

CALMES NECK PROPERTY OWNERS ASSOCIATION, INC.
A Virginia Nonstock Corporation

DUE PROCESS PROTOCOLS

WHEREAS, the Calmes Neck Property Owners Association, Inc., has empowered the Board of Directors to take certain adverse actions, including but not limited to, filing a Warrant of Debt and/or suspending a member's right to vote and/or use of the Association's common and/or recreational facilities in response to non-payment of assessments/charges/fees or violations of the Governing Documents; and

WHEREAS, it is the intent of the Board of Directors to establish protocols which ensure due process and consistency of enforcement,

IT IS HEREBY RESOLVED THAT the Board of Directors of the Calmes Neck Property Owners Association, Inc., shall take adverse action(s) against an Association owner, tenant, and/or guest only after the following due process protocols have been followed.

Section I; Definitions

"Association" means Calmes Neck Property Owners Association, Inc., a non-stock Corporation which was incorporated pursuant to Chapter 10 of Title 13.1 of the Code of Virginia on the 30th day of October, 1993

"Board of Directors" means the executive body of Calmes Neck Property Owners Association, Inc.

"Common area" means property within a development which is owned or required by the Association to be maintained for the use of its members and designated as common area.

"Guest" means a person or persons who, by invitation or permission of an owner, has been granted use of Association common and/or recreational facilities

"Owner" means the person or persons who now or hereafter own a lot in fee simple, but does not mean any person whose estate or interest in a lot exists only by virtue of an unrecorded contract or is held only as security for the payment or performance of an obligation. Each lot shall at all times have one "Owner" within the meaning of this definition, but that Owner may consist of more than one person.

"Person" means a natural person, corporation, partnership, trust or other entity.

"Recreation Area" refers to any area designated in the Regulations for recreational use by members of the Association.

"Respondent" means an owner, other resident, tenant or guest.

"Tenant" means a person or persons who, by virtue of renting or leasing the property of an owner, has been granted use of Association common and/or recreational facilities

Section II; Notification of Delinquency and/or Violation Letter

The Notification letter is to provide the owner in delinquency and/or violation the opportunity to rectify or correct the situation, to inform the owner of his/her due process rights to request a hearing before the Board of Directors, and to notify the owner that the Board of Directors may take action if the delinquency and/or violation is not ceased or rectified.

1. A written Notification letter shall be sent by certified United States mail, return receipt requested, to the owner at the address which the owner has provided to the Association or at the lot address if no other address has been provided. A copy may be sent to the tenant if there is a tenant.

2. The Notification letter shall specify the alleged delinquency and/or violation, the action required to abate the situation and a date usually not less than fifteen (15) calendar days after the date of the Notification letter by which the alleged delinquency and/or violation must be remedied. Provided, however, when a violation may constitute a public health, safety or fire hazard, demand may be made to remedy the violation within twenty-four (24) hours.
3. The Notification letter shall state that if the delinquency and/or violation is not remedied, the alleged violator must request in writing a hearing before the Board of Directors to avoid action by the Board of Directors. The letter shall also state that if a hearing is not requested, the owner shall be deemed to have waived the opportunity for a hearing and the Board may act accordingly. The Notification letter may be combined with the Notice of Hearing if the delinquency and/or violation is of a serious nature or an emergency or if previous notices of delinquency and/or violation have been sent to the owner.

Section III; Notice of Hearing

The Notice of Hearing is to inform the owner in delinquency and/or violation of the date of the hearing before the Board of Directors and to inform the owner of any possible charges and/or actions required to remedy the delinquency and/or violation and/or suspension of owner's rights to use Association common and/or recreational facilities.

If the alleged delinquency and/or violation is not remedied within the date or time specified in the notification letter referenced in Section II, or the owner requests a hearing, or if the Board of Directors determines a hearing is necessary, a Notice of Hearing shall be sent. Said notice of a hearing shall be sent by certified United States mail, return receipt requested, at least fifteen (15) calendar days, to the owner at the address which the owner is required to provide to the Association. Service by mailing shall be deemed effective three (3) calendar days after the notice has been mailed by certified United States mail.

The Notice of Hearing shall specify:

- 1) The time, date and place of the hearing.
- 2) That the owner, tenant, and/or guest, if applicable, shall be given an opportunity to be heard and to be represented by counsel.
- 3) The alleged delinquency and/or violation, citing provision of the Governing Documents or rules which allegedly have been violated.

Section IV; The Hearing

Before any adverse actions may be imposed, the owner, tenant, and/or guest, is to be given an opportunity to be heard and to be represented by counsel before the Board of Directors of the Association. The hearing is to be conducted fairly and impartially.

The hearing shall be scheduled at a reasonable and convenient time and place within the Board of Directors' discretion. The Board, within its discretion, may grant a continuance. If the owner, tenant, and/or guest, for which the hearing is scheduled, requests and is granted a continuance to a different time or date, no further notice shall be required.

The hearing shall be conducted in private unless the alleged violator requests that the hearing be open to owners and residents and further provided that the Board of Directors may impose a reasonable limit on the number or such persons who can be accommodated in the hearing room.

If the alleged violator acknowledges responsibility for the violation charged, or does not wish to contest the alleged charges, the Board may, in its discretion, dispense with a hearing after having afforded the alleged violator with an opportunity for a hearing.

Section V; Procedural Guidelines To Be Followed At Hearing

1. The Presiding Director shall introduce himself/herself and state his/her role. The other Directors shall then be introduced. The Presiding Director shall state the source of the authority by which the hearing is

held and the basic procedural requirements to be afforded to the Respondent.

2. The Presiding Director shall ascertain 1) that the Respondent understands the proceedings as they have been outlined; 2) that the Respondent has received notice of the hearing; and 3) that the Respondent understands the allegations as set forth in the notice. The Presiding Director shall do so by addressing the Respondent directly.
3. The Presiding Director shall briefly state the alleged violations and sanctions sought to be imposed, and all the procedural steps that have already been taken leading up to the hearing, such as notices, and means and date of delivery.
4. The testimonial phase of the hearing shall begin. During this phase the Board of Directors shall hear all relevant testimony and ask questions regarding all alleged violations. The Board shall conduct the hearing fairly and expeditiously. Relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over the objection in civil or criminal actions in court of competent jurisdiction in the State of Virginia. The Board shall have the right to limit in time and scope the testimony of any witness for the purpose of eliminating unjustifiable delay or repetitious evidence.
5. The Board shall first hear the testimony of any witness supporting the alleged violations. The Board shall ask questions if it deems so necessary. The Respondent shall have the right to ask questions and cross-examine the witness(es) and shall have the right to be represented by Counsel who shall then participate in the hearing applying the rules as they have been outlined in this document. The Board shall then hear the testimony presented by the Respondent and may ask questions if necessary. If necessary, the Board may also recall any of the witness(es) who have already given testimony and the Respondent shall also have the right to cross-examine those witness(es) on the newly offered testimony. The Board may accept exhibits that substantiate the testimony presented by either the witness(es) or the Respondent.
6. After hearing all evidence and testimony, the Board of Directors will discuss the issues in Executive Session. While in Executive Session, the Board of Directors shall consider all evidence presented by the witness(es) and by the Respondent to include their oral testimony and exhibits submitted to the Board of Directors
7. Upon conclusion of the Executive Session, the Board of Directors shall reconvene in Open Session and vote on the matter. A written report of the hearing to include the Hearing Result shall be mailed by certified United States mail, return receipt requested, to the member at the address of record with the Association within three (3) business days of the hearing.
8. In the event that the Respondent does not appear at the hearing and fails to give notice of his/her impossibility to attend and to request the rescheduling of the hearing, the Board of Directors will conduct the hearing despite his/her absence as long as there is at least one witness giving direct testimony supporting the alleged violation.
9. In the event that no witnesses appear at the hearing, the hearing shall be canceled and the matter before the Board of Directors shall be dismissed without prejudice unless there is indication that the witness(es) could not attend the hearing in which case a new date shall be set and new notice of hearing shall be served upon the Respondent. Notice of new hearing date can be waived if the Respondent is present and is given notice at that time.

Section VI; Records

The Board of Directors shall make a record of the hearing by minutes taken during the hearing by the secretary of the Board of Directors. Such record shall be kept in accordance with generally accepted business practices. In addition, all correspondence relative to delinquencies and/or violations shall be kept in the lot owner's file.