

Olde Port Cove Homeowner's Association, Inc.
Complaint Procedure

WHEREAS, Olde Port Cove Homeowner's Association, Inc. (the "Association") is a common interest community subject to regulation by the Virginia Common Interest Community Board ("CICB"); and

WHEREAS, common interest communities in Virginia are required by law and CICB regulations to establish rules for receiving and considering Complaints from members and other citizens concerning a matter regarding the action, inaction or decision by the governing Board, managing agent or Association inconsistent with applicable laws and regulations; and

WHEREAS, the Association originally adopted a Complaint Procedure in 2014; and

WHEREAS, the Association desires to replace the 2014 Complaint Procedure with this Complaint Procedure; and

WHEREAS, the Association hereby implements this Complaint Procedure in accordance with Va. Code Ann. § 54.1-2354.4, regulations adopted by the CICB, and the governing documents of the Association.

THEREFORE, it is hereby resolved that the Association, acting by its Board of Directors, adopts the following Complaint Procedure.

1. Applicability of Complaint Procedure

The Complaint Procedure described in this resolution applies when a member of the Association or citizen alleges that an action, inaction or decision of the Association, the Board or a managing agent is in conflict with the laws of Virginia or regulations governing common interest communities, such as the Virginia Property Owners' Association Act, or interpretations of such laws or regulations by the CICB. This procedure does not apply to other disputes with the Association, with the Board, or with homeowners or residents. For example, it does not apply to disputes regarding property maintenance, architectural guidelines, community property, unless the complaining party alleges that the Association, the Board or a managing agent has violated, or is violating, applicable laws or regulations.

2. Timing of Complaint Procedure

This Complaint Procedure shall not be used until any and all applicable avenues for internal review have been exhausted, including, if applicable, raising the issue for consideration at a regularly scheduled meeting of the Board of Directors. After the conclusion of such procedures, if a member of the Association or other citizen believes that the decision made by the Association is inconsistent with applicable laws or regulations, such person may register a Complaint with the Association under this Complaint Procedure.

3. Filing the Written Complaint.

- A. A member of the Association, or other citizen, must register a Complaint in writing.
- B. The "Association Complaint Form" is attached hereto as Exhibit A and must be used when filing a Complaint with the Association under these procedures. The completed Complaint form with all supporting documents, correspondence, and other materials related to the Complaint, must be mailed to the Association, c/o SBIS, Inc., 1730 George Washington Memorial Highway, Suite F-9, Yorktown, VA 23693.
- C. The Complainant shall describe the nature of the Complaint, including dates, locations and persons involved. The Complainant shall include references to the specific facts and circumstances at issue. The Complainant must set forth the specific documents, provisions, statutes or regulations that support the Complaint, and provide copies of any specific documents referenced. To the extent that the Complainant has knowledge of the law or regulation applicable to the Complaint, the Complainant shall provide that reference, as well as the requested action or resolution.

4. Receipt and Adequacy of the Complaint.

- A. The Association shall provide written acknowledgment of receipt of the Complaint to the Complainant within seven (7) days of receipt. Such acknowledgment shall be sent by electronic means, provided the sender retains sufficient proof of the electronic delivery, or hand delivered or mailed by registered or certified mail, return receipt requested, to the Complainant at the address provided on the Complaint form.
- B. If it appears that the submitted Complaint is inadequate in any way, then the Association may provide notice of such to the Complainant. The notice should describe how the Complaint is inadequate and advise the Complainant of the need to submit a revised Complaint, or additional information before it can be forwarded to the Board for consideration. If it appears that the submitted Complaint includes the required information, the President, or other officer designated by the Board, shall provide the Board of Directors with a copy of the Complaint for consideration. Such notice shall be sent by electronic means, provided the sender retains sufficient proof of the electronic delivery, or hand delivered or mailed by registered or certified mail, return receipt requested, to the Complainant at the address provided on the Complaint form.

5. Board Consideration of the Complaint.

- A. Once the Association has received all of the requested information, the Board of Directors, or other hearing tribunal constituted by the Board, shall schedule a date and time to consider the Complaint which shall be within sixty (60) days of receipt of an adequate and completed Complaint, with such time period being extended as necessary due to extenuating circumstances.
- B. Notice of the date, time, and location informing the Complainant when and where the matter will be considered shall be delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery, or hand delivered or mailed by registered or

certified mail, return receipt requested, to the Complainant at the address provided in the Complaint, at least fourteen (14) days prior to consideration by the Board.

- C. If the Association has provided notice to the Complainant of the inadequacy of the Complaint as provided for in Section 4.B. above, and the Complainant does not submit a revised Complaint or additional information within thirty (30) days after such notice is sent, then the matter shall be deemed closed and the Association shall send a letter to the Complainant of the non-compliance and close the Association file without any determination.

6. Notice of Association Board/Hearing Committee Decision

- A. After the final determination is made, the written notice of final determination shall be delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery, or hand delivered or mailed by registered or certified mail, return receipt requested, to the Complainant at the address provided in the Complaint, within seven (7) days.
- B. The notice of final determination shall be dated as of the date of issuance and include specific citations to applicable Association governing documents, laws, or regulations that led to the final determination, as well as the CICB registration number of the Association.
- C. The notice of final determination shall include the Complainant's right to file a Notice of Final Adverse Decision with the CICB and the applicable contact information.
- D. No further appeal process through the Board or hearing tribunal under this Association Complaint Procedure is available, and the decision rendered by the Association's Board or hearing tribunal may be considered a "Final Adverse Decision" for purposes of this Complaint Procedure.

7. Notice of Final Adverse Decision to Common Interest Community Board.

- A. A Complainant may file a Notice of Final Adverse Decision in accordance with Va. Code Ann. § 54.1-2354.4(B) concerning any Final Adverse Decision that has been issued by the Association in response to a Complaint.
- B. The notice shall be filed within thirty (30) days of the date of the Final Adverse Decision.
- C. The notice shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman. The notice shall include a copy of the Complaint Form, and supporting documentation, the Final Adverse Decision, reference to the laws and regulations the Final Adverse Decision may have violated, any supporting documentation related to the Final Adverse Decision, and a copy of the Association's Complaint Procedure.
- D. The notice shall be accompanied by a \$25 filing fee or a request for waiver.

E. The contact information for the Office of the Common Interest Community Ombudsman is as follows:

Office of the Common Interest Community Ombudsman
Dept. of Professional & Occupation Regulation
9960 Mayland Drive, Suite 400
Richmond, VA 23233
Phone: (804) 367-2941
CICombudsman@dpor.virginia.gov.


- F. Upon receipt of the Notice of Final Adverse Decision from the Complainant, along with the filing fee or a waiver of the filing fee approved by the CICB, the Office of the Common Interest Community Ombudsman shall provide written acknowledgment of receipt of the notice to the Complainant and shall provide a copy of the written notice to the Association. The Notice of Final Adverse Decision will not be reviewed until the filing fee has been received or a waiver of filing fee has been granted by the CICB.
- G. Upon request, the Association shall provide information requested by the Office of the Common Interest Community Ombudsman within a reasonable time.
- H. Upon review of the Notice of Final Adverse Decision in accordance with Va. Code Ann. § 54.1-2354.4(D), if the Director of the Department of Professional and Occupational Regulation (the "Director") determines that the Final Adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the CICB, the Director may, in his sole discretion, provide the Complainant and the Association with information concerning such laws or regulations governing common interest communities or interpretations thereof by the CICB.
- I. The determination of whether the Final Adverse Decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the CICB shall be a matter within the sole discretion of the Director. Such decision is final and not subject to further review. As set forth in Va. Code Ann. § 54.1-2354.4(D), the determination of the Director shall not be binding upon the Complainant or the Association that made the Final Adverse Decision

8. Association Records.

- A. A record of each Complaint shall be maintained for no less than one year after the Association acts upon the Complaint.
- B. The Association Complaint Procedure must be readily available (upon request) to all members of the Association and citizens.
- C. The Association Complaint Procedure shall be included as an attachment to the association disclosure packet.

THIS RESOLUTION IS EFFECTIVE ON DECEMBER 17, 2021.

ADOPTED BY THE BOARD OF DIRECTORS BY WRITTEN UNANIMOUS CONSENT ON
DECEMBER 9, 2021.



President

EXHIBIT A

OLDE PORT COVE HOMEOWNER'S ASSOCIATION, INC.

COMPLAINT FORM

This form must be completed and signed to have your complaint processed by the Association.

Contact Information

Name of Complainant: _____

Address: _____

Email address: _____

Telephone Numbers: _____ (Home) _____ (Cell)

Preferred method of communication:

I request that you use my email address or

certified or registered mail, return receipt requested, to my address listed above.

Complaint

Describe the nature of your complaint, including dates, locations and persons involved. Include references to the specific facts and circumstances at issue. Reference any specific documents, provisions, statutes or regulations that support your complaint. Provide copies of any referenced documents or provisions of the documents. If the space below is insufficient, attach a separate sheet of paper to this form.

Submission of Complaint

Submit your complaint and all attachments via US Mail to:

Olde Port Homeowner’s Association, Inc.
c/o SBIS, Inc.,
1730 George Washington Memorial Highway,
Suite F-9
Yorktown, VA 23693

Processing of Complaint

The Association will acknowledge receipt of your complaint, in writing, within seven (7) days after receiving our complaint. If you do not receive acknowledgment of your complaint, please notify the Association immediately. If the Association requires any additional information to process your complaint, you will be notified in writing. If the Association requests additional information you will have fifteen (15) days to deliver the additional information. The Board of Directors will notify you, in writing, of the date, time and location that your complaint will be considered. After final determination is made, written notice of the decision will be sent to you. All notices will be sent to you by electronic mail or mailed by registered or certified mail, return receipt requested, as you have selected above. If you did not select a preferred method of communication, the Association may use electronic mail or registered or certified mail or hand delivery as permitted by the Complaint Procedure.

Notice of Final Adverse Decision

Pursuant to Virginia Code Ann. § 54.1-2354.4, you have the right to file a notice with the Common Interest Community Board (the "CICB") if you receive a Final Adverse Decision from the Association. A Final Adverse Decision means the final determination issued by the Association pursuant to the Association's Complaint Procedure that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by you. In accordance with Va. Code Ann. § 54.1-2354.4, (i) your notice must be filed with the CICB within thirty (30) days of the date of the Final Adverse Decision; (ii) your notice shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman; (iii) your notice shall include copies of all records pertinent to the decision; and (iv) your notice shall be accompanied by a \$25.00 filing fee. The CICB 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 you. The notice shall be sent to the Common Interest Community Board, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233-1463. The phone number and email address for the Office of the Common Interest Community Board is (804) 367-2941 and CICOmbudsman@dpor.virginia.gov

Required Signature

Date Printed Name Signature

THIS PAGE FOR ASSOCIATION USE ONLY

Date Complaint Received: _____

Signature and Printed Name of Person Receiving

Complaint:

Signature

Printed Name

Date Acknowledgment Sent to Complainant: _____

by email by registered or certified mail, return receipt requested by hand delivery

Signature and Printed Name of Person Sending Acknowledgment:

Signature

Printed Name

Date of Decision of Board of Directors: _____

Date When Decision Sent to Complainant: _____

by email by registered or certified mail, return receipt requested by hand delivery

Signature and Printed Name of Person Sending Acknowledgement to Complainant:

Signature

Printed Name: _____