

SOUTH RIDING PROPRIETARY

REGULATORY RESOLUTION R2001-1

Rule Violations: Complaint and Due Process Procedures

WHEREAS, Article 4, Section 4.1 (4) and Article 8, Section 8.3 of the Declaration of South Riding Proprietary (hereinafter "Declaration" and "Association" respectively) grant the Board of Directors ("Board") the power to adopt, amend and publish rules and regulations governing the use of the property and the conduct of the Association members and their guests therein;

WHEREAS, Article 9, Sections 9.1 (a) and (b) (1) of the Declaration requires the Board to establish a Covenants Committee ("Committee") and that said Committee shall regulate the external design, signage, appearance, use and Upkeep of the property;

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;

WHEREAS, Section 55-513 B. of the Act, Article 9, Section 9.1 (b) (3), and Article 12, Section 12.1 (h) of the Declaration provide the Association, through its Board and Committee, with the power to assess charges against lot owners for violations of the Governing Documents, for which the lot owner or his family members, tenants, guests or other invitees are responsible;

WHEREAS, Section 55-513 B. of the Act and Article 12, Section 12.1 (i) of the Declaration further provide that certain procedures must be followed before such charges may be assessed; and

WHEREAS, it is the intent of the Board 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, by the Act, the Governing Documents and this resolution, is hereby empowered to suspend use rights and assess charges pursuant to Section 55-513 B of the Act; that the Board and Committee by the Act, the Governing Documents, and this resolution, is hereby empowered to issue a cease and desist request, to suspend use rights and/or to assess charges pursuant to 55-513 B of the Act; and that the Board and Committee shall assess such charges, suspend such use rights, and issue such cease and desist requests, respectively, for any violation of the Governing Documents only after the following procedures have been followed:

I. Complaint

- A. Any lot owner, tenant, Association managing agent, Association employee, Board member or Committee member who requests that the Board or Committee take action to enforce the Governing Documents 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 Committee or to the Board if the Committee does not act for a determination as to whether it appears that a rule or provision of the Governing Documents allegedly has been violated.

- C. The Board or Committee shall then take appropriate action, such as directing that a demand letter be sent or that it be referred to counsel or State or Loudoun County authorities.

II. Reminder

- A. If determined appropriate, a written reminder letter which may be in a form similar to Exhibit "B" hereto shall be sent by first class mail (or by certified mail if deemed appropriate) or shall be hand delivered to the lot owner at the address which 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 reminder letter shall advise the owner that the Association has been made aware of an alleged violation and shall specify the violation, and remind the owner of their and/or their tenants (if applicable) obligations under the governing documents and rules and regulations of the Association. The reminder letter shall also specify a date usually not more than ten (10) days after the date of the reminder letter by which the alleged violation must cease.
- C. Should the reminder letter not cure the alleged violation the Association shall send the Demand Letter as outlined in Section III hereof.
- D. At its discretion the Association may forgo the reminder letter outlined in this Section and instead send the Demand Letter as outlined in Section III hereof as a first contact with an alleged violator.

III. Demand

- A. If the alleged violation has not been cured in response to the Reminder letter, or if otherwise determined appropriate, a written demand letter which may be in a form similar to Exhibit "C" hereto shall be sent by certified mail or shall be hand-delivered to the lot owner at the address which 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, demand may be made to remedy the violation in less than ten (10) days.
- C. The demand letter shall state that if the violation is not remedied within the specified time period, the lot owner may request in writing a hearing before the Board or Committee to avoid possible 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 IV if of a serious nature or if previous notices of violation have been sent to the owner.

IV. Notice of Hearing

- A. If the alleged violation is not remedied within the time specified in the demand letter referenced in Section III and the owner requests a hearing, or if the Board or Committee determines a hearing is necessary, a notice of hearing shall be sent. Notice of a hearing shall be hand delivered or

mailed by registered or 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 lot owner at the address which the lot owner is required to provide to the Association. Service by mailing shall be deemed effective three (3) days after the notice has been mailed in a regular depository of the United States mail. The demand letter referenced in Section III B may be combined with the notice of hearing.

B. The notice of hearing may be similar to Exhibit "D" 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 or Committee.
- 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 other amounts as may be authorized by the Virginia Property Owners' Association Act.
- 5) That the alleged violation may result in the suspension of right to use facilities and/or voting rights, as further enumerated in Section 12.1 (h) of the Declaration.

V. Hearing

A. The hearing shall be scheduled at a reasonable and convenient time and place within the Board's or Committee's discretion.

B. The Board or Committee, within its discretion, may grant a continuance. If either the Association or the lot owner for whom the hearing is scheduled requests a continuance to a different time or date, written notice to the other party shall be required. Once a new hearing date or time has been established both parties shall be given written notice of such date and time, which notice need not necessarily be fourteen (14) days in advance of such rescheduled hearing.

C. The hearing need not be conducted according to technical rules of evidence applied in a court of law. The hearing shall provide the lot owner with an opportunity to be heard and to be represented by counsel.

D. The management agent, Association staff, lot owner, tenant, any person lodging a complaint, the Committee, and members of the hearing panel, as appointed by the Board or in absence of such appointment, the Board 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 or Committee.

E. The hearing shall be conducted in private executive session unless the lot owner requests that (the hearing be open to owners and residents and further provided that the chairman of the hearing panel, as appointed by the Board, 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 or Committee, 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 may proceed as scheduled, and the Board or Committee may assess charges from the date of the Demand Letter (as outlined in Section III of this Resolution) or take such other action as may be authorized by the Governing Documents or by law.

G. If the lot owner acknowledges responsibility for the violation charged, or does not wish to contest the alleged charge, the Board or Committee may, in its discretion, dispense with a hearing after having afforded the lot owner with an opportunity for a hearing.

H. Within three (3) days of the hearing, the Board or Committee shall notify the lot owner of its decision, suspension of use rights and/or the assessment of any charges and the date from which those assessments shall accrue and be due. Said notification shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the Association.

I. Upon receipt of a written request made within ten (10) days after the date the Committee issues its final decision, the Board shall afford any person deemed by the Board to have standing as an aggrieved party the right to appeal to the Board, and the Board may reconsider, review, modify or reverse any action taken by the Committee.

J. The decision of the Board of Directors shall be final.

VI. Records

The Board, Committee, or the Management Agent shall keep copies of all correspondence related 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 "E" shall be completed and placed in the lot owner's file, or separate file, and appropriate Association files.

VII. 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, in certain instances, by Exhibit "F" attached hereto, and shall be treated as an assessment against the 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.

VIII. 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 Governing Documents, or by law and shall not constitute an election of remedies.

Exhibit "A" to the
Resolution on Due Process Procedures SOUTH RIDING
PROPRIETARY

Note: This form must be completed in order to an alleged rules violation to be investigated by the Proprietary. There is no guarantee of anonymity on behalf of the person completing this form, however for good cause Proprietary staff, the Covenants Committee and the Board of Directors may withhold the identity of the complaining party. If a rules violation hearing becomes necessary as a result of this complaint the appearance at such hearing by the complaining party may be required.

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 and/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)

FOR ASSOCIATION USE ONLY

1. Owner: _____ Tenant:
2. Provision(s) of Governing Documents or Rule(s) violated:
3. Registered Name(s) of lot owner(s):
4. Owner's address if non-resident:
5. Registered name(s) of tenant(s):
6. 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/Covenants Committee* on

r' 18. Date notice of hearing sent:

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cc: Lot Owner File (optional-record may be closed)
Rules Violation File 5

Exhibit "B" to the Resolution on Due
Process Procedures SOUTH RIDING
PROPRIETARY

REMINDER

Date:

Owner:

Dear:

As you are aware, in South Riding there are certain use restrictions pertaining to the Property which exist in order to preserve the community as an aesthetically pleasing community in which to live. One of these restrictions, outlined in ofthe Declaration, and also in the Proprietary Design and Maintenance Standards (Standards, optional use, mayor may not apply), states that

Acting on concerns raised by other residents in the communityProprietary staff, it has been determined (or confirmed) that you (or your tenant) may be in violation of the Declaration (and/or Standards) as follows:

(In order to remain in compliance with the above noted regulations, it is imperative that you take the following action to cure this violation within ten (10) days ofthis letter:

On behalf of the Board of Directors, Covenants Committee, and all of the neighbors in the community, thank you in advance for your compliance with the Declaration (and Standards) in this regard. Should you have any questions please call me at 327-4390.

Sincerely,

Joseph Todaro
Covenants Manager
Agent for the Covenants Committee

cc: Chairperson, Covenants Committee Tenant (ifapplicable, optional)

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Exhibit "C" to the Resolution on Due
Process Procedures

SOUTH RIDING PROPRIETARY

DEMAND TO CEASE AND CORRECT

Date:

Owner:

By our Reminder Letter dated you were notified that a complaint has been made against you (or your tenants) for the alleged violation of the following rules and regulations of the Association, as follows:

The rules are enforced for the benefit of all residents and to maintain property values throughout the community. As of the date of this letter the alleged violation has not been cured as requested. Specifically, you must

You are again 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 to make repairs, you must request additional time and notify the *Board of Directors/Covenants Committee* in writing as to when the repairs will be done. If you believe you are not in violation and wish to contest the alleged violation and avoid the possible imposition of charges you must request a hearing before the *Board of Directors/Covenants Committee* 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/Covenants Committee*. The *Board of Directors/Covenants Committee* 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/Covenants Committee* 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 the opportunity for a hearing, and you may be assessed rules violation 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. Such charges will be effective as of . The *Board of Directors / Covenants Committee* may also take other legal action against you.

Sincerely,

Joseph Todaro (Covenants Manager ~.. Agent for the Covenants Committee

cc: Chairperson, Covenants Committee

Lot owner file (Tenant) 7

Exhibit "C" to the Resolution on Due Process Procedures
SOUTH RIDING PROPRIETARY (continued)

DEMAND TO CEASE AND CORRECT

Return to:

Name: _____ Lot #

_ I hereby request a hearing before the *Board of Directors/Covenants Committee* to contest the violation.

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

Signature

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Exhibit liD" to the Resolution on Due
Process Procedures SOUTH RIDING
PROPRIETARY

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/Covenants Committee* of South Riding Proprietary at on the _ day of __, __, 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 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 an opportunity to examine and cross-examine all witnesses. You may request the attendance of witnesses.

Please be advised that if the *Board of Directors/Covenants Committee* 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, and your right to use facilities and to vote may be suspended. In addition to this hearing, the *Board of Directors/Covenants Committee* may elect such other remedies as are authorized by the Virginia Property Owners' Association Act, the Governing Documents, and by law, including the right to do any needed exterior repair work at your cost as authorized by Sections 3.3. 7.2, and 12.1 of the Declaration.

If you have any questions or wish to communicate with the *Board of Directors/Covenants Committee* regarding this matter, please call 703-327-4390.<

Sincerely,

Joseph Todaro
Covenants Manager
Agent for the Covenants Committee
Chairperson, Covenants Committee
Lot owner file (Tenant)

Lot Owner File Rules Violation File
(Tenant)

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**Exhibit "E" to the
Resolution on Due Process Procedures SOUTH RIDING
PROPRIETARY**

RECORD OF HEARING

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 of Directors/Covenants Committee* and Reasoning: Charges Imposed (date commencing):
Other Sanctions Imposed:

(~ Comments:

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Exhibit "F" to the Resolution on Due
Process Procedures SOUTH RIDING
PROPRIETARY

ASSESSMENT OF CHARGES

Charges for rules violations may not exceed the maximum amounts permitted under Section 55-513 of the Virginia Property Owners' Association Act, as amended. Those amounts are \$50.00 per violation for a one-time violation and \$10.00 per day for a continuing violation as of July 1, 1996. However, as further provided in Section 55-513 of the Virginia Property Owners' Association Act, the total charges for any offense of a continuing nature shall not be assessed for a period in excess of ninety (90) days.

A non-inclusive listing of charges for common rules violations follows. The Board reserves the right to establish different charges in the event of special circumstances or changed conditions, and to charge for rules violations not listed below. Additionally, actual costs of damages and repair may be assessed where applicable.

Noise Disturbances: \$50.00 -Each offense

Parking or vehicle violation: \$25.00 -First offense \$50.00 -Subsequent offenses \$10.00 -Per day/continuing violation

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Improper storage, signs or \$10.00 -Per day/continuing violation window coverings

Storage of volatile or hazardous materials: \$50.00 -Each offense

Pet violation: \$10.00 -Per day until pet is

removed from unit \$25.00 -First
offense \$50.00 -Second offense

Actual cost of damages and repair Littering on common

\$25.00 -First offense areas: \$50.00 -Subsequent offenses

Actual cost of clean up

Improper trash \$25.00 -First offense disposal: \$50.00 -Subsequent offenses, plus cost of removal

Changing, leaking or \$25.00 -First offense dumping vehicle fluids \$50.00 -Subsequent offenses

Actual cost of damages and repair Excessive vehicle maintenance

(excluding \$25.00 -First offense

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operator care checks,
minor adjustment to fluid levels or
changing flat tire),
improper washing

Design Standards violation

Damaging, defacing, or denuding common areas Exhibit "F" to the
Resolution on Due Process Procedures SOUTH RIDING PROPRIETARY (continued)
ASSESSMENT OF CHARGES

\$50.00 -Subsequent offenses

\$10.00 -per day (Not to be assessed for a period exceeding 90 days for any single offense.) Cost of correction

\$50.00 -per offense Actual cost of repair, restoration, and/or replacement

SOUTH RIDING PROPRIETARY

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RESOLUTIONS ACTION RECORD

Resolution Type: Regulatory No. R2001-1 Pertaining to: Rule Violations: Complaint and Due Process
Procedures Duly adopted at a meeting of the Board of Directors held April 11, 2001 Motion by: Mr.
MacPherson. Seconded by: Mr. Gilligan

VOTE: YES NO ABSTAIN ABSENT Mr. Harris X Mr. Plzak X Mr. Gilligan X Mr. Dei X

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Mr. MacPherson X

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