

Cabin Branch Forest Association, Inc.

Policy Resolution No. 2012-4-1

Resolution Regarding Enforcement and Due Process Procedures

WHEREAS, Article 9, Section 9.3 of the Bylaws of the Cabin Branch Forest Association, Inc. grants authority to the Board of Directors (“Board”) to adopt rules and regulations;

WHEREAS, Section 55-513 of the Virginia Property Owners Association Act (“Act”) authorizes the Association to suspend or revoke an Owner’s right to use facilities or services for nonpayment of assessments which are more than 60 days past due, and to assess charges against any Owner for any violation of the Association’s Governing Documents or rules and regulations;

WHEREAS, Article 13, Section 13.1 of the Bylaws of the Cabin Branch Forest Association and Section 55-515 of the Virginia Property Owners Association Act provides that every lot owner and all those entitled to occupy a lot shall be governed by and comply with all provisions of the Association Documents and Rules and Regulations.

WHEREAS, Article 13, Section 13.1.f of the Bylaws of Cabin Branch Forest Association provides that any failure of an owner to comply with any of the terms of the Associations Documents and Rules and Regulations shall be grounds for relief, including legal action;

WHEREAS, it is the intent of the Board to enforce the Association’s Documents and Rules and Regulations, to include architectural standards and maintenance guidelines, for the benefit, welfare and protection of the Associations Owners and residents, by establishing which ensure due process and consistency of enforcement, and it is the further intent of the Board that this Resolution be deemed to set forth Rules and Regulations duly adopted pursuant to the Bylaws of the Association;

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors, by the Act, the Association’s Governing Documents and this Resolution, is hereby empowered to suspend voting rights and the rights of use of facilities or services, and to assess charges pursuant to the Act, and it is further resolved that the Board of Directors shall assess such charges for any violations of the Declaration, Bylaws or Rules and Regulations only after the following procedures have been followed:

1. INFORMAL NOTIFICATION

The Board or its authorized agent may first attempt to resolve instances of non-compliance by informal means, including personal contact, telephone or written reminders or any other method which is deemed appropriate to remedy non-compliance with as little inconvenience as possible to all parties. The Board, in its sole discretion, may forego any attempt at informal resolution and instead invoke the formal citation and hearing process set forth below.

2. INITIAL CITATION

On behalf of the Association, the Board or management may issue a citation to any Owner whose behavior or use (or that of his family, tenants, guests, etc.) of the lots or common areas of the Association, does not conform to the governing documents. The citation shall:

- a) Be delivered by hand or by first class mail to the Owner (or the Owner's agent, if any) at his/her address listed in the Association's records, and to the address of the lot subject to the Association, if the Owner's (or agent's) listed address is different from the lot's address.
- b) Generally advise the Owner of the nature of the violation, cite the specific provision within the Association's governing documents which have allegedly been violated, specify the remedy required and, if the violation is continuing, the period of time in which the Owner must correct the violation. Generally no less than 14 days are given for the owner to take action to remedy violations.

2. HEARING NOTICE

If the Owner repeats a violation or does not remedy the violation within the number of days specified in the notice of citation, 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 shall be hand delivered or mailed by certified United States mail, return receipt requested, at least 14 days in advance thereof, or within such other time as may be required by the Act, to the unit owner at the address of record with the Association. Service shall be determined effective two (2) days after the notice has been mailed in the regular depository of the United States mail.

The notice of hearing shall specify:

- a) The time, date, and place of the hearing.
- b) Inform the Owner of his/her right to be heard and represented by counsel before the Board to contest the citation.
- c) The alleged violation, citing provisions of the Declaration, Bylaws or Rules and Regulations which have allegedly been violated.
- d) That charges for a violation of the Declaration, Bylaws or Rules and Regulations may include a charge 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, for a period not to exceed ninety (90) days or such greater amounts as authorized by the Virginia Property Owners Act.

3. ACTION WITHOUT A HEARING

If the Owner does not remedy the violation within the number of days specified in the hearing notice, and if the Owner has not requested a hearing in writing by the deadline specified in the hearing opportunity notice, the Owner shall be deemed to have waived the right to a hearing and the Board shall have the power to impose monetary charges and/or suspend privileges pursuant to the authority granted in Section 55-513 of the Act and the governing documents.

Notice of the Board's decision shall:

- a) Be delivered to the Owner (or the Owner's agent) by hand or mailed by registered or certified mail, return receipt requested, at the address of the Owner (or Owner's agent) listed in the Association's records, and to the address of the lot subject to the Association, if the Owner's (or agent's) listed address is different from the lot's address;
- b) Be sent within seven (7) business days of the date of the decision or such other period allowed by the Act.

4. HEARING

When a hearing is requested by the Owner in writing by or before the deadline, the Board shall set the time, date and place of the hearing at its discretion. Written notice of the time, date and place of the hearing shall:

- a) Be delivered to the Owner (or the Owner's agent) by hand or mailed by registered or certified mail, return receipt requested, at the address of the Owner (or Owner's agent) listed in the Association's records, and to the address of the lot subject to the Association, if the Owner's (or agent's) listed address is different from the lot's address;
- b) Be sent at least fourteen (14) days in advance of the hearing date;
- c) Inform the Owner of the potential sanctions (currently charges of up to \$10 per day for a continuing violation, not to exceed a period of 90 days, and \$50 per individual violation may be imposed).

At the hearing, the Board shall provide the Owner with a reasonable amount of time to be heard, and to present information that bears on the alleged violation. The Owner may have counsel present at the hearing.

Following the hearing, the Board shall meet in executive session to determine whether satisfactory proof of the alleged violation was presented, and if so, whether monetary charges should be imposed and/or privileges should be suspended. Notice of the hearing results shall:

- a) Be delivered to the Owner (or the Owner's agent) by hand or mailed by registered or certified mail, return receipt requested, at the address of the Owner (or Owner's agent) listed in the Association's records, and to the address of the lot subject to the Association, if the Owner's listed address is different from the lot's address;
- b) Be sent within seven (7) business days of the date of the hearing or such other period allowed by the Act.

5. ASSESSMENT OF CHARGES

Pursuant to Section 55-516 of the Act, any charges assessed for violation of rules after notice and hearing shall be in the amounts authorized by the Act and shall be treated as an assessment against the owner's property for the purpose of Section 55-516 of the Act regarding liens. Such amounts shall also be the personal obligation of the owner.

6. 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 by the owner. The procedures outlined in this Resolution may be applied to all violations of the governing documents, but do not preclude the Association from exercising other enforcement procedures and remedies authorized by the Association's governing documents or law, including, but not limited to, the initiation of suit or self-help remedies.

The Board reserves the power to assign all of its powers and responsibilities herein to a standing or special committee of its choice or to its manager or managing agent, if any.

The effective date of this Resolution shall be April 4th, 2012.

CABIN BRANCH FOREST ASSOCIATION, INC.
