

CABELL'S MILL COMMUNITY ASSOCIATION
REGULATORY RESOLUTION NO. 1

Rule Violations: Complaint and Due Process Procedures

WHEREAS, Virginia Property Owners' Association ("Act") Section 55-513(A), Cabell's Mill Community Association (the "Association") Declaration of Covenants, Conditions and Restrictions ("Declaration") Article IX, Sections 1(k) and 2(b) and Association Bylaws Article VII, Sections 1(a) and (b) grant the Board of Directors the power to promulgate, make and enforce Rules and Regulations respecting the use fo the properties within the Association;

WHEREAS, Section 550515 of the Act charges all lot owners and all those entitled to occupy a lot in the Association (collectively "lot owners") with compliance with the Association's Declaration;

WHEREAS, Section 55-513(B) of the Act, Declaration Article II, Section 1(b) and Bylaws Article VII, Sections 1(a) and (b) together provide the Association through its Board of Directors with the power to assess charges against lot owners and to suspend the lot owners' voting rights and use of facilities or nonessential services offered by the Association for violations of the Association's Declaration and Rules and Regulations, for which the lot owner is responsible;

WHEREAS, Section 55-513(B) of the Act further provides that certain procedures must be followed before such charges may be assessed;

WHEREAS, it is the intent of the Board of Directors, pursuant to Section 55-513(B) of the Act, Declaration Article II, Section 1(b) and Article IX, Sections 1(k) and 2(b) and Bylaws Article VII, Sections 1(a) and (b), to adopt by Resolution the authority to assess charges and to suspend lot owners' voting rights and use of facilities or nonessential services offered by the Association for violations of the Act and the Association's Declaration and Rules and Regulations; and

WHEREAS, it is the intent of the Board of Directors to enforce the Association's Instruments for the benefit, promotion and protection of the Association's lot owners' and inhabitants' comfort, health, peace, recreation, safety and general welfare and for the architectural control, beauty, improvement, maintenance and preservation of the common areas and of the residence lots and homes situated upon the Association's properties by establishing procedures which ensure due process and consistency of enforcement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors by the Act, the Association's Declaration and Bylaws and this resolution is adopting the ability to assess charges and to suspend a lot owner's right to vote and use facilities or nonessential services offered by the Association for any violation of the Act or the Association's Declaration and Rules and Regulations and are hereby further empowered to assess such charges and to suspend a lot owner's right to vote and use facilities or nonessential services offered by the Association pursuant to Section 55-513(B) of the Act, Declaration Article II, Section 1(b) and Article IX, Sections 1(k) and 2(b) and

Bylaws Article VII, Sections 1(a) and (b), which will be assessed and/or suspended only after the following procedures have been followed:

I. Complaint

- A. Any lot owner, tenant, managing agent, employee or Board member or requests that the Board take action to enforce the Association's Declaration and Rules and Regulations shall complete, date and sign a Complaint in a form similar to and containing the information contained in Exhibit "A" hereto.
- B. The Complaint shall be submitted to the Board of Directors for a determination as to whether it appears that the Association's Declaration or Rules and Regulations allegedly have been violated.
- C. The Board, in its discretion and as it deems advisable, shall take appropriate action, if any, which may include but is not limited to directing that a demand letter be sent or that it be referred to counsel or county authorities.

II. Demand

- A. If determined appropriate, a written demand letter, which may be in a form similar to Exhibit "B" hereto, shall be sent by first class mail or shall be hand-delivered to the lot owner at the address which the owner has provided the Association or at the lot's address if no other address has been provided. A copy may be sent to the tenant if there is a tenant.
- B. The demand letter shall specify the alleged violation, the action required to abate the violation and a date usually not less than ten (10) days after the date of the demand letter by which the alleged violation must be remedied. Provided, however, when the violation may constitute a health, safety or fire hazard, demand may be made to remedy the violation within twenty-four (24) hours.
- C. The demand letter shall state that if the violation is not remedied, the alleged violator must make a written request for a hearing before the Board to avoid imposition of charges. The letter shall also state that if no hearing is requested, the owner will be deemed to have waived the opportunity for a hearing and rules violation charges may be assessed. The demand letter may be combined with the notice of hearing referenced in Section III if a serious nature or if previous notices of violation have been sent to the owner.

III. Notice of Hearing.

- A. If the alleged violation is not remedied within the date or time specified in the demand letter referenced in Section II and the owner requests a hearing or if the Board determines a hearing is necessary, a notice of hearing shall be sent. Notice of a hearing shall be hand delivered or mailed by registered or certified United States mail, return receipt requested, at least fourteen (14) days in advance thereof, or within such other time as may be required by the Virginia Property Owners' Association Act, to the lot owner at the address which the lot owner is required to provide to the Association. Service by mailing shall be deemed effective two (2) days after the notice has been mailed in a regular

depository of the United States mail. The demand letter referenced in Section II.B may be combined with the notice of hearing or right to a hearing.

- B. The notice of hearing may be similar to Exhibit "C" attached hereto and shall specify:
 - 1. The time, date and place of the hearing, if the Board or its authorized designee deems a hearing appropriate, or that the lot owner has the opportunity to request a hearing.
 - 2. That the lot owner and tenant, if applicable, shall be given an opportunity to be heard and to be represented by counsel before the Board.
 - 3. The alleged violation, citing provisions of the Association's Declaration or Rules and Regulations which allegedly have been violated.
 - 4. That charges for violation of the Association's Declaration and Rules and Regulations may include assessment of up to Fifty Dollars (\$50.00) for a single offense or Ten Dollars (\$10.00) per day for any offense of a continuing nature or such greater amounts as may be authorized by the Virginia Property Owners' Association Act, and that the Association may also suspend a lot owner's right to vote and use facilities or nonessential services offered by the Association.

IV. Hearing

- A. The hearing shall be scheduled at a reasonable and convenient time and place within the Board of Directors' discretion.
- B. The Board, within its discretion, may grant a continuance. If the lot owner for which the hearing is scheduled requests a continuance to a different time or date, no further notice shall be required.
- C. The hearing need not be conducted according to technical rules of evidence applied in a court of law. The hearing shall provide the alleged violator with an opportunity to be heard and to be represented by counsel.
- D. The management agent, lot owner, tenant, any person lodging a complaint, and members of the hearing panel shall have the right to: (1) call, examine, and cross-examine witnesses; (2) introduce testimony and evidence; and (3) rebut testimony and evidence, all within reasonable time limits imposed by the Board of Directors.
- E. The hearing shall be conducted in private unless the alleged violator request that the hearing be open to owners and residents and further provided that the chairman of the hearing body may impose a reasonable limit on the number of such persons who can be accommodated in the hearing room. During the course of any hearing held, the Board, within its discretion, may afford those residents involved with the dispute or violation an opportunity to be heard within reasonable time limits.
- F. After proper notice has been given, if the lot owner fails to appear at the hearing or if no hearing is requested, the hearing or meeting may continue as scheduled

and the Board may assess charges from the final compliance date of the letter or take such other action as may be authorized by the Association's Declaration, Bylaws or Rules and Regulations or by law.

- G. If the alleged violator acknowledges responsibility for the violation charged, or does not wish to contest the alleged charge, the Board may, in its discretion, dispense with a hearing after having afforded the alleged violator with an opportunity for a hearing.
- H. Within forty-five (45) days of the hearing, the Board shall notify the alleged violator of its decision, the assessment of any charges and the date which those assessments shall accrue from and be due, which shall not be earlier than the date set forth in the demand letter by which the violation must cease.

V. Records.

The Board or the Management Agent shall keep copies of all correspondence relative to rules violations in the lot owner's file or in a separate file on rules violations. Minutes of each hearing or meeting shall be kept and a form similar to that attached hereto as Exhibit "D" shall be completed and placed in the lot owner's file and appropriate Association files.

VI. Assessment of Charges.

Pursuant to Section 55-513(B) of the Act, any charges assessed or violation of rules after notice and hearing shall be in amounts authorized by the Act and shall be treated as an assessment against such lot owner's lot for the purpose of Section 55-516 of the Act regarding liens, and collection under the provisions of the recorded Declaration and Bylaws. Such amounts also shall be the personal obligation of the owner.

VII. Other Remedies.

This resolution shall not be deemed to require a hearing prior to assessment of rules violation charges if a hearing is not requested or to prevent the Association from exercising any other remedies authorized or available under the Act, the Association's Instruments or by law and shall not constitute an election of remedies.

Duly adopted at a meeting of the Board of Directors held October 10, 1996.