

The Board of Directors adopted Resolution 2004-1 to provide a "due process procedure" for handling alleged violations of the Virginia Property Owners' Association Act, our Association documents, and our rules and regulations. Under this resolution, the Board:

- ***May suspend an owner's voting rights for nonpayment of assessments;***
- ***May assess charges against a lot owner for violation of the Declaration of Covenants or of our related rules and regulations for which an owner or his/her family members, tenants, guests, or other invitees are responsible;***
- ***Must follow certain procedures before such charges may be assessed, including a hearing with proper notice.***

Due Process Procedures, Rules, and Regulations

Adopted at a Meeting of the Board of Directors on
April 7, 2004

WHEREAS, Article V, Section 3 of the By-Laws for the McLean Mews Homeowners' Association, Inc. ("Association") assigns to the Board of Directors all powers, duties, and authority vested in and delegated to the Association and provides that the Board of Directors has the power to adopt and publish rules and regulations governing the use of the common areas and facilities, and the personal conduct of the members and their guests; and

WHEREAS, Article VII of the Declaration specifies the general obligations of each owner; and

WHEREAS, Article II, Section 4 of the Declaration provides that the Board of Directors has the power to suspend the voting rights of a member for certain infractions of the rules and regulations; and

WHEREAS, Section 55-513 of the Virginia Property Owners' Association Act ("Act") provides the Board of Directors the power, to the extent provided in the Declaration or rules adopted pursuant thereto, to: (i) suspend an owner's right to use facilities or non-essential services offered by the Association for nonpayment of assessments to the extent that access to the lot through the common areas is not precluded; and (ii) assess charges against a lot owner for violation of the Declaration or of rules and regulations adopted pursuant thereto, for which the owner or his family members, tenants, guests, or other invitees are responsible; and

WHEREAS, Section 55-513 of the Act further provides that certain procedures must be followed before such charges may be assessed, including a hearing after proper notice; and

WHEREAS, Article VII, Section 7 of the Declaration provides that if the Association has a complaint against a lot owner, the Association has the right to institute appropriate legal action; and

WHEREAS, for the benefit and protection of the Association and of the individual owners, the Board deems it necessary and desirable to establish and operate by orderly procedures to assure due process in cases where there is a question of compliance by an owner with the provisions of the Act, the Association documents, or rules and regulations promulgated pursuant thereto, thereby minimizing the necessity for seeking action through a court of law.

NOW, THEREFORE, BE IT RESOLVED that the following procedures are adopted by the Board as of the date below, to become effective immediately upon adoption, and that this resolution shall supersede all prior resolutions establishing due process procedures.

- 2 -

In any of the following procedures, the President shall have the right to delegate any or all of the powers and duties imposed on him.

I. VIOLETIONS OF THE VIRGINIA PROPERTY OWNERS' ASSOCIATION ACT, ASSOCIATION DOCUMENTS, AND RULES AND REGULATIONS

- A. Informal Actions to Secure Compliance. Any owner, Director, or agent of the Board may request that a lot owner cease or correct any act or omission which appears to be in violation of the Act, the Association documents, or the rules and regulations promulgated pursuant thereto. Such informal requests should be made prior to initiating a formal process.
- B. Written Complaint. Any Director may initiate the enforcement process by filing a written complaint with the President of the Board of Directors. The complaint should include a concise statement of charges, setting forth in clear language the specific act(s) or omission(s) with which the offending owner is to be charged. The complaint should be as specific as possible with respect to times, dates, places, and persons. Each complaint must be signed.
- C. Preliminary Investigation. Upon receipt and consideration of a complaint, the President may undertake a preliminary investigation as to its validity. If the offending condition has been corrected, or if the complaint is trivial, insufficient, or inconsistent on its face, then the President may respond to the complainant that the matter has either been resolved or cannot be pursued.

- D. Notice. If further action is necessary, the President shall send a written notice by certified mail, return receipt requested, to the alleged offender at the address listed on the records of the Association and to the property address, if different. If the alleged offender is a tenant or guest, the President shall send a copy of the notice by certified mail, return receipt requested, to the lot owner.

If the President does not consider the violation to be of an urgent nature, he may send an informal notice, substantially in the form of the attached Exhibit A, prior to sending a certified mail notice.

Written notice to an alleged offending lot owner shall be substantially in the form of the attached Exhibit B and shall:

1. Include copies of relevant complaint(s)
2. Advise the owner of the nature of the offense(s) and the specific provision(s) of the Act, the Association documents, or the rules and regulations that he has allegedly violated
3. Describe the remedies available to the Board
4. State that prior to the imposition of a remedy on the owner, the owner will have the opportunity to be heard and to be represented by counsel
5. State the deadline by which corrective action must begin or be completed in order to avoid the imposition of a remedy.

- 3 -

Notice(s) pursuant to this Part I.D. shall be sent at least 14 days prior to a scheduled hearing, and prior to imposing any monetary charge in accordance with Section 55-313 of the Act.

II. REMEDIES

The Board of Directors of the Association hereby establishes the following remedies in the case of a proven violation of the Act, the Association documents, or rules and regulations:

1. For willful or negligent acts of a lot owner, family member, guest, or invitee: assess full maintenance and/or repair costs as a Special Assessment against the offending owner.
2. For the nonpayment of any assessment: suspend the voting rights of an owner who is more than 60 days delinquent in accordance with Article II, Section 4 and assess late charges of an owner who is more than 30 days delinquent in accordance with Article III, Section 7 of the Declaration.

- 3 For any other violation: assess charges against the offending owner. The amount of the charges so assessed shall not exceed the amounts authorized by the Act. At the time this Resolution is adopted, the authorized amounts are \$50 for a single offense, or \$10 per day for an offense of a continuing nature, for up to 90 days.

The remedies described in this Part II are in addition to any and all other lawful remedies that are available to the Association.

III. HEARING GUIDELINES

The Board may not impose remedies described in Part II until the lot owner has an opportunity to be heard before a quorum of the Board. The following guidelines apply to such hearing procedures:

- A. The President shall send the owner a written notice by certified mail, return receipt requested, at least 14 days prior to the hearing, advising him of his right to contest the complaint at a hearing before the Board. This notice shall be substantially in the form of the attached Exhibit B.
- B. Such notice shall advise the owner of the date, time, and location of the hearing, of the owner's right to be represented by counsel, and of an earlier date (the "hearing confirmation date"), at least 7 days following the date of the notice, by which the owner must, in writing, confirm his intent to attend the hearing or request a change in the hearing date. The President may grant this request if there is reasonable and satisfactory justification. The Board of Directors shall set all hearing dates and grant continuances at its discretion.
- C. If the owner fails to respond in writing by the hearing confirmation date, or if he confirms his intent to attend but fails to attend the hearing without providing a reasonable and satisfactory explanation, then the owner shall be deemed to have waived his right to attend the hearing.
- D. The President shall select as hearing chair an Association member who is not directly involved in the matter to be decided. The chair, who shall serve without compensation, shall be responsible for conducting the hearing fairly but shall not vote. The chair may impose reasonable time limits on hearing participants.

- 4 -

- E. If a complaint is lodged against a Director, he shall recuse himself in any ensuing hearing. Any Director may also voluntarily recuse himself in any hearing if his participation would create the appearance of a conflict of interest.
- F. The owner shall be presumed innocent. At the hearing, the Board may hear testimony of witnesses and/or the presentation of documentary and/or other evidence to determine whether the owner is in violation. The Board shall base its determination

on evidence sufficient to the Board to establish that the violation did in fact occur. An owner who has been charged shall have the right to be represented by counsel at the hearing, to cross-examine witnesses, to call any witness, and to present documentation or other evidence relevant to the allegations. No witness shall be compelled to appear or to testify. The Board shall be the sole arbiter as to the credibility of witnesses and evidence presented at the hearing.

- G. Hearings shall be conducted in English, shall be open to Association members in good standing, and may be recorded by any party.
- H. Following presentation of the evidence, the Board shall deliberate in executive session to decide whether a violation has been proved, and if so, what remedy to impose. The Board shall decide by unanimous vote of those members present and voting. If a unanimous decision cannot be reached then no remedy shall be imposed. The President shall send a notice of the Board's decisions to the owner by certified mail within 15 days of the conclusion of the hearing.
- I. The Board shall compile a record summarizing the proceedings and detailing how its procedures have complied with the Act. If the Board imposes a remedy in the form of an assessment, it shall be due within 30 days, unless the Board specifies a different due date. In the event that the assessed charge is not timely paid, the owner's account will be deemed delinquent and the Board of Directors shall be entitled to pursue all remedies available to it to collect a delinquent account.

Exhibit A - REQUEST FOR VOLUNTARY COMPLIANCE

McLEAN MEWS HOMEOWNERS' ASSOCIATION, Inc.

Date

Owner/Resident
Address
McLean, Virginia 22101

Association, Inc.

Re: McLean Mews Homeowners'
Request For Voluntary Compliance

Dear Owner/Resident:

In accordance with the provisions of the due process procedure of the McLean Mews Homeowners' Association, Inc., a complaint has been filed against you for violation of (insert specific description), reference Article __ Section __ of the (Declaration of Covenants)(By-Laws)(Resolution Number _____). An initial investigation indicates that this (behavior) (condition) constitutes a violation for which the lot owner is responsible. On behalf of the Board of Directors of the McLean Mews Homeowners' Association, Inc., I am sending you this letter to request your voluntary cooperation in resolving this complaint. To resolve this complaint, we ask that you (insert specific actions requested) no later than (insert deadline for action).

Please call me at (703) xxx-xxxx during (evening) (regular business) hours if you have questions regarding this matter.

We appreciate your cooperation and assistance in resolving this complaint in a timely manner. However, if you do not take steps to address this matter in a timely manner, it may become necessary to pursue additional enforcement mechanisms in accordance with the Association's established practices and procedures.

Sincerely,

_____(Signature)

McLean Mews Homeowners' Association,
Inc.

Exhibit B - NOTICE OF HEARING

McLEAN MEWS HOMEOWNERS' ASSOCIATION, Inc.

Date

Owner/Resident
Address
McLean, Virginia 22101

Association, Inc.

Re: McLean Mews Homeowners'

Notice of Hearing

Dear Owner/Resident:

You are hereby notified that, in accordance with Resolution 2004-1, Due Process Procedure of the McLean Mews Homeowners' Association, Inc., a hearing will be held before the Board of Directors on (date) at (time) in (location). The purpose of this hearing is to address the enclosed complaint.

You may be present at this hearing and may be, but need not be, represented by legal counsel. You may present evidence and will have an opportunity to cross-examine witnesses offering testimony in this matter. If you wish to admit to the complaint in whole or in part, or if you wish to waive your right to appear at this hearing, please inform me in writing no later than (deadline date). If you wish to attend the hearing as scheduled, or to designate another person to appear on your behalf, please inform me as well.

You may, but need not, contest the complaint on grounds that may include (i) your belief that the complaint does not charge a violation of an applicable rule, together with your reasons, or (ii) your belief that the complaint is so vague or inconsistent that you cannot adequately respond to it, or (iii) any other grounds that you may deem appropriate. You may also provide me a written account of your side of the case.

If you can show good cause why you cannot attend the hearing as scheduled, please advise me within (ten) days of the date of this notice so that a more convenient hearing date may be set.

You should be aware that the Board may impose remedies upon you as the result of this proceeding, which may include: (i) for willful or negligent acts of a lot owner, family member, guest, or invitee: assess full maintenance and/or repair costs as a Special Assessment against the offending owner; (ii) for the nonpayment of any assessment: suspend the voting rights of an owner who is more than 60 days delinquent and assess late charges of an owner who is more than 30 days delinquent; (iii) for any other violation: assess charges against the offending owner. The amount of the charges so assessed shall not exceed the amounts authorized by the Act. At the present time the authorized amounts are \$50 for a single offense, or \$10 per day for an offense of a continuing nature, for up to 90 days.

Please call me at (703) xxx-xxxx during (evening) (regular business) hours if you have questions regarding this matter, or if you wish to review relevant Association documents.

Sincerely,

_____(Signature)

McLean Mews Homeowners' Association,
Inc.

RESOLUTION ACTION RECORD

McLEAN MEWS HOMEOWNERS' ASSOCIATION, Inc.

Resolution 2004-1

Pertaining to: Due Process Procedures

This resolution was duly adopted at a meeting of the Board of Directors of the McLean Mews Homeowners' Association, Inc. held on April 7, 2004.

Motion by: Tom Moran

Seconded by: Naila Aziz Ahmed

NAME	OFFICE	VOTE			
		YES	NO	ABSTAIN	ABSENT
Naila Aziz Ahmed	President	X			
Bill Grove	Vice President	X			
Tom Moran	Vice President	X			
Patsy Wolf	Secretary	X			
Bob Meisenger	Treasurer	X			

I certify that this Resolution was adopted in the form attached.

Attest: /sd/ Patsy Wolf, Secretary

Date: April 7, 2004