

**RUNAWAY BAY HOMEOWNERS ASSOCIATION, INC.**

**ADMINISTRATIVE RESOLUTION NO. A04-01**

**(DUE PROCESS)**

**WHEREAS**, Section 55-513 (A) of the Virginia Property Owners' Association Act provides that the Board of Directors shall have the power to establish, adopt and enforce rules and regulations with respect to such areas of responsibility assigned to the Association by the Declaration, except where expressly reserved by the Declaration to members; and

**WHEREAS**, Article 2, Articles of Incorporation, RUNAWAY BAY Homeowners Association, Inc. states the Association has power to carry out business of any character whatsoever not prohibited by law or required to be stated in articles of incorporation; and,

**WHEREAS**, it is the intent of the Board to provide due process procedures pursuant to the requirements of the Virginia Property Owners' Association Act for the resolution of complaints and rule violations in order to protect and benefit the members of the Association and ensure consistent and just enforcement;

**NOW THEREFORE, IT IS HEREBY RESOLVED THAT** the Board adopts the following procedures relative to due process:

I. Complaint.

- A. Any property owner, including members of the Board or the Architectural Review Committee, may request that the Board take action to enforce the governing documents of the Association and shall:
  - 1. Complete as fully as possible a "Complaint form" containing:
    - a. Name of the person in violation.
    - b. Street address of person in violation.
    - c. Date(s) violation occurred.
    - d. Where violation was observed.
    - e. Detailed description of nature of violation.
    - f. Any personal action(s) taken to attempt to resolve the violation and the dates taken.
    - g. Printed name and address of person(s) making complaint.
    - h. Signature(s) of person(s) making complaint.
    - i. Date complaint is made.

2. Submit the complaint directly to the Property Owner Services Manager, who will, as appropriate, promptly bring it to the attention of the entire Board of Directors for a determination as to whether it appears that a provision of the governing documents has been violated.

## II. Investigation and Good-Will Effort.

- A. The Board, or the Architectural Review Committee at the request of and on behalf of the Board, will investigate the alleged violation.
- B. If a violation of the governing documents is deemed to exist, then the Board shall:
  1. Make an effort to resolve the dispute without resorting to further procedures by:
    - a. Attempting to contact all parties involved in the dispute to determine their concerns and to clarify and notify the parties of possible violation(s) of the governing documents.
    - b. Allowing the party alleged to be in violation to remedy the cause of the dispute immediately upon contact.

## III. Demand.

- A. If the Board's good-will effort in Section II does not result in abatement of the violation, the Board shall:
  1. Execute a written demand letter to cease and desist from an alleged violation and deliver it by first-class mail or hand to the residence of the person violating and to the owner of the lot; if they are different, at the address that the owner has provided to the Association or at the lot address if no other address has been provided.
  2. The demand letter shall contain:
    - a. Name of the person in violation.
    - b. Street address of person in violation.
    - c. Date(s) violation occurred.
    - d. Where violation was observed.
    - e. Detailed description of nature of violation.
    - f. The action required to abate the violation and the date by which the alleged violation may be remedied without sanction.
  3. The alleged violator shall be given at least ten (10) days from delivery of the demand letter to remedy the violation (provided however, that matters determined by the Board to

be of a serious safety, health or detrimental nature must be abated within twenty-four (24) hours upon written notice) or to appeal the Board's determination.

#### IV. Notice of Hearing.

- A. If the violation continues past the abatement period specified in the demand letter as indicated in Section III, or if the Board's determination is appealed or if the same rule is subsequently violated, the Board shall hold a hearing within three (3) months of the date of the abatement deadline set out in the demand letter or the reoccurrence of the violation to render a final determination on the existence of a violation and the possible imposition of sanctions including the assessment of charges against the lot owner for said violation(s).
- B. A notice of hearing shall be mailed at least fourteen(14) days prior to the hearing, by registered or certified United States mail, return receipt requested, to the lot owner(s) of record at the address of their lot and to any such other address as they may have designated. A copy shall be sent to any resident person at the lot address, if named in the complaint. Notice will be deemed effective three (3) days after mailing.
  - 1. The notice of hearing shall specify:
    - a. Time, date and place of the hearing.
    - b. That the owner is invited to attend the hearing and shall be given an opportunity to present any evidence, statements or witnesses.
    - c. That the owner may be represented by counsel.
    - d. The alleged violation referencing the provision of Rules or Documents violated.
    - e. Possible sanctions or penalties which could be imposed for the alleged violation.

#### V. Hearing.

- A. The hearing shall be scheduled at a reasonable and convenient time and place, at the discretion of the Board.
- B. The Board, within its discretion, may grant a continuance if requested at least forty-eight (48) hours before the scheduled hearing, provided however, that in case of an emergency a continuance may be granted within that period. No further notice of hearing shall be required in case a continuance is granted.
- C. The hearing shall be conducted in open session and shall provide the Complainant, the Respondent and the Board, or their respective counsel, the right and opportunity to:
  - 1. Call, examine, and cross-examine witnesses.
  - 2. Introduce testimony and evidence.
  - 3. Rebut testimony and evidence.

4. Share equal and reasonable time limits for the presentation of testimony and evidence to be determined by the Board.
  5. Obtain a recording of the minutes of the hearing.
- D. A hearing will continue as scheduled, even if any of the parties to the complaint are absent, provided notice of the hearing was given.
  - E. The hearing shall be informal regarding legal formalities. Any relevant evidence which is not privileged is admissible without regard to whether such evidence is hearsay or otherwise inadmissible in a court of law. The Board may exclude irrelevant, immaterial or unduly repetitious evidence.
  - F. Complainant, Respondent or the Board may cause the hearing to be transcribed at their/its own expense.
  - G. The Board may make a finding, based upon substantial evidence, that a violation has occurred. Other findings shall be reflected in a written statement.
  - H. The Board may administer an oath or affirmation to any person upon request of either party.
  - I. The Board may expel any party, attorney, witness or spectator from any hearing for improper, disorderly or contemptuous conduct.

VI. Notice of Decision.

- A. The Board will notify the alleged violator of its decision within seven (7) days after the hearing by hand-delivery or registered or certified mail, return receipt requested, to the member at the address of record with the Association
  1. The notification of decision will contain:
    - a. Whether the person has been found to be in violation.
    - b. The provision or document violated.
    - c. The sanctions including charges imposed or other remedies.
    - d. The date on which those sanctions including charges begin.
    - e. Where decision and minutes of meeting may be obtained.

VII. Assessment and Other Remedies.

- A. The Board may assess charges against a lot owner for a violation pursuant to Section 55-513 of the Virginia Property Owners Association Act.

- B. The Board may, upon determining that a violation exists, prescribe or seek any remedies including imposition of sanctions available to it under the governing documents, as well as any remedies described in the Virginia Property Owners' Association Act and in other laws of the Commonwealth of Virginia.
- C. The Board may, at its discretion, give a party guilty of a violation of the rules and regulations or the governing documents a period not to exceed thirty (30) days to remedy the violation, prior to initiating enforcement actions.
- D. This resolution is intended to expressly provide that the Board is empowered to seek any remedies including, without limitation, those described in Section 55-513 and other sections of the Virginia Property Owners' Association Act.

RUNAWAY BAY HOMEOWNER'S ASSOCIATION

RESOLUTION ACTION RECORD

Resolution Type: Administrative Number: A04-01

Pertaining To: Due Process

Duly adopted at a regular/~~special~~ meeting of the Board of Directors held May 29, 2004.

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

VOTE:

YES NO ABSTAIN ABSENT

Roger L. Winters, President \_\_\_\_\_

Michael Lobue, Vice President/Treasurer \_\_\_\_\_

Karen I. Bragg, Secretary \_\_\_\_\_

William J. Wallace, Director \_\_\_\_\_

James A. Slagle, Director \_\_\_\_\_

This Resolution Effective, May 29, 2004

ATTEST:

\_\_\_\_\_  
Roger L. Winters, President Date \_\_\_\_\_

\_\_\_\_\_  
Karen I. Bragg, Secretary Date \_\_\_\_\_

FOR ASSOCIATION RECORDS

I hereby certify that a copy of the foregoing Resolution was posted to the Book of Resolutions and a copy of this Resolution and any associated documentation was mailed and/or hand-delivered to all members of the Runaway Bay Homeowner's Association at their address of record on this \_\_\_\_\_ day of \_\_\_\_\_, 2004..

\_\_\_\_\_  
RUNAWAY BAY HOA Property Owner Services Manager