

***AND NOW FOR SOMETHING
COMPLETELY DIFFERENT:***
**THE CICB ADVERSE DECISION
COMPLAINT PROCESS**

OMBUDSMAN REGULATION OPEN FORUM
PRESENTATION FOR FAIRFAX COUNTY PROGRAM

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Issues Requiring a Decision by the Association Under the Ombudsman Regulations

- Determine Reasonable and Appropriate Internal Response Time Frame Within Which the Association Will Respond to Written Complaints Received; and
- Determine, Internal to the Association, Who Will Hear and Determine the Outcome of Written Complaints Received.

ASSOCIATION ACTION ITEMS

- Accept that the ***Law Exists*** and that it ***Will*** Impact Your Association
- Adopt and Follow a Complaint Procedure with Complaint Form
 - Existing Registered Association by September 28, 2012;
 - New Associations within ninety (90) days of registration with the CICB.
- Respond to Complaints Received / Don't React!

ASSOCIATION ACTION ITEMS

- Maintain Association Complaint Records
 - Where Maintained;
 - How Long Maintained (Minimum one (1) year ***AFTER*** Association Acts on Complaint);

Association Action Items

- Comply with Notice Requirements and Notice Deadlines
 - Notice to Membership of Complaint Process;
 - Notice of Receipt of Complaint (within 7 Days);
 - Notice for Identifying Additional Information Required or Requested;
 - Notice of Date/Time/Place of Complaint Review and Consideration;
 - Notice of Final Internal Determination and Right to File Notice of Adverse Decision with CICB (within 7 days);

ASSOCIATION ACTION ITEMS

- CHECK ASSOCIATION'S INSURANCE COVERAGE WITH ASSOCIATION'S INSURANCE AGENT AND INSURANCE CARRIER;
- BUDGET CONSIDERATIONS:
 - POTENTIAL INCREASE IN MAILING COSTS;
 - POTENTIAL INCREASE IN MANAGEMENT COSTS;
 - POTENTIAL INCREASE IN LEGAL COSTS.

CONTINUING CONVERSATIONS WITH AND SEMI-SERIOUS HYPOTHETICAL QUESTIONS FOR OUR FAVORITE OMBUDSMAN

- Under the *Adverse Decision* Definition in the Regulations, Is a Decision Really Adverse Just Because the Decision Isn't, in Whole or in Part "the Cure or Corrective Action Sought by the Complainant?
- Under 18-VAC 48-70-40, is an Existing Un-Registered Association Exempt from the Complaint Process Requirements?

CONVERSATIONS AND SEMI-SERIOUS HYPOTHETICAL QUESTIONS (CONTINUED)

- Are Commercial-Only Associations Exempt from the Complaint Process Requirement?
- Will the Ombudsman Office Act on Adverse Decisions filed post-July 1, 2012 but prior to an Association Adopting a Complaint Procedure before the September 28, 2012 deadline? (or will You Just Hold any Adverse Decisions Received in Limbo until 9-28-12 and Then *Pounce*? 😊)

CONVERSATIONS AND SEMI-SERIOUS HYPOTHETICAL QUESTIONS (CONTINUED)

- Section 18 VAC 48-70-60 Provides that the “Association Complaint Procedure Must Be ***Readily Available*** Upon Request to All Members of the Association and Citizens.” Will an Association be able to charge for providing copies consistent with authority under the Virginia Condominium Act and the Virginia Property Owners Association Act?

CONVERSATIONS AND SEMI-SERIOUS HYPOTHETICAL QUESTIONS (CONTINUED)

- Under the Same Section of the Regulations, and Assuming That the Complaint Process is an Association Book and Record, Why is a “Citizen” Entitled to Access to Any of the Association’s Books and Records, Which They Otherwise Would Not Have the Right to Access absent a Subpoena?
- Can the Association charge a “Citizen” for copies of Requested Complaint Process?

GOT QUESTIONS?