

**MCLEAN PROVINCE HOMEOWNERS ASSOCIATION, INC.**

**POLICY RESOLUTION NO. 2003-\_\_1\_\_**

**(Due Process Procedures in Enforcement Cases)**

**WHEREAS**, Section 55-513 of the Virginia Property Owners Association Act (“Act”) provides the Board of Directors (“Board”) of the Association with the power to assess monetary charges and to suspend voting rights and other membership privileges of Owners who are in non-compliance with the terms of the Declaration of Covenants, Conditions and Restrictions, the Bylaws, the Articles of Incorporation and the rules, regulations or architectural standards (“governing documents”) of the McLean Province Homeowners Association, Inc. (“Association”); and

**WHEREAS**, in order to enact the statutory power to suspend privileges and/or assess monetary charges against Owners for non-compliance with the Association’s governing documents, the Act requires that the Board formally adopt and publish a written resolution implementing such action; and

**WHEREAS**, for the benefit and protection of all Owners and to insure compliance by all members, the Board deems it desirable to formally adopt the following procedures.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

**1. INFORMAL RESOLUTION**

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 has 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.

## **2. HEARING OPPORTUNITY NOTICE**

If the Owner repeats a violation or does not remedy the violation within the number of days specified in the notice of citation, a hearing notice will be sent to the Owner and shall:

- a) Remind the Owner of the Board's power to impose monetary charges and to suspend privileges as a result of the violation;
- b) Inform the Owner of his/her right to request, in writing and before the deadline specified by the Board, a hearing before the Board to contest the citation.
- c) Be delivered by hand or registered or certified mail, return receipt requested, to the Owner (or the Owner's agent, if any) at his/her address listed in the Association's records, and to the property address of the lot subject to the Association, if the Owner's (or agent's) listed address is different from the lot's address. Notification will be deemed effective if any Owner fails or refuses to sign for any registered or certified mailing from the Association.

## **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. OTHER REMEDIES**

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 October 1, 2003.

MCLEAN PROVINCE HOMEOWNERS  
ASSOCIATION, INC.

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Steve Meyer, President