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Proposed Regulation Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC48-70
VAC Chapter title(s)	Common Interest Community Ombudsman Regulations
Action title	CIC Ombudsman Regulations General Regulatory Review
Date this document prepared	September 12, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Common Interest Community Board (“the Board”) proposes to amend the Common Interest Community Ombudsman Regulations to (i) update and clarify provisions of the regulation, to include ensuring that the regulation reflects current agency procedures and practices; (ii) ensure the regulation compliments current Virginia law and is clearly written and understandable; (iii) remove requirements in the regulation that are not necessary to protect the public welfare or effectively administer the program; and (iv) reduce regulatory burdens while still protecting the public health, safety, and welfare.

This action proposes changes to (i) the definitions section; (ii) requirements for an association complaint procedure; (iii) requirements for filing a notice of final adverse decision (NFAD); and (iv) provisions regarding the waiver of NFAD filing fees.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

“CIC” means common interest community.

“CICO” means Common Interest Community Ombudsman.

“DPOR” means Department of Professional and Occupational Regulation.

“HHS” means U.S. Department of Health and Human Services.

“NFAD” means notice of final adverse decision.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

The impetus for this regulatory action is Executive Directive Number One (2022), which directs Executive Branch entities under the authority of the Governor “...to initiate regulatory processes to reduce by at least 25 percent the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth.” In addition, CICO and agency staff review of the regulation has determined that review of the regulation is necessary and appropriate.

This action is not the result of a mandate.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The promulgating agency is the Common Interest Community Board. Chapter 23.3 of Title 54.1 of the Code of Virginia enumerates the legal authority for the Board to make regulations regarding the association complaint procedure and the filing and review of NFADs.

Section 54.1-2354.4 of the Code of Virginia states, in part:

- 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.

B. A complainant may give notice to the Ombudsman of any final adverse decision in accordance with regulations promulgated by the Board.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

This regulation implements the requirements of § 54.1-2354.4 of the Code of Virginia, which provides that common interest community (CIC) associations "...establish reasonable procedures for the resolution of written complaints from the members of the association and other citizens."

As mandated by the General Assembly, the Board protects the public welfare, in part, by establishing through regulation the (i) requirements for an association complaint procedure; (ii) requirements for development, adoption, and distribution of the complaint procedure; (iii) requirements for retention of records of association complaints; (iv) procedure for the filing of a notice of final adverse decision (NFAD) with the Office of the CICO and review of an NFAD by the CICO; and (v) provisions for a final determination made by the CICO regarding a NFAD.

In accordance with the provisions of Executive Directive Number One (2022), the Board conducted a general review of this regulation in order to identify areas where regulatory requirements could be removed or reduced.

The goals of this regulatory action are to ensure the regulations complement Virginia law, reflect current agency procedures, provide clarification to provisions of the regulations, and reduce regulatory burdens by removing requirements that are not necessary to protect the health, safety, and welfare of the public or effectively administer the program.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

1. Section -10 is revised to incorporate statutory terms from §§ 54.1-2345, 54.1-2354.1, and 55.1-2307 of the Code of Virginia. The section is also revised to add the term "common interest community laws and regulations" and to clarify the meaning of other defined terms. The section is further revised to remove provisions that establish regulatory requirements and replace defined terms for which a statutory definition is incorporated by reference.
2. Section -50 is revised to incorporate requirements pertaining to the association complaint procedure that are currently in the definition for "association complaint procedure" in section -10.
3. Provisions regarding delivery of notices to a complainant in section -50 are revised to provide that such notices must be hand delivered, mailed, or delivered by third-party courier, with proof of delivery. Currently, the regulation requires that such notices must be either hand delivered or mailed by registered or certified mail.
4. Section -50 is revised to increase from seven (7) to 14 days the time period for an association to provide a complainant with written acknowledgment of receiving the complaint following the association's receipt of the complaint.
5. Section -50 is revised to provide that notice of the date, time, and location where the association complaint will be considered by the association be provided to the complainant at least 14 days prior to consideration, unless otherwise agreed to in writing. Currently, the regulation provides that notice be given "within a reasonable time."

6. Section -90 is revised to (i) remove the requirement that the NFAD include applicable association governing documents; and (ii) to relocate a provision that establishes the date of a final adverse decision from the definition of “adverse decision” in section -10.
7. Section -100 is revised to incorporate provisions from an existing Board guidance document regarding consideration of requests to waive or refund NFAD filing fees.
8. Clarifying changes are made to section -110 to (i) provide that an NFAD is not complete will not be reviewed until the NFAD filing fee has been received or a waiver of the fee has been granted; and (ii) provide notice that information that was not part of a final adverse decision will not be considered in the review of the NFAD.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantages to the public and regulated community include providing clarification to provisions of the regulations, ensuring the regulations complement Virginia law and reflect current agency procedures, and reducing regulatory burdens by removing requirements that are not necessary to protect the health, safety, and welfare of the public or to effectively administer the program.

There are no identifiable disadvantages to the public or the Commonwealth. It is not anticipated that the regulatory change will create any substantial disadvantages to the regulated community.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agencies are particularly affected by the regulatory change.

Localities Particularly Affected

No other localities are particularly affected by the regulatory change.

Other Entities Particularly Affected

No other entities are particularly affected by the regulatory change.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Summary:

The Common Interest Community Board (“the Board”) proposes to amend the Common Interest Community Ombudsman Regulations to (i) update and clarify provisions of the regulation, to include ensuring that the regulation reflects current agency procedures and practices; (ii) ensure the regulation compliments current Virginia law and is clearly written and understandable; (iii) remove requirements in the regulation that are not necessary to protect the public welfare or effectively administer the program; and (iv) reduce regulatory burdens while still protecting the public health, safety, and welfare.

This action proposes changes to (i) requirements for an association complaint procedure; (ii) requirements for filing a notice of final adverse decision (NFAD); and (iii) provisions regarding the waiver of NFAD filing fees. There is no direct economic or fiscal impact to other state agencies.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.</p>	<p>There are no savings and no changes to costs, fees, or revenues of other state agencies resulting from this regulatory change.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>There are no savings and no changes to costs, fees, or revenues of other state agencies resulting from this regulatory change.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>There is no benefit to other state agencies.</p>

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

<p>Projected costs, savings, fees, or revenues resulting from the regulatory change.</p>	<p>There are no anticipated costs to localities because of the regulatory changes.</p>
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Benefits the regulatory change is designed to produce.	None.
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Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	This regulatory action will affect (i) CIC associations and their governing boards; (ii) common interest community management companies; and (iii) individuals who are either members of a CIC association or in the general public who make use of an association complaint procedure.
Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	As of July 1, 2024, there are 6,983 registered CIC associations. There are potentially thousands of unregistered associations in Virginia that are required by the Code of Virginia to comply with the statutory requirement to have an association complaint procedure and comply with the provisions of this regulation. In addition, there are 152 licensed common interest community management companies. To the extent these firms act on behalf of associations regarding matters covered by the association complaint procedure and this regulation, these parties would be affected.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	The regulatory change is not anticipated to impose any additional costs to affected individuals, businesses, or other entities.
Benefits the regulatory change is designed to produce.	The benefits of the regulatory change include providing clarification to provisions of the regulations, ensuring the regulations complement Virginia law and reflect current agency procedures, and reducing regulatory burdens by removing requirements that are not necessary to protect the health, safety, and welfare of the public or to effectively administer the program.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

CIC associations may be incorporated or non-incorporated entities which fall within the meaning of “small business” as defined in § 2.2-4007.1 of the Code of Virginia. No less intrusive or less costly alternatives to achieve the purpose of the regulatory change were identified.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

CIC associations may be incorporated or non-incorporated entities which fall within the meaning of “small business” as defined in § 2.2-4007.1 of the Code of Virginia.

As mandated by the General Assembly, the Board protects the public welfare, in part, by establishing through regulation the (i) requirements for an association complaint procedure; (ii) requirements for development, adoption, and distribution of the complaint procedure; (iii) requirements for retention of records of association complaints; (iv) procedure for the filing of a notice of final adverse decision (NFAD) with the Office of the CICO and review of an NFAD by the CICO; and (v) provisions for a final determination made by the CICO regarding a NFAD.

These proposed amendments do not pose an unreasonable administrative or financial burden. The enabling statute establishing the program covered by this regulation provides no exemption for small businesses; therefore, there are no such exemptions contained in the proposed change.

Review of this regulation was initiated based on Executive Directive Number One (2022). Amendments to the regulation proposed under this action are intended to reduce regulatory burdens imposed upon regulated parties. There are no other alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the goals of this regulatory action.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate

whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This action is not being used to conduct a periodic review or small business impact review.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

No comment was received following publication of the previous stage.

Commenter	Comment	Agency response
N/A	N/A	N/A

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Common Interest Community Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency’s regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>.

Comments may also be submitted by mail, email or fax to:

Lee D. Bryant
 Board Administrator
 9960 Mayland Drive
 Perimeter Center, Suite 400
 Richmond, VA 23233
cic@dpor.virginia.gov
 (866) 490-2723 (fax)

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
70-10	N/A	<p>Incorporates by reference applicable definitions from §§ 54.1-2345 and 55.1-1900 of the Code of Virginia.</p> <p>Provides definitions that are necessary to make the regulation clear and understandable and provides definitions for other specific terms used throughout the regulation.</p>	<p>The section is revised to incorporate additional terms from the Code of Virginia. These are:</p> <ul style="list-style-type: none"> • “Common interest community manager” from § 54.1-2345. • “Director” from § 54.1-2354.1. • “Governing documents” and “resale certificate” from § 55.1-2307. <p>The section is revised to add the term “common interest community laws for regulations.” This new term refers to specific chapters in the Code of Virginia that are applicable to common interest communities or the regulations of the Board.</p> <p>The term “adverse decision” is revised to remove a provision establishing the date of the final adverse decision. This provision is relocated to section -90. A clarifying change to this term is made so that the term refers to a final decision made by an association, and not a determination.</p>

			<p>The term “association complaint procedure” is revised to remove requirements for information that must be included the association complaint procedure. These requirements are relocated to section -50.</p> <p>The term “association governing documents” is removed. The term is effectively replaced with the term “governing documents” that is incorporated from § 55.1-2307 of the Code of Virginia.</p> <p>The term “director” is removed. The term is replaced with the term incorporated from § 54.1-2354.1 of the Code of Virginia, which has the same meaning.</p> <p>Clarifying changes are made to the term “association complaint.”</p> <p>Stylistic changes are made.</p>
70-20	N/A	<p>This section provides for a general requirement regarding the submission of documentation.</p> <p>Any documentation required to be filed with or provided to the Board, DPOR Director, or Office of the CICO, pursuant to applicable statute or the regulation must be filed with or provided to DPOR.</p>	<p>A stylistic change to replace “shall” with “must” is made.</p>
70-30	N/A	<p>The section provides that each association, as required by § 54.1-2354.4 of the Code of Virginia, must have a written process for resolving association complaints from association members and citizens.</p> <p>The association complaint procedure or form must conform with the requirements established in § 54.1-2354.4 of the Code of Virginia and the regulation. The association complaint procedure must conform with the requirements in the association governing</p>	<p>The section is revised to remove the reference to an association complaint form.</p> <p>Stylistic changes to replace “shall” with “must” or “will” are made.</p>

		documents, which documents must not be in conflict with § 54.1-2354.4 or the regulation.	
70-40	N/A	<p>This section establishes requirements for associations to certify with the Board that a complaint procedure has been adopted and is in effect.</p> <p>Associations filing an initial common interest community association registration must certify that an association complaint procedure has been established and adopted at the date of registering or within 90 days of registering with the Board.</p> <p>An association that has been delinquent in registering with the Board and filing required annual reports must still have an established and adopted association complaint procedure. When such an association files an application for registration, it must certify that a complaint procedure has been established and adopted by the association's governing board.</p> <p>An association must certify with each annual report filing that the association complaint procedure has been adopted and is in effect.</p>	Stylistic changes, including to replace the word "shall" with "will" are made.
70-50	N/A	<p>This section provides for the requirements for an association complaint procedure.</p> <p>An association complaint procedure must be in writing.</p> <p>An association complaint procedure must include the following provisions:</p> <ul style="list-style-type: none"> • That the association complaint must be in writing. 	<p>The section is revised to provide that the association complaint procedure must include the contact information for the Office of the CICO. This requirement is currently in the definition of "association complaint procedure" and is being relocated to section -50.</p> <p>Provisions regarding delivery of notices to a complainant are revised to provide that such notices must be hand delivered, mailed, or delivered by third-party courier, with proof of delivery. Delivery may be by electronic means, unless prohibited by the association's</p>

		<ul style="list-style-type: none"> • That a sample of any form on which the complaint must be filed must be provided upon request. • The process by which complaints are delivered to the association. • That the association provide written acknowledgment of receipt of complaint to the complainant within seven (7) days of receipt. <ul style="list-style-type: none"> ○ The acknowledgment must hand delivered or mailed by registered or certified mail to the address provided by the complainant. ○ If consistent with established association procedure, the acknowledgment may be sent by electronic means provided the sender retains sufficient proof of delivery. • That any specific documentation that must be provided with the association complaint be clearly described in the procedure. • To the extent the complainant has knowledge of the law or regulation applicable to the complaint, the complainant must provide that reference as well as the requested action or resolution. • That the association have a reasonable, efficient, and timely method for identifying and requesting additional information necessary for the complainant to 	<p>governing documents, provided the association retains sufficient proof of electronic delivery.</p> <p>This change provides flexibility to associations regarding delivery of notices. Currently, an association must provide notices by hand delivery or by mailing with registered or certified mail. The change also ensures that the association documents delivery of notices to the complainant. The change in the provisions regarding electronic delivery provide a clearer standard that electronic means of delivery are permissible unless prohibited by the association's governing documents.</p> <p>The section is revised to increase from seven (7) to 14 days the time period for an association to provide a complainant with written acknowledgment of receiving the complaint following the association's receipt of the complaint. This change reduces the stringency of the current requirement while still allowing for timely notification to the complainant.</p> <p>A provision requiring that a complaint provide reference to a requested action or resolution is removed.</p> <p>The section is revised to provide that notice of the date, time, and location where the association complaint will be considered by the association be provided to the complainant at least 14 days prior to consideration, unless otherwise agreed to in writing. This change is intended to provide a clearer, objective standard for timely delivery of these notices.</p> <p>Provisions regarding a notice of final determination are revised to remove a requirement that the notice include specific citations to applicable association governing documents. This requirement is not applicable to the association complaint process, which is designed to address alleged non-compliance with common interest community laws and regulations.</p>
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		<p>provide in order to continue processing the association complaint; and establish a reasonable timeframe for responding to and for disposing of the complaint if the request for information is not received within the required timeframe.</p> <ul style="list-style-type: none"> • That notice of the date, time, and location that the matter will be considered be hand delivered or mailed by registered or certified mail to the complainant at the address provided within a reasonable time prior to consideration as established by the complaint procedure. <ul style="list-style-type: none"> ○ If consistent with established association procedure, the acknowledgment may be sent by electronic means provided the sender retains sufficient proof of delivery. • That after the final determination is made, written notice of the final determination be hand delivered or mailed by registered or certified mail to the complainant at the address provided. <ul style="list-style-type: none"> ○ If consistent with established association procedure, the acknowledgment may be sent by electronic means provided the sender retains sufficient proof of delivery. • That the notice of final determination be dated as of the date of issuance and include specific citations to 	<p>The section is further revised to provide that the association complaint procedure must include:</p> <ul style="list-style-type: none"> • Information on an appeal process, if applicable, including relevant timeframes for filing the request for appeal; or • If no appeal process if available, notification that no appeal process is available and that the rendered decision is final. <p>These requirements are currently in the definition of “association complaint procedure” and are being relocated to section -50.</p> <p>Stylistic changes, including to replace the word “shall” with “must” or “will” are made. Other changes are made for purposes of clarity.</p>
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		<p>applicable association governing documents, laws, or regulations that led to the final determination.</p> <ul style="list-style-type: none"> ○ The notice of final determination must also include the registration number of the association and, if applicable, the license number of the common interest community manager. ● That the notice of final determination include notification of the complainant’s right to file a Notice of Final Adverse Decision with the Board via the CICO, and applicable contact information. 	
70-70	N/A	<p>The section provides for recordkeeping and record production requirements.</p> <p>An association must maintain a record of each association complaint filed with the association in accordance with § 54.1-2354.4 A 1 of the Code of Virginia. The applicable code section requires the record be maintained for no less than one (1) year after the association acts upon the complaint.</p> <p>An association must provide to the DPOR Director or designee any document, book, or record concerning the association complaint. Unless otherwise specified by the DPOR Director or designee, the association must comply within 14 days of receipt of the request.</p> <p>The DPOR Director or designee may extend the 14-day timeframe upon showing</p>	<p>Stylistic changes, including to replace the word “shall” with “must” and removing gendered terms are made.</p>

		of extenuating circumstances prohibiting delivery within 14 days of receiving the request.	
70-90	N/A	<p>This section provides for the filing of a NFAD.</p> <p>A complainant may file a NFAD concerning any final adverse decision issued by an association. The NFAD must be filed within 30 days of the adverse decision.</p> <p>The NFAD must be in writing on forms provided by the Office of the CICO. The forms must request the following information:</p> <ul style="list-style-type: none"> • Name and contact information of the complainant; • Name, address, and contact information of the association; • Applicable association governing documents; and • Date of the final adverse decision. <p>The NFAD must include:</p> <ul style="list-style-type: none"> • A copy of the association complaint; • The final adverse decision; • Reference to the laws or regulations the final adverse decision may have violated; • Any supporting documentation related to the final adverse decision; and • A copy of the association complaint procedure. <p>The NFAD must be accompanied by a \$25 filing fee or a request for a waiver of this fee.</p>	<p>The section is revised to remove the requirement that the NFAD include applicable association governing documents. This change is made because the association complaint process is designed to address alleged non-compliance with common interest community laws and regulation. It does not address compliance or non-compliance with association governing documents.</p> <p>The section is revised to provide that the date of a final adverse decision is the date of the notice issued pursuant to subdivisions 8 and 9 of section -50. This provision is relocated from the definition of “adverse decision.”</p> <p>Stylistic changes, including to replace the word “shall” with “must” or “will” are made.</p>
70-100	N/A	The section provides for waiver of the NFAD filing fee.	The section is revised to incorporate provisions from an existing guidance

		<p>The Board may waive the filing fee or refund a filing fee upon good cause shown that the filing fee will cause undue financial hardship for the complainant.</p>	<p>document (CIC Waiver of Filing Fee for Final Adverse Decision) regarding consideration of requests to waive or refund filing fees.</p> <p>The current HHS Poverty Guidelines will be used to establish the threshold for whether a filing fee will be waived or refunded as a result of financial hardship. The HHS Poverty Guidelines are incorporated into the regulation by reference.</p> <p>The complainant must submit supporting documentation satisfactory to the Board that provides proof of income in order to determine whether the requesting complainant is at or below the HHS Poverty Guidelines.</p> <p>A waiver or refund of the filing fee will be granted if proof of income is at or below the then-current HHS Poverty Guidelines.</p> <p>The Board established the process and standards for consideration of waiver requests in order to provide an objective method for determining the appropriateness of waiving or refunding the filing fee.</p>
70-110	N/A	<p>This section provides for review of NFADs.</p> <p>The section provides that upon receipt of a NFAD, the Office of the CICO will provide written acknowledgment of receipt of the NFAD to the complainant and will provide a copy of the NFAD to the governing board, and, if applicable, the CIC manager of the association that made the final adverse decision.</p> <p>The NFAD will not be reviewed until the filing fee has been received or a waiver of the filing fee has been granted by the Board.</p> <p>Additional information may be requested from the</p>	<p>The section is revised to clarify that an NFAD is not complete and will not be reviewed until the filing fee has been received or waiver of the fee has been granted.</p> <p>The section is further revised to clarify that information that was not part of the final adverse decision will not be considered. The CICO cannot consider information or documentation that is not part of the record of the association's decision.</p> <p>Stylistic changes, including to replace the word "shall" with "will" are made.</p>

		association that made the final adverse decision. The association must provide such information to the Office of the CICO within a reasonable time.	
N/A	DIBR	There are currently no documents incorporated by reference into the regulation.	The HHS Poverty Guidelines, issued by the Office of the Secretary of HHS, are incorporated into the regulation by reference as part of the changes to section -100.