

MEADOWBROOKE HOMEOWNERS' ASSOCIATION
POLICY RESOLUTION NO. 23-01
DUE PROCESS PROCEDURE

WHEREAS, Article IV, Section 1. of the First Amended and Restated By-Laws of the Meadowbrooke Homeowners' Association, Inc. ("Association") states that the affairs of the Association shall be managed by a Board of Directors; and

WHEREAS, Article VII, Section 1(c) of the First Amended and Restated By-Laws of the Association assigns to the Board of Directors the power to exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the Membership; and

WHEREAS, Part E, Section 5, third paragraph of the Amended Covenants and Restrictions, Meadowbrooke, All Sections, provides for enforcement of the covenants and restrictions by the Association and/or the estate owners, including the ability to assess monetary charges; and

WHEREAS, Section 55.1-1819 A of the Virginia Property Owners' Association Act ("Act") grants the Board of Directors of the Association the power to establish, adopt, and enforce rules and regulations with respect to use of the common areas and with respect to such other areas of responsibility assigned to the Association, except where such responsibility is reserved to the membership; and

WHEREAS, Section 55.1-1819 B of the Act grants the Association the power, to the extent provided in the declaration or rules and regulations adopted pursuant thereto, to assess charges against owners for violations of the Association's governing documents for which a member or his family members, tenants, guests, or other invitees are responsible; and

WHEREAS, Section 55.1-1819 B B of the Act provides the Association with the power to suspend an owner's right to use the recreational facilities for violations of the Association's governing documents and provides that certain procedures must be followed before such charges may be assessed or suspension initiated;

WHEREAS, for the benefit and protection of the Association, and Members, the Board deems it necessary and desirable to establish a procedure which is consistent with the principle of due process and Virginia law to assure due process in cases where there is a question of compliance by a member with provisions of the Act or the Association's governing documents (including, but not limited to, the Declaration of Covenants, Conditions, and Restrictions, By-laws, Articles of Incorporation, and Architectural Guidelines), thereby attempting to minimize the necessity of seeking action in or through a court of law;

NOW, THEREFORE BE IT RESOLVED THAT the following Due Process Procedures are adopted.

I. Complaint

- A. On behalf of the Association, the Board of Directors may undertake enforcement action upon its own detection of a violation of any portion of the Association's governing documents, including any resolutions and rules and regulations, or upon its confirmation of such a violation reported by any source deemed acceptable by the Board.

- B. At the discretion of the Board of Directors, initial enforcement action may take the form of verbal or informal, written notification to the offending member.
- C. The Board of Directors reserves the power to hold members legally responsible for ensuring that their tenants, guests or invitees comply with the Association's regulations. Should the violation be the result of any action by a tenant in a home, the tenant and the homeowner shall both receive notification. The homeowner will be requested to review the rules and regulations of the Association with the tenant, and to provide signed documentation that this has been done. However, all subsequent steps in the procedure shall be directed solely to the homeowner, as the party responsible for all actions of any occupants or guests in the home.

II. Reminder

- A. If the Board so desires, one or two interim 'Reminder' notices of violation may be sent, prior to the formal "Notice of Violation," by regular mail or hand delivery, to the homeowner's address of record.
- B. These notices shall generally advise the member of the Association of the nature of the offense and/or specify the section of the governing documents of which the owner (or tenant, or guest in the home) is in violation, setting down an appropriate remedy, and specifying a time frame within which the violation must be abated, if the Board so desires.
- C. After this time frame has elapsed, the Board will take steps to determine if the violation has been abated. If not, further actions under the Due Process Procedure will be taken.

III. Notice of Violation

- A. When informal notification does not result in correction of the violation, more formal procedures may be undertaken. A formal "Notice of Violation" shall be sent by regular mail to the homeowner's mailing address which is listed in the Association's records.
- B. The "Notice of Violation" letter shall specify the section of the governing documents of which the owner (or tenant, or guest in the home) is in violation, stating the specific violation, setting down an appropriate remedy, and specifying a time frame within which the violation must be abated, if the Board so desires.
- C. The homeowner will be informed that if the violation is not abated, a Due Process Hearing will be scheduled in order for the Association to address the matter. Actions which the Board can take if the violation is not abated, including the assessing of monetary charges and/or the suspending of any rights of the member to use the common areas or facilities of the Association, or services provided by the Association, as detailed in the Virginia Property Owners' Association Act, shall be included in the "Notice of Violation" letter.
- D. When the time frame specified by the Board has elapsed, the Board will take steps to determine if the violation has been abated before scheduling a Due Process Hearing.

IV. Notice of Hearing

- A. When formal "Notice of Violation" does not result in correction of the violation, a Due Process Hearing shall be scheduled, to be conducted during the next regularly scheduled Board of Directors' meeting, or an alternately scheduled Board of Directors' meeting, to be held no less than fourteen (14) days from the date of the notification.
- B. A "Notice of Hearing" letter shall be sent by regular and certified mail, return receipt requested, to the member's address which is listed in the Association's records, no less than fourteen (14) days in advance thereof to the member's mailing address which is listed in the Association's records.
- C. The formal "Notice of Hearing" shall specify:
 - 1) The time, date and place of the hearing.
 - 2) The alleged violation and the section of the governing documents or rules which allegedly have been violated.
 - 3) That the homeowner has the right to a) be present at the hearing; b) may, but need not be, represented by an attorney; c) may present any relevant information, including witnesses, concerning the matter, and such rights shall be provided to the homeowner during the hearing.
 - 4) Actions which the Board can take if the violation is not abated include assessing of monetary charges and/or the suspending of any rights of the member to use the common areas or facilities of the Association, or services provided by the Association, as detailed in the Virginia Property Owners' Association Act.
 - 5) The homeowner has the right to request a change in the scheduling of the hearing, should a compelling reason exist.

V. Hearing

- A. At the beginning of the hearing, the hearing officer (which would be the Board officer chairing the meeting) shall explain the rules and procedures by which the hearing is to be conducted. The Board of Directors may determine the manner in which the hearing is to be conducted, so long as the rights set forth in this resolution are protected.
- B. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make the admission of such evidence improper. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding.
- C. The homeowner need not be in attendance at the hearing, but by declining to attend without providing a sufficient, compelling reason, the owner has indicated a waiver of the right to be heard regarding the issue. At the request of the homeowner or at the discretion of the Board of Directors, the hearing may be conducted in Executive Session, and/or the Board may meet in

Executive Session following the hearing, to discuss the matter.

- D. Each party shall have the right to do the following, but need not exercise any or all of these rights:
 - 1) Make an opening statement;
 - 2) Introduce evidence, testimony, and witnesses;
 - 3) Cross-examine opposing witnesses;
 - 4) Rebut evidence and testimony; and
 - 5) Make a closing statement.
- E. Following the hearing, prior to the adjourning of the meeting, but after a return to open session if the hearing or discussion among the Board members has been held in Executive Session, a determination shall be voiced by a majority vote of the members of the Board as to whether a violation existed but has now been abated, or that the violation is ongoing, and if so, whether the Board shall allow the homeowner a set amount of additional time to abate the violation, impose monetary charges if an offense of a recurring nature is again observed, begin to assess monetary charges for an offense of a continuing nature, and/or suspend any rights of the member to use the common areas or facilities of the Association, or services provided by the Association, until the violation is abated or to the end of a stated time frame. Should the Board determine that monetary charges are to be assessed, but the member's rights are not to be suspended at that time, it may for 100 days reserve the right to suspend the member's privileges for the noted offense.
- F. The determination of the Board shall be mailed to the homeowner by regular and certified mail, return receipt requested, to the member's address which is listed in the Association's records, within seven days of the hearing. Should the Board subsequently determine that the rights of the member to use the common areas or facilities of the Association, or services provided by the Association, are to be suspended, formal notice of the taking of this action shall be mailed to the homeowner by regular and certified mail, return receipt requested, to the member's address which is listed in the Association's records.

VI. Assessment of Charges

- A. Assessing of monetary charges shall be in accordance with the Virginia Property Owners' Association Act, whereby charges for an offense of a recurring nature shall be \$50.00 per observed occurrence following the hearing, or \$10.00 per day for an offense of a continuing nature, for up to 90 days.
- B. Offenses of a recurring nature shall refer to such offenses which may occur sporadically or periodically, such as, but not limited to, offenses of not removing dog waste from the common areas. These offenses must be observed and reported in order for charges to accrue.
- C. Offenses of a continuing nature shall refer to offenses which are continual, such as, but not limited to, lack of proper maintenance being performed at a home, or the continued presence of an unapproved element on the home or property. Notification of the abatement of the violation in cases of offenses of a continuing nature must be made to the Association by the homeowner, so that visual confirmation can be made and the charges discontinued, and the homeowner so informed of this stipulation within the hearing determination notification.

- D. The Board reserves the right to increase these stated monetary sanctions should the Virginia legislative body enact future legislation and/or amendments to the Act enabling it to do so. The charges shall be posted to the dues assessments account of the homeowner, and the collection of the charges shall be pursued in the same manner as that of the dues assessments. It would be up to the homeowner to pursue collection of the charges from any tenants who are the perpetrators of a violation.

VII. Other Remedies

The Board may apply procedures outlined in this resolution to all violations of the Association's governing documents, and it is not precluded from exercising other enforcement procedures and remedies authorized by the Association's legal documents, including, but not limited to, the initiation of suit or self-help remedies. The Board of Directors reserves the power to assign all of its powers and responsibilities herein to a standing or special committee of its choice. Any inadvertent omission or failure to conduct proceedings in exact conformity with this resolution shall not invalidate the results of such proceedings, so long as a prudent and reasonable attempt has been made to assure due process according to the general steps set forth in this resolution.

The effective date of this Resolution shall be this 13 day of September 2023, and supersede any previously adopted policy resolution regarding due process.

Meadowbrooke Homeowners' Association

RESOLUTIONS ACTION RECORD

Resolution Type _____ Policy _____ No. 23-01

Pertaining to: Due Process Procedures

Duly adopted by Action Without a Meeting by the Board of Directors of the Meadowbrooke Homeowners Association through email during the time period of 9/7-9/10/2023.

ATTEST:



Gary Burrell, President

9-13-2023

Date

Resolution Effective September 13, 2023

CERTIFICATE OF MAILING OR DELIVERY

The Managing Agent hereby attests that notice that this Policy Resolution is available on the webpage or by email, was mailed to the addresses of record of the Unit Owners on the 21 day of September, 2023.

9/21/2023
Date

Cathy Stanley
Cathi Stanley, Community Manager

