

**WALKER BUSINESS PARK, A CONDOMINIUM UNIT OWNERS ASSOCIATION, INC.**

**POLICY RESOLUTION NO. 01**

**DUE PROCESS PROCEDURES**

**(Relating to Enforcement of the Association's Governing Documents)**

**WHEREAS**, Article 3, Section 3.1 of the Bylaws ("Bylaws") of the Walker Business Park, A Condominium ("Condominium") assigns the Board of Director ("Board") of the Walker Business Park, A Condominium Unit Owners Association ("Association") all of the powers and duties necessary for the administration of the affairs of the Association; and

**WHEREAS**, Article 3, Section 3.1(i) of the Bylaws provides that the Board shall have the power to enforce the provisions of the Declaration, the Bylaws and the Association's rules and regulations (collectively "the Condominium Instruments"); and

**WHEREAS**, Article 3, Section 3.1(f) of the Bylaws authorizes the Board to adopt and amend rules and regulations, provided such rules and regulations shall not be in conflict with the Virginia Condominium Act or the Condominium Instruments; and

**WHEREAS**, Article 5, Section 5.8(b) of the Bylaws provides that each Unit and the common elements shall be occupied and used in compliance with such rules and regulations, which may be promulgated by the Board of Directors; and

**WHEREAS**, for the benefit and protection of the Association and its members, the Board deems it necessary and desirable to establish a procedure to assure due process in the enforcement of the provisions of the Virginia Condominium Act and the Condominium Instruments; and

**WHEREAS**, it is the intent of the Board to establish procedures where action must be taken relative to questions of compliance by an individual with the provisions of the Association governing documents; and

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of Walker Business Park A Condominium hereby adopts the following Due Process Procedures.

**ARTICLE 1**  
**COMPLAINT PROCESS**

**Section 1.1 Written Complaint**

(a) Any Unit Owner or the Managing Agent has the authority to request that a Unit Owner or the Unit Owner's, tenants, guests, agents, employees, licensees, or permittees cease

or correct any act or omission that appears to be in violation of the Virginia Condominium Act or the Condominium Instruments.

(b) The Due Process Procedure shall be initiated upon the filing of a written complaint ("Complaint") signed by any Unit Owner or the Managing Agent ("Complainant").

(c) The Complaint shall (i) set forth, in ordinary and concise language, the acts or omissions with which the Unit Owner or his/her, tenant, guest, agent, employee, licensee, or permittee is charged, (ii) specify the specific provisions of the Condominium Act or Condominium Instruments that have allegedly been violated, and (iii) state the facts supporting the claim. Where possible, and if appropriate, supporting documentation showing the date and the specific violation shall be provided as part of the Complaint.

(d) If the person charged with the alleged violation is not a Unit Owner, but instead the Unit Owner's, tenant, guest, agent, employee, licensee, or permittee, then the Unit Owner shall be considered the Respondent to the Complaint.

#### **Section 1.2 Notice of Violation**

(a) Upon receipt of a Complaint, the Managing Agent will investigate the claim to determine whether the Complaint contains sufficient factual allegations to constitute a violation of the Condominium Act or Condominium Instruments.

(b) If the Managing Agent determines that there is sufficient evidence to support an allegation that a violation has occurred, the Managing Agent shall notify the Respondent that a violation has been noted on the Unit by issuing a written notice of the violation ("Notice of Violation").

(c) If the Managing Agent is not able to determine whether a violation has occurred, the Managing Agent shall refer the Complaint to the Board of Directors, which shall conduct a preliminary investigation to determine the validity of the Complaint. If the preliminary investigation indicates the need for further action, the Managing Agent shall serve the Respondent with a Notice of Violation.

(d) The Notice of Violation shall state (i) the nature of the violation, (ii) the specific remedy required, (iii) the date by which the violation must be corrected, and (iv) the monetary charges or sanctions that may be imposed as a result of the violation. In addition, the Notice of Violation shall inform the Respondent of his/her right to a hearing before the Board of Directors, upon the Respondent's submission of a written request for a hearing within 14 days of date on which the Notice of Violation was issued.

(e) The Notice of Violation shall be hand delivered or mailed by registered or certified United States Mail, return receipt requested, to the Respondent at the Respondent's address of record with the Association. If the registered or certified mailing of the Notice of

Violation is refused or unclaimed, notification shall be deemed effective two (2) days after mailing.

(f) If the Respondent has not timely requested a hearing on the violation or submitted written notice to the Managing Agent that the violation has been corrected by the dates provided in the Notice of Violation, the Board of Directors may impose monetary charges or sanctions as provided by Section 2.1 of this Policy Resolution.

(g) Neither the Board of Directors nor the Managing Agent shall be responsible for inspecting any pending violation until the Respondent submits written notice to the Managing Agent that the violation has been corrected.

### **Section 1.3 Notice of Hearing**

(a) If the Respondent timely submits a request for a hearing on the violation, the Managing Agent or Board of Directors will schedule the matter for a hearing, and shall issue a written Notice of Hearing to the Respondent in accordance with Section 55.1-1959 of the Virginia Condominium Act.

(b) The Notice of Hearing shall state (i) the date, time and place of the hearing, (ii) the nature of the violation, and (iii) the monetary charges or sanctions that may be imposed as a result of the violation. In addition, the Notice of Hearing shall inform the Respondent of his/her right to be represented by counsel before the Board of Directors.

(c) The Notice of Hearing shall be hand delivered or mailed by registered or certified United States Mail, return receipt requested, to both the Complainant and Respondent at the address of record with the Association at least fourteen (14) days prior to the hearing. If the registered or certified mailing of the Notice of Violation is refused or unclaimed, notification shall be deemed effective.

(b) If the Respondent does not request a hearing or fails to attend the hearing, he/she shall be deemed to have waived the right to such hearing, and Board shall rule on the violation in the Respondent's absence and may assess monetary charges or impose other sanctions as if the hearing had been completed with a judgment unfavorable to the Respondent.

### **Section 1.4 Hearing**

(a) The Board President shall serve as Hearing Officer and preside over the hearing, unless otherwise determined by the Board of Directors.

(b) At the beginning of the hearing, the Hearing Officer shall explain the rules and procedure by which the hearing is to be conducted.

(c) At the request of either the Complainant or the Respondent, the Board of Directors may agree to conduct the hearing in private session.

(d) The Complainant and Respondent shall each have the right to present evidence, to examine witnesses and to be heard regarding the alleged violation. The hearing need not be conducted according to technical rules relating to evidence and witnesses.

**Section 1.5 Decisions**

(a) To be effective, a decision of the Board of Directors shall be by a majority vote. The Board may conduct its deliberations in Executive Session to determine whether satisfactory proof of the alleged offense exists.

(b) The written notice of the Board's decision shall be hand delivered or mailed by registered or certified United States Mail, return receipt requested, to both the Complainant and Respondent at the address of record with the Association within seven (7) days of the conclusion of the hearing.

**ARTICLE 2**  
**ENFORCEMENT REMEDIES**

**Section 2.1 Disciplinary Options**

(a) Disciplinary action imposed by the Board of Directors may include, but is not limited to:

- (i) Assessing monetary charges against the Respondent in accordance with Section 55.1-1959 of the Virginia Condominium Act;
- (ii) Suspending the Respondent's right to vote;
- (iii) Initiating self-help in accordance with the Condominium Instruments;
- (iv) Suspending the Respondent's privileges to use the common facilities; and/or

(v) Other enforcement remedy consistent with the Condominium Instruments and Virginia law.

(b) If the Board assesses monetary charges against the Unit, the amount of any charges so assessed shall not exceed fifty dollars (\$50.00) for any single offense or ten dollars (\$10.00) per day for any offense of a continuing nature. Monetary charges for violation of the

Condominium Act or the Condominium Instruments shall be treated as and collected as an assessment against the Unit.

(c) This Resolution shall not preclude the Board of Directors in its discretion from authorizing other means of addressing violations which are reasonable and appropriate under the circumstances.

The Board of Directors may assign any of its duties detailed in this policy to the Association's Covenants Committee, which shall include, but not be limited to the authority to any conduct hearings as required by this policy or the Association's governing documents.

The effective date of this Policy Resolution shall be the 30<sup>th</sup> day of December, 20. This Policy Resolution shall supersede and replace any previously adopted resolution related to Due Process Procedures.

**FOR ASSOCIATION RECORDS**

I hereby certify that a copy of the foregoing Policy Resolution was posted to the Association webpage and notice was mailed to the **Walker Business Park, A Condominium Unit Owners Association, Inc.**

on this 31<sup>st</sup> day of December, 20.

  
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Managing Agent

WALKER BUSINESS PARK, A CONDOMINIUM UNIT OWNERS ASSOCIATION, INC.

RESOLUTIONS ACTION RECORDED

Resolution Type: Policy Resolution

No. 01

Pertaining to: Due Process Procedure

Duly adopted at a meeting of the Board of Directors held December 30, 2020

Motion by: Doug Marshall<sup>2022</sup>

Seconded by: Jacki<sup>164</sup>

VOTE:

	YES	NO	ABSTAIN	ABSENT
<u>[Signature]</u> President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Vice-President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Secretary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Treasurer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Board Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Board Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Board Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

