

Reflection Homes Association, Inc.
Administrative Resolution 2021-5
Covenant and Rule Enforcement:
Notice and Hearing Procedures

WHEREAS, Reflection Homes Association (the “Association”) is a property owners’ association organized and operating pursuant to the Virginia Property Owners’ Association Act (“Act”) and the Declaration of Covenants, Conditions and Restrictions recorded among the land records of Fairfax County, Virginia, in Deed Book 3993, Page 336, *et seq.*, as amended (“Declaration”);

WHEREAS, Article VII of the Association’s Articles of Incorporation and Article VII, Section 1 of the Association’s Bylaws authorize the Association’s Board of Directors (“Board”) to act on behalf of the Association, exercising all powers, duties and authority of the Association except where reserved to the Association’s membership by the Declaration, Articles of Incorporation, Bylaws or applicable law;

WHEREAS, Article II, Section 1(e) of the Association’s Declaration provides that the Board has the right to enforce the provisions of the Association’s governing documents, including through suspension of use rights and the assessment of violation charges; and

WHEREAS, Section 55.1-1819 of the Act requires the Association to first follow certain minimum procedural safeguards before assessing violation charges or suspending the right to use Association-provided facilities or services;

NOW THEREFORE IT IS RESOLVED THAT the Board of Directors hereby adopts, as part of the Association’s rules and regulations, the following policies and procedures for assessing violation charges and for suspending use rights in accordance with the Act and the Declaration, and hereby rescinds any previously-adopted policies and procedures pertaining to this subject matter:

Definitions. Unless otherwise defined in this Policy, the words, terms or phrases used in this Policy will have the same meanings as defined in the Declaration.

A. Application of this Policy.

1. This Policy is applicable to:
 - (a) Alleged violations of the Declaration or the Association’s rules and regulations (collectively, the “Governing Documents”) for which the Board is contemplating imposing, or wishes to preserve the right to impose, violation charges against an Owner (other than related to nonpayment of assessments); and
 - (b) Suspending the right to use Association-provided facilities or services pursuant to the Declaration or the Act (for nonpayment of assessments or the violation of the Association’s rules and regulations).
2. Except as provided above, the procedures in this Policy are not mandatory prerequisites for taking any other type of enforcement action available to the Association.
3. *Owners are responsible for their own violations and for violations by their family members, tenants, guests, employees, agents and invitees, as may be applicable.*

Reflection Homes Association, Inc.
Administrative Resolution 2021-5
Covenant and Rule Enforcement:
Notice and Hearing Procedures

B. Complaints Alleging Noncompliance.

1. Submission of Written Complaint. Any Owner or other person who requests that the Association take action against an Owner to enforce the Governing Documents must submit a signed and dated written complaint to the Association's management agent ("Managing Agent"). The complaint should identify the offending person (Owner, resident, tenant, etc.) and the applicable address, and describe the condition, act or omission that constitutes (or is believed to constitute) a violation of the Governing Documents. The complaint should be as specific as possible as to time(s), date(s), and person(s) involved. However, the failure to submit such a complaint does not prevent the Association from taking enforcement action in response to a violation of the Governing Documents that otherwise comes to the attention of the Board or the Managing Agent.
2. Initial Review of Complaint. The submitted complaint will be reviewed by the Board (or the Managing Agent) for a determination as to whether the complaint is sufficiently complete and whether further investigation or proceeding with the below notice and hearing procedures is appropriate based on that complaint. The Board (or Managing Agent) may request additional information or documentation to determine the sufficiency of the complaint.

C. Informal Resolution of Complaints/Reminder Letters

1. The Association's directors, officers, Managing Agent and other authorized representatives of the Association have the authority to request an Owner, resident, guest or other person within the Property to cease or correct a violation of the Governing Documents for which that person is directly or indirectly responsible. Such informal requests may be made before formal action is initiated by the Association.
2. The Board or the Managing Agent may send "friendly reminders" or other communications to a non-compliant person prior to taking more formal action as set forth below.

D. Notice of Violation.

1. Delivery of Notice. Subject to Board guidance, the Managing Agent may initiate formal enforcement action on behalf of the Association by sending a written "Notice of Violation" to the responsible Owner by regular first-class mail to the Owner's address of record on file with the Association. In addition, a copy of the Notice may also be sent by email if the Owner has provided an email address to the Association. If the violation is by a known tenant, the Notice of Violation may also be sent to the tenant by first-class mail to the Lot address or by email. Notices sent by mail per this Policy are deemed effective as of the date of mailing (as evidenced by the postmark).
2. Content. The Notice of Violation must contain the following minimum information:
 - a. The Owner's name;
 - b. The alleged violation(s) of the Declaration or rules and regulations;

Reflection Homes Association, Inc.
Administrative Resolution 2021-5
Covenant and Rule Enforcement:
Notice and Hearing Procedures

- c. A demand that the alleged violation not occur again, or for continuing violations, that it be abated or corrected within 14 days after the date of the Notice or such other time period as may be deemed appropriate under the circumstances, in the discretion of the Board or Managing Agent;
 - d. *For either (i) a violation of a continuing nature, or (ii) a non-continuing (single offense) violation if the same type of violation previously occurred and was cited in a prior notice to the same Owner within the past 12 months*, a statement to the effect that the Owner is entitled to a hearing, if desired, for purposes of contesting the citation or the imposition of sanctions (e.g., violation charges or suspension of use rights). The Notice will indicate that if the Owner fails to submit a written hearing request so that it is received by the Managing Agent within 14 days from the date of the Notice, it will be deemed a waiver of the right to a hearing on the matter, and sanctions or other enforcement action may thereafter be imposed or taken without a hearing.
3. Temporary Compliance / Repeated Violation. Notwithstanding anything in this Policy to the contrary, if the same type of violation occurs again at any time within 12 months from the date of the prior violation-related notice to the same Owner, then the reoccurrence of the same type of violation within that 12-month period will be deemed to be a failure to cure the previously cited violation, and that temporary compliance will not be considered sufficient to require or trigger the need for the Association to provide yet another opportunity to cure the same violation before proceeding with a hearing or other enforcement action. In these circumstances, for instance, the Association is not required to send another Notice of Violation but may instead proceed directly with a Notice of Hearing as referenced below.

E. Failure to Request a Hearing.

1. In the event the responsible Owner (“Respondent”) fails to timely request a hearing in response to the Notice of Violation as outlined in Section D above, sanctions may be imposed by the Board against the Respondent without holding a hearing if the violation has not yet been cured or if it is a repeated violation (per Section D(3) above). However, even if the Respondent fails to timely request a hearing, the Board reserves the right to schedule a hearing on the matter if it deems it appropriate under the particular facts and circumstances presented.
2. If violation charges or suspensions of use rights are imposed without a hearing, as described above, the Managing Agent will promptly notify the Respondent in writing of any sanctions imposed (with the notice being sent by certified mail, return-receipt requested and by first-class mail, postage prepaid).
3. Board Authorization to Managing Agent. When the previously specified deadline has passed and no hearing is timely requested by the Respondent (and unless the Board has informed the Managing Agent to refrain from taking action on the matter or to schedule a hearing even if a hearing is not requested by the Respondent), then in the circumstances described below, sanctions are automatically assessed or imposed without the need for a case-by-case vote by the Board, and the Managing Agent is authorized to post the

Reflection Homes Association, Inc.
Administrative Resolution 2021-5
Covenant and Rule Enforcement:
Notice and Hearing Procedures

charges on the Respondent's account and/or implement the suspension of use rights in accordance with the following:

- a. *In cases of nonpayment of assessments*, if the Association's records indicate that the Respondent's assessment account remains more than 60 days past due, the Board hereby authorizes and directs the Managing Agent to notify the Respondent (by first-class mail and by certified mail, return-receipt requested) that the right to park on the Common Area and the right to use Common Area open space and facilities are suspended, effective immediately and lasting until the account is paid in full. The Board also reserves the right to take legal action to collect the delinquent assessments.
- b. *In cases of continuing violations of the Governing Documents (not related to nonpayment of assessments)*, if the Managing Agent confirms that a previously cited violation has not been corrected, the Board hereby approves the assessment of per diem violation charges (starting from the compliance deadline specified in the most recent prior notice) at a rate of \$10.00 per day for as long as the violation continues (up to a period of 90 days), and authorizes and directs the Managing Agent to post the charges to the Respondent's account and to promptly notify the Respondent (by first-class mail and by certified mail, return-receipt requested) of the imposition of the violation charges. The Board also reserves the right to take any other available enforcement measures permissible under the Governing Documents or applicable law, including legal action, to enforce the Governing Documents.
- c. *For a repeated violation of a non-continuing nature of the Governing Documents (not related to nonpayment of assessments)*, if the Managing Agent determines that the violation cited in the most recent notice is the same type of violation that was cited in a prior notice sent to the same Respondent within the previous 12-months, then the Board hereby approves the assessment of a violation charge in the amount of \$50.00 per cited violation and authorizes and directs the Managing Agent to post the charge(s) to the Respondent's account and to promptly notify the Respondent (by first-class mail and by certified mail, return-receipt requested) of the imposition of the violation charge(s). The Board also reserves the right to take any other available enforcement measures permissible under the Governing Documents or applicable law, including legal action, to enforce the Governing Documents.

F. Request for a Hearing. If the Respondent desires a hearing, the Respondent must request a hearing in writing so that it is received by the Managing Agent within the time period stated in the Notice of Violation pursuant to Section D above.

G. Notice of Hearing.

1. Scheduling/Continuances. The hearing will be scheduled at a reasonable time and place within the discretion of the Managing Agent (in consultation with the Board). The Board or the Association's president may grant a continuance of the hearing if a written continuance request is received by the Managing Agent prior to the hearing date. A continuance request must describe the reasons for the request. If a continuance is granted, notice of the new date, time and place will be mailed by first-class mail to the Respondent at his or her address of record (or with the Respondent's consent, it may be

Reflection Homes Association, Inc.
Administrative Resolution 2021-5
Covenant and Rule Enforcement:
Notice and Hearing Procedures

sent by email). However, it is ultimately the Respondent's responsibility to contact the Managing Agent prior to the originally scheduled hearing date to determine whether a continuance request was granted.

2. Delivery of Hearing Notice/Content. After receipt of a timely request for a hearing (or if the Board otherwise decides to hold a hearing), the Managing Agent will send the Respondent written notice of the date, time and place of the hearing, which notice will be sent by mailing it by first-class mail and by certified mail, return-receipt requested, to the Respondent's address of record with the Association. In addition, the Managing Agent may also send a copy of the Notice by email to the Respondent if the Respondent has provided an email address to the Association. This Notice of Hearing must be sent at least fourteen (14) days prior to the hearing and in addition to the date, time and place of the hearing, must state the alleged violation, the potential for violation charges (and/or suspension of use rights, as applicable), and that the Respondent may be represented by his/her own legal counsel at the hearing.

H. Hearing Procedures.

1. If a hearing is requested and/or scheduled as set forth above, a hearing will be conducted by the Architectural Control Committee ("ACC") or the Board to afford the Respondent a chance to present his or her position regarding the alleged violation(s) of the Governing Documents and whether sanctions should be imposed. However, if the Respondent fails to appear at the hearing at the scheduled time, the ACC or the Board may deem the allegations to have been admitted. Any defects in the hearing notice will be deemed waived by the Respondent if the Respondent appears at the hearing (either in person or by legal counsel) for any purpose other than to object to the validity of the notice.
2. The hearing will be conducted in executive session, but witnesses and/or complaining parties present at the hearing will be allowed to make presentations during the hearing. The presiding officer at the hearing may determine the particular manner in which the hearing will be conducted, such as setting reasonable time limits on presentations, so long as the procedures are otherwise consistent with the Act and the provisions of this Policy.
3. Right to Legal Counsel. Respondents have the right to have their own legal counsel represent them at the hearing, but attorney-representation is not required. Respondent's failure to have an attorney at the scheduled hearing will constitute a waiver of such right for purposes of the hearing.
4. Decision and Notice of Hearing Results.
 - a. After all presentations have been made within the allotted time period, the ACC or the Board will request others who are present to leave the room (except for the Managing Agent and/or the Association's legal counsel, if applicable) and, while still in executive session, discuss whether it believes that there is satisfactory evidence of the violation and whether sanctions should be imposed.
 - b. After reconvening into open session, the ACC or the Board will decide the matter by majority vote; however, if additional time is needed to reach a decision, the ACC or the Board may continue the hearing to an announced date and time for purposes of

Reflection Homes Association, Inc.
Administrative Resolution 2021-5
Covenant and Rule Enforcement:
Notice and Hearing Procedures

additional deliberation, with no further written notice required. In cases where the ACC holds the hearing, the ACC will make a recommendation to the Board and the Board will decide whether to impose sanctions (i.e., violation charges and/or suspension of rights).

- c. Within seven (7) days after the hearing (including any continuances), the Managing Agent must send written notice of the hearing results to the Respondent by first-class mail and by certified mail, return receipt requested, to the Respondent's address of record with the Association.

I. Sanctions. After complying with the procedures in this Policy, the Board has the authority to impose the following sanctions (in addition to, or instead of, other remedies available to the Association):

1. Impose violation charges for violations other than nonpayment of assessments. In accordance with the Act and the Declaration, the Board may assess charges for violations of the Governing Documents (other than related to nonpayment of assessments, the consequences of which are addressed in other sections of the Governing Documents). Violation charges are treated as an assessment against the Respondent and the Respondent's Lot for the purposes of collection and filing liens. As of the date this Policy was adopted, the Act provides that for each single offense, a charge of up to \$50.00 can be assessed; or for a violation of a continuing nature, a charge of up to \$10.00 per day can be assessed for up to 90 days or until the violation ceases, whichever occurs first.
2. Suspension of Use Rights.
 - a. *For Respondents more than 60 days' past due in the payment of assessments*, the Board may suspend voting rights and the right to use Association-provided facilities and nonessential services, such as Common Area parking spaces and other facilities on the Common Area. The suspension remains in place until the account is paid in full, unless a different arrangement is agreed to by the Board in writing as part of an approved payment plan to settle the debt. Once parking privileges are suspended and written notice of the suspension is delivered or mailed to the Respondent, vehicles in violation of the suspension become subject to immediate towing at the vehicle owner's sole risk and expense.
 - b. *For continuing or repeated violations of the same provision of the Association's rules and regulations*, the Board may suspend voting rights and the right to use the Association's Common Area recreational facilities and any nonessential services offered by the Association, for a period of up to 60 days pursuant to Article V, Section 1(D) of the Declaration.
 - c. Suspensions apply not only to the Respondent but also to all occupants of, and visitors to, the Respondent's Lot. It is the Respondent's obligation to notify his/her tenants, guests and household members of the suspension; however, the Association reserves the right to notify them as well.

J. Other Remedies. This Policy is not to be interpreted to require the use of the above notice and hearing procedures prior to the Association exercising any available remedies other than

Reflection Homes Association, Inc.
Administrative Resolution 2021-5
Covenant and Rule Enforcement:
Notice and Hearing Procedures

assessing violation charges or suspending use rights. The exercise of any one or more remedies will not constitute an election of remedies. Remedies may be cumulative and also include, without limitation, the following:

1. Legal Action. The Board has the authority to file a lawsuit for monetary damages and/or injunctive relief, and to enforce unpaid liens through foreclosure;
2. Resale Disclosure Packet. Pursuant to the Act, violations of the Governing Documents may be disclosed in any resale disclosure packet issued by the Association in conjunction with the sale or other transfer of a Lot; and/or
3. Reporting to Government Officials. Violations that appear to violate local, state or federal laws, ordinances or regulations may be reported to the appropriate government official, agency or department.

K. Records. The Managing Agent will keep copies of all correspondence related to violations in the Owner's file or in a separate file specifically for violations, as well as a record of each hearing (including proof of notice or indication whether the Respondent appeared at the hearing). For the record of the hearing, the sample form attached as Exhibit A may be used.

This resolution supercedes *Policy Resolution 2000-5 Creation of Procedures to Ensure Due Process in Enforcement Cases*

Location: *This Administrative Resolution shall be filed in Section I, Board Responsibilities and Limitations, of the Book of Resolutions.*

The effective date of this resolution is **September 13, 2021**.

Reflection Homes Association, Inc.
Administrative Resolution 2021-5
Covenant and Rule Enforcement:
Notice and Hearing Procedures

EXHIBIT A

RECORD OF HEARING

Hearing Date and Time: _____

Owner(s):

Lot Address:

Mailing Address if other than Lot:

Alleged Violation(s):

Provision(s) of Declaration/Rules Allegedly Violated:

Persons in Attendance:

Date Notice given: _____ (by certified mail, return-receipt requested)

Decision of Board and Reasoning:

Sanctions Imposed (date commencing):

Additional Comments:

