

COURTHOUSE SQUARE HOMEOWNERS ASSOCIATION OF GLOUCESTER, INC.

POLICY RESOLUTION No. 1

**DUE PROCESS PROCEDURES FOR
ENFORCEMENT OF COVENANTS AND RULES**

WHEREAS, the Board of Directors of the Courthouse Square Homeowners Association of Gloucester, Inc. is empowered by its Declaration and Bylaws, recorded in the Clerk's Office of the Circuit Court of the Gloucester County, Virginia, in Instrument 060008724, at Pages 288 – 347 inclusive, to govern the affairs of the Association and enforce the covenants.

WHEREAS, for the benefit and protection of the Association and of the individual owners, the Board deems it desirable to establish and operate a procedure to assure due process in cases where there is a question of compliance by an owner, his family, his guests or tenants and tenant's guests and family with the provisions of the governing documents, thereby attempting to minimize the necessity of seeking action in or through a court of law; and

WHEREAS, it is the intent of the Board to establish procedures for the Board and such Committees as may be designated by the Board in the future where they must take action relative to questions of compliance by an individual with the provisions of the governing documents of the Association;

NOW, THEREFORE, BE IT RESOLVED THAT THIS POLICY RESOLUTION

shall establish the following procedures:

I. VIOLATIONS OF THE DECLARATION, BYLAWS, ARCHITECTURAL GUIDELINES, AND RULES AND REGULATIONS.

Section 1. Actions prior to formal Resolution Process.

Any member or management agent of the Association has the authority to request, verbally or in writing, that an owner or resident cease or correct any act or omission which appears to be in violation of the aforementioned documents. Such a request may, but is not required to, precede other enforcement actions described herein, in the Association's governing documents, or permitted by applicable law.

Section 2. Resolution Process/Hearing. Upon the occurrence of an action or circumstances which the Board of Directors believes to be in violation of the governing documents of the Association, the Board may initiate a due process violation hearing pursuant to Virginia Code Section 55-513 against the owner alleged to have committed the violation (the "respondent"). Notice of such hearing shall be sent to the respondent by any of the following means: (1) personal delivery or (2) by registered or certified mail, return receipt requested, and addressed to respondent, at the address appearing on the Books of the Association. Service by mailing shall be deemed delivered and effective three (3) days after such mailing in a regular depository of the United States mail. Said notice shall contain a written description of the statement of charges or alleged violations. Notice shall be sent to all parties at least fourteen (14) days prior to

the hearing. The notice to the respondent shall be substantially in the following form but may include other information:

"You are hereby notified that a hearing will be held before the Board of Directors at _____ on the _____ day of _____, 20____, at the hour of _____, upon the charges made in the complaint served upon you. You may, but need not be, present at the hearing. You may, but need not be, represented by counsel. You may present any relevant evidence and you will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to request the attendance of witnesses and the production of books, documents or other items by applying to the Board. If you elect not to attend, you shall be deemed to have admitted the violation alleged."

Section 3. Constraints on the Board of Directors. It shall be incumbent upon each member of the Board of Directors to make a determination as to whether he or she is able to function in a disinterested and objective manner in consideration of the case. Any member incapable of objective consideration of the case shall disclose such to the Board of Directors and remove him/herself from the proceedings, and have it so recorded in the minutes.

In any event, the respondent may challenge any member of the Board of Directors for cause, where a fair and impartial hearing cannot be afforded at any time prior to the taking of evidence and testimony at the hearing. In the event of such a challenge, the

Board shall meet to determine the sufficiency of the challenge. If a majority of the Board sustains the challenge, the chairperson shall appoint another owner to replace the challenged member of the Board of Directors. All decisions of the Board of Directors in this regard shall be final.

Section 4. Hearing.

(a) Failure of the Respondent to appear at a hearing shall constitute an admission of the violation. If a Respondent requests a postponement for good and reasonable cause, such postponement shall be granted if Respondent notifies the Association Manager within forty-eight (48) hours of the Hearing date and is prepared to agree to a new date and time within 14 days of the original hearing date. Further postponement shall be in the sole discretion of the Board of Directors. The Board of Directors may postpone the Hearing on its own motion for any good cause.

(b) Whenever the Board of Directors has commenced to hear the matter and a member of the Board of Directors is forced to withdraw prior to a final determination, the remaining members shall continue to hear the case and the chairperson shall select another person to replace the withdrawing person.

(c) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses; and to rebut the evidence against him. Even if respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.

(d) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.

(e) Neither the accusing party nor the respondent must be in attendance at the hearing; however, such failure to appear by the respondent shall constitute an admission of the violation. At the discretion of the Chairperson, the hearing may be conducted in executive session.

(f) At the beginning of the hearing a member of the Board of Directors shall explain the rules and procedures by which the hearing is to be conducted. Generally, each principal is be entitled to make an opening statement, starting with the accusing person or Board. Then each party is entitled to produce evidence, witnesses, and testimony and to cross-examine the witnesses and opposing party. Then each party is entitled to make a closing statement. Any party may waive the right to exercise any part of this process, and the Board of Directors is entitled to exercise its discretion as to the specific manner in which the hearing will be conducted.

Section 5. Decision. After all testimony and documentary evidence has been presented to the Board of Directors, the principals and all other witnesses shall be

excused and the Board of Directors shall consider the evidence. The Board of Directors shall make its determination in accordance with this resolution. The decision may be made at the conclusion of the hearing or may be postponed to no later than seven (7) days hence with a majority of the entire Board of Directors controlling. The Board of Directors will prepare written decision. A copy of the findings and decision of the Board of Directors shall be sent by the Manager or Secretary of the Association on the Respondent. A summary of the decision, excluding names of persons involved and addressing only the issue, and the Board of Directors decision as regards the issue may be included in the Minute Book. The decision of the Board of Directors shall become effective ten (10) days after it is served upon the respondent, unless otherwise ordered in writing by the Board of Directors.

II. CHARGES TO BE ASSESSED:

Charges may be assessed in accordance with the Association documents, and applicable law, that is: \$10.00 per day for an offense of a continuing nature; \$50.00 per occurrence for all other offenses. Other actions authorized by said documents may be taken by the Board. The Board shall further have the authority to suspend any privileges of the respondent, pursuant to Virginia Code Section 55-513.

This Resolution is adopted this _____ day of _____, 2009, by the Board of Directors.

Director

Witness the following signature of the President of Courthouse Square Homeowners Association of Gloucester, Inc.:

Signature:

Printed

Name:

Date:

COMMONWEALTH OF VIRGINIA

CITY OF _____, to-wit:

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this _____ day of _____, 2009, by _____, President of COURTHOUSE SQUARE HOMEOWNERS ASSOCIATION OF GLOUCESTER, INC., who did state that the requisite number of members of the Board of Directors ratified the aforesaid Resolution.

Notary Public

My commission expires: _____
My commission number: _____

