

IV KEENE MILL VILLAGE HOMEOWNERS ASSOCIATION

ADMINISTRATIVE RESOLUTION NO. 2011-12-1

INTERNAL COMPLAINT POLICY

(establishing guidelines and procedures for the registration and resolution of written complaints to the Association Board of Directors)

WHEREAS, Article IV, Section 1 of the By-Laws of IV Keene Mill Village Homeowners Association (“By-Laws”) provides that the affairs of IV Keene Mill Village Homeowners Association (“Association”) shall be managed by a Board of Directors (“Board”);

WHEREAS, Article VII, Section 1(a) of the By-Laws provides that the Board shall have power to adopt and publish rules and regulations governing the use of the common area and facilities and public conduct of members and their guest thereon;

WHEREAS, Article VII, Section 1(c) of the By-Laws provides that the Board shall have power to exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of the By-Laws, the Articles of Incorporation, or the Declaration of Covenants, Conditions and Restrictions;

WHEREAS, Section 55-530 E of the Code of Virginia provides that all condominium, cooperative, and property owners’ associations shall establish reasonable procedures for resolution of written complaints from owners or residents of the association and other citizens;

WHEREAS, Section 55-530 E 1 of the Code of Virginia provides that a record of each complaint shall be maintained for no less than one year after the association acts upon the complaint;

WHEREAS, Section 55-530 E 2 of the Code of Virginia provides that all associations shall provide complaint forms or written procedures to be given to persons who wish to register complaints with the Association and such forms or procedures shall include certain specific information; and,

WHEREAS, for the benefit and protection of the Association, the Board deems it necessary and desirable to establish a procedure for the registration and resolution of complaints by lot owners and citizens.

NOW, THEREFORE, BE IT RESOLVED THAT the Board hereby establishes the following internal complaint procedure for use in the event a dispute arises between the Association and a lot owner or citizen.

ARTICLE 1

Internal Complaint Reviewing Entity

Section 1.1 Internal Complaint Reviewing Entity.

- (a) The Board shall serve as the Internal Complaint Reviewing Entity (“Reviewing Entity”).
- (b) The President of the Board shall serve as the Reviewing Entity Chair.
- (c) The Board, in its discretion, may refer complaints to legal counsel and request legal counsel serve as the Reviewing Entity.
- (d) If the Board, in its discretion, cannot serve as the Reviewing Entity as a result of a conflict of interest or recusal, the Board may appoint lot owners to serve as the Reviewing Entity or designate legal counsel as the Reviewing Entity.

Section 1.2 Meetings and Hearings.

- (a) The Reviewing Entity shall hold regular meetings and hearings as necessary. Meetings of the Reviewing Entity may be called by the Chair of the Reviewing Entity and by a majority of the members of the Reviewing Entity.
- (b) All Reviewing Entity meetings shall be open to members of the Association. The Reviewing Entity may meet in executive session to discuss matters before the Reviewing Entity pursuant to Section 55-510.1 C of the Virginia Property Owners’ Association Act (“Act”). Any vote of the Reviewing Entity shall be taken in an open meeting.
- (c) A majority of the members of the Reviewing Entity present at any meeting shall constitute a quorum.
- (d) A three-fourths majority vote of Reviewing Entity Members while a quorum is present shall constitute a decision of the Reviewing Entity.
- (e) A copy of all minutes, rules, regulations and policy statements of the Reviewing Entity shall be filed with the records of the Association and shall be maintained by the Association as a permanent public record. The Association shall make copies thereof available, except as may be withheld from review by Section 55-510. C of the Act, to any interested member of the Association at a reasonable cost and shall make such minutes, rules, regulations and policy statements available to members for copying.
- (f) All Reviewing Entity meetings shall be conducted generally in accordance with Robert’s Rules of Order.
- (g) All Reviewing Entity hearings shall be conducted in the manner set forth below.

ARTICLE 2

Registration of Complaints with the Reviewing Entity

Section 2.1 Actions Prior to Initiation of Formal Internal Complaint Procedures.

(a) Any lot owner, officer of the Association, Board Member or citizen has the authority to address the Board to request that the Association correct any act or omission by the Board or the Association, which appears to be in violation of the Act or regulations. Such requests should be made to the Board before the formal internal complaint procedure is initiated.

(b) Upon such request, the Board shall consider the request in either open or executive session, as appropriate, and specifically address the request, either in person, or in writing, at or prior to the next meeting of the Board. If the Board fails to address the request in a timely manner, the sole remedy of the lot owner, officer of the Association, Board Member or citizen shall be the initiation of formal Internal Complaint Procedures as set forth below.

Section 2.2 Written Complaint.

(a) If the actions described in Section 2.1 prove unsuccessful, or the Board fails to address the lot owner, officer of the Association, Board Member or citizen's request specifically, the formal Internal Complaint Procedure shall be initiated upon the filing of a written complaint ("Complaint") with the Reviewing Entity, signed by any lot owner, officer of the Association, Board Member or citizen ("Complainant"). The Association shall provide Complaint forms substantially similar to the form attached hereto as Exhibit 1.

(b) The Complaint shall constitute a written statement of charges which shall set forth, in ordinary and concise language, the acts or omissions with which the Board, or Association, is charged.

(c) The Complaint shall identify, to the greatest extent practicable, the specific provisions of the Act or regulations which the Board or Association is alleged to have violated and shall contain basic supporting facts. Where possible, and if appropriate, supporting documentation showing the date and description of the violation shall be provided.

(d) The Complaint must be as specific as possible as to times, dates, places, acts or omissions and persons involved.

(e) The Association shall provide written acknowledgment of receipt of the Complaint to the Complainant within seven days of receipt. Such acknowledgment may be hand delivered, mailed by registered or certified mail, return receipt requested, or sent by electronic means provided the sender retains proof of electronic delivery.

(f) A record of each Complaint shall be maintained for one year after the Reviewing Entity acts upon the Complaint. For the purposes of this subsection, "acts upon" shall mean dismisses the Complaint or conducts a hearing and makes a decision regarding the Complaint.

Section 2.3 Notice of Complaint.

(a) Upon receipt of a Complaint, the Reviewing Entity shall review the Complaint to determine whether the Complaint may identify a violation of the Act or regulations. The Reviewing Entity may request additional information from the Complainant and may consult with Association legal counsel.

(b) If the Reviewing Entity determines the Complaint may identify a violation of the Act or regulations, the Reviewing Entity shall notify the Complainant and Association legal counsel that a potential violation has been noted and include a copy of the Complaint, along with the time, date, place and nature of the potential violation. Upon receipt of the Notice of Violation, the Board shall, within thirty days, provide an initial written response addressing the potential violation to the Complainant. A copy of the initial written response shall be maintained with the Association books and records. The Board may consult with Association legal counsel prior to responding to a Notice of Violation.

(c) If the Reviewing Entity determines that a violation of the Act or regulation has not occurred, has been corrected, or the Complaint is invalid for any reason, the Reviewing Entity shall respond in writing to the Complainant dismissing the Complaint and explaining the reasons for dismissal.

(d) If the violation is not remedied to the satisfaction of the Reviewing Entity, or no response is received from the Board, within thirty days of the Notice of Violation, or if the Board requests a hearing on the violation, the Reviewing Entity will schedule the Complaint for a hearing, at the next meeting of the Reviewing Entity, scheduled ten days or more from the end of the thirty-day period.

Section 2.4 Notice of Hearing.

(a) Upon the scheduling of the Complaint for a hearing, the Reviewing Entity shall serve a Notice of Hearing on the Complainant at least ten days prior to the hearing by either hand-delivery or certified mail, return receipt requested.

(b) Either party may request a continuance of the hearing for any reason. Such a continuance shall be authorized at the sole discretion of the Reviewing Entity and shall be given only for good cause.

Section 2.5 Amended and Supplemental Complaints.

At any time prior to the hearing date, the Complainant may file an amended or supplemental Complaint. All parties shall be notified thereof in the manner provided herein. If the amended or supplemental Complaint presents new allegations, the Reviewing Entity shall afford the Board a reasonable opportunity to properly prepare for the hearing.

ARTICLE 3

Hearing before the Reviewing Entity

Section 3.1 Hearing.

(a) The Reviewing Entity Chair shall serve as hearing officer and preside over the hearing, unless otherwise determined by the Reviewing Entity. Association legal counsel may attend the hearing at the request of the Reviewing Entity. The Complainant may be represented by legal counsel at the hearing.

(b) At the beginning of the hearing, the hearing officer shall explain the rules by which the hearing is to be conducted. The Reviewing Entity may determine the manner in which the hearing will be conducted, so long as the rights set forth in this Resolution are protected. 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 statute 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 to support a finding.

(c) The Association shall be represented by at least one member of the Board. The Complainant need not be in attendance at the hearing, but may not be prohibited from attending the hearing. Depending upon the circumstances of the hearing, the Reviewing Entity may agree to conduct the hearing in executive session.

(d) Each party shall have the right to do the following, but may waive 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.

The Complainant and the Board Member may be called and questioned, by the Reviewing Entity or either party, regardless of whether they testify on their own behalf.

Section 3.2 Decisions.

(a) To be effective, a decision of the Reviewing Entity shall be by a three-fourths majority vote. If a decision by a three-fourths majority cannot be achieved, the Reviewing Entity

shall refer the Complaint to legal counsel for review and final decision. The Reviewing Entity is encouraged to discuss the matter with Association legal counsel and the managing agent and may rely upon the expertise and opinion of either in reaching a decision. The Notice of Final Decision shall be dated as of the date of issuance and be hand delivered or mailed by certified mail, return receipt requested, to the Complainant and Association legal counsel within seven days of the hearing.

(b) If the final decision of the Reviewing Entity is adverse to the Complainant, the Complainant may give written notice of the adverse decision to the Common Interest Community Board within thirty days of the decision date. Notice of an adverse decision to the Common Interest Community Board shall include copies of all records pertinent to the decision by the Reviewing Entity and shall be accompanied by a \$25.00 filing fee.

(c) If the final decision of the Reviewing Entity is adverse to the Association, the Reviewing Entity shall make recommendations of acceptable methods for addressing the violation. Upon receipt of the Reviewing Entity's decision, the Association shall address the violation within twenty-five days of the decision, unless the corrective action may be completed in less time or requires additional time to address.

(d) If, after consideration of all relevant factors, or upon the advice of Association legal counsel, the Board fails to address the violation within twenty-five days of the Reviewing Entity's decision, the Complainant may give notice to the Common Interest Community Board as if an adverse decision was entered against the Complainant.

ARTICLE 4

General Provisions

Section 4.1 Proceedings.

This Resolution is intended to assure that all Complaints are considered and, if necessary, acted upon to comply with the Act and regulations, and to serve as a guideline for the resolution of such complaints.

Section 4.2 Implementation.

The Reviewing Entity may determine the specific manner in which the provisions of this Resolution are to be implemented, provided that internal complaints are resolved.

Section 4.3 Severability.

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 effect the general steps set forth in this Resolution.

Section 4.4 Definitions.

(a) "Adverse decision" or "final adverse decision" means the final determination issued by the Reviewing Entity that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the Complainant. All avenues for internal appeal under this Resolution must be exhausted prior to a decision being deemed final.

(b) "Complaint" means a written complaint filed by a lot owner or citizen pursuant to this Resolution concerning a matter regarding the action, inaction, or decision by the governing board, managing agent, or association inconsistent with applicable laws and regulation.

IV KEENE MILL VILLAGE HOMEOWNERS ASSOCIATION

INTERNAL COMPLAINT FORM

COMPLAINING PARTY (The Party Filing the Complaint)

Complaining Party's Name: _____

Mailing Address: _____

Property Address in Association: _____

(if different) _____

Home Phone: _____

Other Phone: _____

Email Address: _____

Are you a lot owner in the Association? Yes No

NATURE OF COMPLAINT

YOUR COMPLAINT INVOLVES: (Check as appropriate)

The authority of the Association/Board of Directors, under any law or regulation, to:

- Require any person to take action, or not to take any action, involving a lot
- Require any person to pay a fee, charge, or assessment
- Spend association funds
- Alter or add to common areas

The failure of the Association/Board of Directors, when required by law or regulation, to:

- Properly conduct an election
- Give adequate notice of a meeting or other action
- Properly conduct a meeting

DESIRED ACTION:

Please state what actions you think will resolve your complaint:

I hereby certify that the statements made on this form and in any attached documents are true and complete to the best of my knowledge, information and belief.

Signature

Date

If, after the Reviewing Entity's consideration and review of the complaint, the Reviewing Entity issues a final decision adverse to the Complainant, you have the right to file a notice of final adverse decision with the Common Interest Community Board ("CICB") in accordance with the regulation promulgated by the CICB. The notice shall be filed within 30 days of the date of the final adverse decision, shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman ("Ombudsman"), shall include copies of any supporting documents, correspondence and other materials related to the decision, and shall be accompanied by a \$25.00 filing fee. The Ombudsman may be contacted at:

Office of the Common Interest Community Ombudsman
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400
Richmond, VA 23233
804/367-2941
CICOmbudsman@dpor.virginia.gov

#61474

IV KEENE MILL VILLAGE HOMEOWNERS ASSOCIATION

RESOLUTION ACTION RECORD

Resolution No. _____

Pertaining to: Internal Complaint Procedure

Duly adopted at a meeting of the Board of Directors held _____.

Motion by: _____ Seconded by: _____

VOTE:	YES	NO	ABSTAIN	ABSENT
<u>Mary Margaret McJimney</u> President	✓			
<u>[Signature]</u> Vice President	✓			
<u>Arnold McKee</u> Secretary	✓			
<u>[Signature]</u> Treasurer	✓			
<u>Michelle Alvarado</u> Member at Large	✓			
<u>Chris Smith</u> Member at Large	✓			
<u>Pamela H. Lieber</u> Member at Large	✓			
<u>[Signature]</u> Member at Large	✓			

ATTEST:

[Signature]
Secretary

Date 10/15/2011

Resolution effective: December 15, 2011