

*UNIT OWNERS ASSOCIATION OF COLONIAL VILLAGE I,  
A CONDOMINIUM*

POLICY RESOLUTION No. 2010-1

RESOLUTION ON DUE PROCESS PROCEDURES

WHEREAS, Section 55-79.53 of the Virginia Condominium Act, Code of Virginia (1950, as amended) (the "Act") charge all unit owners and their tenants, guests and invitees with compliance with the condominium instruments (Declaration, Bylaws, plats and plans) of the Association, as amended; and,

WHEREAS, Article III, Section 2(f) (*Board of Directors - Powers and Duties*) of the Bylaws, grant the Association, acting through its Board of Directors, the authority to "[make and amend the Rules and Regulations"; and,

WHEREAS, Section 55-79.80:2 of the Act authorizes the Association, through its Board of Directors and to the extent expressly so provided in the condominium instruments or the rules and regulations adopted pursuant thereto, to suspend a unit owner's right to use facilities and services, and to also assess charges against any unit owner "for any violation of the condominium instruments or of the rules and regulations promulgated pursuant thereto..." for which the unit owner or his family members, tenants, guests or other invitees are responsible; and,

WHEREAS, Section 55-79.80:2 of the Act further provides that certain procedures must be followed before such charges or suspensions may be assessed; and,

WHEREAS, it is the intent of the Board of Directors to enforce the condominium instruments for the benefit and protection of the Association's unit owners and residents 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 condominium instruments and this Resolution, are hereby empowered to suspend rights of use or to services, and to assess charges pursuant to Section 55-79.80:2 of the Act, and it is further resolved that the Board of *Directors* shall assess such charges for any violation of the condominium instruments or rules only after the following procedures have been followed:

**I. Complaint**

A. Any unit owner, tenant, managing agent, employee or Board member who requests that the Board take action to enforce the condominium instruments and rules shall complete, date and sign a complaint in a form similar to and containing the information contained on Exhibit "A" hereto. The unit owner, tenant, managing agent, employee or Board member who requests that the Board take action to enforce the condominium instruments and rules shall be in good standing. "Good standing" will be defined as being current on all association dues, fees, and/or assessments and in compliance of all condominium instruments and rules. Any complaint not having to do with enforcing the condominium instruments and rules shall be addressed in the Complaint Resolution.

B. The complaint shall be submitted to the Board of Directors for a determination as to whether it appears that a rule or provision of the condominium instruments allegedly has been violated.

C. The Board of Directors shall then take appropriate action, such as, but not limited to, issuing a warning letter, 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 unit owner at the address which the owner has provided to the Association or at the unit 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. 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 unit owner must request in writing a hearing before the Board to avoid imposition of charges or suspension of rights or services. The letter shall also state that if no hearing is requested, the owner shall be deemed to have waived the opportunity for a hearing and rules violation charges or suspensions may be assessed. The demand letter may be combined with the notice of hearing referenced in Section III 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 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 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 unit owner at the address of record with 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 may be combined with the notice of 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.
- 2) That the unit owner and tenant, if applicable, shall be given an opportunity to be heard and to be represented by counsel (at the unit owner's expense) before the Board.
- 3) The alleged violation, citing provisions of the condominium instruments or rules which allegedly have been violated.
- 4) That charges for violation of the condominium instruments and rules 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 for a period not to exceed ninety (90) days or such greater amounts as may be authorized by the Virginia Condominium Act.

5) That the alleged violation may result in the suspension of services, facilities use or voting rights, including suspension of reserved parking privileges.

#### **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 unit 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 is not to be conducted according to technical rules of evidence or procedure applied in a court of law. Rather, the purpose of the hearing shall be to provide the unit owner with an opportunity to be heard and to be represented by counsel (if desired), within reasonable time limits imposed by the Board of Directors.

D. The hearing shall be conducted in private executive session unless the unit owner requests that the hearing be open to owners and residents. If the hearing is conducted in open session, 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.

E. After proper notice has been given, if the unit 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, suspend use rights or services or take such other action as may be authorized by the condominium instruments or by law.

F. If the unit owner 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 unit owner with an opportunity for a hearing.

G. Within seven (7) days of the hearing, the Board shall, by hand-delivery or certified mail, return receipt requested, notify the unit owner of its decision, any suspension of use rights and/or the assessment of any charges and the date from which those assessments shall accrue and be due.

#### **V. Records.**

The Board or the management agent shall keep copies of all correspondence related to rules violations in the unit 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 unit owner's file and appropriate Association files.

#### **VI. Assessment of Charges.**

Pursuant to Section 55-79.80:2 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 the owner's unit for the purpose of Section 55-79.84 of the Act regarding liens. Such amounts shall also be the personal obligation of the owner.

## **VII. Other Remedies.**

This Resolution shall not be interpreted 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 condominium instruments or by law and shall not constitute an election of remedies.

## **VIII. Recusal.**

In the event a majority of the Board decides to impose Monetary sanctions ("penalties") on a sitting member of the Board for infractions of the Association Bylaws, the sanctioned Board member will be required to recuse him or herself from all further Board decisions regarding the imposition of penalties on other Association residents or owners. The sanctioned Board member and the remainder of the Board must agree to a remedy for the infraction and the cessation of penalties of the sanctioned Board member before the sanctioned Board member may resume participation in decisions regarding the imposition of penalties on other CV-1 residents and owners.

## **IX. State Appeal**

Unit owners who believe that the Colonial Village I Association violated legal requirements (Virginia statutes or regulations) in rendering an adverse decision may file a "Notice of Adverse Decision" with the State of Virginia Common Interest Community Ombudsman at [http://www.dpor.virginia.gov/dporweb/cic\\_ombuds.cfm#FilingAComplaint](http://www.dpor.virginia.gov/dporweb/cic_ombuds.cfm#FilingAComplaint); 804-367-2941; <mailto:CICOmbudsman@dpor.virginia.gov>.

*Unit Owners Association of Colonial Village I Condominium*

**Exhibit "A" to the  
Resolution on Due Process Procedures**

**COMPLAINT FORM**

Date: \_\_\_\_\_

Covenant/Rule Violation Complaint

1. Name of person(s) violating covenant/rule:
2. Unit of person(s) violating covenant/rule.
3. Are the person(s) named in question #1 tenants or owners?
4. Describe in detail how and where the covenant or rule was violated:
5. When did the violation(s) occur?
6. Have you personally requested the unit owner and/or tenant to cease the violation? Yes \_\_  
No\_\_                      Verbally \_\_    By written request \_\_    When?
7. Name and unit number of person(s) making complaint:
8. Signature \_\_\_\_\_

.....

**FOR ASSOCIATION USE ONLY**

9. Owner: \_\_\_\_\_ Tenant \_\_\_\_\_
10. Provision(s) of condominium instruments or rules violated:
11. Registered Name(s) of unit owner(s):
12. Owner's address if non-resident:
13. Registered name(s) of tenant(s):

14. Comment:

15. Date demand letter sent to unit owner:

16. Owner/Tenant \_\_\_ does/ \_\_\_ does not request a hearing.  
Date request received:

17. Referred to Board on \_\_\_\_\_, 20\_\_.

18. Date notice of hearing sent: \_

cc: Unit Owner File (optional-record may be closed); Rules Violation File

**Unit Owners Association of Colonial Village I Condominium**

**Exhibit "B" To The  
Resolution On Due Process Procedures**

**DEMAND TO CEASE AND CORRECT**

Date: \_\_\_\_\_

Dear: \_\_\_\_\_

You are hereby notified that a complaint has been made against you (or your tenants) for the alleged violation of the following covenant (or rule or regulation) of the Association:

Perhaps you were not aware of the covenants running with the land and/or the Association's rules, or perhaps you do not believe you are in violation. However, the covenants and rules are enforced for the benefit of all residents and to maintain property values throughout the community. You are requested to immediately cease and correct all of the above violations within ten (10) days from the date of this letter. If you need more time, you must request additional time and notify the Board in writing as to when the repairs will be done.

If you wish to contest the alleged violation and avoid imposition of charges or suspension of use rights or services, you must request a hearing before the Board of Directors in writing within ten (10) days from the date of this letter. If you request a hearing, complete the bottom portion of this letter and return a copy to the Board of Directors. The Board of Directors or its agent will send you a notice by certified mail, return receipt requested, stating the hearing time and place. Alternatively, if you elect to cease and correct the violation within ten (10) days, please send a copy of this letter to the Board of Directors noting that the violation has been stopped or corrected. If you fail to respond to this letter and the violation persists, you will be deemed to have waived your hearing right and you may be assessed rules violation charges of up to Ten Dollars (\$10.00) per day for a continuing violation for a period of up to ninety (90) days or up to Fifty Dollars (\$50.00) for each single violation without further notice. The Board may also take other legal action against you.

Sincerely,

The Board of Directors

Cc: Unit owner file

**TO BE COMPLETED BY UNIT OWNER**

Name:

Unit#

\_\_\_\_ I hereby request a hearing before the Board to contest the violation.

\_\_\_\_ I have ceased and/or corrected the violation and will refrain from further violations.

\_\_\_\_\_  
Signature

Mail this portion to Colonial Village I Management Office – 1903 N Key Blvd., Arlington, VA 22201

***Unit Owners Association of Colonial Village I Condominium***

**Exhibit "C" To The  
Resolution On Due Process Procedures**

**NOTICE OF HEARING**

CERTIFIED MAIL RETURN RECEIPT REQUESTED NO.

Re: Notice of Rules Violation Hearing

Dear

You are hereby notified that a hearing will be held before the Board of Directors of the Unit Owners Association of Colonial Village I at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_, at \_\_\_\_m., pursuant to Section 55-79.84:2 of the Virginia Condominium Act and the condominium instruments for your tenant's or your alleged violation of the following covenant or rule of the Association:

You may be present at the hearing. You may, but need not, be represented by counsel at your expense. You may present any relevant evidence. You may request the attendance of witnesses.

Please be advised that if the Board determines that you are in violation of the condominium instruments or the rules and regulations, charges of up to Fifty Dollars (\$50.00) for a one-time violation or Ten Dollars (\$10.00) per day for a period of up to ninety (90) days for a continuing violation may be assessed against you and your unit and your right to services and facilities use, including reserved parking and the right to vote, may be suspended. In addition to this hearing, the Board may elect such other remedies as are authorized by the Virginia Condominium Act, the condominium instruments, and by law.

If you have any questions or wish to communicate with the Board regarding this matter, please call: \_\_\_\_\_

Sincerely,

cc: Unit Owner File; Rules Violation  
File



*Unit Owners Association of Colonial Village I Condominium*

**EXHIBIT "D" TO THE  
RESOLUTION ON DUE PROCESS PROCEDURES**

**RECORD OF HEARING**

Hearing Date and Time: \_\_\_\_\_

Unit Owner(s): \_\_\_\_\_ Unit #:

Address if other than lot \_\_\_\_\_

Alleged Violation:

Provisions of Governing Documents Violated:

Persons in Attendance:

Decision of Board and Reasoning:

Charges Imposed (date commencing):

Other Sanctions Imposed:

Comments:

**THE UNIT OWNERS ASSOCIATION OF  
COLONIAL VILLAGE I, A CONDOMINIUM**

**RESOLUTION ACTION RECORD**

Resolution Type: Policy No. 2010-1

Pertaining to: **DUE PROCESS**

Duly adopted at a meeting of the Board of Directors held *August 25, 2010*.

Motion by: Geoff Schwartzman Seconded by: Andrea Raggamki

	VOTE:			
	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Director <u>Andrea Raggamki</u> <i>Print:</i>	✓	_____	_____	_____
Director <u>Geoff Schwartzman</u> <i>Print:</i>	✓	_____	_____	_____
Director <u>Paul Chritton</u> <i>Print:</i>	✓	_____	_____	_____
Director <u>Charles Edwards</u> <i>Print:</i>	✓	_____	_____	_____
Director <u>Michael Cardman</u> <i>Print:</i>	_____	_____	_____	✓

ATTEST:  
[Signature]  
Secretary

8/25/2010  
Date

**FILE DATA:**

Book of Minutes 2010

Book Resolutions:

	Book No.	Page No.
Policy	_____	_____
Administrative	_____	_____
Special	_____	_____
General	_____	_____

Resolution effective: