

MCLEAN GREENS HOMEOWNERS ASSOCIATION

Policy Resolution No. 02-01-02

Creation of Procedures to Ensure Due Process in Enforcement Cases by Imposing Monetary Charges

WHEREAS, the Declaration of Covenants, Conditions and Restrictions provides the Board of Directors with a broad array of powers to enforce compliance with any of the provisions of the legal documents of the Association;

WHEREAS, the Virginia Property Owners' Association Act requires the Board of Directors to formally adopt and publish a written resolution to enact the statutory power to assess monetary charges against members for violations of the regulations of the Association; and

WHEREAS, Section 55-513B, of the Virginia Property Owners' Association Act, allows community associations to enforce compliance with the provisions of the legal documents of the association by providing the executive organ with the power to assess monetary charges against any member in non-compliance with the association's legal documents; and

WHEREAS, for the benefit and protection of all of the members of the Association, the Board of Directors deems it desirable to formally adopt a resolution to enact the statutory power to assess monetary charges and to establish a procedure for enforcement of the regulations of the Association which are consistent with principles of due process and Virginia law:

NOW THEREFORE, be it resolved that the following procedures be adopted by the Board:

On behalf of the Association, the Board of Directors may issue a citation to any owner whose behavior or use of property does not conform to the Association's regulations.

Verification. Once the Architectural Control Committee has turned the violation over to the Board of Directors, the Board may request the Managing Agent or a member of the Board of Directors to make a preliminary investigation as to the validity of the complaint and/or violation and promptly report the findings to the Board.

Hearing Notice. If investigation by the Board indicates further action is necessary, the Managing Agent shall mail a hearing notice to the owner. The hearing notice for the citation shall be delivered by hand or mailed by registered or certified mail, return receipt requested, to the owner at his/her address listed in the Association's records, and to the property address, if the owner's listed address is different from the property address. Notification will be deemed effective if any owner fails or refuses to sign for any registered or certified mailing from the Association.

The hearing notice of citation shall advise the owner of the nature of the offense, cite the specific provision within the Association's regulations which has allegedly been violated, specify the remedy required, and state the number of days within which corrective action must be completed, as well as, warn the owner of the Board's power to impose monetary charges for offenses of the Association's regulations.

The hearing notice shall inform the owner of the time, date and place of the hearing and delivered to the owner at least 14 days in advance of the hearing date. At the hearing, the Board of Directors shall provide the owner with a reasonable amount of time to present any and all defenses to the citation. The owner may have counsel present at the hearing.

If the offense is not remedied within the number of days requested in the hearing notice for the citation, and the owner failed to appear before the Board of Directors, the owner shall be deemed to have waived the right to a hearing and the Board of Directors shall have the power to impose monetary charges.

Following the hearing, the Board of Directors 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.

Monetary Charge. When the Board's judgment is unfavorable to the owner, the Board shall undertake the administrative actions required to effect the monetary charge as an assessment against the owner's lot. The imposition of a monetary charge may not exceed fifty dollars for a single offense or ten dollars per day for any offense of a continuing nature. However, the total charges for any offense of a continuing nature shall not be assessed for a period exceeding ninety days. The charge shall be treated as an assessment against the member's lot for the purpose of Section 55-516 of the Virginia Property Owners' Act.

Tenants. The Board of Directors reserves the power to hold owners legally responsible for ensuring that their tenants, guests, or invitees comply with the Association's Regulations.

The procedures outlined in this Resolution may be applied to all violations of the Association's Regulations, but do not preclude the Association from exercising other enforcement procedures and remedies authorized by the Association's legal documents, including, but not limited to, the initiation of suit or self-help remedies. The Board of Directors reserves the power to assign all of its powers and responsibilities herein to a standing or special committee of its choice.

This policy resolution supercedes all previous policy resolutions pertaining to the imposition of monetary charges.

The effective date of this Resolution shall be February 28, 2002.

I hereby certify that this Policy Resolution was duly adopted by the Board of Directors on January 11, 2002.

McLean Greens Homeowners Association

Monique Howley
Monique Howley, Secretary