

COMPLAINT FORM AND PROCEDURE

(FOR COMPLAINTS FALLING UNDER THE VIRGINIA COMMON INTEREST COMMUNITY REGULATIONS)

PURPOSE

On July, 1, 2012, as a result of requirements added to § 55-530 of the Code of Virginia, the Virginia Common Interest Community Ombudsman Regulations (“Regulations”) became effective. One of the requirements of the Regulations is that all associations in Virginia must establish a written complaint process by which members and citizens of the association can challenge “adverse actions” made against them by the association.

To comply with this requirement, the Board of Directors (“HCA Board”) of the Hemingway Cluster Association (“HCA”) has established this Complaint Form. Use this form to file written complaints with HCA regarding the action, inaction or decision by HCA or the HCA Board inconsistent with common interest community laws and regulations. Common interest community laws include the Property Owners' Association Act, the Condominium Act, and the Virginia Real Estate Act.

This HCA complaint process does not address complaints by members related to internal issues of HCA such as architectural design or rules and regulations related to subject areas such as parking, speeding, landscaping, maintenance, or trash, because those type of complaints are not related to violations of common interest community laws or regulations, unless the member believes he or she was not afforded the due process requirements of the common interest community laws in regard to lack of notice and hearing. According to guidance from the Virginia Office of Common Interest Community Ombudsman (“Ombudsman”), it is expected that the types of complaints that will most commonly be filed under these Regulations are access to books and records, notice of meetings, open meeting requirements, methods of communication, and open forums. If there are any questions about the types of complaints that can be filed under this process, please contact the Ombudsman (see contact information below).

Members who wish to file complaints about subjects other than those falling under the common interest community laws and regulations should do so by calling the HCA telephone number or emailing the HCA email ID. Both of those are specified on the HCA web site (www.hemingwaycluster.com).

INSTRUCTIONS FOR THE COMPLAINT FORM

Complaints must be submitted in writing using this Complaint Form. Verbal or email complaints will not be considered nor responded to by the HCA Board. Complaints must be submitted within 30 days of the occurrence that is the subject of the complaint.

Describe the complaint in detail in the areas provided below. If there is insufficient space, please attach a separate sheet of paper or description to the Complaint Form.

Any specific documentation to support the complaint must be provided and should be clearly described or labeled. In addition, to the extent the complainant has knowledge of the law or regulation applicable to the complaint, the complainant shall provide that reference or documentation, as well as the requested action or resolution.

Below the Complaint Form is a section describing the procedure after the Complaint Form is received by the HCA Board. Some parts of the procedure refer to the HCA Board providing written notification or other communication to the complainant. The HCA Board will send the communication or notification by email if the complainant checks the “Yes” answer to the question on the Complaint Form about agreeing to accept email delivery, and if the sender retains sufficient proof of the email delivery. However, if the complainant checks the “No” answer, the HCA Board will send the acknowledgement by registered or certified mail (return receipt requested). Note that checking the “No” answer will delay a final decision.

(The Complaint Form is on the next page.)

**ACTIONS AFTER THE COMPLAINT FORM IS
RECEIVED BY THE HCA BOARD**

The HCA Board shall provide written acknowledgment of receipt of the complaint to the complainant within seven days of receipt.

If the HCA Board determines that additional information is required from the complainant, it shall send a written request to the complainant within seven days of determining the additional information that it requires. The complainant will then have seven days to respond to the request or can ask for additional time if necessary. It could be necessary to have multiple sets of requests for additional information and the responses. If the complainant fails to respond within seven days to a request for additional information (or fails to ask for additional time within the seven day period), the HCA Board shall close the complaint and send written notification of the closure to the complainant.

When the HCA Board determines that it has all of the information it needs, it shall notify the complainant that it will hear from the complainant at an upcoming regularly-scheduled HCA Board meeting and provide the date and location of the meeting. The HCA Board meeting will be the next scheduled HCA Board meeting, provided that it occurs at least two weeks after the notice is sent. If the next regularly-scheduled HCA Board meeting is less than two weeks away, the complaint will be scheduled to be heard at the following regularly-scheduled HCA Board meeting. The complainant may waive appearing at the HCA Board meeting and authorize the HCA Board to reach a final decision without meeting with the complainant.

The HCA Board shall make a final decision within 14 days after the meeting or within 14 days of receiving notice that the complainant waives the requirement for a meeting.¹ Within seven days of making a final decision, the HCA Board shall send written notice of the final decision to the complainant.

Questions regarding the Complaint Form or the status of the filed complaint may be mailed to the HCA Board at the same address listed above or by email to hemingwayclusterHELP@gmail.com.

Notice of Adverse Decision

If you wish to appeal the final decision by the HCA Board, you have the right to file a notice of final adverse decision with the Virginia Common Interest Community Board (“CICB”) in accordance with the regulations promulgated by the CICB. The notice shall be filed within 30 days of the date of the final adverse decision, shall be in writing on forms provided by the Office of the Office of Common Interest Community Ombudsman, shall include copies of any supporting documents, correspondence and other materials related to the decision, and shall be accompanied by a \$25 filing fee.

¹ It is possible that, during the meeting, the HCA Board could request additional information from the complainant, in which case the complainant would have seven days to provide the information and the HCA Board would make a final decision within 14 days of receipt of the information. It is also possible that another meeting may need to be scheduled.

You may access the Regulations and related forms at www.dpor.virginia.gov/Homeowners-Associations/.

You may also contact the Office of Common Interest Community Ombudsman at:

Office of Common Interest Community Ombudsman
Department of Professional and Occupational Regulation
Office of Common Interest Community Ombudsman
9960 Mayland Drive, Suite 400
Richmond, Virginia 23233-1485
Phone: 804-367-2941
Email: cicombudsman@dpor.virginia.gov