse decision that such decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board. If within 365 days of issuing such determination the Ombudsman receives a subsequent notice of final adverse decision for the same violation, the Office shall refer the matter to the Board;
4. 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;
5. Ensure that members have access to the services provided through the Office and that the members receive timely responses from the representatives of the Office to the inquiries;
6. Maintain data on inquiries received, referrals made to the Board, types of assistance requested, notices of final adverse decisions received, actions taken, and the disposition of each such matter;
7. 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;
8. Monitor changes in federal and state laws relating to common interest communities;
9. 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
10. Carry out activities as the Board determines to be appropriate.

**§ 54.1-2354.4. Powers of the Board; Common interest community ombudsman; final adverse decisions.**

A. 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 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 mailing address of the Office. 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.

B. A complainant may give notice to the Ombudsman 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 pursuant to § 54.1-2354.2. 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 Ombudsman shall provide a copy of the written notice to the governing board, and if applicable the common interest community manager, of the association that made the final adverse decision.

C. 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 shall provide the complainant and the governing board, and if applicable the common interest community manager, of 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 final and not subject to further review. If within 365 days of issuing a determination that an adverse decision is in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board the Director receives a subsequent notice of final adverse decision for the same violation, the Director shall refer the repeat violation to the Board, which shall take action in accordance with § 54.1-2351 or 54.1-2352, as deemed appropriate by the Board.