

# **CHARLESTOWN OWNERS ASSOCIATION.**

## **Section II – Standing Committees**

### **POLICY RESOLUTION NO. 2002-01**

#### **(Creation of a Hearings Committee and Procedures for the Conduct of COA Hearings Regarding Enforcement of Association Rules)**

WHEREAS, Article X, Section 1(b) of the Bylaws of the Charlestown Owners Association ("Association") provides that the Board of Directors shall have the power and duties necessary for the administration of the affairs of the Association and may do such acts and things as are not by law or by the Association's Bylaws, Declaration or Articles of Incorporation directed to be exercised and done by the membership; and

WHEREAS, Article XIII, Section 1 of the Bylaws of the Charlestown Owners Association ("Association") provides that the Board of Directors shall establish committees as required to perform duties assigned by the Board and to serve for the period of time determined by the Board;

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors hereby creates a Hearings Committee and establishes procedures for the conduct of hearings regarding enforcement of COA rules.

#### **I. PURPOSE**

To establish rules for imposing charges for violations of governing documents, establish a policy to internally enforce the Association's Instruments, including assessments against unit owners for violations of the Association's Instruments. This policy resolution also covers Rules and Regulations adopted thereto, or other actions deemed necessary for enforcement of these Rules and Regulations for which the unit owner or his family members, tenants, guests, or other invitees are responsible.

The COA has many issues that currently need to be taken to a hearing BOD. Unfortunately, the COA hearing process is broken. Current rules require that a quorum of the BOD must be present during a homeowner hearing.

Our professional managers, and legal team have stated that we must streamline the process, and enact a hearing process similar to that which other associations use. This process is effective, and is far better than what the COA currently has in place – which is nothing. Additionally, it is much easier for the Association to levy fines on the offending party when found in violation of the Association's rules by a Hearings Committee.

Section II outlines the policies and procedures to be used by the COA Hearings Committee.

#### **II. PROCEDURES FOR THE CONDUCT OF HEARINGS REGARDING ENFORCEMENT OF COA ASSOCIATION RULES**

1. The Board shall establish a Hearings Committee which shall be composed of three

owners appointed by the Board. The appointment shall be for a term of one (1) year and shall automatically renew unless the appointee resigned or the Board removes or replaces the appointee. Hearings Committee members may be members of the Board.

2. The Hearings Committee may call a hearing to review any complaint regarding a violation of the Declaration, By-Laws, Resolutions, and Rules and Regulations of the Association.
3. All complaints must be in writing, signed by the complainant, and referred to the Board or Management. Owners, residents, and members of Management may sign and file complaints.
4. After a complaint is filed, the Board shall refer the complaint to the Hearings Committee. The Hearings Committee shall determine whether or not the complaint is reasonable and pertains to the governing documents. If so, the Hearings Committee shall inform the alleged violator involved, in writing of:
  - A. The substance of the complaint filed against him/her;
  - B. When and by whom the complaint was filed;
  - C. The alleged violator's right to respond to the complaint; and
  - D. The requirement that a response must be in writing within ten days following receipt of the notice.
5. The Hearings Committee may call hearings, at its discretion, with respect to any meritorious complaint and fix the date and place of the hearing. The Hearings Committee shall, at least fourteen days prior to the hearing date, notify the parties involved, in writing, of the time and place of the hearing, and the specific provision(s) of the governing documents involved. Notice shall be effected by hand-delivery or certified or registered mail, return receipt requested, to the address(es) of record of the parties involved.
6. The parties involved shall have the right to appear before the Hearings Committee and shall be provided an opportunity to present their evidence on all relevant issues and to question any witness who testifies. Members of the Hearings Committee may question any party or witness.
7. The hearing shall be informal. Any relevant evidence may be presented at the hearing without regard to whether such evidence is hearsay or otherwise inadmissible in a court of law. The Hearings Committee may exclude irrelevant, immaterial or unduly repetitious testimony or evidence.
8. The Hearings Committee, at its discretion, may establish equal time limitations for the presentation of the case.
9. The parties have the right to representation by counsel at their own expense.
10. The parties involved or the Hearings Committee may cause the hearing to be transcribed at their own expense.

11. The failure of the alleged violator to attend a scheduled hearing shall not preclude the Hearings Committee from receiving evidence from and hearing arguments by the other party. The Hearings Committee may make a finding notwithstanding the absence of the alleged violator.
12. After the conclusion of the hearing, the parties shall be excused and Hearings Committee shall convene in a closed session to review the evidence and to deliberate.
13. The Hearings Committee shall have the power to make a finding based upon sufficient evidence that a violation of the governing documents of the Association has occurred. This finding shall be reflected in a written order and mailed to the violator within thirty days of the hearing.
14. Any written order by the Hearings Committee may be appealed by either party involved. Said appeal shall be in writing, stating the grounds therefore, and shall be delivered to the President of the Board or Managing Agent within thirty (30) days of the date of receipt of the written order from the Hearings Committee. Said written request for appeal shall be reviewed by the Board within sixty (60) days from the date the appeal is filed. The Board shall call an appeals hearing if at least five members of the Board vote in favor of hearing the appeal. Written notice of the appeal hearing shall be hand-delivered or mailed by registered or certified United States Mail, return receipt requested, and shall be given to the parties involved. If fewer than five members of the Board vote in favor of hearing the appeal, the appellant shall be notified by written notice, and the written order of the Hearings Committee shall be final and of legal force and effect.

This Policy Resolution shall be filed in Section II, Standing Committees, of the Book of Resolutions.

The effective date of this Resolution shall be May 16, 2002

This Resolution was approved and adopted by the Board on April 16, 2002