

Loft Ridge Homeowners Association, Inc.

REGULATORY RESOLUTION NO. 33

RESOLUTION REGARDING ENFORCEMENT and DUE PROCESS PROCEDURES

WHEREAS, Article II, Section 1(c) of the Declaration of Loft Ridge Homeowners Association (“Association”) authorizes the Board of Directors the right to establish uniform rules and regulations pertaining to the use of the Common Area and the facilities thereon, and Article VII, Section 1(a) of the Bylaws allows also the establishment of penalties for the infraction of those rules; and

WHEREAS, Article II, Section 1(a) of the Declaration authorizes the Board of Directors to suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of Association rules and regulations; and

WHEREAS, Article VII of the Declaration requires that every Lot Owner shall keep his or her Lot, and all buildings and improvements thereon in good order and repair, free of debris, including but not limited to regular mowing and landscape care, and failure to do so may result in corrective and legal action by the Association; and

WHEREAS, Article V of the Declaration authorizes the formation of an Architectural Control Committee (“ACC”), and prohibits the building, erecting, or maintaining of any fence, wall, or other structure upon the Property, or any exterior addition, alteration, or change (including color) upon the Property without prior written approval; and

WHEREAS, Article X, Section 1 of the Declaration states that the Association shall have the right to enforce by any proceeding at law all restrictions, conditions, covenants, reservations, liens, charges or other obligations imposed by provisions of the governing documents; and

WHEREAS, it is the intent of the Board of Directors to enforce the Declaration and the Association’s duly approved rules and regulations, to include architectural standards and maintenance guidelines, for the benefit, welfare and protection of the Association’s lot owners and residents, by establishing procedures which ensure due process and consistency of enforcement, and it is further the intent of the Board of Directors that this Resolution be deemed to set forth rules and regulations duly adopted pursuant to the Declaration of the Association.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors has adopted the following processes and procedures in the enforcement of its governing documents, which include all published rules and regulations.

I. Definitions

- a. "Architectural Violation" - Any improvement of any kind or nature erected, placed, painted or altered on any Lot which is required to be and has not been first approved in writing by the governing Architectural Control Committee ("ACC") or which does not in all respects conform to what has been approved is deemed a violation under this Enforcement Policy for all purposes.
- b. "Violation" - Any activity or condition allowed to continue on any Lot that is in direct opposition to the governing documents, which is not expressly authorized, or which is expressly prohibited, by the Board or ACC is deemed a violation under this enforcement policy for all purposes.
- c. "Member" - is considered the Owner of Record or Lot Owner. (On occasions when a tenant occupies the premises, a copy of said violation will also be sent to their attention.)

II. Complaint

A. Any lot owner, tenant, managing agent or Board member who requests that the Board take action to enforce the Declaration and/or the Association's rules/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 Declaration, Bylaws or rules/regulations allegedly has been violated.

C. The Board of Directors shall then take appropriate action, such as directing that a demand letter or a cease and desist letter be sent or that it be referred to counsel or County authorities.

III. Demand.

A. If determined appropriate, a written demand letter shall be sent by first class 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 applicable.

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 lot 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 covenant/rule violation charges or suspensions may be assessed. **The demand letter may be combined with the notice of hearing referenced in Section IV of this Resolution if the violation is 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 date or time specified in the demand letter referenced in Section III and the owner requests a hearing, or if the Board determines a hearing is necessary and appropriate under the circumstances, a notice of hearing shall be sent. The notice of 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 lot 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.B may be combined with the notice of hearing.**

B. The notice of hearing 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 (at the lot owner's expense) before the Board.
- 3) The alleged violation, citing provisions of the Declaration or the Association's rules which allegedly have been violated.
- 4) Depending upon the type of violation, the proper penalty that may be imposed, including right of entry, assessment of charges, and/or legal action to enforce compliance.
- 5) That the alleged violation may result in the suspension of services, use of facilities and/or voting rights.

V. 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. Legal rules of evidence and rules of civil procedure shall not pertain nor shall be utilized in the hearing. The hearing shall provide the lot owner with an opportunity to be heard and to be represented by counsel (if the lot owner so desires and at the lot owner=s expense).

D. The hearing shall be conducted in executive (private) session unless the lot 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. If, after proper notice has been given, 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, suspend use rights or services, or take such other action as may be authorized by the Act, the Declaration or this Resolution.

G. If the lot 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 lot owner with an opportunity for a hearing. Minutes of each hearing or meeting shall be kept and a form similar to that attached hereto as Exhibit "B" shall be completed and placed in the lot owner's file and appropriate Association files.

H. **Within seven (7) days of either the hearing or of the Board's action on the matter if no hearing was requested**, the Board shall, by hand-delivery or certified mail, return receipt requested, notify the lot 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. A form similar to Exhibit AE@ attached hereto shall be used for such notification.

VI. Records.

The Board shall keep copies of all correspondence related to rules violations in the lot owner's file or in a separate file on rules violations.

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, nor shall it be interpreted to prevent the Association from exercising any other remedies authorized or available under the Act, the Declaration, the Bylaws or this Resolution, and shall not constitute an election of remedies.

VIII. Miscellaneous

- a) A member may correct or eliminate a Violation at any time during the pendency of any procedure stated herein whereupon;
- b) When verified by management staff or HOA Board members that the violation has been corrected, the Notice of Violation will be voided but remain a matter of record; and
- c) The member will remain liable for all costs and assessments based upon the violation and subject to the collection efforts as subscribed by state law.

This Resolution shall be effective on: March 12, 2014,
and shall supersede any and all other due process resolutions.

Loft Ridge Homeowners Association, Inc.

EXHIBIT "A" TO THE RESOLUTION ON DUE PROCESS PROCEDURES

Covenant / Rule Violation Complaint

Date: _____

1. Name of person(s) violating covenant / rule: _____

2. Lot # 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 lot owner and/or tenant to cease the 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

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 _____, 20__.

18. Date notice of hearing sent: _____

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

Rules Violation File

Loft Ridge Homeowners Association, Inc.

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

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: _____

Charges Imposed (date commencing): _____

Other Sanctions Imposed: _____

Comments:

Loft Ridge Homeowners Association

RESOLUTION ACTION RECORD

Resolution Type: Regulatory No. 33

Pertaining to: Due Process Procedures

Duly adopted at a meeting of the Board of Directors held February 19, 2014.

Motion by: E. Wheeler Seconded by: D. Terminella

VOTE:
YES NO ABSTAIN ABSENT

Carmellina Terminiello
Director

X — — —

Robin Lee
Director

X — — —

Mark Chappell
Director

X — — —

Erin Terminiello
Director

✓ — — —

D. Terminella
Director

✓ — — —

Kevin Johnson
Director

— — — ✓

Ned Farquhar
Director

— — — ✓

ATTEST:
Carmellina Terminiello
Secretary

February 19 2014
Date

Resolution effective: March 12, 2014.