

REMINGTON HOMEOWNERS ASSOCIATION
DUE PROCESS POLICY

YOU ARE NOTIFIED THAT THE BOARD ADOPTED THIS RESOLUTION. IT WILL TAKE EFFECT TEN DAYS AFTER THE DATE THE PRESIDENT AND SECRETARY SIGNED IT. DECLARATION ARTICLE 15 AND BYLAWS ARTICLE 22 CALL FOR THIS NOTICE TO BE GIVEN.

RESOLUTION

Preface

The Covenants. The Declaration of Restrictions, Covenants and Easements for Remington ("the Covenants") were recorded on February 22, 1989. The Covenants were amended six times. As amended, the Covenants affect all lots in all three divisions of Remington. The recording numbers of the Covenants and the amendments are: 8902220506; 8904051063; 9005111502; 9306010221; 9306041120; and 9403312836.

The Board's Authority. The Covenants give the Board broad authority and many tools to use in preserving and advancing the purposes of the Covenants. The Board is authorized to create rules, regulations, procedures and penalties. The Board is authorized to enforce the Covenants, the Bylaws and the rules and regulations and to employ various remedies for that purpose.

Disputes Between Owners About Compliance With The Covenants. A dispute about compliance with the Covenants, the Bylaws or the rules and regulations will arise between Owners from time to time. When that happens, it's possible that one Owner might ask the Board to enforce the Covenants against the other Owner. The Board may impose serious consequences on an Owner who violates the Covenants, the Bylaws or the rules and regulations.

Every Story Has Two Sides. A decision to impose serious consequences should be made with care. Those making the decision should be fully informed about the facts which bear upon the decision they are asked to make. Since there are two sides to every story, common sense dictates that the person said to be violating the Covenants, the Bylaws or the rules and regulations be given a chance to tell the other side of the story before a decision is made.

The Purpose This Policy Serves. This Policy is meant to create a process which will give both sides of such a dispute a fair and meaningful chance to tell their own side of the story before a decision is made.

Due Process Policy

It is therefore resolved by the Remington Board that the following Due Process Policy (the "Policy") is adopted to establish a fair and meaningful process for deciding whether a violation complaint filed by an Owner has merit, whether the claimed violation indeed exists, and what consequences should be imposed in response to the violation. This Policy describes thirteen steps which should be taken and then concludes with some other details.

Step One – Pick A Hearing Board.

The Board shall pick three Board Members as the Hearing Board. The Board may pick up to four alternates. Alternates may be picked from the Association Membership, including Board Members. An alternate may serve when a regular Hearing Board Member cannot. For example, when a regular member is absent or is disqualified in a particular case, an alternate may serve. The Hearing Board shall select from among its members a Chair and a Secretary.

The Board may decide to have a Complaint heard by a Temporary Hearing Board. A Temporary Hearing Board has the same powers and duties as the regular Hearing Board. The Board may pick three people from the Association Membership, including Board Members, to serve as the Temporary Hearing Board. The Board may, instead, pick a competent hearing officer to serve as the Temporary Hearing Board. For example, someone who has served as an arbitrator, judge or hearing examiner, or who is a disinterested property manager or attorney with experience representing community associations would probably be competent to serve as the Temporary Hearing Board. The competent hearing officer need not be an Association Member.

The Hearing Board has authority to investigate, hear and determine any complaint about a violation of the Governing Documents. The Hearing Board also has authority (1) to impose fines, as described in Step 11 below, and (2) to require the losing party to reimburse the Association for its costs, including reasonable attorneys' fees, incurred in the matter.

Step Two – Encourage Owners To Resolve Their Own Disputes.

The Association strongly prefers that disputes between people be resolved quickly, effectively and inexpensively. This includes a desire that people resolve their differences directly and informally when possible. This is why this informal dispute resolution process is

established. This informal dispute resolution process applies to any dispute between people relating to the Governing Documents ("a Claim"). However, the Board has discretion to decide whether and to what extent the Association and/or Board will participate in this informal dispute resolution process.

A Claim shall be resolved using this informal dispute resolution process:

1. The person(s) asserting the Claim ("the Claimant") shall first try to resolve the Claim directly with the person(s) against whom the Claim is directed ("the Respondent");
2. If this attempt fails to satisfactorily resolve the Claim, the Claimant may file a Complaint with the Board.

The Hearing Board has discretion to accept an Assurance of Voluntary Compliance ("an Assurance") from a Respondent. The Hearing Board may do this in lieu of or in addition to calling a hearing. Giving an Assurance does not necessarily mean that the Respondent admits violating the Governing Documents or violating a Board Decision. An Assurance may include a person's promise to reimburse the Claimant, the Association, or both for associated expenses. Associated expenses may include actual damages, costs and attorneys' fees incurred in connection with the dispute. The person who has given an Assurance must give the Board information the Board reasonably requests to determine whether the person is complying with the Assurance. A person's failure to keep a promise made in an Assurance is grounds for further action by the Board, the Hearing Board, the Claimant, or the Association.

Step Three – Require A Written Complaint.

This Policy is triggered by the actual filing of a written Complaint. The Complaint shall be filed with the Association's President or Secretary. The person who files the Complaint is called the Claimant. The Complaint is meant to furnish the reader with information helpful in determining whether a violation exists and how to cure it. This is why the Complaint:

1. Shall be signed by the Claimant;
2. Should describe the Claim in clear, simple words, which
 - (a) Tell what section of the Governing Documents or what Board Decision is being violated,
 - (b) Tell what facts support the Claim, and
 - (c) Tell what action, if taken, would resolve the Claim;
3. Should include other information helpful in considering the Claim, such as names of people and copies of documents that lend support to the Claim; and

4. Should describe what steps were taken to try to informally resolve the dispute and what became of those efforts.

Step Four – Have The Board Consider It First.

The Association Board should review the Complaint at its next Board Meeting. It should then do one of four things:

1. Decline to act on the Complaint;
2. Require further attempts to resolve the dispute and postpone acting on the Complaint until those attempts have run their course;
3. Proceed to the Hearing Process described below; or
4. Postpone any action until it gathers information it believes it needs to have before it can choose which action to take.

The Association Board may decline to act on the Complaint, for example, when it determines that the Complaint lacks real merit or that the dispute does not affect the interests of the Association as a whole. Or the Association Board may, for example, require the parties to participate in a mediation process and postpone acting on the Complaint until that process has run its course.

Step Five – Check For Any Conflict Of Interest.

The Hearing Process starts with the Association Board notifying the Chair of the Hearing Board that the Association Board has decided to authorize a Due Process Hearing on the Complaint.

Once the Chair of the Hearing Board is so notified, the Chair should promptly check with the Hearing Board Members for conflicts and for available hearing dates. The Chair should promptly furnish the Hearing Board Members with a copy of the Complaint.

Each Hearing Board Member should then promptly look through the Complaint to see if he or she has some connection to people or facts involved in the dispute. Any Hearing Board Member who spots a connection should promptly tell the Chair about the connection.

If the Hearing Board Member with the connection believes it may in some way influence his or her participation in this Hearing Process, the person should promptly tell the Chair that the person cannot participate as a Hearing Board Member in this case. Likewise, if

the Chair believes a Hearing Board Member's connection to people or facts involved in the dispute may in some way influence that person's participation in this Hearing Process, the Chair should replace that person with an alternate who does not have such a connection.

Step Six – Set A Hearing Date.

The Chair should also promptly set a date, time and place for the hearing which works for the people who will serve as Hearing Board Members in the case. To provide an opportunity for the parties to prepare for the hearing, the hearing should be set at least thirty (30) days after the Chair is notified by the Association Board to start this process.

Step Seven – Notify The Parties Of The Hearing.

The Chair or Secretary of the Hearing Board shall then promptly serve the Claimant and the Respondent with a notice of the scheduled hearing. A copy of the Complaint and of this Due Process Policy should accompany the notice. A demand for a Voluntary Assurance of Compliance may accompany the notice if the Hearing Board chooses to do so.

The notice is "served" on a person by handing it to the person, or by leaving it with an adult at the person's residence or by mailing it first class to the person's mailing address. If a person has given the Association a specific address to use for mailings, that is the address to which the notice should be mailed.

The person who "serves" the notice should then promptly do a memo to the Chair describing *who* was served, *what* was served, *who* served it, *how* it was served and *when* it was served. Mailed notice is considered "served" three days after its mailing.

Step Eight – Make The Parties Exchange Information.

The Claimant and Respondent shall exchange with one another information about witnesses and evidence before the hearing. This should take place at least seven days before the hearing. This should include a list of people who may testify, a summary of what each is expected to testify about, and copies of documents which may be offered into evidence at the hearing. Each party shall, at that time, furnish the Chair with a copy of what is furnished to the other party.

Step Nine – Let The Chair Handle Preliminary Matters.

The Chair has authority to decide preliminary matters. For example, if one party asks that the hearing be rescheduled and the other party opposes it, the Chair may decide whether or not to reschedule the hearing. Before deciding a preliminary matter which may affect a party, the Chair should try to find out what position the affected party takes on the matter. The Chair is authorized to decide preliminary matters because leaving such matters to the entire Hearing Board to decide risks delaying the hearing due to trouble that may be encountered in trying to gather all three Hearing Board Members together to decide the preliminary matter.

Step Ten – Hold The Hearing.

The parties and the Hearing Board have certain rights in connection with the hearing.

A party has the right to

- . Be present during hearing
- . Have an attorney represent them
- . Object to evidence
- . Cross-examine a witness who testifies in person at the hearing
- . Make a closing statement to the Hearing Board, and
- . Receive a written decision from the Hearing Board.

As the purpose of the hearing is in part to assist the Hearing Board in its investigation of a Complaint so that its decision in the matter is an informed one, the Hearing Board or its Chair has the right to

- . Rule on objections
- . Allow evidence in, even if it might be inadmissible in a court of law
- . Ask questions of witnesses and parties,
- . Accept testimony or documents not offered by the parties, and
- . Deliberate in private, outside the presence of the parties.

The Claimant and Respondent should be present at the hearing. The Hearing Board may choose to conduct the hearing in executive session, but shall still allow the Claimant and Respondent to be present during the hearing. If a party does not attend the hearing, the Hearing Board has discretion to proceed with the hearing or reschedule it. If the Claimant does not attend the hearing, the Hearing Board has discretion to terminate the matter.

The Chair presides over the conduct of the hearing. The Chair rules on any objections to evidence. The hearing is meant to be fair, but informal. The general order of proceedings is this:

1. The Chair opens the meeting, welcomes those present and briefly explains how the hearing will proceed.
2. The Chair asks Hearing Board members whether they can serve impartially in the matter.
3. The Chair asks parties if there are any challenges to the impartiality of any Hearing Board members and, if so, presides over the resolution of the challenge and, if need be, picks the alternate to take the place of a disqualified Hearing Board member.
4. Each party may then make an opening statement of facts, Claimant going first, and Respondent going next.
5. The Chair then asks those present who may testify to stand and, upon oath, swear that the testimony they will give in the matter is true.
6. The Claimant then presents Claimant's case. This Claimant does by presenting the live testimony of witnesses, and by introducing into evidence relevant documents and such.
7. Following the conclusion of Claimant's case, Respondent presents Respondent's defense in the same manner, by presenting the live testimony of witnesses, and by introducing into evidence relevant documents and such.
8. If a party then asks to present evidence to rebut evidence given by the other party, the Chair will rule on the request(s).
9. Once all evidence is admitted, closing arguments follow, with Respondent going first, Claimant going next, and Respondent concluding with a final statement.
10. The Chair than closes the record, which concludes the hearing part of the case.

Step Eleven – Decide The Case.

Once the Chair closes the record, the Hearing Board should promptly deliberate and reach its decision. The Hearing Board has authority to deliberate and decide the case in executive session, outside the parties' presence.

The Hearing Board shall consider the evidence. It shall decide whether the facts proven establish the violation claimed. If a violation is established, it should consider what consequences to impose. For example, it may consider:

1. Ordering the Respondent to do certain things to cure the violation;
2. Imposing a reasonable fine within the maximum limits the Association Board periodically sets by resolution. (The fine may include a daily fine to accrue each day of noncompliance with the Hearing Board's Order); and
3. Ordering the losing party to reimburse the Association for its costs, including reasonable attorney's fees, incurred in connection with the case.

A fine or charge imposed by the Hearing Board shall be the personal obligation of the person against whom it is imposed. It shall also constitute an Assessment secured by a lien upon the Lot owned or occupied by that person. And it may be collected as an Assessment in the manner provided in the Declaration.

The Hearing Board's decision shall be reduced to writing. The written decision should:

1. State the facts which were found to exist;
2. Summarize the evidence which led the Hearing Board to find those facts exist;
3. State the Hearing Board's conclusions about whether the Claim was proven; and
4. If the Claim was proven, state the relief, if any, that the Hearing Board is ordering.

The decision should be reduced to writing within ten days of closing the hearing.

The decision should state a date on which it takes effect. If no date is stated, then the decision takes effect ten days after the written decision is served on the parties.

Step Twelve – Notify The Parties Of The Decision.

The decision shall then be promptly served on the parties. The decision should be served by one of the methods of service described in Step Seven above. A copy of the decision should also be sent to the Association's Secretary at the same time. The person who "serves" the decision should then promptly do a memo to the Association's Secretary describing *who* was served, *how* the decision was served and *when* it was served. A copy of the decision and of the memo describing service should be kept in the Association's permanent records.

Step Thirteen – Let The Board Choose What Happens From There.

The Board retains whatever authority it otherwise has to employ any available means or remedy to enforce the Covenants, the Bylaws, the rules and regulations and the written decisions of the Hearing Board. The Association's Board also has authority to decide what to do about a person's failure to comply with the Hearing Board's written decision.

For example, the Association Board may decide to enforce the Hearing Board's written decision through curing the noncompliance itself and charging the costs of the cure to the Owner, or through applying the Remington Covenants Enforcement Policy, or through foreclosing its lien or through seeking a court order requiring compliance or through any combination of available means or remedies.

The Association Board may decide, instead, to leave further enforcement of the Hearing Board's written decision up to the Claimant to pursue through means or remedies available to the Claimant.

Other Details.

This Policy is not meant to impair an Owner's ability to bring a lawsuit to enforce the Covenants against another Owner. This Policy reserves to each Owner that right.

This Policy is based on common sense. In the course of applying this policy, parties might debate the meaning of words or phrases used in the Policy. The meaning of the word or phrase being argued about should be determined by applying common sense and by reading the word or phrase in a way that furthers the purpose of this Policy.

Two words in particular have intended meanings. "Shall" in this Policy means "must". A thing that "shall" happen must actually happen. Failure to do something the Hearing Board "shall" do calls the Hearing Board's decision into question. By comparison, "Should" in this Policy means "should". "Should" is used in describing best practices. The purpose of this Policy is best served when the Hearing Board does the things the Policy says it "should". A failure to do a thing the Hearing Board "should" do does not, however, draw the Hearing Board's decision into question.

Article 19 of the Remington Bylaws provides that persons exercising authority of the Board are not liable for action or inaction done in good faith. An action of the Hearing Board or the Association Board under this Policy shall not create any liability of any member of either Board or of the Association.

The Due Process Policy set forth in this Resolution shall take effect on 7,
19, 2000.

Approved this 19 day of July, 2000.

Jeff Madala
President

7/19/00
Date

[Signature]
Secretary

7/19/2000
Date