

## **RESPONSIBLE GOVERNANCE POLICIES**

### **Colorado Common Interest Ownership Act**

#### **NOTICE AND HEARING PROCEDURE; ENFORCEMENT**

A. **NOTICE.** Whenever the provisions of the Declaration or of the other governing documents of the Association or the Colorado Common Interest Ownership Act require that an action be taken after notice and opportunity to be heard, and at any other time the Board determines, the affected Owners have the right to receive notice of the proposed action and the right to be heard by oral comment or in writing. Notice shall be given to each affected Owner in writing delivered personally or by mail at such address as appears in the records of the Association, or notice shall be published in a newsletter or similar publication which is routinely circulated to all Owners, and may include posting on an Association website or provided by e-mail to Members who so request and provide the Association with their electronic mail addresses, if such electronic means are available. If notice is being given to an Owner alleging a violation of the governing documents or seeking to impose a fine, the notice must be given to such Owner by personal delivery or by mail as provided in subsection C below. In no event shall notice be given less than three (3) days before proposed action is to be taken. The notice shall invite comment (orally or in writing) to the Board before or at the scheduled time of any meeting or hearing.

B. **HEARING.** For matters that the provisions of the Declaration or of the other governing documents of the Association or the Colorado Common Interest Ownership Act require that an action be taken after notice and hearing, or before the Board acts to impose a fine on any Owner, the hearing shall be held before the Board to determine, among other factual issues, whether the alleged violation actually occurred and whether the Owner is the person who should be held responsible for the alleged violation. Owners and other persons invited to comment or called to testify at the hearing shall be afforded a reasonable opportunity to be heard. Any respondent shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction imposed by the Board, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the Association's managing agent, and officer, a Director or the person who mailed or delivered such notice. Unless attendance is for the express purpose of objecting to the hearing because of improper notice, the notice requirement shall be deemed satisfied if a respondent appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing, and if the hearing involves a matter where a sanction is imposed, the sanction, if any, imposed. Hearings must be conducted before an impartial decision maker which is a person or group of persons who have the authority to make a decision regarding the enforcement of the Declaration and rules and regulations, and who does not have a direct personal or financial interest in the outcome. A quorum of the Board shall serve as the impartial decision maker unless a quorum can not be constituted of persons who do not have a direct personal or financial interest in the outcome of the hearing, in which case the Board shall appoint a hearing committee of one or more persons to act as the impartial decision maker.

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### C. ENFORCEMENT.

(i) GENERAL. The Association shall have the authority to enforce the Declaration and the adopted rules and regulations of the Association in accordance with the applicable enforcement provisions set forth in the Declaration and the Colorado Common Interest Ownership Act. The policies and protocols of the Association applicable to the use of mediation and arbitration, as well as other procedures in the resolution of disputes are set forth in the Declaration.

(ii) NOTICE OF VIOLATION. In the event of an alleged violation of the Association governing documents, or before the Board acts to impose a fine on an Owner for an alleged violation, then notwithstanding subsection A above, written notice of such alleged violation shall be delivered personally or mailed by first-class mail or by certified mail return receipt requested to an Owner or any occupant over the age of 18 (the "respondent") alleged to be in violation. The Owner shall have not less than 10 days to resolve the violation without additional intervention by the Association. The notice shall afford the person alleged to be in violation an opportunity for a hearing as provided in subsection B above before a sanction is imposed. An Owner may request a hearing and opportunity to be heard before an impartial decision maker, by providing written request for a hearing to the Association within 10 days of the initial notice date by mailing, faxing or hand delivering the request to the Association's managing agent.

(iii) SANCTIONS. Upon completion of the hearing, or if a hearing request has not been submitted, and subject to the provisions of the Declaration and the Act, the Association may then take any or all of the following actions: (i) levy a special assessment as provided in the Declaration; (ii) suspend said Owner's voting privileges as further provided in the Declaration; (iii) enter upon a unit to make necessary repairs, or to perform maintenance which, according to the Declaration, is the responsibility of the Owner; (iv) lien the unit in accordance with the Declaration; (v) suspend or condition the right of said Owner to use any recreational facilities, if any; (vi) charge the Owner for any maintenance performed upon his or her unit; (vii) impose a fine in accordance with the Association's adopted schedule of fines; or (viii) take any other action authorized by the Declaration or the Colorado Common Ownership Interest Act, including judicial remedies. Any suspension of voting rights shall be for a period of not more than thirty (30) days for any non-continuing infraction, but in the case of a continuing infraction (including nonpayment of any Assessment after the same becomes delinquent) may be imposed for so long as the violation continues. The failure of the Board to enforce the Association governing documents shall not constitute a waiver of the right to enforce the same thereafter. The remedies set forth above and otherwise provided by the Association governing documents shall be cumulative and none shall be exclusive.

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D. PROCEDURE FOR DISPUTES NOT COVERED BY THE DECLARATION OR BYLAWS. In the event of dispute between the Association and an Owner, for which a method, policy or procedure to address such dispute is not provided by the Declaration, Bylaws or the Policies of the Association, the Owner is invited and encouraged to meet with the Manager, or if there is no Manager, the Board, to resolve the dispute informally and without the need for litigation. If the Owner requests to meet with the Manager (or the Board if there is no Manager), the Association shall make a reasonable effort to comply with the Owner's request. Any statements made in compromise negotiations regarding the dispute between the Owner and the Manager at a meeting held pursuant to this policy may not be used to prove liability for claims disputed as to validity or amount. Any settlement or compromise reached as a result of this Policy does not constitute a precedent for purposes of any other or subsequent dispute between the Association and any Owner. This policy does not require any specific form of alternative dispute resolution or require the parties to meet, and nothing in this policy requires the Association to mediate or arbitrate disputes between Owners.