

ROCKLAND CREEK HOMEOWNERS ASSOCIATION, INC.

REGULATORY RESOLUTION NO. 1

RULE VIOLATIONS: COMPLAINT AND DUE PROCESS PROCEDURES

WHEREAS, Section 55-513(A) of the Virginia Property Owners' Association Act("Act") grants the Rockland Creek Homeowners' Association, Inc's ("Association") Executive Committee the power to make and amend Rules and Regulations;

WHEREAS, the Deeds of Dedication, Restriction, and Easement of Rockland Creek Estates constitute "declarations" as contemplated by the Act; and the Association's Executive Committee constitutes a "board of directors" as contemplated by the Act.

WHEREAS, pursuant to Section 55-515 (A) of the Act, all lot owners which are subject to the Deed of Dedication, Restriction, and Easement of Rockland Creek Estates Section Two, recorded in Deed Book 883, Page 421 in the Clerk's Office of the Circuit Court of Spotsylvania County, Virginia and dated August 9, 1989, as amended; the deed of Dedication, Restriction, and Easement of Rockland Creek Estates Section three, recorded in Deed Book 1006, Page 605 in the Clerk's Office of the Circuit Court of Spotsylvania County, Virginia on December 11, 1991, as amended; and the Deed of Dedication, Restriction, and Easement of Rockland Creek Estates Section Four, recorded in Deed Book 1156, Page 128 in the Clerk's Office of the Circuit Court of Spotsylvania County, Virginia on October 6, 1993, as amended, ("Deeds of Dedication") and all those entitled to occupy a lot in Rockland Creek Estates shall comply with the Deeds of Dedication, as amended;

WHEREAS, by notarized agreement certain lot owners in Section One are subject to the Deed of Dedication and, for the purposes of this Resolution, shall be deemed "lot owners";

WHEREAS, Article II (a) of the Bylaws of the Rockland Creek Homeowners Association provides the Association with the purpose to "aid and cooperate with the members of the Association in the enforcement of such conditions, covenants, and restrictions on and appurtenant to their property..." Article II (e) of the Bylaws provides the authority "in general", but in connection with the foregoing, to do any and all things necessary to promote the recreation, health, safety and welfare of the members and their property interests in the subdivision";

WHEREAS, in accordance with section 55-513(B) of the Act, the Association, by duly adopted resolution, has the authority to "suspend a member's right to use facilities or services, including utility services provided directly through the association for nonpayment of

assessments which are more than sixty days past due” and to “assess charges against any member for any violation of the declarations or rules and regulations for which the member or his family members, tenants, guests, or other invitees are responsible”;

WHEREAS, Article IV, Section 2 of the Bylaws of the Rockland Creek Homeowners Association provides that “during any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights and right to use recreational facilities of such member may be suspended by the Executive Committee until such assessment has been paid”;

WHEREAS, it is the intent of the Executive Committee, by virtue of this Resolution, to bring its enforcement policies and procedures into compliance with the enforcement authority Established by Section 55-513(B) of the Act;

WHEREAS, it is the intent of the Executive Committee, pursuant to Section 55-513(B) of the Act, to adopt by Resolution the authority to assess charges for violations of the Act and the Deeds of Dedication and the Association’s Bylaws and Rules and Regulations and to amend its authority to suspend a member’s right to use facilities;

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

WHEREAS, it is the intent of the Executive Committee to enforce the Deeds of Dedication, Bylaws and duly adopted Rules and regulations for the benefit and protection of the Association’s lot owners, by establishing procedures which ensure due process and consistency of enforcement;

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Executive Committee of Rockland Creek Homeowners’ Association, Inc., by the Act, the Association’s Bylaws and this Resolution is adopting the ability to suspend a lot owner’s right to use facilities or services, including utility services, provided directly through the Association for nonpayment of assessments which are more than sixty (60) days past due and to assess charges for any violation of the Act or the Deeds of Dedication, Bylaws and Rules and regulations for which the lot owner is responsible pursuant to Section 55-513(B) of the Act, and such suspension or assessment shall occur only after the following procedures have been followed:

I. Complaint

- A. Any lot owner, tenant, managing agent, employee or Executive Committee member who requests that the Executive Committee take action to enforce the Deeds of Dedication, Bylaws and Rules and Regulations shall complete, date and sign a complaint in a form similar to and containing the information contained on Exhibit “A” hereto.

- B. The Complaint shall be submitted to the Executive Committee for a determination as to whether it appears that the Deeds of Dedication, Bylaws or Rules and Regulations allegedly have been violated.
- C. The Executive Committee shall then initiate the appropriate action, such as sending a demand letter, or determine whether counsel or county authorities should be involved in the matter.

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 lot 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 Executive Committee to avoid imposition of charges or the suspension of the right to use common area facilities or services. 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 or the right of use of Association facilities or services may be suspended. The demand letter may be combined with the notice of hearing referenced in Section 3 if the violation is of 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 2 and the owner requests a hearing or if the Executive Committee determines a hearing is necessary, a notice 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 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 2 (B) may be combined with the notice of hearing or right to a hearing. The notice of hearing shall include the charges or other sanctions that may be imposed.

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 Executive Committee 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 Executive Committee.
- 3) The alleged violation, citing provisions of the Deeds of Dedication, Bylaws or Rules and Regulations which allegedly have been violated.
- 4) The nature of the possible suspension of right to use facilities or services provided by the Association and/or that charges for violation of the Deeds of Dedication, Bylaws 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, not to exceed ninety (90) days, for any offense of a continuing nature or such greater amounts as may be authorized by the Virginia Property Owners' Association Act until the offense is cured and/or ceased.

IV. Hearing

- A. The hearing shall be scheduled at a reasonable and convenient time and place within the discretion of the Executive Committee.
- B. The Executive Committee, within its discretion, may grant a continuance. If the lot owner for whom 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 members of the Executive Committee (and/or Covenants Committee 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 Executive Committee (and/or Covenants Committee).

- E. Because the Association's Executive Committee hears matters regarding violations of the Association's governing documents, the hearing shall be conducted in private, pursuant to Section 55-510(E) of the Act, at the discretion of the Executive Committee, 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 Executive Committee, 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 Executive Committee may assess charges from the final compliance date of the letter or take such other action as may be authorized by the Deeds of Dedication, 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 Executive Committee may, in its discretion, dispense with a hearing after having afforded the alleged violator with an opportunity for a hearing.
- H. Within three (3) days of the hearing, the Executive Committee shall notify the alleged violator of its decision, including a description of any sanction levied and the applicable 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, and whether or not it is suspending the owner's right to use the common areas and facilities. Notification of the results of the hearing shall be hand-delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the Association within three (3) days of the hearing.

V. Records

The Executive Committee 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 for 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 Deeds of Dedication, the Bylaws, and adopted Rules and Regulations. Such amounts also shall be the 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, prior to the use of other remedies, or to prevent the Association from exercising any other remedies authorized or available under the Act, the Association's governing documents or by law. The assessment of charges or the levying sanctions shall not constitute an election of remedies. Remedies may be cumulative and include, without limitation a suit for damages or injunctive relief, including attorneys' fees, as authorized by Section 55-515(A) of the Act.

VIII. Effective Date

This resolution shall become effective on the 15th day of May 2002 and shall supersede all previous resolutions regarding due process procedures.