

LOFT RIDGE HOMEOWNERS ASSOCIATION, INC.

REGULATORY RESOLUTION NO. 17

Rule Violations: Complaint and Due Process Procedures

WHEREAS, Article VI, section 1(a) of the Bylaws of the Loft Ridge Homeowners Association, Inc. (hereinafter the "Association") grants the Board of Directors the power to adopt and amend Rules and Regulations governing the use of the property and the conduct of the Association members and their guests therein; and

WHEREAS, Section 55-515 of the Virginia Property Owners Association Act, Code of Virginia (1950, as amended) (the "Act") charges all Lot owners and their tenants, guests and invitees with compliance with the Declaration, Bylaws, Rules and Regulations (the "Governing Documents") of the Association, as amended; and

WHEREAS, Section 55-513(B) of the Act provides the Association through its Board of Directors with the power to assess charges against lot owners for violations of the Governing Documents and the Rules and Regulations, for which the lot owner or his family members, tenants, guests or other invitees are responsible; and

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

WHEREAS, it is the intent of the Board of Directors to enforce the Governing Documents for the benefit and protection of the Association's lot owners and residents by establishing procedures that ensure due process and consistency of enforcement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors by the Act, the Governing Documents and by adoption of this resolution is hereby empowered to assess charges pursuant to Section 55-513(B) of the Act and shall assess such charges for any violation of the Governing Documents or Rules and Regulations only after the following procedures have been followed:

I. Complaint.

A. Any lot owner, tenant, managing agent, employee or Board member who requests that the Board take action to enforce the Governing Documents 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 Board of Directors for a determination as to whether it appears that a rule or provision of the Governing Documents allegedly has been violated.

C. The Board of Directors shall then take appropriate action, such as directing that a demand letter be sent or that the Complaint 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 registered or certified mail-return receipt requested and by first class mail or hand-delivered to the lot owner at the address the owner has provided to the Association or at the lot 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, the 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 request in writing 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 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 mailed by registered or certified United States mail, return receipt requested, and first class mail or hand-delivered 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 II.B 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 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 Governing Documents or rules which allegedly have been violated.

4) That charges for violation of the Governing Documents 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 or such greater amounts as may be authorized by the Virginia Property Owners Association Act.

#### 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 (1) to call, examine, and cross-examine witnesses, (2) to introduce testimony and evidence, and (3) to 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 requests 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 Governing Documents 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. At any time 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 given 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 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. 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 Governing Documents or by law and shall not constitute an election of remedies.

LOFT RIDGE HOMEOWNERS  
ASSOCIATION, INC.  
RESOLUTIONS ACTION RECORD

Resolution Type: Regulatory No. 17

Pertaining to: Due Process Procedures

Duly adopted at a meeting of the Board of Directors held

February 27, 1996

Motion by: Norma Hughes Seconded by: Pick Sandelli

VOTE:  
YES NO ABSTAIN ABSENT

|                                       |       |       |       |       |
|---------------------------------------|-------|-------|-------|-------|
| <u>Alan Britton</u><br>Director       | X     | _____ | _____ | _____ |
| <u>Pick Sandelli</u><br>Director      | X     | _____ | _____ | _____ |
| <u>Norma L. King</u><br>Director      | _____ | X     | _____ | _____ |
| <u>Samuel Hildebrandt</u><br>Director | _____ | X     | _____ | _____ |
| <u>Thomas L. Bell</u><br>Director     | X     | _____ | _____ | _____ |
| <u>Norma A. Hughes</u><br>Director    | X     | _____ | _____ | _____ |

Director

ATTEST: Norma A. Hughes  
Secretary

May 2, 1996  
Date



Exhibit "A" to the

Resolution on Due Process Procedures  
LOFT RIDGE HOMEOWNERS ASSOCIATION, INC.

Rules Violation Complaint

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

1. Name of person(s) violating rules: \_\_\_\_\_

2. Lot # of person(s) violating rules: \_\_\_\_\_

3. Are the person(s) named in question 1 tenants or owners?  
\_\_\_\_\_

4. Describe in detail how and where the rules were violated:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. When did the violation(s) occur? \_\_\_\_\_

6. Have you personally requested the lot owner or tenant to  
cease the rules violation?  Yes,  No,  Verbally,  
 By written request. When? \_\_\_\_\_

7. Name and lot number of person(s) making complaint: \_\_\_\_\_

8. Signature(s) \_\_\_\_\_

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FOR ASSOCIATION USE ONLY

9. Owner: \_\_\_\_\_ Tenant: \_\_\_\_\_

10. Provision(s) of Governing Documents or Rule(s) violated:  
\_\_\_\_\_  
\_\_\_\_\_

11. Registered Name(s) of lot owner(s): \_\_\_\_\_

12. Owner's address if non-resident: \_\_\_\_\_

13. Registered name(s) of tenant(s): \_\_\_\_\_

14. Comment: \_\_\_\_\_  
\_\_\_\_\_

15. Date demand letter sent to lot owner: \_\_\_\_\_

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

17. Referred to Board on \_\_\_\_\_, 19\_\_.

18. Date notice of hearing sent: \_\_\_\_\_

cc: Lot Owner File (optional record may be closed)  
Rules Violation File

EXHIBIT "B" to the  
Resolution on Due Process Procedures

DEMAND TO CEASE AND CORRECT

(Owner) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that a complaint has been made against you (or your tenants) for the alleged violation(s) of the following rules and regulations of the Association:

\_\_\_\_\_

\_\_\_\_\_

You are requested to immediately cease and correct any of the above violation(s) within ten (10) days from the date of this letter. If you wish to contest the alleged violation(s) and avoid imposition of charges 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 registered or certified mail, return receipt requested, stating the hearing time and place. Alternatively, if you elect to cease and correct the violation(s) within ten (10) days, please send a copy of this letter to the Board of Directors noting that the violation(s) has been stopped or corrected. If you fail to respond to this letter and the violation(s) persists, you may be assessed rules violation(s) charges of up to Ten Dollars (\$10.00) per day for a continuing violation 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,

Board of Directors

cc: Lot owner file (Tenant)

Exhibit "C" to the  
Resolution on Due Process Procedures  
LOFT RIDGE HOMEOWNERS ASSOCIATION, INC.

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 Loft Ridge Homeowners Association at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ .m., pursuant to Section 55-513(B) of the Virginia Property Owners Association Act and the Governing Documents for your tenant's or your alleged violation(s) of the following rules of the Association: \_\_\_\_\_

You may be present at the hearing, may but need not be represented by counsel, may present any relevant evidence, and you will be given full opportunity to examine and cross-examine all witnesses. You are entitled to request the attendance of witnesses.

Please be advised that if the Board determines that you are in violation of the Governing Documents and 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 continuing violation may be assessed against you and your lot. In addition to this hearing, the Board may elect such other remedies as are authorized by the Virginia Property Owners Association Act, the Governing Documents, and by law.

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

Sincerely,

cc: Lot Owner File  
Rules Violation File  
(Tenant)

Exhibit "D" To The  
Resolution on Due Process Procedures  
Loft Ridge Homeowners Association, Inc.

RECORD OF HEARING

7

Hearing Date and Time: \_\_\_\_\_  
Lot Owner(s): \_\_\_\_\_  
Lot #: \_\_\_\_\_  
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: