

SPRINGFIELD OAKS HOMEOWNERS ASSOCIATION, INC.

REGULATORY/POLICY RESOLUTION NO. 2010 - 2

RESOLUTION ON DUE PROCESS PROCEDURES

WHEREAS, Springfield Oaks Homeowners Association, Inc. (“Association”) came into existence as a Virginia property owners’ association by the filing of a Declaration of Covenants, Conditions and Restrictions (“Declaration”) for the Association, which Declaration and amendments are of record in the land records of the Fairfax County Circuit Court, Deed Book 5889, Page 0721;

WHEREAS, the Association was also incorporated as a Virginia non-stock corporation by the filing of Articles of Incorporation with the Virginia State Corporation Commission and the issuance thereby of a certificate of incorporation in July 1983; and,

WHEREAS, Article IV (*Purposes and Powers of the Association*) of the Articles of Incorporation set forth the specific purposes of the corporation as providing for the “maintenance, preservation and architectural control of the residential Lots and Common Areas within [the Association]”; and,

WHEREAS, Section 55-515 of the Act and the Declaration of Covenants, Conditions and Restrictions (hereinafter "Declaration") charge all Lot owners and their tenants, guests and invitees with compliance with the Declaration and all provisions of the Act; and,

WHEREAS, Articles V (*Review*) and VI (*Protective Covenants and Restrictions*) of the Declaration confer upon the Board of Directors the authority to exercise architectural control over the individual lots and common area and further set forth the restrictive covenants applicable to both individual lots and common area; and,

WHEREAS, Article V, Section 2, Article VI, Section 12 and Article IX, Section 1 of the Declaration and Section 55-513 of the Act also confer upon the Board of Directors the power to establish, adopt and enforce rules and regulations with respect to use of the common areas and the restrictive covenants and the authority to enforce “all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration”; and,

WHEREAS, Section 55-513B of the Act authorizes the Association, through its Board of Directors and to the extent expressly so provided in the Association’s Declaration or its rules and regulations duly adopted pursuant thereto, to assess charges against lot owners and/or suspend use rights or services for violations thereof, for which the lot owner or his family members, tenants, guests or other invitees are responsible; and,

WHEREAS, Section 55-513B of the Act further provides that certain procedures must be followed before such charges or suspensions may be assessed; and,

WHEREAS, it is the intent of the Board of Directors to enforce the Declaration and the Association's duly approved rules and regulations, to include architectural and maintenance standards, for the benefit, welfare and protection of the Association's lot owners and residents, by establishing procedures which ensure due process and consistency of enforcement, and it is further the intent of the Board of Directors that this Resolution be deemed to set forth rules and regulations duly adopted pursuant to Section 55-513B of the Act;

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors, by the Act, the Declaration and this Resolution, are hereby empowered to suspend rights of use of facilities or services, and to assess charges pursuant to Section 55-513B of the Act, and it is further resolved that the Board of Directors shall assess such charges for any violation of the Declaration, Bylaws or rules/regulations only after the following procedures have been followed:

I. Complaint.

A. Any lot owner, tenant, managing agent or Board member who requests that the Board take action to enforce the Declaration and/or the Association's rules/regulations shall complete, date and sign a Complaint in a form similar to and containing the information contained on Exhibit "A" hereto.

B. The Complaint shall be submitted to the Board of Directors (or relevant committee, such as the Architectural Review Board) for a determination as to whether it appears that a rule or provision of the Declaration, Bylaws or rules/regulations allegedly has been violated.

C. The Board of Directors shall then take appropriate action, such as directing that a demand letter or a cease and desist letter be sent or that it be referred to counsel or County authorities.

II. Demand.

A. If determined appropriate, a written demand/notice of assessment letter which may be in a form similar to Exhibit "B" hereto shall be sent by first class mail or shall be hand-delivered to the lot 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.

B. The demand letter shall specify the alleged violation, the action required to abate the

violation, and, if the violation is of an ongoing nature (such as a property maintenance defect), shall set a date usually not less than ten (10) days after the date of the demand letter by which the alleged violation must be remedied. However, when the violation may constitute a health, safety or fire hazard, demand may be made to remedy the violation within twenty-four (24) hours. Additionally, if the violation is of a transitory nature (such as, for example, a parking violation or trash violation), the letter shall notify the homeowner that a violation charge shall be assessed against the lot's assessment account unless the homeowner wishes to exercise his right to an opportunity to be heard by the Board of Directors.

C. The letter shall further state that the lot owner must request in writing a hearing before the Board to avoid imposition of charges or suspension of rights or services. The letter shall also state that if no hearing is requested, the owner shall be deemed to have waived the opportunity for a hearing and covenant/rule violation charges or suspensions may be assessed. The demand letter may be combined with the notice of hearing referenced in Section III of this Resolution if the violation is of a serious nature or if previous notices of violation have been sent to the owner.

D. This Resolution shall not be interpreted to require a hearing prior to assessment of violation charges if a hearing is not requested,

III. Notice of Hearing.

A. If the homeowner requests a hearing, or if the Board determines a hearing is necessary and appropriate under the circumstances, a notice of hearing shall be sent. The notice of hearing shall be hand delivered or mailed by certified United States mail, return receipt requested, at least fourteen (14) days in advance thereof, or within such other time as may be required by the Act, to the lot owner at the address of record with the Association. Service by mailing shall be deemed effective two (2) days after the notice has been mailed in a regular depository of the United States mail. **The demand letter referenced in Section II.B may be combined with the notice of hearing.**

B. The notice of hearing may be similar to Exhibit "C" attached hereto and shall specify:

- 1) The time, date and place of the hearing.
- 2) That the lot owner and tenant, if applicable, shall be given an opportunity to be heard and to be represented by counsel (at the lot owner's expense) before the Board.
- 3) The alleged violation, citing provisions of the Declaration or the Association's rules which allegedly have been violated.
- 4) That charges for violation of the Declaration, Bylaws, or rules/regulations may

include a charge of up to Fifty Dollars (\$50.00) for a single offense, or Ten Dollars (\$10.00) per day for any offense of a continuing nature, for a period not to exceed ninety (90) days or such greater amounts as may be authorized by the Virginia Property Owners' Association Act.

5) That the alleged violation may result in the suspension of services, use of facilities and/or voting rights.

IV. Hearing.

A. The hearing shall be scheduled at a reasonable and convenient time and place within the Board of Directors' discretion.

B. The Board, within its discretion, may grant a continuance. If the lot owner for which the hearing is scheduled requests a continuance to a different time or date, no further notice shall be required.

C. Neither legal rules of evidence nor procedure shall pertain nor shall be utilized in the hearing. The hearing shall provide the lot owner with an informal opportunity to be heard and to be represented by counsel (if the lot owner so desires and at the lot owner's expense).

D. The hearing shall be conducted in executive (private) session unless the lot owner expressly requests that the hearing be open to owners and residents. If the hearing is conducted in open session, the chairman of the hearing body may impose a reasonable limit on the number of such persons who can be accommodated in the hearing room. During the course of any hearing held, the Board, within its discretion, may afford those residents involved with the dispute or violation an opportunity to be heard within reasonable time limits.

E. After proper notice has been given, if the lot owner fails to appear at the hearing, or if no hearing is requested, the hearing may continue as scheduled in the lot owner's absence, or, alternatively, the Board may simply assess charges from the final compliance date of the letter, suspend use rights or services, or take such other action as may be authorized by the Act, the Declaration or this Resolution.

G. If the lot owner acknowledges responsibility for the violation charged, or does not wish to contest the alleged charge, the Board may, in its discretion, dispense with a hearing after having afforded the lot owner with an opportunity for a hearing. Minutes of each hearing or meeting shall be kept and a form similar to that attached hereto as Exhibit "D" shall be completed and placed in the lot owner's file and appropriate Association files.

H. **Within seven (7) days of *either* the hearing *or* of the Board's action on the matter if no hearing was requested**, the Board shall, by hand-delivery or certified mail, return receipt requested, notify the lot owner of its decision, any suspension of use rights and/or the assessment

of any charges and the date from which those assessments shall accrue and be due. A form similar to Exhibit "E" attached hereto shall be used for such notification.

V. Records.

The Board shall keep copies of all correspondence related to rules violations in the lot owner's file or in a separate file on rules violations.

VI. Assessment of Charges.

Pursuant to Section 55-513 B of the Act, any charges assessed for violation of rules after notice and hearing shall be in amounts authorized by the Act and shall be treated as an assessment against the owner's lot for the purpose of Section 55-516 of the Act regarding liens. Such amounts shall also be the personal obligation of the owner.

VII. Other Remedies.

This Resolution shall not be interpreted to require a hearing prior to assessment of rules violation charges if a hearing is not requested, nor shall it be interpreted to prevent the Association from exercising any other remedies authorized or available under the Act, the Declaration, the Bylaws or this Resolution, and shall not constitute an election of remedies.

SPRINGFIELD OAKS HOMEOWNERS ASSOCIATION, INC.

Exhibit "A" to the Resolution on Due Process Procedures

Covenant / Rule Violation Complaint

Date: _____

1. Name of person(s) violating covenant / rule: _____

2. Address or Lot # of person(s) violating covenant / rule: _____

3. Are the person(s) named in question 1 tenants or owners?

4. Describe in detail how and where the covenant or rule was violated:

5. When did the violation(s) occur? _____

6. Have you personally requested the lot owner and/or tenant to cease the violation?
___ Yes, ___ No, ___ Verbally, ___ By written request. When? _____

7. Name and lot number of person(s) making complaint: _____

8. Signature(s) _____

FOR ASSOCIATION USE ONLY

9. Owner: _____ Tenant: _____

10. Provision(s) of Governing Documents or Rule(s) violated:

11. Name(s) of lot owner(s) (as indicated on Association's membership list): _____

12. Owner's address if non-resident: _____

13. Name(s) of tenant(s) (if known): _____

14. Comment: _____

15. Date demand letter sent to lot owner: _____

16. Owner/Tenant _____ does/ _____ does not request a hearing.

Date request received: _____

17. Referred to Board on _____, 20__.

18. Date notice of hearing sent: _____

cc: Lot Owner File (optional-record may be closed)
Rules Violation File

SPRINGFIELD OAKS HOMEOWNERS ASSOCIATION, INC.

**EXHIBIT "B" TO THE
RESOLUTION ON DUE PROCESS PROCEDURES
DEMAND TO CEASE AND CORRECT / NOTICE OF ASSESSMENT**

(Owner) _____

Date:

You are hereby notified that a complaint has been made against you (or your tenants) for the alleged violation of the following covenant (or rule/regulation) of the Association:

The covenants and rules are enforced for the benefit of all residents and to maintain property values throughout the community. You are requested to immediately cease any conduct which may be in violation, and/or to correct all of the above-noted non-compliant conditions on your lot. If the violation occurred but has already been corrected, and if the Board of Directors determines that the assessment of a violation charge is appropriate, your lot will be assessed a one-time violation charge in the amount of \$ _____. If the violation pertains to an ongoing or existing condition(s) on your lot and if you need time to make repairs, you must request a definite period of time and notify the Board in writing as to when the repairs will be done.

If you wish to contest the alleged violation and avoid imposition of charges or suspension of use rights or services, you must request a hearing before the Board of Directors in writing within ten (10) days from the date of this letter. If you request a hearing, complete the bottom portion of this letter and return a copy to the Board of Directors. The Board of Directors or its agent will send you a notice by certified mail, return receipt requested, stating the hearing time and place. Alternatively, if you elect to cease and correct the violation, please send a copy of this letter to the Board of Directors noting that the violation has been stopped or corrected. **If you fail to respond to this letter, you will be deemed to have waived your hearing right and you may be assessed violation charges of up to Ten Dollars (\$10.00) per day for a continuing violation for a period of up to ninety (90) days or up to Fifty Dollars (\$50.00) for each single violation without further notice.** The Board may also take other legal action against you.

Sincerely,
The Board of Directors

cc: Lot owner file

Return to: Jan Fenton, Community Mgr., Sequoia Management Co., 13998 Parkeast Circle, Chantilly, VA 20151

Name: _____ Lot # or address: _____

___ I hereby request a hearing before the Board to contest the violation.

___ I have ceased and/or corrected the violation and will refrain from further violations.

Signature

SPRINGFIELD OAKS HOMEOWNERS ASSOCIATION, INC.

**EXHIBIT "C" TO THE
RESOLUTION ON DUE PROCESS PROCEDURES**

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Re: Notice of Covenant/Rules Violation Hearing

Dear _____:

You have requested a hearing before the Association’s Board of Directors. Accordingly, you are hereby notified that a hearing will be held before the Board of Directors of the Springfield Oaks Homeowners Association, Inc., at _____ on the ____ day of _____, 201__, at _____.m., pursuant to Section 55-513 B. of the Virginia Property Owners' Association Act and the Association’s due process procedures, for your (or your tenant’s) alleged violation of the following covenant or rule of the Association:

You may be present at the hearing and may (but need not be) represented by counsel (at your expense). The hearing will be your opportunity to be heard by the Board of Directors on the alleged covenant or rule violation noted above. You may request the attendance of witnesses. **If you fail to appear at the hearing, you will be deemed to have waived your hearing right and you may be assessed violation charges of up to Ten Dollars (\$10.00) per day for a continuing violation for a period of up to ninety (90) days or up to Fifty Dollars (\$50.00) for each single violation. Your right to use Association facilities or services could also be suspended.**

Please be advised that if the Board determines that you are in violation of the Declaration or the Association’s rules and regulations, charges of up to Fifty Dollars (\$50.00) for a one-time violation or up to Ten Dollars (\$10.00) per day for a period of up to ninety (90) days for a continuing violation may be assessed against you and your lot. Your right to use the Association’s common area may also be suspended, pursuant to Article II, Section 1(b) of the Declaration. In addition to this hearing, the Board may elect such other remedies as are authorized by the Virginia Property Owners' Association Act, the Association’s Declaration, Bylaws and rules, and by law.

If you have any questions or wish to communicate with the Board regarding this matter, please call: _____, at telephone _____.

Sincerely,

cc: Lot Owner File

SPRINGFIELD OAKS HOMEOWNERS ASSOCIATION, INC.

**EXHIBIT "D" TO THE
RESOLUTION ON DUE PROCESS PROCEDURES**

RECORD OF HEARING

Hearing Date and Time: _____

Lot Owner(s): _____

Lot #: _____

Address if other than lot: _____

Alleged Violation: _____

Provisions of Governing Documents Violated: _____

Persons in Attendance: _____

Decision of Board: _____

Charges Imposed (date commencing): _____

Other Sanctions Imposed: _____

Comments:

SPRINGFIELD OAKS HOMEOWNERS ASSOCIATION, INC.

**RE: NOTICE OF HEARING RESULT
EXHIBIT "E" TO THE
RESOLUTION ON DUE PROCESS PROCEDURES**

**CERTIFIED MAIL, RETURN RECEIPT REQUESTED
OR HAND-DELIVERY**

Date:

Dear _____:

Pursuant to the Notice of Hearing, dated _____, a hearing was held before the Board of Directors of the Association at _____ on the ___ day of _____, 201__, at ___ .m., in accordance with Section 55-513 B. of the Virginia Property Owners' Association Act and the Association's due process procedures.

The Board of Directors decided as follows:

___ A one-time covenant/rule violation charge of \$ _____ (not to exceed \$50) is imposed for the violation.

___ An ongoing rule violation charge of \$ _____ per day (not to exceed \$10/day) for a period not to exceed ninety (90) days is imposed. Your correction of the violating condition and your notification thereof to the Board of Directors will operate to stop the daily charge. The daily charge commenced on: _____, 201__

___ The Board imposed the following suspension(s) of use rights:

___ The Board found that a covenant or rule violation occurred but that no further action was warranted.

Please be advised that if an ongoing rule violation charge has been assessed against your lot, or if your right to use a facility of the Association (including common area parking spaces) has been suspended, that it is **YOUR** responsibility to correct the condition and notify a Board member of that action. The Association will then promptly inspect your lot to confirm that it is in compliance with the Declaration and/or Association rules and regulations. Upon that confirmation, the daily charge or suspension will terminate.

If you have any questions or wish to communicate with the Board regarding this matter, please call: _____.

Sincerely,

cc: Lot Owner File
Rules Violation File

SPRINGFIELD OAKS HOMEOWNERS ASSOCIATION, INC.

RESOLUTION ACTION RECORD

Resolution Type: Policy / Regulatory No. 2010-2

Pertaining to: Due Process Procedures

Duly adopted at a meeting of the Board of Directors held May 25, 2010.

Motion by: N. FRETZ Seconded by: K. MACRELESS

	VOTE:			
	YES	NO	ABSTAIN	ABSENT
<u>Randy Manning</u> Director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Kenneth M. Macreless</u> Director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>W.D. Drake</u> Director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Nicholas J. Fretz</u> Director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>MEGAN FIA</u> Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ATTEST: <u>W.D. Drake</u> Director (Board Secretary)				<u>5/25/10</u> Date

FILE:

Book of Minutes - 2010

Book of Resolutions:

	Book No.	Page No.
Policy	_____	_____
Regulatory	_____	_____
Special	_____	_____
General	_____	_____

Resolution effective: July 1, 2010