



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

Terence R. McAuliffe
Governor

Maurice Jones
Secretary of
Commerce and Trade

March 12, 2014

Complainant: Jerrold W. Stoudt
Association: Captain's Cove Golf & Yacht Club
File Number: 2014-02508

The Office of the Common Interest Community Ombudsman has been designated to review final adverse decisions and determine if they may be in conflict with laws or regulations governing common interest communities. Such determination is within the sole discretion of the Office of the Common Interest Community Ombudsman and not subject to further review.

Complaint

Complainant submitted a complaint to the Association dated December 26, 2013. The Association provided a Final Determination letter to the Complainant dated January 21, 2014. The Notice of Final Determination (NFAD) was received by this Office on February 18, 2014.

Determination

The Complainant submitted a complaint regarding what he believed to be false and misleading statements made about him in an email that was received by members of the board. The Complainant has alleged that he has been denied due process under §55-513 of the Code of Virginia. The Complainant does not indicate that any assessments were charged to him nor is there any allegation that services were denied him based on the information contained in the email.

It appears that the Complainant has incorrectly applied §55-513 to the situation at hand. This section is only intended to provide due process in those situations where an owner has failed to abide by the rules or regulations of an association and the association is attempting to enforce such rules or regulations. Nowhere in this portion of the Property Owners' Association Act is there any language that would suggest an association owner would be provided any form of due process in the event that another member of the association, or a board member, has made what was interpreted as a false or misleading

statement. Nor is there any such provision elsewhere in the Property Owners' Association Act.

Based on the information contained in the NFAD, the misapplication of §55-513, and a lack of evidence supporting any violation of common interest community law or regulations, the Office of the Common Interest Community Ombudsman does not find that there has been a violation of any law or regulation governing common interest communities.

Required Actions

No action is required.

Sincerely,



Heather S. Gillespie
Common Interest Community Ombudsman

cc: Board of Directors
Captain's Cove Golf & Yacht Club