

RainTree of Albemarle Homeowner's Association, Inc.

Association Complaint Procedure

Background:

Since 2012, all associations have been required by Virginia law to have a complaint procedure in place so that owners have a way to submit written complaints to their association board of directors. The Common Interest Community Ombudsman Regulations provide specific ways in which associations must deal with owner complaints and time frames for responding to owner's written complaints. These Regulations also provide a means for owners to submit certain complaints to the CIC Board Ombudsman when an association has either not responded to an owner's complaint, or the association has responded with a written determination that denies the corrective action sought by the owner (known as a "Final Adverse Decision").

There is significant misunderstanding about the types of complaints which are authorized by these Regulations. Owners do not have the right to submit complaints to the Ombudsman for every issue that bothers them about how their Board manages the affairs of the association. A fairly large number of the complaints to the Ombudsman have not pertained to matters that are either reviewable or actionable by the CIC Board. Owners also do not have the right to submit complaints to the Ombudsman unless and until they have first submitted a complaint to their association and either not received a response or received a Final Adverse Decision.

Pursuant to the CIC Ombudsman Regulations, the Ombudsman can only review and respond to complaints that are alleging a violation of Common Interest Community statutes or regulations (the Condominium Act, the Property Owners Association Act, The Real Estate Cooperative Act and regulations pertaining to these various Acts). The Ombudsman's office cannot respond to complaints regarding violations of an association's declaration, bylaws, rules and regulations, architectural guidelines or any other internal document that governs an association. The Ombudsman Regulations can be found at <https://law.lis.virginia.gov/admincode/title18/agency48/chapter70/>.

WHEREAS RainTree of Albemarle Homeowners 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 desires to implement a Complaint Procedure in accordance with Section 55-530 of the Code of Virginia and regulations adopted by the CICB;

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

I. Filing the Written Complaint.

A. A member of the Association, or other citizen, must register a Complaint in writing.

B. A sample of the “[Association Complaint Form](#)” is attached hereto as Exhibit A and must be used when filing a Complaint with the Association under these procedures.

C. The completed Complaint form with all supporting documents, correspondence, and other materials related to the Complaint, must be emailed to RainTreeHOA@comcast.net, provided the sender retains sufficient proof of electronic delivery, or hand delivered to an Association Board member (Donald Lyon, John McDowell, Beth Cheuk). Hand delivery of the Complaint shall be made by delivery to their address and can be established by a mutually convenient time for delivery. Contact the Board Members thru the cited e-mail address above. for their addresses. The Complaint must be submitted to the Association within thirty (30) days of the alleged act, or failure to act, which is the subject of the Complaint.

II. Receipt and Adequacy of the Complaint.

A. The Association shall provide written acknowledgment of receipt of the Association 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. 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. 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.

III. Board Consideration of the Complaint.

A. The Board of Directors, or other hearing tribunal constituted by the Board, shall consider the Complaint within ninety (90) days of receipt of an adequate and completed Complaint, or under extenuating circumstances, as soon thereafter as may be reasonably possible.

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 II B above, but if the Complainant does not submit a revised complaint or additional information within thirty (30) days after such notice is sent, then the Association may consider the Complaint as submitted and make a final determination.

IV. 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. No further appeal process 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.

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

A. The Complainant shall have the right to file a "Notice of Final Adverse Decision." with the Common Interest Community Board. A copy of a form for this purpose can be obtained at this link: [F491-CICCOMP - CIC Complaint Form \(virginia.gov\)](#)

VI. 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.