Common Interest Community Board

Guidance Document

Requests for Waiver of Filing Fee for Notice of Final Adverse Decision

Adopted September 17, 2013

I.   **Issue**

In accordance with 18 VAC 48-70-100 of the Common Interest Community Ombudsman Regulations, the Board may waive or refund the $25 filing fee that must accompany the Notice of Final Adverse Decision. Such waiver or refund is permitted if the Board finds that the payment of the filing fee will cause undue harm or financial hardship. The *Request for Waiver of Filing Fee Form* currently requests an explanation as to why paying the filing fee would cause undue financial hardship.

In order to provide an objective method for determining the appropriateness of waiving or refunding the filing fee, the Board requested at its June 27, 2013, Board meeting that staff conduct research and prepare a recommendation wherein the federal poverty guidelines be used as the basis for determining financial hardship.

II.   **Applicable Regulations and Statutes**

18 VAC 48-70-100 of the Common Interest Community Ombudsman Regulations states:

"In accordance with § 55-530 F of the Code of Virginia, 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 complainant."

§ **55-530.F** of the Code of Virginia states:

"A complainant may give notice to the Board 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, § 55-530.1. 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 Director shall provide a copy of the written notice to the association that made the final adverse decision."

III.   Policy

The U.S. Department of Health & Human Services (HHS) Poverty Guidelines will be used by the Board to establish the threshold for whether a filing fee will be waived or refunded as a result of financial hardship. The Poverty Guidelines for the most recent or current, whichever is applicable, calendar year will be used. The HHS Poverty Guidelines can be found at http://www.aspe.hhs.gov/.

In order to determine whether an individual requesting the waiver or refund of the filing fee is at or below the HHS Poverty Guidelines, he shall be required to submit supporting documentation that provides proof of income. Such documentation may include:

- Recent tax return form
- W-2 form
- Letter from an employer, welfare officer, case worker, or Social Security Administration office indicating annual income. Such letter must be on agency/company letterhead and must include the verifier's signature and contact phone number for verification purposes.

The Board authorizes staff to approve a waiver or refund of the filing fee if proof of income submitted is at or below the then-current HHS Poverty Guidelines. Board staff may request additional information as needed in order to ensure compliance with this policy. Should Board staff be unable to satisfactorily affirm that the proof of income submitted complies with this policy, the request for waiver or refund will not be approved. The individual requesting a waiver or refund, or Board staff, may request that the Board consider the request for waiver or refund in the event that the supporting documentation is not sufficient or a determination cannot be reasonably made based on the information submitted.

In accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), the referenced supporting documentation is exempt from public disclosure.