



COMMONWEALTH of VIRGINIA
Department of Professional and Occupational Regulation

Terence R. McAuliffe
Governor

Maurice Jones
Secretary of
Commerce and Trade

Jay W. DeBoer
Director

July 11, 2014

Complainant: Christina M. Kielich
Association: The Overlook Foundation
File Number: 2014-03791

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 April 4, 2014. The Association issued its Final Determination May 28, 2014. Complainant submitted a Notice of Final Adverse Decision to the Office of the Common Interest Community Ombudsman dated June 20, 2014 and received June 23, 2014, well within the 30-day timeframe required by law and regulations. A cover letter was included with the NFAD, and while the letter was briefly reviewed, its contents cannot be included as part of the NFAD, since the letter was not part of the original Complaint submitted to the Association. As part of the cover letter, the Complainant raised the subject of reasonable accommodation. The Fair Housing Office, which can be reached at (804) 367-8530, may be able to address whether reasonable accommodations should be provided, but this office has no jurisdiction or authority to do so.

Determination

The Complainant alleges in her Complaint that the Association has denied her the right to comment on the Association's Facebook page. The Complainant further states that she believes the Facebook page is a *de facto* "reasonable, effective, and free method...for lot owners to communicate among themselves and with the board of directors," as required by §55-510.2 and therefore she should be permitted to comment on the Facebook page. The Complainant also asks a number of questions in her Complaint, but the bulk of these do not "concern a matter regarding the action, inaction, or decision by the governing board, managing agent, or association inconsistent with applicable laws and

regulations.” These numbered items are not presented in the form of a complaint, and are instead requesting information from the Association.

In its final determination the Association explained that the formally designated method of communication as required under §55-510.2 is a forum on *OverlookVA.com*. The Association stated that the Complainant was free to “post a communication on this site regarding any matter concerning the Association.” In addition, the Association provided a letter from its attorney that responded to some of the questions laid out in the Complaint.

I do not find that the Association’s Final Determination is in conflict with common interest community law or regulation. The Association, as required by §55-510.2, has established a method of communication that comports with the requirements set forth in the Property Owners Association Act. The Complainant, along with all other owners, has carte blanche to use the designated method of communication. Whether the Complainant should also be given the opportunity to comment on a Facebook page is not a determination this office can make.

Required Actions

No action is required by either party.

Sincerely,



Heather S. Gillespie
Common Interest Community Ombudsman

cc: Board of Directors
The Overlook Foundation