

COURT OF APPEALS OF VIRGINIA

Daniel C. Laving v. University Village Owners Association

Laving · No. 1710-24-2 · Decided June 9, 2026

SUMMARY

The Virginia Court of Appeals granted rehearing, withdrew its May 5, 2026 opinion, vacated the mandate, and ordered reconsideration by the original panel. In the withdrawn opinion, the court affirmed summary judgment for the University Village Owners Association, holding that extending the time to exercise a condominium expansion option could be approved by a two-thirds vote rather than unanimity. The court also upheld the denial of sanctions and the award of attorney fees to the Association.

CASE DETAILS

COURT	Court of Appeals of Virginia
WRITING FOR THE COURT	Judge Kevin M. Duffan; Chief Judge Decker; Judge Malveaux; Judge Duffan
JURISDICTION	Court of Appeals of Virginia
DECIDED	June 9, 2026
DOCKET	1710-24-2
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the circuit court's grant of summary judgment to the condominium owners association, denial of Laving's motion for sanctions, and award of attorney fees to the Association. The combined opinion also records that the Court granted rehearing, withdrew its May 5, 2026 opinion, and vacated the prior mandate.
STANDARD OF REVIEW	Summary judgment and statutory construction are reviewed de novo. The grant or denial of sanctions is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published and precedential opinion of the Court of Appeals of Virginia
PARTIES	Daniel C. Laving v. University Village Owners Association

TOPICS

- real estate
- statutory interpretation
- summary judgment
- appellate procedure
- sanctions

PRACTICE AREAS

real estate

condominium law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether Lavering's declaratory judgment action presented an actual, justiciable controversy even though the Association had not yet submitted a final expansion proposal to the unit owners.
2. Whether Code § 55.1-1916(C)(3) permits the time limit for expanding an expandable condominium to be extended by amendment to the condominium declaration.
3. Whether extending the time to exercise an expansion option changes unit owners' undivided interests in the common elements and therefore requires unanimous approval under Code § 55.1-1934(E).
4. Whether permitting the amendment by a two-thirds vote improperly transferred or created special declarant rights.
5. Whether the circuit court abused its discretion by denying Lavering's motion for sanctions.
6. Whether the Association was properly awarded attorney fees as the prevailing party.

HOLDINGS

1. The action presented an actual and justiciable controversy because the Association had expressly asserted its legal position and had taken concrete steps, including adopting a resolution and retaining counsel, toward amending the declaration to permit expansion.
2. The phrase "such time limit" in Code § 55.1-1916(C)(3) refers to the time limit for expanding the condominium, not the period of declarant control.
3. Extending the time limit to pursue the option to expand an expandable condominium may be accomplished by an amendment approved by two-thirds of the unit owners under Code §§ 55.1-1916(C)(3) and 55.1-1934(B).
4. Allowing the condominium instruments to be amended by a two-thirds vote to extend the expansion period does not improperly transfer or create a special declarant right in the Association.
5. The circuit court did not abuse its discretion in denying Lavering's motion for sanctions based on the Association's denial in its answer that expansion could proceed by a two-thirds vote.

KEY QUOTATIONS

"We conclude that Code §§ 55.1-1916(C)(3) and -1934(B) allow such an amendment to be accomplished through a two-thirds vote." (-1-)

"As there was a justiciable controversy, the circuit court properly exercised jurisdiction to hear the declaratory judgment action under § 8.01-184." (-6-)

"Thus we decide, as did the circuit court, that "such time limit" in Code § 55.1-1916(C)(3) refers to the expansion period, not the period of declarant control." (-10-)

"The mere option to expand does not, by itself, change the undivided interest in the common elements." (-11-)

FACTUAL BACKGROUND

University Village was established in 1991 as an expandable condominium, with a declaration reserving a seven-year period for expansion. That period expired in 1998, but in 2003, 94.3% of the unit owners approved an amendment extending the period for a proposed Phase III expansion; no new units were constructed. In 2022, the Association adopted a resolution and retained counsel to prepare another amendment to permit Phase III, prompting Lavering to seek a declaration that expansion required unanimous unit-owner approval.

PROCEDURAL HISTORY

Lavering filed a declaratory judgment action in the Circuit Court of Albemarle County seeking a declaration that condominium expansion required unanimous approval of the unit owners. The circuit court granted the Association's motion for summary judgment, denied Lavering's cross-motion for partial summary judgment, denied sanctions, and awarded the Association \$81,223 in attorney fees. Lavering appealed. The Court of Appeals granted rehearing, withdrew its prior opinion and mandate, and issued the opinion affirming the trial court's judgment.

DISPOSITION

affirmed

CASES CITED

- Morgan v. Bd. of Supervisors, 302 Va. 46, 68-69 (2023)
- Cherrie v. Va. Health Servs., Inc., 292 Va. 309, 318 (2016)
- Hoffman Fam., L.L.C. v. Mill Two Assocs. P'ship, 259 Va. 685, 693-94
- Martin v. Garner, 286 Va. 76, 82 (2013)
- Charlottesville Area Fitness Club Operators Ass'n v. Albemarle Cnty. Bd. of Supervisors, 285 Va. 87, 98
- Patterson v. Patterson, 144 Va. 113, 120 (1926)
- Lafferty v. Sch. Bd. of Fairfax Cnty., 293 Va. 354, 360-61
- River Heights Assocs. v. Batten, 267 Va. 262, 268-70
- Ranger v. Hyundai Motor Am., 302 Va. 163, 169
- VACORP v. Young, 298 Va. 490, 494
- Norfolk Dep't of Hum. Servs. v. Goldberg, 81 Va. App. 667, 676 (2024)
- Verizon Va. LLC v. State Corp. Comm'n, 302 Va. 467, 477
- Wills v. Wills, 72 Va. App. 743, 755
- Epps v. Commonwealth, 47 Va. App. 687 (2006) (en banc), aff'd, 273 Va. 410 (2007)
- Morgan v. Commonwealth, 301 Va. 476, 481
- Prillaman v. Commonwealth, 199 Va. 401, 405 (1957)
- Scott v. Commonwealth, 292 Va. 380, 384
- Newberry Station Homeowners Ass'n v. Bd. of Supervisors of Fairfax Cnty., 285 Va. 604, 615
- West Virginia v. State Corp. Comm'n, 304 Va. 148, 158

- Va. Elec. & Power Co. v. State Corp. Comm'n, 300 Va. 153, 163
- City of Charlottesville v. Payne, 299 Va. 515, 532
- Robert & Bertha Robinson Fam., LLC v. Allen, 295 Va. 130, 139
- Lawlor v. Commonwealth, 285 Va. 187, 212-13
- Landrum v. Chippenham & Johnston-Willis Hosps., Inc., 282 Va. 346, 352
- Jefferson v. Commonwealth, 298 Va. 1, 10-11
- Reyes v. Commonwealth, 297 Va. 133, 139
- Bista v. Commonwealth, 303 Va. 354, 370
- Commonwealth v. Swann, 290 Va. 194, 197
- Kern v. TXO Prod. Corp., 738 F.2d 968, 970 (8th Cir. 1984)