

FORRESTAL VILLAGE COMMUNITY SERVICES ASSOCIATION, INC
ADMINISTRATIVE RESOLUTION 48
REGULATION ESTABLISHING DISPUTE RESOLUTION PROCEDURES

WHEREAS, Article III, Section 3 of the Declaration assigns the Board of Directors "all powers for the conduct of the affairs of the Association which are enabled by law, or the Founding Documents which are not specifically reserved to Members, The Developer, or the Covenants Committee by said Documents"; and

WHEREAS, for the benefit and protection of the Association and of the individual Owner, the Board deems it desirable to establish and operate by a procedure to assure due process in cases where there is a question of compliance by a Member with provisions of the Governing Documents, thereby attempting to minimize the necessity of seeking action in or through a court of law; and

WHEREAS, Article III, Section 3(c)(2) of the Declaration provides that the Board of Directors is empowered to establish rules and regulations for the use of Property and to review, modify and approve architectural standards proposed by the covenants Committee; and

WHEREAS, Article VIII, Section 1(d)(4) provides that the Board shall designate a Standing Hearing Committee of three persons from among the Covenants Committee members to decide cases of alleged infractions of the Governing Documents;

WHEREAS, it is the intent of the Board of Directors to establish procedures for the Board and Covenants Committee where either must take action relative to questions of compliance by an individual with the provisions of the Governing Documents; and

WHEREAS, the Board of Directors adopted Policy Resolution No. 12 (Due Process) on January 23, 1990; and Administrative Resolution No. 48 (Alternative Dispute Resolution) on May 27, 1997; and 3333

WHEREAS, the New Jersey Condominium Act, N.J.S.A. 46:8B-14, requires the Association to make available an alternative mechanism other than litigation for resolving disputes; and

WHEREAS, the Board of Directors has established a Covenants Committee and it is the
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intent of the Board of Directors now to establish procedures for dispute resolution and rules enforcement consistent with the principles of fairness; and

WHEREAS, it is the intent of the Board of Directors to establish procedures for a fair and impartial means to settle disputes between residents and the association, or disputes with other unit owners, other than issues relating to: (i) duly enacted assessments; (ii) election issues; and (iii) claims of ultra vires acts, i.e. the Board's noncompliance with the law or governing documents; and

NOW, THEREFORE, BE IT RESOLVED THAT Policy Resolution No. 12 Special Resolutions Relating to Due Process Procedures dated January 23, 1990 and Administrative Resolution No 48 Alternative Dispute Resolution dated May 27, 1997 are rescinded and replaced with this new Administrative Resolution No. 48 with respect to Establishing Dispute Resolution Procedures; and

NOW THEREFORE, BE IT RESOLVED that the following Regulation be adopted to provide for fair process and hereby superseding all other policy resolutions regarding housing related disputes to the extent such policy is inconsistent herewith:

I. CREATION AND AUTHORIZATION OF THE STANDING HEARING BOARD

A. Membership. The Standing Hearing Board shall consist of three (3) members of the Covenants Committee and shall be appointed by the Board of Directors. The Board of Directors also may appoint up to two (2) alternate members who must be members of the Covenants Committee. Each member and alternate member shall serve for a term of one year and may be reappointed. Members of the Board of Directors may not serve on the Standing Hearing Board.

B. Chairman. The Chairman of the Standing Hearing Board and the Secretary shall be chosen by a vote of the Standard Hearing Board members and shall serve for a term of one year.

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C. Quorum. A quorum of the Standing Hearing Board shall consist of a majority of the appointed Standing Hearing Board members. If enough members are not available to make a quorum, the alternate members may serve in order to make the quorum. No member of the Standing Hearing Board may serve with respect to a particular dispute in which that member has an interest or is related to a person who has an interest, and in such event, an alternate member shall serve in place of the disqualified member.

D. Training. The Association's Board of Directors may require members and alternate members to complete alternative dispute resolution training, conducted by a recognized professional organization and provided by the Association.

E. Management's Responsibilities. The Property Manager shall provide access to a meeting place for the Standing Hearing Board. In addition, the Property Manager shall provide to the Standing Hearing Board any requested files, archive material, records or other material necessary for completion of Standing Hearing Board business. The Standing Hearing Board secretary and the chairman shall have complete and full access to the Property Manager's support staff to ensure timely completion of business, subject to the reasonable discretion of the Property Manager. In addition, the Property Manager will provide in a timely manner secretarial support to assure that Board of Directors receive timely notification of Standing Hearing Board business. The Property Manager may perform any of the ministerial tasks of the Standing Hearing Board contained in this Regulation including, for example, the sending of notices or scheduling of hearings.

G. Communications with Board of Directors. A copy of the Standing Hearing Board minutes and decisions shall be forwarded to the Board of Directors within five (5) days

after approval by the Standing Hearing Board. In addition, the Board of Directors shall refer as expeditiously as possible any requests by the Standing Hearing Board for legal guidance to a duly licensed attorney of the Board's choosing.

H. Confidentiality. Standing Hearing Board members shall respect and protect any confidential information and any information which may, if disclosed, unduly invade the privacy of unit owners and tenants.

I. Jurisdiction.

(1) The Standing Hearing Board shall hear and decide any dispute between the Association and a unit owner where the unit owner has been charged with a rule violation and notified of a proposed sanction or imposition of a fine or other penalty and requests a hearing within 10 days of the notice. The Standing Hearing Board also shall hear and decide any dispute between or among unit owners if at least one such unit owner requests a hearing. Such hearing shall be scheduled and occur within 45 days after receipt of a written request for a hearing from a unit owner.

(2) Where a unit owner has been informed of a potential violation and requested to cease and desist, and if he or she is in fact committing such violation and mitigates it, no hearing before the Standing Hearing Board need be provided.

(3) Notwithstanding its jurisdiction, the Standing Hearing Board shall not involve itself in disputes involving the violation of any statutory law, any claim of a unit owner disputing his or her common expense assessment or any claim which is derivative in nature, that is, is actually on behalf of the entire Association, such as, but not limited to, election or voting procedures or a claim that the Board of Directors is acting unlawfully or exceeding its authority.

J. Ancillary Authority. The Standing Hearing Board is granted authority to conduct interviews, investigations, and engage in legal consultation with an attorney selected by the Board of Directors. Only the Chairman shall be permitted to contact the attorney selected by the Board of Directors. All costs incurred by the Standing Hearing Board shall be common expenses and shall be paid by the Association. The Standing Hearing Board may not incur any expenses other than consultation with legal counsel as specified herein and may use Property Management staff services as specified herein without the written authorization of the Board of Directors.

II. PROCEDURES TO RESOLVE DISPUTES AND VIOLATIONS OF ASSOCIATION DOCUMENTS

A. **Informal Actions.** Before any formal process is initiated against an owner to enforce compliance with the Association's documents, an informal request may, but need not, be made by the Property Manager or Agent of the Association to that owner to cease or correct the act or omission which appears to be in violation of the Association documents.

B. **Written Complaint.** If informal action is not taken or proves unsuccessful, any unit owner, officer, director, or agent of the Association may file a written Complaint with the Property Manager or other agent designated by the Board of Directors. The Complaint must contain the name and address of the complainant, must set forth in clear and concise language the acts or omissions with which the respondent is charged, must be as specific as possible as to times, dates, places, and persons involved, and must be signed by the complainant. The Complaint also should specify the provisions of the Association documents or regulations which the respondent is alleged to have violated. No Complaint shall be acted upon until and unless it complies with these requirements.

C. Preliminary Investigation. Upon receipt of a written Complaint, the Property Manager or other Agent designated by the Board of Directors may conduct a preliminary investigation and attempt to resolve the issue or issues raised. If a resolution of the alleged violation has been reached, the Property Manager or designated Agent shall prepare a summary of the Resolution which will end the matter. The parties involved may, but need not, sign the summary.

D. Service of the Complaint. If the matter is not informally resolved, the Property Manager or designated Agent shall serve a copy of the Complaint, which may be in the form of a letter, on the respondent at least 10 days prior to any hearing on the matter before the Committee. Service shall be either (1) by personal service or (2) simultaneously by regular first class mail and also by registered or certified mail, return receipt requested, addressed to respondent at the address appearing on the books of the Association. Service by mail will be deemed effective on the date the return receipt is signed or three (3) days after posting in a regular depository of the United States mail, whichever is earlier, unless the materials are returned as undeliverable. The Complaint must be served along with a Notice of Hearing. The Standing Hearing Board may take no action unless the respondent has been served as provided in this paragraph.

E. Contents of the Complaint. The Complaint to respondent, which can be combined with the Notice of Hearing from the Committee, must contain in clear and concise language the specific allegations of acts or omissions with which respondent is charged, setting forth the times, dates, places, and persons involved, and the specific provisions of the Association Documents or regulations which respondent is alleged to have violated. It should

also request the respondent to cease and desist the alleged violation.

F. Contents of the Notice of Hearing. The Notice of Hearing, which may be combined with the Complaint, must set forth the time, place, and date of hearing. It must contain a statement that the respondent: may be present at the hearing; may, but need not, be represented by counsel; may present any relevant evidence; shall be given full opportunity to cross-examine all witnesses testifying against the respondent; and is entitled to request the attendance of witnesses and the production of books, documents, or other items by applying to the Board of Directors, the Property Manager or designated Agent of the Association.

The Notice must also advise the respondent to answer the allegations in the Complaint at least three (3) days before the hearing either by filing a written Answer, or by notifying the Standing Hearing Board in writing that respondent will appear at the hearing, and that failure to answer or notify in writing in advance of the hearing will be deemed a default.

G. Amended or Supplemental Complaints. At any time prior to the hearing date, the Standing Hearing Board may file or permit filing of an Amended or Supplemental Complaint. All parties must be notified in the same manner as notified of the original Complaint, and a new hearing date set on or after 10 days after the new notice. If new charges are presented, the respondent may file a Supplemental Answer in the manner set forth in paragraph F.

H. Discovery. At any time after service of the Complaint and prior to the date for hearing, either party may request the Board of Directors, the Property Manager or designated Agent to provide the names and addresses of witnesses to be called, and copies of any statements, writings, and investigative reports to be introduced at the hearing. The Board of

Directors, the Property Manager or designated Agent shall provide these materials within a reasonable time after the request and before the scheduled hearing date.

I. Challenges to the Standing Hearing Board Members. A Standing Hearing Board member must be able to perform in a disinterested and objective manner in consideration of the case before him/her, or must disqualify himself/herself and have it so recorded in the minutes. A Standing Hearing Board member may be challenged by the complainant or the respondent for cause. The challenge shall be decided by the Board of Directors. All Board of Directors decisions in this regard are final.

J. Default by Failure to Answer. The respondent must answer the allegations in the Complaint at least three (3) days before the scheduled hearing on the matter either by filing a written Answer or by notifying the Standing Hearing Board in writing that respondent will appear at the hearing. Failure to answer or notify the Standing Hearing Board in advance of the hearing will be deemed a default. In the event of a default, the Standing Hearing Board will render its decision on the allegations in the complaint and on the facts and evidence submitted to it.

K. The Hearing.

1. The Standing Hearing Board, the Property Manager or designated Agent will explain the rules and procedures by which the hearing is to be conducted and to conduct the hearing. Generally, any relevant evidence may be admitted. Counsel for the Association may be present at the hearings to render legal advice to the Standing Hearing Board.

2. At the request of either complainant or respondent, or on its own motion, the Standing Hearing Board may conduct the hearing in private session.

3. Each party has the right to:
 - a. make a statement;
 - b. introduce evidence, testimony, and witnesses;
 - c. cross-examine opposing parties and witnesses;
 - d. rebut evidence and testimony; and
 - e. be represented by an attorney admitted to practice law in the State of New Jersey.

4. Technical rules of evidence or procedures may be relaxed by the presiding officer who, nevertheless, may reserve the right to exclude all irrelevant, immaterial, or repetitious evidence. The Committee also has the discretion to impose reasonable limits on the time allowed to testify and the number of witnesses.

5. If the complainant or a necessary witness to the violation does not appear at the hearing, the Complaint may be dismissed by the Standing Hearing Board. Any Complaint so dismissed by the Standing Hearing Board may be re-instated only where the complainant can demonstrate good cause for his or her failure or the witness' failure to appear at the hearing.

6. Oral evidence may be taken only on oath or affirmation administered by the presiding officer.

L. Decisions. After a hearing on any matter, the Standing Hearing Board must issue a written decision on the matter within 30 days. The decision shall set forth findings of fact, conclusions, and any disciplinary sanctions imposed. To be effective, a decision of the Standing Hearing Board must be a majority vote. Copies of the decision must be delivered to the

parties by personal service or regular mail promptly after the decision is issued.

M. Penalties. Disciplinary sanctions imposed by the Standing Hearing Board may include, but not be limited to: 1) the imposition of a fine in accordance with Article VIII of the By-Laws and any resolutions adopted by the Board relating to fines; and/or 2) the suspension of respondent's membership rights, including but not limited to the right to vote and use the recreational facilities, until the infraction is corrected. For a continuing infraction, including non-payment of any fine after it becomes delinquent for 30 days, an additional fine, or suspension of member's rights may be imposed for as long as the violation continues. Further non-payment after an additional 30 days the account will be referred for collection procedures following the Association's established procedures including recording a lien on the property. Additionally, all costs associated with collection procedures will be 999included and will be the responsibility of the member. Any penalty imposed by the Standing Hearing Board must be by a majority vote. Copies of the decision must be delivered to the parties in the same manner as service of a complaint.

N. Appeals. Any decision or ruling of the Standing Hearing Board may be appealed to the Board of Directors by a Unit Owner. All appeal petitions must be submitted to the Board of Directors within 5 days after the ruling from the Standing Hearing Board . In the event that an appeal petition is not filed within the 5 day period, the decision or ruling of the Standing Hearing Board is final. However, for good cause shown, the Board of Directors has the power to extend the appeal period on an individual case basis for any time it deems appropriate under the circumstances. All rights and procedures set forth in this regulation shall apply to

appeal petitions before the Board of Directors.

O. Owner(s) must exhaust all remedies provided by this resolution before resorting to a court of law for relief.

III. MEDIATION

A. At any time before a decision is rendered by the Standing Hearing Board Committee, any party (including the Association) may request mediation, whereby the parties to the dispute shall meet with a mediator in an attempt to reach a negotiated resolution of the dispute. Mediation shall proceed only if all parties agree to mediation.

B. The mediator shall be a neutral, independent third party with knowledge of community association law and/or management. A Standing Hearing Board Committee member or a resident of the community trained by the Association attorney or through provisions made by the Board for such training may serve as a mediator. No board member may serve as mediator.

C. The cost for the mediator shall be paid for by the Association as a common expense. Arrangements for a Mediator shall be made by the Association attorney or manager.

D. It is intended that if mediation is conducted for a reasonable period of time, as determined in the discretion of the mediator, and fails to result in a negotiated resolution of the dispute, the mediator may terminate the mediation so that the parties may commence or resume the hearing process.

IV. CONSTRUCTION

A. The intent of this regulation is to provide fundamental fairness to parties to

a dispute through the following rights:

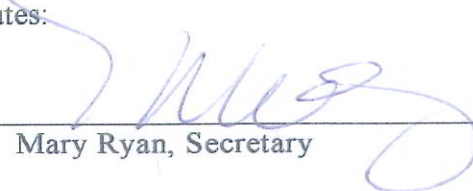
1. Complainant will be given a fair opportunity to present his or her complaint and proofs.
2. Respondent will be notified of the charges.
3. Respondent will have an opportunity to be heard at a hearing at which witnesses may appear and may be cross-examined and at which evidence may be introduced.
4. Basic principles of fairness will govern.

B. Any inadvertent omission or failure to follow the procedures in this Regulation will not invalidate the results of any decision or ruling, as long as a prudent and reasonable attempt was made to assure the above basic rights.

C. Any provision of this Regulation notwithstanding, participation in any process set forth in this Regulation shall not be a prerequisite to or serve as a bar upon the Association to initiate litigation over issues pertaining to housing related disputes within the Community, although the Association may not institute litigation, except in an emergency, without first providing to the unit owner(s) involved an opportunity for Alternative Dispute Resolution as set forth in this Regulation.

IN WITNESS WHEREOF, the Association has affixed its hand and seal the day and year first above written.

Book of Minutes:

Attest:  Date: _____
Mary Ryan, Secretary

<u>✓</u> Yes	_____ No	_____ Abstain	<u>Avron B. Magram</u> Avron Magram, President
<u>✓</u> Yes	_____ No	_____ Abstain	<u>Mari Molenaar</u> Mari Molenaar, Vice President
<u>✓</u> Yes	_____ No	_____ Abstain	<u>Rich Ciarciello</u> Rich Ciarciello, Treasurer
<u>✓</u> Yes	_____ No	_____ Abstain	<u>Mary Ryan</u> Mary Ryan, Secretary
<u>✓</u> Yes	_____ No	_____ Abstain	<u>Mike Barnett</u> Mike Barnett, Director
_____ Yes	_____ No	<u>✓</u> Abstain	<u>Phil Blocker</u> Phil Blocker, Director
<u>✓</u> Yes	_____ No	_____ Abstain	<u>Beth Dalzell</u> Beth Dalzell, Director

Adopted at Executive Session of the Board of Directors on September 27, 2011