

HIDDENBROOK HOMES ASSOCIATION

POLICY REGARDING DUE PROCESS

WHEREAS, Section 55-513(A) of the Virginia Property Owners' Association Act (the "Act") provides that the Board of Directors of Hiddenbrook Homes Association (the "Board of Directors" or "Board") "shall have the power to establish, adopt and enforce rules and regulations with respect to such areas of responsibility assigned to the Association by the Declaration, except where expressly reserved by the Declaration to members;" and

WHEREAS Section 55-513 (B) of the Act provides that the Board of Directors of an Association has the power to suspend Members' rights to use facilities and services and to assess charges for certain violations; and

WHEREAS Section 55-513 (B) of the Act provides that before the Board of Directors of an Association can impose any charges or suspension, the Member shall be given notice and the opportunity to be heard, and shall have the right to be represented by counsel before the Board of Directors or other tribunal specified in the documents; and

WHEREAS, it is the intent of the Board of Directors to formally adopt due process procedures pursuant to the requirements of the Act for the resolution of complaints and rule violations in order to protect and benefit the members of the Association and ensure consistent and just enforcement; and

WHEREAS, the Association's rules and regulations are hereby amended to include this Due Process Resolution, which shall supersede any and all conflicting prior due process resolutions and procedures; and

NOW THEREFORE, IT IS HEREBY RESOLVED THAT:

I. Complaint.

A. Any owner or resident, including members of the Board, or other Committee, may request that the Board take action to enforce the Association's rules and regulations contained in its governing documents, which include all provisions of the Association's Declaration, By-laws, Articles of Incorporation, and any other Association guidelines, resolutions or rules governing the use of the common area and facilities of the Association and/or the personal conduct of Association members and their guests, family members, tenants, and invitees (collectively the "Governing Documents") and shall:

1. Complete as fully as possible a written "complaint" containing:
 - a. Name of the person allegedly in violation;
 - b. Street address of person allegedly in violation;

- c. Date(s) alleged violation occurred;
 - d. Where alleged violation was observed;
 - e. Detailed description of nature of alleged violation;
 - f. Any personal action(s) taken to attempt to resolve the alleged violation and the dates such action was taken;
 - g. Printed name and address of person(s) making complaint;
 - h. Signature(s) of person(s) making complaint; and
 - i. Date complaint is made.
2. Submit the complaint directly to a member of the Board, who will, as appropriate, promptly bring it to the attention of the entire Board of Directors for a determination as to whether it appears that a provision of the Governing Documents has been violated.

II. Investigation and Good-Will Effort.

- A. The Board of Directors, a member of another appropriate Committee at the request of and on behalf of the Board, will investigate the alleged violation.
- B. If there is cause to believe that a violation of the Governing Documents may exist, then the Board shall:
 - 1. Make an effort to resolve the dispute without resorting to further procedures by:
 - a. Attempting to contact all parties involved in the dispute to determine their concerns and to clarify and notify the parties of possible violation(s) of the Governing Documents.
 - b. Allowing the party alleged to be in violation to remedy the cause of the dispute immediately upon contact.

III. Demand.

- A. If the Board's good-will effort in Section II does not result in resolution or abatement of the alleged violation, the Board shall:
 - 1. Execute a written demand letter to cease and desist from an alleged violation and deliver it by hand or certified mail, return receipt requested, to the residence of the person violating and to the owner of the lot; if they

are different, at the address that the owner has provided to the Association or at the lot address if no other address has been provided.

2. The demand letter shall contain:
 - a. The name of the person allegedly in violation;
 - b. The street address of person allegedly in violation;
 - c. The date(s) that the alleged violation occurred;
 - d. Where alleged violation was observed;
 - e. A detailed description of nature of alleged violation, including specific provisions of the Association's regulations which have allegedly been violated;
 - f. A statement that the Board may impose monetary charges; and
 - g. The action required to abate or remedy the alleged violation and the date by which the alleged violation may be remedied without sanction.
3. The alleged violator shall be given at least ten (10) days from delivery of the demand letter to remedy the alleged violation provided however, that matters determined by the Board to be of a serious safety, health or detrimental nature must be abated within twenty-four (24) hours upon written notice.

IV. Notice of Hearing.

- A. If the alleged violation continues past the abatement period specified in the demand letter as indicated in Section III or if the same rule is subsequently violated, the Board shall hold a hearing within three (3) months of the date of the abatement deadline set out in the demand letter or the reoccurrence of the alleged violation to render a final determination on the existence of a violation and the possible imposition of sanctions including the assessment of charges against the lot owner for said violation(s).
- B. A notice of hearing shall be hand delivered or mailed by registered or certified mail, return receipt requested, at least fourteen (14) days prior to the hearing to the lot owner(s) of record at the address of their lot and to any such other address as they may have designated. A copy shall be sent in the same manner to any resident person at the lot address, if named in the complaint.

1. The notice of hearing shall specify:
 - a. The time, date and place of the hearing;
 - b. That the owner is invited to attend the hearing and shall be given an opportunity to present any evidence, statements or witnesses;
 - c. That the owner may be represented by counsel;
 - d. The alleged violation referencing the provision of Rules or Governing Documents violated; and
 - e. Possible sanctions or penalties which could be imposed for the alleged violation.

V. Hearing.

- A. The hearing shall be scheduled at a reasonable and convenient time and place, at the discretion of the Board.
- B. The Board, within its discretion, may grant a continuance if requested at least forty-eight (48) hours before the scheduled hearing, provided however, that in case of an emergency a continuance, may be granted within that period. No further notice of hearing shall be required in case a continuance is granted.
- C. The hearing shall be conducted in open session with a quorum of the Board present and shall provide the Complainant, the Respondent and the Board, or their respective counsel, the right and opportunity to:
 1. Call, examine, and cross-examine witnesses;
 2. Introduce testimony and evidence;
 3. Rebut testimony and evidence;
 4. Share equal and reasonable time limits for the presentation of testimony and evidence to be determined by the Board; and
 5. Obtain a recording of the minutes of the hearing.
- D. A hearing will continue as scheduled, even if any of the parties to the complaint are absent, provided notice of the hearing was given.
- E. The hearing shall be informal regarding legal formalities. Any relevant evidence,

which is not privileged, is admissible without regard to whether such evidence is hearsay or otherwise inadmissible in a court of law. The Board may exclude irrelevant, immaterial or unduly repetitious evidence.

- F. Complainant, Respondent or the Board may cause the hearing to be transcribed at their/its own expense, provided that any person or party entitled by law to transcribe the hearing, other than the Board, must provide prior written notice to the Board of his or her intention to do so. Such notice must be given in writing at least seven (7) days before the hearing and must state the manner in which the hearing will be transcribed. Such notice shall be deemed effective and given on the date it is received by the Board. Such notice may be given to any Board member. Placement of the equipment and the process of transcribing the hearing must not impede the hearing. Video taping of the hearing is prohibited.
- G. The Board may make a finding, based upon substantial evidence, that a violation has occurred.
- H. The Board may administer an oath or affirmation to any person upon request of either party.
- I. The Board may expel any party, attorney, witness or spectator from any hearing for improper, disorderly or contemptuous conduct.
- J. Following the presentation of evidence at the hearing, the Board, at its discretion, may go into executive session to discuss whether satisfactory proof of the alleged violation was presented, and if so, whether monetary fines should be imposed.
- K. The Board shall make its decision in an open meeting.

VI. Notice of Decision.

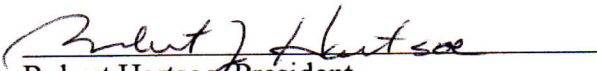
- A. The Board will notify the alleged violator of its decision within seven (7) days of the hearing by hand-delivery or registered or certified mail, return receipt requested, to the member at the address of record with the Association. A copy shall be sent in the same manner to any resident person at the lot address, if named in the complaint.
 - 1. The notification of decision will contain:
 - a. Whether the person has been found to be in violation;
 - b. The provision or document violated;
 - c. The sanctions including charges imposed or other remedies;

- d. The date on which those sanctions including charges begin; and
 - e. Where minutes of the meeting may be obtained.
- B. If the decision of the Board is unfavorable to the owner or resident, the Board shall undertake the administrative actions required to effect the monetary charges as an assessment against the owner's lot pursuant to Section 55-513(A) of the Virginia Property Owners' Association Act.
- C. The violator shall have the right to appeal the Board's decision. The request for an appeal must be submitted in writing, and received in the office of the Management Agent within ten (10) days of the receipt of the violation notice.

VII. Miscellaneous

- A. The Board may, upon determining that a violation exists, prescribe or seek any remedies including imposition of sanctions available to it under the Governing Documents, as well as any remedies described in Section 55-513 of the Virginia Property Owners' Association Act and in other laws of the Commonwealth of Virginia. This Resolution is in no way intended to preclude the Board from exercising other enforcement procedures and remedies authorized by the Association's legal documents, including, but not limited to, the initiation of suit or self-help remedies.
- B. This Due Process Resolution is to be interpreted and enforced in accordance with the laws of the Commonwealth of Virginia.
- C. If any provision of this Due Process Resolution is declared by a court of competent jurisdiction to be invalid or otherwise ineffective, the remainder of this Due Process Resolution shall remain in full force and effect.
- D. The Association's rules and regulations are hereby amended to include this Due Process Resolution.

I hereby certify that the foregoing Resolution was duly adopted by the Board of Directors on the 15th day of November, 2011 and is effective on the 15th day of November, 2011.


Robert Hartsoe, President
Hiddenbrook Homeowners Association