

LITTLE ROCKY RUN HOMEOWNERS ASSOCIATION

RESOLUTIONS ACTION RECORD

Resolution Type: ADMINISTRATION No. 2012-2

Pertaining to: IMPOSITION OF MONETARY CHARGES

Duly adopted at a meeting of the Board of Trustees held: July 12, 2012

Motion by: John Charters Seconded by: John Lindsay

Vote:	Yes	No	Abstain	Absent
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Brian M. Bleeze

President: Brian Bleeze

☒

Katie McGovern

Vice President: Katie McGovern

☒

John Charters

Treasurer: John Charters

☒

John Lindsay

Secretary: John Lindsay

☒

Jerre Thomas

Trustee: Jerre Thomas

☒

Scott McAuliffe

Trustee: Scott McAuliffe

☒

Joe Stein

Trustee: Joe Stein

☒

FILE:

Book of Minutes: 2012

Book of Resolutions

Resolution Effective Date: July 12, 2012



Board of Trustees Meeting Minutes

July 12, 2012 - 7:00pm
Recreation Center #2
6201 Sandstone Way

Trustees Present (in alphabetical order)

Brian Bleeze
Katie McGovern
John Charters
John Lindsay
Joe Stein
Jerre Thomas

Trustees Absent (excused)

Scott McAuliffe

HOA Staff Present

Felicia Bowen
Lee Kauffman

Members Present

Terri Sutton
Eddie Sutton
Anne Plaxin
Tanya Nagle
Angie McGlynn

WELCOME – Brian Bleeze welcomed members, guests and Trustees to the meeting.

CALL TO ORDER & QUORUM 7:00 PM – Brian Bleeze verified that a quorum of Board members was present and called the meeting to order.

BOARD MEETING MINUTES – The Board approved the June 14, 2012 minutes as corrected and amended.

CONSENT AGENDA- By unanimous consent, the Board accepts the minutes of the June 18, 2012 ARB Meeting, the minutes of the June 19, 2012 Community Activities Committee Meeting, the minutes of the June 26, 2012 Budget and Finance Committee Meeting, the minutes of the June 27, 2012 Pool Committee Meeting, and the minutes of the June 27, 2012 Tennis Committee Meeting.

TREASURER'S REPORT – John Charters answered questions regarding the financial statements. The Balance Sheet, Prepaid Expenses, Income/Expense Statement and Interesting Statistics were discussed.

UNFINISHED BUSINESS

BOOK OF RESOLUTIONS: Resolution No. 2012-2. John Charters made a motion to make changes to Resolution 2012-2 as discussed. John Lindsay seconded the motion. Brian Bleeze, Katie McGovern, John Charters, John Lindsay, Joe Stein, and Jerre Thomas approved the motion.

NEW BUSINESS:

RESOLUTION NO. 2012-1: Jerry Thomas made a motion to adopt the "New VA Law on Complaint Procedures" as provided. John Lindsay seconded the motion. Brian Bleeze, Katie McGovern, John Charters and Joe Stein voted for the motion. The motion passed unanimously.


MANAGER'S REPORT – Lee Kauffman, Community Manager, delivered the manager's report.

EXECUTIVE SESSION – 9:30 PM – By unanimous consent the Board moved into Executive Session to discuss matters to discuss personnel and contractual matters as appropriate under Code of Virginia Title 55, Chapter 26, Property Owner's Association Act.

OPEN SESSION – 10:30 PM - The Board of Trustees reconvened in open session. John Charters made the motion to follow the attorney's recommendations on the July collection status report. John Lindsay seconded the motion and the motion passed unanimously.

NEXT MEETING DATE – The next regular meeting of the Board of Trustees is Thursday, September 13, 2012 at 7 pm in RC #2.

ADJOURNMENT– By unanimous consent, the meeting adjourned at 10:44pm.


John Lindsay
Secretary

LITTLE ROCKY RUN HOMEOWNERS ASSOCIATION
ADMINISTRATIVE RESOLUTION NO. 2012-2
(Procedure for the imposition of monetary charges)

WHEREAS, Little Rocky Run Homeowners Association (the "Association") is a Virginia nonstock corporation and subject to the provisions of the Virginia Nonstock Corporation Act; and,

WHEREAS, 55-513 of the Virginia Property Owners' Association act ("Act") charges all lot owners and occupants with compliance with all provisions of the Act and the Declaration and further provides that any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or equity, maintainable by the Association, or, in any proper case, by or on their own behalf or as a class action; and,

WHEREAS, Article III, Section (c)(7) assigns to the Board the power and obligation to perform acts, as may be reasonably necessary or appropriate, including bringing suit, causing a lien to be foreclosed or suspending membership rights, to enforce or effectuate any of the Governing Documents;

WHEREAS, 55-513 B of the Act provides that board of directors of a property owner association shall have the power, to the extent the declaration or duly adopted rules and regulations expressly so provide to (i) suspend an owner's right to use facilities or services offered by the association for non-payment of assessments and (ii) to assess charges against any member, for any violation of the declaration or rules and regulations; and,

WHEREAS, Section 55-513 B further provides that before any charges may be assessed, the member shall be given an opportunity to be heard and to be represented by counsel before the board or a designated tribunal; and,

WHEREAS, for the benefit and protection of the Association and of the individual owners and occupants, the Board deems it desirable to establish and operate by a procedure to assure due process in cases where there is question of compliance by a lot owner or occupant with provisions of the Act, the Governing Documents or the Architectural Guidelines, Rules and Regulations, thereby attempting to minimize the necessity of seeking action in or through a court of law;

WHEREAS, Article III, Section 4 of the Declaration provides for the establishment of an Architectural Review Board which will serve, in addition to the Board, to regulate external design, appearance and location of the Properties and improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural topography; and,

WHEREAS, it is the intent of the Board of Trustees to establish procedures for the Architectural Review Board and the Board where action is required to address compliance with provisions of the Act, Governing Documents, or the Architectural Guidelines, Rules and Regulations;

NOW THEREFORE, BE IT RESOLVED as follows:

The policy for the imposition of monetary charges, shall follow the chart attached as Exhibit A here onto and shall be conducted in accordance with Exhibit B attached here onto this resolution.

The Board of Trustees adopted this Resolution at a duly convened meeting on the 12th day of July, 2012 and directed that the same be incorporated into the Book of Resolutions.

LITTLE ROCKY RUN HOMEOWNERS ASSOCIATION

By: Brian M. Bleeze, Brian Bleeze
President for the Board of Trustees

Due Process Procedures

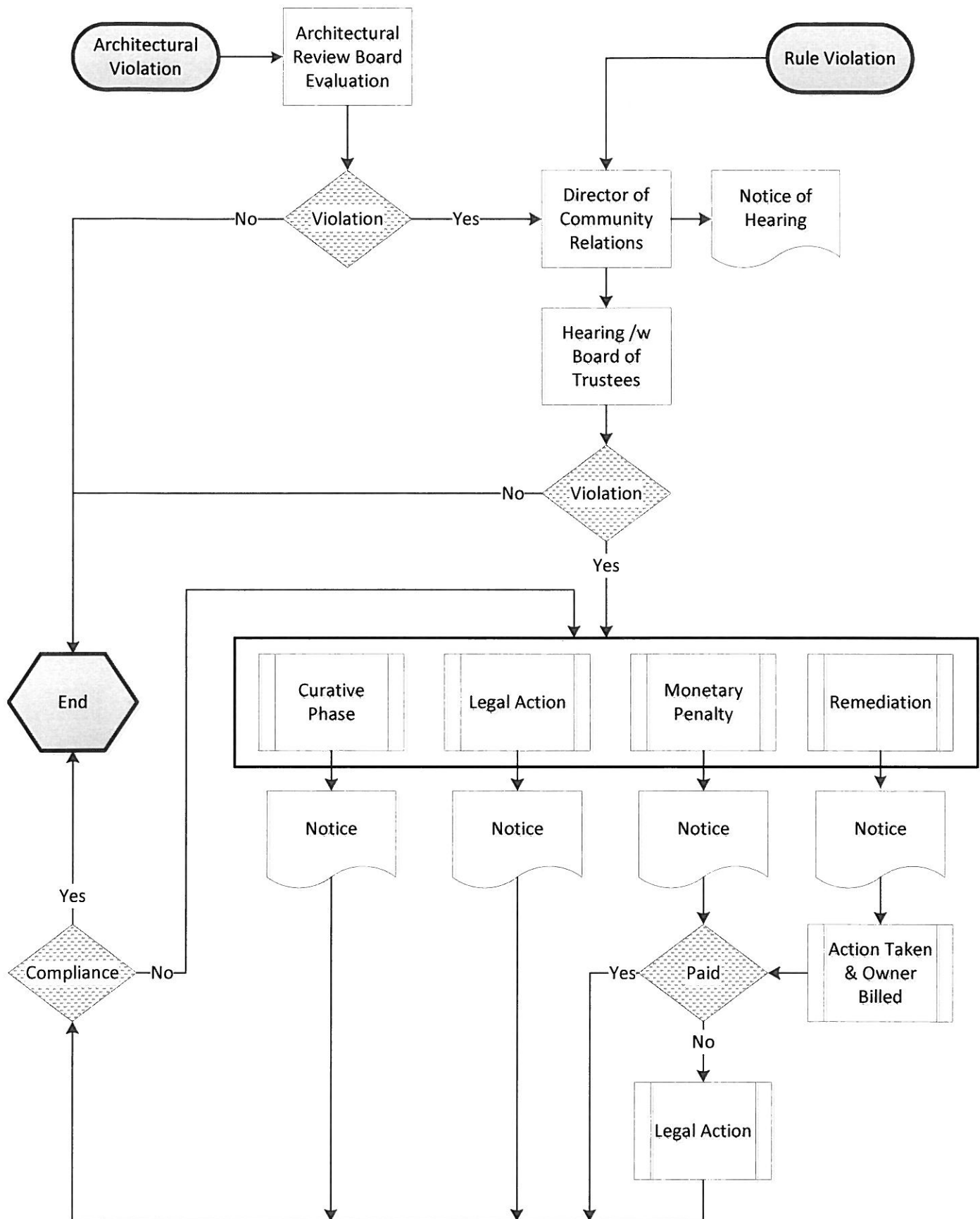


Exhibit B
to the Resolution

I GENERAL

Section 1 – Purpose

The purpose of the Resolution is to establish a system to effect prompt, efficient, fair and reasonable adjudication and enforcement of applicable laws, rules and regulations governing the behavior and actions of owners, occupants, their guests and invitees, and other persons within Little Rocky Run. These provisions should be read and interpreted as affording due process of law and at the same time ensuring that the interests off the Little Rocky Run community are preserved and safeguarded.

Section 2 – Statement of Reservations

Nothing in this Resolution shall be construed as prohibiting or inhibiting any duly authorized officer of the Association, member of the Board of Trustees, or the Community Manager or Designee from taking lawful action to address illegal conduct on the premises. No owner or occupant shall be prevented from taking legal action to preserve and safeguard these interests.

Section 3 – Definition of Terms

- a. Infractions – Infractions may include (1) violations of applicable rules which result in injury to a person or damage to property, or which, if allowed to continue may result in such injury or damage, (2) violations of any pertinent law of the Commonwealth of Virginia or Ordinance of Fairfax County, and (3) violations of the Governing Documents, the Architectural Guidelines or any rule or regulation duly adopted by the Board of Trustees.
- b. Applicable Rules – For purposes of these regulations the term “applicable rules” may be construed to include all pertinent laws of the Commonwealth of Virginia, ordinances of Fairfax County, the Governing Documents (Declaration, Supplementary Declarations, Articles of Incorporation, Bylaws, and the Book of Resolutions of the Board of Trustees), the Architectural Guidelines and all published rules and regulations duly promulgated.
- c. Common Expense Assessments – Common expense assessments are those fees which are assessed against each lot by the Board of Trustees of Little Rocky Run in accordance with Article V of the Declaration.
- d. Delinquent – The term “delinquent” is defined to mean those sums which are not paid on the due date in accordance with Article V of the Declaration.
- e. Community Manager or Designee – The term “Community Manager or Designee” is defined, for the purposes of this resolution, to include employees of the Association. Such employees shall be designated in writing by the President.

Section 4 – Remedies

All rights, powers, options or remedies afforded to the Association, either hereunder or by the Governing Documents, shall be cumulative and not alternative and the exercise of one right, power, option or remedy shall not bar other rights, powers, options or remedies allowed hereunder or by the Governing Documents.

Section 5 – Effective Date

This resolution with amendments shall become effective upon adoption by the Board of Trustees and shall apply to all proceedings initiated on or after that date.

II NOTICE OF HEARING

If the Architectural Review Board concludes that the matter should be referred to the Board of Trustees for possible legal action, the Chair shall request that the Community Manager or Designee schedule a hearing for the next scheduled Meeting of the Board of Trustees, if the required notice periods are met. The Community Manager or Designee shall issue a notice of hearing substantially in the form attached as Exhibit 1 to inform the owner of the upcoming hearing. A Notice of Hearing should be delivered to the respondent either by (a) personal delivery or (b) certified mail, return receipt requested, addressed to the respondent at the address appearing on the records of the Association. The Notice of Hearing shall also be mailed by first class mail.

The Notice of Hearing shall include details concerning the alleged infraction and state the time and place of hearing and stating that a defense may be presented. If Respondent wished to make a defense to the complaint, he may do so in writing and file the defense with the Community Manager or Designee. No action adversely affecting the rights or interest of respondent shall be taken unless the respondent has been duly served provided that failure of the respondent to file a notice of defense shall not prevent the Board from proceeding to adjudicate the case.

The Notice of Hearing shall be sent at least fourteen days prior to the date fixed in the notice for the hearing to the respondent. If any essential party can show cause why they cannot attend at the scheduled time, the Community Manager or Designee may reschedule the hearing, or, if the hearing has commenced but has not been concluded, provide for an adjourned session, ordinarily not to exceed a postponement of more than fourteen days.

In the event the respondent acknowledges in writing responsibility for the offense, charge, or does not wish to contest the alleged infraction, the Board may, in its discretion, dispense with a hearing of the alleged infraction, the Board may take such testimony from other parties involved to the extent it deems this to be necessary or desirable to resolve the matter. If proper notice of the hearing has been effected, the Board may proceed with the hearing and issue its determination even though the respondent has not appeared.

III HEARING

Section 1 – Conduct of Hearing

- a. The hearing need not and ordinarily will not be conducted according to technical rules relating to evidence and related matters customarily applied in a court of law.
- b. Evidence deemed by the hearing body to be irrelevant or immaterial shall be excluded from the record of proceedings.
- c. Oral testimony or evidence shall be taken
- d. The Board and the Respondent may (a) call and question witnesses, (b) introduce information and evidence, and (c) rebut testimony evidence.
- e. Hearings shall be open to residents and lot owners unless a Respondent requests that it be closed to protect the legal rights of a minor or unless the Board determines that a closed hearing is necessary to ensure orderly conduct of the proceedings. The President may impose a reasonable limit on the number of persons who may be accommodated in the hearing room, and may exclude any person from the hearing for contumacious or disorderly conduct. If the Board decides to close a hearing, it shall notify the respondent or respondents of its decision, and the reasons therefore.
- f. If at any time during the course of the hearing a member of the Board is obliged to withdraw, the remaining members shall continue to serve and proceed with the case to a conclusion.
- g. For the purpose of decision by the Board of Trustees, the record shall include the formal complaint, the respondents defense, if any, and any amendment thereof, any motion filed during the course of the proceeding and the rulings thereon; any exhibits presented at the hearing. The decision of the Board shall also become part of the record.

Section 2 – Decision of the Board

- 1 Decisions of the Board shall be by majority vote, and when made shall become a part of the record.
- 2 The decision of the Board shall also contain a summary of the decision and the evidence presented at the hearing. The Board shall decide whether the respondent is responsible either in whole or in part for the offense or offenses charged. If the hearing body determines that the respondent is responsible, it shall decide what sanctions should be imposed for such infraction.
- 3 Once a final decision has been made, the Respondent shall be notified in writing of the Board's decision in person or by certified mail, return receipt requested or any other means determined appropriate.

Section 3 - Sanctions

The Board of Trustees may impose a money charge sanction in an amount not to exceed fifty dollars for a single offense or ten dollars per day for any offense of a continuing nature. The money charge for offenses of a continuing nature shall not exceed 90 consecutive days.

The Board of Trustees may also impose any other sanction authorized under the governing documents or applicable law which is deemed appropriate to obtain compliance with the applicable rule or rules involved, including but not limited to the assessment of a sum of money sufficient to reimburse the Association for any damages to Association property, any other costs incurred by the Association in seeking compliance, including reasonable attorneys' fees should legal action be taken to enforce the decision of the Board, any attendant court costs resulting therefrom, and time spent by the Community Manager or Designee in performing investigatory and related services deemed necessary in dealing with the case.

Section 4 – Publicizing Infractions

Once a final decision has been made involving an infraction, the Board of Trustees may, in its discretion, bring to the attention of owners and occupants the nature of the infraction, the applicable rule involved, and, the action taken to obtain compliance.

Exhibit 1

to the Resolution

**VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED
and REGULAR MAIL WITH PROOF OF MAILING**

Owner/Resident
Little Rocky Run Homeowners Association

Re: Little Rocky Run Homeowners Association
Notice of Hearing Before the Covenants Committee

Dear Owner/Resident

Pursuant to a Policy Resolution No ____ of Little Rocky Run Homeowners Association, this is to serve as notification that according to information provided to the Association, you are in violation of Section ____ of the Declaration, Rules and Regulations, Book of Resolutions. The specific allegations are set forth as follows _____

You are hereby notified that a hearing will be held before the Board of Trustees at _____ on _____, 19____, at _____p.m. upon charges made in the complaint. You may be present at the hearing, but need not be represented by Counsel; and may present any relevant information concerning the complaint. You will be given a full opportunity to examine and cross-examine any witnesses. You are entitled to request the attendance of witnesses and the production of books, documents or other items by applying to the Board of Trustees of the Association. Copies of these documents may be subject to change pursuant to the provisions of Section 55-5510 B of the Virginia Property Owner's Association Act.

Please confirm your attendance by calling the Association immediately at (703) 830-0411 or if you have a good reason for why you cannot attend the hearing on the scheduled date, so that an alternative date may be scheduled. You will be entitled only to one such rescheduling.

Please keep in mind that if no response is received from you, or if you confirm attendance but fail to attend without providing a satisfactory explanation, you will be deemed to have waived the right to the hearing and monetary charges may be assessed for the violation. If you have questions, please contact the Association office.

Sincerely,

LITTLE ROCKY RUN
HOMEOWNERS ASSOCIATION

Enclosure