

COMMON INTEREST COMMUNITY BOARD

AGENCY RESPONSE TO DPB's ECONOMIC IMPACT ANALYSIS

Agency Response to Economic Impact Analysis Performed by the Virginia Department of Planning and Budget Regarding the Common Interest Community Manager Regulation:

Concur with the approval.

Regarding the comments pertaining to the sufficiency of seven days for notification of receipt of complaint, seven days for notification of final determination, and 14 days for an association to provide documentation when requested by the Board or the Director, the timeframes were established after deliberate consideration and are consistent with similar timeframes contained in the Property Owners Association Act and the Condominium Act. The timeframes specified were carefully considered by the Board, including their applicability to both large and small associations. The committee that developed the regulations consisted of a broad representation of individuals, including members of associations, common interest community managers, and attorneys specializing in common interest communities.

The two separate provisions that require notification of receipt of complaint to the complainant within seven days (18 VAC 48-70-60.4) and notice of the final determination within seven days (18 VAC 48-70-60.8) are to ensure prompt notification and are consistent with similar timeframes contained in the Property Owners Association Act and the Condominium Act. Specifically, § 55-513.B of the Property Owners Association Act provides the requirements by which an association must abide before imposing charges or suspension of a member's right to use facilities. One of the requirements is the member's opportunity to be heard before any such charges or suspension may be imposed. The statute specifies that the hearing result must be delivered to the member within seven days of the hearing. In addition, § 55-79.80:2 of the Condominium Act includes provisions mirroring those contained in § 55-513.B of the Property Owners Association Act, including the seven day notification provision. The requirement that the notice of final determination be delivered to the complainant within seven days is necessary because the complainant must meet the statutorily-mandated timeframe of 30 days for filing the notice of final adverse decision. If the Board authorized a longer time period, then the complainant could have difficulty compiling the necessary information to file a notice of final adverse decision within the 30-day timeframe.

The regulation that requires an association to provide documentation requested by the Board or the Director within 14 days of the request (18 VAC 48-70-80.B) includes a provision for extending the timeframe specified upon a showing of extenuating circumstances prohibiting delivery within 14 days of receiving the request. In addition, the regulation is consistent with similar requirements for common interest community

managers (which requires production of documents within 10 days of a request by the Board). Further, this provision is necessary for ensuring the protection of the welfare of the public by requiring prompt response from the association when the Department is reviewing a notice of final adverse decision submitted by a citizen.