

# **RIVER OAKS CONDOMINIUM ASSOCIATION, INC.**

## **POLICY RESOLUTION (FINES)**

### **PROCEDURES RELATING TO DUE PROCESS AND FINING**

WHEREAS, the Maryland Condominium Act (title 11 Md. Real Prop. Code Ann.) and the Bylaws provide that the Board of Directors of the Condominium (sometimes referred to as the Association) shall have the power to adopt and publish rules and regulations governing the use of the Common Elements and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties (or fines) for the infraction thereof as provided in Article V, Section 3(e) of the Bylaws; and

WHEREAS, Article V, Section 3(k) of the Bylaws provides that the Board of Directors (or its agents) have the right, in addition to any other rights set forth, to have unauthorized vehicles removed from Common Elements in accordance with rules adopted by the Council of Unit Owners; and

WHEREAS, Article XI, Section 6 of the Bylaws provides that the Architectural Control Committee has the authority to adopt and promulgate rules and regulations regarding the form and content of plans and specifications to be submitted for approval and may publish statements of policy standards, guidelines and the like as necessary; and

WHEREAS, Article X, Section 3(l) of the Bylaws provides that the Board of Directors (or its agents) has the authority remove any objectionable item from the Limited Common Elements to restore its orderly appearance, without liability therefore, and

WHEREAS, for the benefit and protection of the Association and of the individual Owners and residents, the Board deems it desirable to establish and operate a procedure to assure due process in cases where there is a question of compliance by a Member with provisions of the duly adopted Rules, Regulations, Resolutions and Guidelines (collectively referred to herein as "Rules"); and

WHEREAS, it is the intent of the Board of Directors to establish procedures for the Board and Management Agent where actions must be taken relative to questions of compliance by individuals with the provisions of the Rules;

NOW, THEREFORE, BE IT RESOLVED THAT the following procedure should be used to settle disputes arising from violations of the Rules.

## I. VIOLATIONS OF THE RULES

Section 1 - Actions Prior to Initiation of Formal Written Complaint. Any Member or agent of the Association has the authority to request that a Member cease or correct any act or omission which appears to be in violation of the Rules. Such informal requests shall, if practicable, be made before the formal process is initiated.

The Board or Management Agent may make initial attempts to secure compliance through verbal contact and then through written correspondence to the violating Member which states the time, date, place and nature of the violation, the action required to abate the violation, and either a time period of not less than 10 days during which the violation may be abated without further sanction (if the violation is a continuing one) or a statement that any further violation of the same provision of the Rules may result in the imposition of sanction after notice and hearing (if the violation is not continuing). Copies of such correspondence shall be maintained in the Association files, and a copy may be sent to the counsel for the Association.

Section 2 - Written Complaint. If the actions described above prove unsuccessful in obtaining abatement of a continuing violation or if the violating Member again violates the same provision of the Rules within 12 months of the correspondence described above, Board action may be initiated upon the filing of a written complaint by any Member or agent of the Association with the Board of Directors. 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 respondent is charged. The complaint shall specify the specific provisions of the Rules which the respondent is alleged to have violated, and must contain supporting facts. The complaint must be as specific as possible as to time(s), date(s), place(s), and person(s) involved.

Section 3 - Service of Complaint. Upon receipt of the written complaint, or upon otherwise becoming aware of the continuing or repeated violation, the Board of Directors, or the Managing Agent at the direction of the Board, (unless the matter can be informally resolved) shall serve the alleged violating Member with written notice of the violation as provided in Section 11-113 of the Maryland Condominium Act (title 11 Md. Real Prop. Code Ann.) as from time to time amended. The notice among other things shall provide a reasonable period (not less than 10 days) for the alleged violator to abate the violation without sanctions. If the violation continues or reoccurs after the time provided, a hearing date shall be set and a new notice shall be delivered to the alleged violator.

The hearing notice shall contain:

(i) A description of the nature of the alleged violation; (ii) The time and place of the hearing, which time may be not less than 10 days from the giving of the notice;

(iii) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his or her behalf; and (iv) The proposed sanction(s) to be imposed. Section 4 - Hearing Procedure. The alleged violator has the right to present evidence and to present and cross-examine witnesses. The hearing shall be held in executive session pursuant to the above-

described notice and shall afford the alleged violating Member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. This proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer or director who delivered the notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

Section 5 - Fines. Pursuant to the Rules, and upon a finding after the hearing that the alleged violating Member did violate or is violating the provisions of the Rules as charged, the Board may levy a reasonable fine of not more than \$100.00 for each violation or \$25.00 each day for a continuing violation against such Member as prescribed in the Bylaws. Such fine may become be a lien upon the Member's Unit in accordance with Article VIII, Section 6 of the Bylaws and shall be enforceable and collectable in the same manner as unpaid assessments due from such Member. The Board of Directors may also require the Unit Owner to post a bond, satisfactory to the Board, to secure said Owner's future compliance with the Rules.

Section 6 - Additional Enforcement: The Board of Directors, by Article XI, Section 7 and Article XIX, Section 5 of the Bylaws may also sue the Member for damages caused by a failure to abide by the Act, Declaration, Bylaws and/or Rules or for injunctive relief, or both, and the Member alleged in violation shall be responsible for reasonable attorney's fees and court costs incurred in the curing the violation. Also, pursuant to Article V, Section 3(e) of the Bylaws, the Board of Directors may suspend voting by an owner.

Section 7 - Provisions Supersede Prior Resolutions. The provisions of this Resolution (as revised) supersede those of any Resolutions heretofore adopted by the Board with regard to due process procedures, fines or self help.

Section 8 - Use of Procedure. In the event of a direct violation of any provision of the Declaration or Bylaws of the Association, this procedure need not be utilized (even if said violation is also a breach of a Rule or Resolution of the Association).

## II. INTERPRETIVE RULINGS

Section 1 - Purpose of Rulings. Interpretive rulings of the Board of Directors may serve to: (1) clarify the intent of provisions of the Rules or (2) decide whether or not a rule or regulation was duly adopted. The purpose may be expanded upon resolution of the Board to amend, expand, or limit the provisions of those documents.

Section 2 - Petitions.

(a) Any Member or any agent of the Association may petition the Board of Directors for an interpretive ruling by filing with the President or Secretary a petition directed to the Board of Directors.

(b) The petition must be legibly written in substantially the following form:

"The party(ies) below request the Board of Directors to issue an interpretive ruling on the following provisions of the Rules of the Association:

The issue in question is \_\_\_\_\_

Response should be sent to \_\_\_\_\_

Section 3 - Decisions. To be effective and binding, a decision of the Board of Directors shall be by a majority vote of a quorum of directors in good standing. The decision shall normally be issued within forty-five (45) days of the meeting addressing the petition. The decision shall be written and *may be* accompanied by both the majority and minority opinions, if any. All parties and the Board of Directors shall receive copies.

Section 4 - Appeal. Upon appeal or upon the Board's own motion, and by a vote of the majority of the Board, the Board of Directors may uphold the Board of Directors' decision in its entirety, may amend such decision, or may overturn such decision.

Section 5 - Circuit Court. Should the Unit Owner disagree with the decision of the Board of Directors, it may at any time appeal to the Courts established for that purpose.

YES       NO

YES       NO

YES       NO

YES       NO

YES       NO

YES       NO

YES       NO

Jyl A. Dupont

Karen Miller

Danny Morland

Daniel F. Harshbarger

Approved at a meeting of the Board of Directors pursuant to the provisions of Section 11-111 of the Maryland Condominium Act on April 26, 2007.

Published to the Unit Owners of Record on June 22, 2007 and effective August 1, 2007

April 26, 2007

  
Secretary, River Oaks Condominium  
Association, Inc.