

COUNTRY CREEK ASSOCIATION, Inc.

Policy Resolution No. 96-2

Due Process Procedures and Creation of Power for Board of Directors to Enforce Legal Restrictions through Imposition of Monetary Charges

WHEREAS, the Virginia Property Owners' Association Act provides Boards of Directors of Community Associations with the power to enforce the regulations of the Association by assessing monetary charges against those owners who are responsible for violations of the regulations;

WHEREAS, Boards of Directors must formally adopt and publish a written resolution to enact the statutory power to assess monetary charges against owners for violations of the Associations's regulations; and

WHEREAS, for the benefit and protection of all of the owners of the Association, the Board of Directors deems it desirable to formally adopt a resolution to enact the statutory power to assess monetary charges and to establish a procedure for enforcement of the community association's regulations which are consistent with principles of due process and Virginia law.

NOW, THEREFORE, BE IT RESOLVED THAT:

I. ENFORCEMENT STEPS

- A. On behalf of the Association, the Board of Directors may undertake enforcement action upon its own detection of a violation of the Association's regulations or upon its confirmation of a violation reported by any source. At the discretion of the Board of Directors, initial enforcement action may take the form of verbal or informal written notification to the offending owner.
- B. When informal notification is not elected or does not result in correction of the violation, the Board of Directors shall issue a formal notice in writing. The formal notice shall be delivered by hand or mailed by registered or certified mail, return receipt requested, to the owner at his/her address listed on the records of the Association, and to the property address, if different.
NOTIFICATION WILL BE DEEMED EFFECTIVE IF ANY OWNER FAILS OR REFUSES TO SIGN FOR ANY REGISTERED OR CERTIFIED MAILING FROM THE ASSOCIATION
- C. Formal written notice to the owner will generally advise the owner of the nature of the offense, the citation of the specific provision within the Association's regulations which has allegedly been violated, the specific remedy required, and the number of days within which corrective action must be completed in order to preclude the possible imposition of the monetary charge.

- D. When formal written notice does not result in correction of the violation, the Board of Directors may impose monetary charges against the offending owner. The decision shall be made by the Board of Directors at a duly convened meeting, and the decision shall be recorded in the minutes.

II. NOTICE AND HEARING GUIDELINES

Before the monetary charge may be imposed, the owner shall be informed in writing of his/her right to request a hearing to contest the monetary charge. The following guidelines apply to the notice and hearing procedure:

- A. A written notice delivered by hand or mailed by registered or certified mail, return receipt requested, from the Board of Directors to the owner shall advise the owner of his/her right to contest the monetary charge at a hearing before the Board. Such notice shall request the owner to confirm in writing by a certain date his/her desire for a hearing to contest the monetary charge. The Board of Directors shall set all hearing dates at its discretion.
- B. WHEN NO RESPONSE IS RECEIVED FROM THE OWNER BY THE HEARING CONFIRMATION DATE, OR WHERE THE OWNER REQUESTS A HEARING BUT FAILS TO ATTEND THE HEARING WITHOUT PROVIDING REASONABLE AND SATISFACTORY EXPLANATION, THE OWNER SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO SUCH HEARING AND MONETARY CHARGES SHALL BE IMPOSED. THE BOARD OF DIRECTORS SHALL NOT BE REQUIRED TO CONDUCT A HEARING UNLESS THE OWNER CONFIRMS THE INTENTION TO ATTEND THE HEARING IN WRITING.
- C. When hearings are conducted, the Board of Directors shall provide the owner with a reasonable amount of time to present any and all defenses to the alleged violation.
- D. Following a hearing, the Board of Directors will meet in executive session to determine whether satisfactory proof of the alleged violation exists, and, if so, whether monetary charges shall be imposed.

III. ENFORCEMENT REMEDIES

When the judgement is unfavorable to the owner, the Board of Directors will undertake the administrative actions required to effect a charge as an assessment against the owner's lot. Monetary charges may not exceed \$50.00 for a single offense or \$10.00 per day for any offense of the continuing nature. The Board of Directors shall use the following definitions:

- A. **Single offense:** An act or omission by an owner (or his/her family, tenant, guest or invitee) determined by the Board of Directors to constitute a violation of any provision of the Association's regulations. Owners shall be legally responsible to ensure that their tenants, guests or invitees comply with the Association's regulations.
- B. **Continuing offense:** The failure of a owner (or his/her family, tenant, guest or invitee to rectify an act or omission determined by the Board of Directors to constitute a violation of any provision of the Association's regulations for more than one day after receipt of any written notice from the Board of Directors, or the reoccurrence of a single offense within six months of the date of the receipt of written notice of imposition of monetary charges for the single offense. Daily charges for continuing offenses may accrue up to the date when the owner notifies the Board of Directors in writing that correction of the violation has occurred (subject to later confirmation by the Board of Directors). In no case may daily charges exceed a total of 60 days without another formal vote of the Board of Directors. If the correction of a continuing offense has been confirmed by the Board of Directors, the monetary charge levied against the owner's lot through the day of correction will remain in place.
- C. **Applicability:** The procedures outlined in this Resolution may be applied to all violations of Association legal restrictions, but do not preclude the Association from exercising other enforcement procedures and remedies authorized by the Association's legal documents, including, but not limited to, initiation of suit or self help remedies.

I hereby certify that this policy resolution was duly adopted by the Board of Directors on 17 January, 1996

COUNTRY CREEK ASSOCIATION, Inc.


PEGGY A. ANDRESS, President