

**LAKESIDE AT SOUTH RIDING CONDOMINIUM
UNIT OWNERS ASSOCIATION**

REGULATORY RESOLUTION NO. 2012-02

Rule Violations: Complaint and Due Process

WHEREAS, Article 3, Section 3.1 of the Bylaws of the Lakeside at South Riding Condominium Unit Owners Association (“Association”) provides that the Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Unit Owners Association; and

WHEREAS, Article 3, Section 3.1(f) and Article 5, Section 5.8(b) of the Bylaws grant the Board of Directors the power to adopt and amend rules and regulations, provided that such rules and regulations are not in conflict with the Condominium Act or the condominium instruments; and

WHEREAS, Article 9, Section 9.1 of the Bylaws and Section 55-79.53 of the Virginia Condominium Act (“Act”) require that each unit owner comply with all lawful provisions of the Act and of the condominium instruments, and the rules and regulations; and

WHEREAS, Article 9, Section 9.1(h) of the Bylaws and Section 55-79.80:2(A) of the Act grants the Association, through its Board of Directors, the power to suspend privileges and to assess charges against any unit owner for nonpayment of assessments or any violation of the condominium instruments or of the rules and regulations for which the unit owner, his family members, tenants, guests or other invitees are responsible; and

WHEREAS, Section 55-79.80:2(B) of the Act provides that certain procedures must be followed before privileges are suspended or charges are assessed; and

WHEREAS, it is the intent of the Board of Directors to enforce the condominium instruments and rules and regulations for the benefit and protection of the Association’s members and residents by establishing procedures which ensure due process and consistency of enforcement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors, adopts the following due process procedures.

I. Complaint

- A. Written Complaint. Any Unit Owner, tenant, Management Agent, employee, or Board member who requests that the Board take action to enforce the condominium instruments or rules and regulations shall submit a written complaint that includes the date, specific complaint, and signature of complainant.
- B. Submission to Board. The complaint shall be submitted to the Board for a determination as to whether a violation has occurred or if assessments are past due by at least sixty (60) days.
- C. Action on Violation. If a violation is found, then the Board shall direct that appropriate action be taken, including but not limited to: (1) referring the matter to counsel; (2) referring the matter to local authorities; and/or (3) directing that a notice of violation be sent to the Unit Owner. Nothing herein shall be construed to mean that management cannot, on behalf of the Association, send a Notice of Violation to a unit owner based upon clear violations of the governing documents or rules and regulations upon the discovery of said violation.

II. Notice of Violation

- A. Notice of Violation. If determined appropriate, the Association's notice of violation shall be issued in writing and delivered by hand or by first class mail to the Unit Owner at the Unit Owner's address listed in the Association records, 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. Correspondence with Unit Owner. If the violator is not a Unit Owner, the Unit Owner shall be provided with copies of all correspondence pertaining to the violation and any ensuing penalties and hearings. The Unit Owner is ultimately responsible for all assessments of charges and the abatement/correction of all violations.
- C. Contents of Notice. In the notice of violation, the Board will notify the alleged violator of the nature of the alleged violation, action to be taken by the Unit Owner to abate the violation, and that the Unit Owner has seven (7) days, or such other reasonable period of time as the Board may determine, to correct the action.
- D. Hearing Request. The notice of violation shall state that the alleged violator may request in writing a hearing before the Board to avoid assessment of charges or suspension of use of facilities or services. The letter shall also state that if no hearing is requested, rules

violation charges of the lesser of: one percent of such unit owner's annual assessment; or fifty dollars (\$50) per violation or ten dollars (\$10) per day for up to ninety (90) days for violations of a continuing nature may be assessed beginning the day after the expiration of the grace period if the violation is not remedied.

III. Notice of Hearing

- A. Notice of Hearing. In the event that a violation is not abated as required in the notice of violation, and the Unit Owner requests a hearing or if the Board determines a hearing is necessary, a notice of hearing shall be sent. The notice of hearing shall be delivered by hand or by registered or certified U.S. mail, return receipt requested, at least fourteen (14) days in advance thereof, or within such other time as may be required by the Act. The notice of hearing will be delivered to the Unit Owner at the address in the Association's records or the Unit address if no other address has been provided.
- B. Contents of Notice. The notice of hearing shall specify the following:
1. The time, date, and place of the hearing;
 2. That the Unit Owner, tenant, or resident shall be given an opportunity to be heard and to be represented by counsel before the Board;
 3. The alleged violation, citing pertinent provisions of the condominium instruments or rules and regulations; and
 4. That charges for violation of the condominium instruments and rules and regulations may include an assessment of up to the lesser of: one percent of the unit owner's annual assessment; or fifty dollars (\$50) for a single offense or ten dollars (\$10) per day for up to ninety (90) days for any offense of a continuing nature (or such greater amounts as may be authorized by the Act) In addition, if the violation involves a particular facility, the Unit Owner's privileges to use said facility may be suspended for a reasonable period.

IV. Hearing

- A. Scheduling. The hearing shall be scheduled at a reasonable and convenient time and place within the Board's discretion. 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.
- B. Privacy. The hearing shall be conducted in private unless the alleged violator requests that the hearing be open to Unit Owners and residents and further provided that the chair 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.

- C. Conduct of Hearing. 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 to be heard and to be represented by counsel.
- D. Rights of Complainant. The Management Agent, Unit Owner, tenant, any person lodging a complaint, 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 Board of Directors.
- E. Failure to Appear at or Request a Hearing. 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 or suspend privileges from the final compliance date of the notice of violation or take such other action as may be authorized by the condominium instruments or by law.
- F. Notification of Decision. The Board shall notify the alleged violator of its decision, the assessment of any charges (or suspension of privileges to use facilities or services), and the date from which those assessments shall accrue and be due or suspension of privileges shall begin, which shall not be earlier than the date given in the notice of violation by which the violation must cease. Notice of the decision shall be delivered by hand or by registered or certified U.S. mail, return receipt requested within seven (7) days of the hearing.

V. Records

The Board or the Management Agent shall keep copies of all correspondence relative to rules violations in the Unit Owner's file or in a separate file for rules violations. Minutes of each hearing or meeting and a record of the results of the hearing or meeting shall be kept in the appropriate Association files.

VI. Suspension of Privileges or Assessment of Charges

Pursuant to Section 55-79.80:2 of the Act, any suspensions imposed shall be in accordance with the Act, and 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 owner's unit for the

purpose of Section 55-79.84 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 assessments of rules violations 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.

