



The Special Assessment September 2025 Edition



Regulatory Changes to Virginia's CICB-Mandated Complaint Procedures

In 2008, legislation pertaining to the Virginia Common Interest Community Board (CICB) was enacted that included a requirement that all community associations adopt an internal complaint procedure to handle complaints against the association (or its board or managing agent) over alleged violations of state laws or regulations governing community associations. This requirement was then implemented through state regulations in 2012. **Effective August 1st of this year**, those regulations governing the CICB-mandated “complaint procedure” were amended. While most of the regulatory amendments were just clarifications or non-substantive in nature, there are several important substantive amendments. Boards of directors should consider amending their association’s existing complaint procedure to benefit, for instance, from the following changes:

1. Associations can now have up to 14 days (instead of seven days) to provide a written acknowledgement to the complainant that their complaint was received.
2. Regarding permissible methods of sending complaint-related notices, the revised regulations removed the reference to sending notices by registered or certified mail (changing the language to just “mail”) and added “third-party courier with proof of delivery” as another acceptable method.
3. After a board of directors reviews and decides on a response to the complaint, the association’s “notice of final determination” (which must be sent to the complainant) no longer needs to include citations to applicable provisions of the association’s governing documents given that they are beyond the scope of the complaint process.

If you have any questions about these revised regulations or amending your community association’s complaint procedure, we encourage you to contact your association’s legal counsel for guidance.



Virginia's Statement of Owner Rights: A Primer

By Katherine Milane

The Virginia Condominium Act and the Virginia Property Owners' Association Act play a pivotal role in defining the relationship between owners and their common interest community associations. In 2015, the Virginia General Assembly amended the Condominium Act and Property Owners' Association Act to expressly set forth five specific owner rights concerning:

1. Access to association books and record;
2. Voting on association matters;
3. Notice of, and participation in, meetings of an association's Board of Directors;
4. Notice of and procedures for enforcement hearings; and,
5. Board service.

While these rights already existed in previously adopted code provisions, the statement of owner rights restates the rights to which owners are entitled under Virginia law. This primer provides a closer look at the rights enumerated in Section 55.1-1939 of the Condominium Act and Section 55.1-1807 of the Property Owners' Association Act.

Access to Books and Records. Owners in good standing have the right to examine and copy all books and records "kept by on behalf of" the association, including records of all financial transactions. Owner access is subject to the provisions of Section 55.1-1945 of the Condominium Act or Section 55.1-1815 of the Property Owners' Association Act, as applicable, and requests for records must be made for a "proper purpose" related to association membership.

Owners may examine association membership lists, including owner names and addresses, provided such information is not used for solicitation. Associations may adopt a cost schedule establishing charges for labor and materials in responding to the owner's records request. Requests to examine records must be accommodated within the timeframe specified by statute (five to ten days, depending on whether an association is professionally managed or self-managed) during business hours or at a mutually convenient time. However, associations may withhold certain documents from examination that are considered confidential under the applicable statutes, including materials concerning personnel matters, contracts in negotiation, pending or probable litigation against the association, enforcement proceedings, consulting with legal counsel, executive session materials for board meetings, and individual member files (other than the requesting member's own file).

Right to Cast Vote. Owners have a right to cast a vote on any matter requiring a vote by the association's membership, proportionate to an owner's ownership interest, unless an association's governing documents provide otherwise. Most associations' governing documents establish the right of owners to cast votes or issue approvals regarding association matters, including board elections, document amendments, and association loans – Section 55.1-1945 of the Condominium Act and Section 55.1-1815 of the Property Owners Association Act do not alter such rights. These statutory provisions do not negate governing document provisions conditioning voting on absence of delinquency, violations, or other good standing issues.

Board Meeting Rights. Owners have the right to notice of any board meeting, to make an audio or visual record of such meeting, and to participate in such meetings in accordance with the provisions of Section 55.1-1949 of the Condominium Act or Sections 55.1-1815 and 55.1-1816 of the Property Owners' Association Act. Associations must

publish notice of the time, date, and place of all board and association committee meetings in a location calculated to be available to a majority of owners. Owners may record open portions of meetings and participate in portions of meetings designated for owner comment, subject to reasonable board-adopted rules.

Enforcement Hearing Rights. Owners have the right to have notice of proceedings against them to suspend their right to the use of common facilities or services or to assess violation charges in enforcing the association’s rules or regulations. Owners also have the right to be heard and represented by counsel at such hearing and the right to “due process” in the conduct of the hearing – such hearings must be conducted fairly, impartially, and provide the opportunity for an owner to present their position on whether they are violating the rules and why they should not be sanctioned.

Right to Serve on the Board. Owners have a right to serve on the board if duly elected and a member in good standing of an association, unless the association’s governing documents provide otherwise. Neither the Condominium Act nor the Property Owners’ Association Act expressly defines “good standing.” Accordingly, associations must look to their governing documents for clarification. “Good standing” typically relates to the absence of past due assessments or other sums due to the association and may also relate to the absence of pending violations of association governing documents or rules and regulations.

Additional qualifications for board service may be established in an association’s governing documents. Some governing documents provide, for example, that an individual must be an owner within the association or the spouse of an owner to be eligible for board service. Who qualifies for board service will vary from association to association, based on the provisions of the association’s governing documents.

While to some extent a restatement of owner rights previously established by statute, the statement of owner rights set forth in the Condominium Act and the Property Owners’ Association Act helps to ensure that associations are aware of the statutory rights to which owners are entitled under Virginia law as to the governance and operation of their associations.

Amicus brief on behalf of WMCCAI filed August 27, 2025, in the D.C. Court of Appeals



On August 27, 2025, an amicus brief was filed on behalf of the Washinton Metro Chapter of Community Associations Institute (“WMCCAI”) in the D.C. Court of Appeals Case No. 24-CV-1122, Evelyn Burton, Trustee of the EB Trust, et al., v Chase Pointe Unit Owner’s Association, et al. CHADWICK, WASHINGTON, MORIARTY, ELMORE & BUNN, P.C., shareholder **Michael Gartner, Esq.**, along with attorney Cary Devorsetz, Esq., from Alderman, Devorsetz & Hora PLLC, prepared the brief and argue therein that the trial court erred in interpreting the phrase “substantially prevailing party” under D.C. Code §42-1902.09(b)

to carry the same meaning as “prevailing party” when considering awarding attorney’s fees and costs under the D.C. Condominium Act. The Court’s interpretation effectively read the word “substantially” out of the statute, thereby justifying a partial fee award to the Plaintiffs in the case even though the Defendants arguably prevailed on more claims and issues.

In the case at bar, which was brought to court by unit owners (collectively, the “Plaintiffs”) against their condominium unit owners association, its president and a committee chair (collectively, the “Defendants”), the Defendants prevailed on 6 out of the 7 counts at issue. On the 7th count the jury ruled partially on the side of the Plaintiffs. When it came to motions for attorneys’ fees and costs, the court awarded the Plaintiffs partial attorneys’ fees and full costs as the prevailing party, given that they succeeded in one count of their lawsuit. The Defendants’ motion for attorneys’ fees and costs was denied because they did not succeed on all 7 counts.

The trial court’s interpretation was based on case law discussing the “prevailing party” standard and did not take in to account the effect of a small but substantive change to the language regarding award of attorneys’ fees under the amended code within the D.C. Condominium Act. Specifically, in 2014, the D.C. Condominium Act was amended to provide a “substantially prevailing party” standard for an award of attorneys’ fees (rather than “prevailing party” standard).

This change was paramount to associations defending against multi-count lawsuits from unit owners. As the amicus brief points out, the difference between “prevailing” and “substantially prevailing” is material and the modifier “substantially” must be given effect in the statute. In this case the Defendants were successful in defending themselves against 6 of the 7 counts, and the brief argues they should therefore be considered the substantially prevailing party (and eligible for the court to award them their attorneys’ fees).

This case raises important questions regarding statutory interpretation under the D.C. Condominium Act. The interpretation applied by the D.C. Superior Court at the trial level, which the brief argues was in error, could have far-reaching effects and negatively impact condominium associations in the District. Most associations are non-profit and volunteer run organizations that use their funds from assessments to maintain their properties. The standard for award of attorneys’ fees in the D.C. Condominium Act was amended in part to ensure that associations would be able to have funds to keep doing that. When an association prevails substantially, it should be awarded its attorneys’ fees and costs rather than, as happened here, being denied those fees and costs when the Plaintiffs prevailed on only a small portion of the claims they brought.

CAI has always been an avid advocate for common interest community associations across the United States (as well as internationally). The Washington Metro Chapter of CAI is the largest chapter in the organization. Given the significance concerns this ruling presents, and that it is happening in WMCCAI’s backyard, this amicus brief is timely, relevant, and may prove helpful in protecting the integrity and serving the best interests of condominium and community associations in the District of Columbia and beyond.

Full copy of the [amicus brief filed can be found here](#) and [motion for leave to file here](#).

Chadwick Washington Zoom Webinar Series



Chadwick, Washington, Moriarty, Elmore & Bunn, P.C., is pleased to host and invites you to attend its final educational Webinar for the 2025 Series that has highlighted topics relating to community association law and governance. Each Webinar is one hour, with two topics presented by CWMEB attorneys followed by Q&A Sessions in separate Zoom breakout rooms staffed by CWMEB attorneys. The waiting room for the Webinars will open about 15 minutes before the sessions begin at 7:00 p.m., with the Q&A Breakout Rooms opening at approximately 7:40 p.m.

The firm's last educational Zoom Webinar of 2025 will be held on **Monday, October 27, 2025, at 7:00 p.m.** and will include presentations regarding **Fair Housing: Reasonable Accommodations and Modifications** and **Case Law Updates**. If you are interested in registering, you may do so directly [here](#). If you encounter any issue with loading the Registration page, please send an email with your name and association name to Niyati Vaidya at nvaidya@chadwickwashington.com. We look forward to seeing all of our clients and guests each year during our Webinar Series and encourage you to register early for those topics and presentations you don't want to miss. More information about our Webinars can be found on the Seminar Series page of our website at www.chadwickwashington.com

Firm Happenings



Stephen Moriarty and **Michael Sottolano** will be presenting an education session at the Southwest Virginia Chapter of CAI Fall Retreat on September 26, 2025, regarding essential policies and resolutions for community associations and internal security measures to protect common interest community associations and their managing agents.



Tiago Bezerra will be co-presenting a program entitled *Ombudsman Squares – Test Your Statutory Knowledge* at the 2025 Education Palooza hosted by WMCCAI on October 24, 2025, in Tysons Corner. More information about this event and how to register can be found [here](#).



In the November issue of WMCCAI's Quorum magazine, be sure to check out the article *Protecting the Common Area: Adverse Possession in Community Associations*, written by **Sara Ross**.

Sara Ross is also presenting at the 2026 Law Seminar in January on Adverse Possession.



Check out in the June issue of WMCCAI's Quorum magazine the informative article written by **Katherine Milane** and Tyler Robinson, CIC, EBP, regarding key legal and insurance considerations to help protect community associations from unforeseen risks and ensure safe, enjoyable festivities. Access the article [here](#).



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