

COMPLAINT PROCEDURE

AUGUST 10, 2012

1. **Definitions:**

a. "The "Act" means the Virginia *Property Owners' Association Act* (§55-508 et seq., VA Code Anno).

a. "Adverse decision" or "final adverse decision" means the final determination issued by the Association pursuant to an Association Complaint procedure that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the Complainant. Such decision means all avenues for internal appeal under the Association Complaint procedure have been exhausted. The date of the final adverse decision shall be the date of the Notice issued pursuant to Section 3.d. hereof.

b. "Association" means the Wintergreen Property Owners' Association, Inc.

c. "Complainant" means an Association member or citizen who makes a written Complaint relating to violations of the Declaration or the Act pursuant to an Association Complaint procedure.

d. "Complaint" shall mean a written Complaint filed by a member of the Association or citizen pursuant addressed to the Governing Board or the Executive Director of the Association relating to a matter regarding the action, inaction, or decision by the Governing Board, or Association inconsistent with applicable laws and regulations, [declaration and governing documents].

e. [Declaration shall mean the (i) "Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to all Property in Wintergreen", duly recorded in the Clerk's Office of the Circuit Court of Nelson County, Virginia in Deed Book 137, at Page 568, (ii) "First Addendum to Amended and Restated Declaration of Covenants and Restrictions of the Wintergreen Property Owners Association", dated as of February 6 2009, and recorded in the aforesaid Clerk's Office as Instrument No. 090000404' (iii) the "Declaration of Rights, Restrictions, Affirmative Obligations and Conditions, Valley Residential Covenants", which are recorded in the aforesaid Clerk's Office in Deed Book 148, at Page 103; (iv) the "Declaration of Rights, Restrictions, Affirmative Obligations and Conditions, Amended Valley Residential Covenants", which are recorded in the aforesaid Clerk's Office in Deed Book 230, at Page 720; (v) the "Declaration of Rights, Restrictions, Affirmative Obligations and conditions , Single Family Covenants, which are recorded in the aforesaid Clerk's Office in Deed Book 137, at Page 638 and (vi) the ""Declaration of Rights, Restrictions, Affirmative Obligations and conditions , Multiple Family Covenants, which are recorded in the aforesaid Clerk's Office in Deed Book 137, at Page 646, all as may be amended from time to time. Association governing documents.]

f. "Executive Director" shall mean the Executive Director appointed by the Governing Board.

g. "Governing Board" shall mean the Board of Directors of the Association.

h. "Governing Documents" means collectively the applicable organizational documents, including but not limited to the current and effective (i) articles of incorporation, and bylaws of a property owners' Association, as may be amended from time to time. Association governing documents also include, to the extent in existence, resolutions, rules and regulations, or other guidelines governing Association member conduct and Association governance, all as may be amended from time to time.

i. "Notice" any Notice to be provided hereunder which shall be in writing and shall be either (i) hand delivered, (ii) mailed by registered or certified mail, return receipt requested, at the address provided, or (iii) if provided with an email address by Complainant, by email to such email address provided Association obtains proof of the electronic delivery thereof.

j. "Record of Complaint" means all documents, correspondence, and other materials related to a decision made pursuant to an Association Complaint procedure.

2. **Filing a Complaint:**

a. Any member or citizen expressing the wish to file a written Complaint against the Association shall be provided with a copy of this procedure, the address, telephone number and electronic mail address of the Association and the mailing address, telephone number, and electronic mail address of the Office of the Common Interest Community Ombudsman.

b. Any Complaint shall (i) reasonably describe the nature of the violation, (ii) shall set forth all evidence in the possession of Complainant relating to such violation, (iii) shall specifically refer to or provide a copy of the specific language of the [Declaration, Governing Documents], law or regulation which purportedly has been violated and (iv) shall set forth the requested action to be undertaken by the Association to resolve the Complaint. Complainant shall also provide with the Complaint, his or her mail address for the purpose of delivering Notices required hereunder, his or her telephone number and, if the Complainant desired to be provided Notice by electronic mail, his or her email address.

c. Any Complaints not relating to a matter regarding an action, inaction, or decision by the Governing Board, or Association inconsistent with the [Declaration, Governing Documents,] applicable laws and regulations shall not be subject to this procedure.

3. **How Complaints shall be Handled:**

a. All Complaints shall initially be directed to the Executive Director for review and consideration unless such Complaint is made with respect to a violation of the [Declaration, Governing Documents,] Declaration or the Act by the Executive Director personally in which case such Complaint shall be directed to a member of the Governing Board. The address of the Executive Director is: 88 Wintergreen Drive, Wintergreen, VA. Any Complaint to be filed with an individual director of the Association shall be mailed, certified mail, return receipt requested to such director's home address which shall be provided to Complainant upon receipt of a copy of such Complaint by the administrative staff of the Association.

b. Upon receipt of a Complaint, a Notice of acknowledgment thereof shall be provided to Complainant as required herein. The Executive Director shall review all Complaints within seven days of personal receipt of such Complaint and, if possible, shall send a written Notice of response to such Complaint within 10 days of such receipt. If insufficient information shall be available to respond to such Complaint in a substantive manner, a Notice of response shall be made within 10 days of receipt of any needed additional information. The Executive Director shall respond to any required additional information as though it were a new Complaint.

c. Any decision made by the Executive Director may be appealed by a Complainant by making written Notice of appeal to the Governing Board. Such Notice of appeal shall be in writing and shall be delivered to the Executive Director in the manner required for a Notice.

d. Any Complaint initially addressed to a Board Member due to such Complaint being made against the Executive Director, or any appeal of a decision made by the Executive Director shall be reviewed at the next scheduled meeting of the Governing Board provided such meeting shall be more than three days after the receipt of such Complaint or appeal, at which meeting a response to the Complaint shall be developed. If a Complaint is filed three days or less before a schedule meeting, such Complaint shall be reviewed at the next regularly scheduled meeting of the Governing Board. Complainant shall be provided written Notice of the date, time, and location of any meeting of the Governing Board at which the Complaint or the appeal of the Executive Director's decision shall be considered.

e. Notice of any decision by the Governing Board shall be sent within seven days of the meeting considering such appeal or Complaint.

f. The Notice of the decision by the Board shall include the Complainant's right to file a Notice of Final Adverse Decision with the Common Interest Community Board via the Common Interest Community Ombudsman and the applicable contact information.

4. Distribution of Complaint Procedure:

a. The Association Complaint procedure shall be readily available upon request to all members of the Association and citizens.

b. The Association Complaint procedure shall be included as an attachment to the resale certificate or the Association disclosure packet.

5. Maintenance of Association Record of Complaint.

a. A record of each Association Complaint filed with the Association shall be maintained in accordance with § 55-530 E 1 of the Code of Virginia.

b. Unless otherwise specified by the director or his designee, the Association shall provide to the director or his designee, within 14 days of receipt of the request, any available document, book, or record concerning the Association Complaint that shall be requested.

CONTACT INFORMATION

WINTERGREEN PROPERTY OWNERS ASSOCIATION, INC.

Jay Roberts, Executive Director
88 Wintergreen, Drive
Roseland, VA 22967-2162
Tel. #: (434) 325-8531
Email: jroberts@wtgpoa.org

COMMON INTEREST COMMUNITY OMBUDSMAN

Common Interest Community Ombudsman
Common Interest Community Board
Department of Professional and Occupational Regulation
9960 Mayland Drive
Richmond, VA 23233
Tel #: (804) 367-2941
Email: CICombudsman@dpor.virginia.gov

Resolution

Whereas the Virginia Common Interest Community Board has passed Ombudsman Regulations requiring the Association to adopt Complaint Resolution Regulations within 90 days of July 1, 2012;

Whereas the Association desires to adopt a reasonable procedure which will fairly and equitable resolve any Complaints that members of the Association or citizens may have with the management or operation of the Association.

NOW, THEREFORE be it resolved that the Board of Directors does hereby adopt the attached Complaint Procedure:

Adopted: August 10, 2012 Board of Directors Meeting. Minutes reflect above resolution.