

ST. ALBANS GLENN CONDOMINIUM
DATE ADOPTED: December 8, 1993

POLICY RESOLUTION NO. 1993.2
RELATING TO VIOLATIONS OF THE CONDOMINIUM ACT, DECLARATION,
BYLAWS, AND RULES AND REGULATIONS
AND DUE PROCESS PROCEDURE

WHEREAS, Article 8, Section 8.1, of the Bylaws assigns the Board of Directors with all of the powers and duties necessary for the administration of the affairs of St. Albans Glen Condominium Association ("Association") and further states that the Board may do all such acts and things as are not by the Condominium Act (hereafter sometimes referred to as the "Act") or the Condominium Instruments (hereafter sometimes referred to as the "Governing Documents") required to be exercised and done by the Association acting as a group on the basis of their voting their interest in the Association; and

WHEREAS, Article 12, Section 12.1, of the Declaration charges each Unit Owner, family, guests, employee, agents and same for his lessees to compliance with, all of the terms of the Declaration, Articles of Incorporation, the Bylaws, any Rules and Regulations and the Condominium Act, and that any lack of such compliance shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all the assessments, any other relief provided for in the Bylaws or any combination thereof and any other relief may be sought by the Association, the Board of Directors, or, if appropriate, by any aggrieved Unit Owner and shall not constitute an election of remedies.

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

WHEREAS, Section 55-79.80:C of the Condominium Act provides the Association with the power to impose reasonable charges not to exceed Fifty Dollars (\$50.00) for a single offense or Ten Dollars (\$10.00) per diem for any offense of a continuing nature against Unit Owners for violations of the Association Documents and Rules and Regulations and suspension of non-essential common services for failure to pay assessments or any other violation of the Condominium instruments after notice and an opportunity to be heard; and

WHEREAS, constitutional rights of due process require that certain procedures must be followed before such charges may be assessed; and

WHEREAS, it is the intent of the Board of Directors to establish procedures for the Board or its designated committee, pursuant to Article 8, Section 8.1(h) of the Bylaws, where action must be taken relative to questions of compliance with or violation of the provisions of the Act and Governing Documents;

NOW, THEREFORE, BE IT RESOLVED THAT the following procedures and policy is hereby adopted:

I - VIOLATIONS OF THE ACT, ASSOCIATION GOVERNING DOCUMENTS,
RESOLUTIONS AND RULES AND REGULATIONS

This resolution is adopted to provide a reasonable and proper system to effect prompt, fair and reasonable adjudication and enforcement of applicable laws, governing instruments, Rules and Regulations governing behavior and actions in the Condominiums and on the Common Elements of the Association. These provisions afford an alleged offender due process of the law and ensure that the legitimate interests of St. Albans Glenn Condominium Association are preserved and safeguarded.

Section 2 - Statement of Reservations

Nothing in these regulations shall be construed as prohibiting or inhibiting any duly authorized officer of the Association, member of the Board of Directors, or the management agent from taking lawful action to deal with illegal conduct on the premises. No Unit Owner shall be prevented from taking legal action to preserve and safeguard his interests.

Any omission or failure to conduct proceedings in exact conformity with this resolution shall not invalidate the results of such proceedings, so long as a prudent and reasonable attempt has been made to assure due process according to the general steps set forth in this resolution.

Section 3 - definition of terms

Applicable Rules. The term "applicable rules" should be construed to include all applicable laws of the Commonwealth of Virginia, ordinances of the City of Virginia Beach, all of the

Governing Documents including all published Rules and Regulations duly approved by the Board of Directors.

Section 4 - Appropriate Parties

A complaint may be registered by any Unit Owner, Lessee, Officer of the Association, member of the Board of Directors, or Agent of the Association. The name of the Complainant shall remain confidential to the extent practical.

Section 5 - Direct Informal Registering of a Complaint

Persons who are authorized to register a complaint are authorized and encouraged to request the person believed to be in violation to cease engaging in the activity or to correct the offense.

Section 6 - Reporting Infractions to the Management Agent

In the event the informal procedure outlined in Section 5 above is not followed, or, if followed is unsuccessful, complaints must be made to the Board of Directors or their management agent in writing and signed. No oral complaints will be accepted or acted upon. The complaint should furnish all known pertinent facts, including the date and time and witnesses of the alleged violation and request to remedy the violation. In filing such a complaint, the complainant is free to consult with the management agent in order to more accurately cite the applicable rule or rules alleged to have been violated.

Section 7 - Action to be taken by the Management Agent

a. Request for discussion. Upon receipt of a complaint the management agent shall determine whether it is more likely than not

that an alleged violation is, if substantiated, a violation of an applicable rule, consulting, if necessary, with Board or appropriate committee. If an applicable Code, Covenant, Bylaw, or Rule appears to have been breached, the management agent shall timely notify the unit owner regarding the complaint and request that the violation cease, that any damage be repaired or request a prompt resolution of the matter through discussion.

b. Report to the Board or Committee. Upon completing its inquiry, the management agent shall promptly transmit a written report to the Board or committee stating the pertinent facts and indicating disposition made of the case as follows:

1. The alleged offense is not covered by any applicable Code, Covenant, Bylaw, or Rule or;
2. The complaint cannot be substantiated at this time and has been dismissed, or;
3. The alleged offender agrees that a violation was committed and has stated that it will not be repeated and there was no damage to property, or;
4. The alleged offense has been resolved to the satisfaction of management agent, or;
5. The alleged complaint has been substantiated and the management agent has taken the following action:

a. Has given the Unit Owner a letter of warning to refrain from violating any applicable Code, Covenant, Bylaw, or Rule or face appropriate sanctions for failure to comply, copies of such letters to be included in the Unit Owner's file and in an

offense file to be maintained henceforth by the management agent, and to be provided to the board or its committee and counsel for the Association, or;

b. The case is of such a nature (and providing the reasons) as to warrant referral to the Board or its committee, including, but not limited to, the situation wherein the alleged offender has refused to discuss the matter with the management agent.

Section 8 - Action to be taken by the Board or its Committee

a. Issuance and Service of Complaint. If the Board or its committee concludes that formal proceedings are required, the Board shall instruct the management agent to issue and serve a notice of complaint and hearing on the respondent either by (a) personal (hand) delivery, provided a certificate of delivery be executed or (b) by registered or certified mail, return receipt requested, addressed to respondent at the unit address and to such other address appearing on the records of the association. A copy of the notice and the return receipt shall be kept in the Unit Owner's file. Such mailing shall be deemed delivered and effective upon deposit at United States post office.

The complaint shall include a written notice of the time and place of the hearing at least fourteen (14) days in advance of the date of the hearing and stating that a defense may be presented. If respondent wishes to make a defense to the complaint, he shall do so in writing filed with the Board or its committee. No action adversely affecting the rights or interests of respondent shall be

taken unless the respondent has been duly served with notice; however, failure of the respondent to file a notice of defense shall not prevent the Board or committee from proceeding to adjudicate the case.

The complaint and notice of hearing shall be served promptly following its issuance and at least fourteen (14) days prior to the date fixed in the notice for the hearing, both on the respondent and complainant. If any essential party can show cause why they cannot attend at the time as set, the Board or its committee may reset the date or time of the hearing and the management agent shall provide notice by certified mail or personal delivery to all parties. If the hearing has commenced but has not concluded, the Board or its committee may provide for an adjourned session, ordinarily not to exceed a postponement of more than fourteen (14) days. If the respondent in writing acknowledges responsibility for the offense charged, or state in writing they do not wish to contest the alleged infraction, the Board or committee may, in its discretion, dispense with a hearing and resolve the matter forthwith. Should it develop that respondent waives his right to a hearing in writing, but does not acknowledge commission of the alleged infraction, the Board or committee may take such testimony from other parties involved to the extent it deems this to be necessary or desirable to resolve the matter. It shall not be necessary to serve notice on the alleged offender.

b. Content of Notice of Hearing. The notice of hearing accompanying the complaint served on respondent shall be similar in form as follows:

You are hereby notified that, in accordance with Section 55-70.80.2 of the Virginia Condominium Act, and Article 9, Section A, of the Bylaws, hearing will be by the Board of the St. Albans Glenn Condominium Association on _____, 199_, at _____ .m., in _____ upon the attached complaint. You may be present at this hearing and may be represented by counsel. You may present evidence and will be given an opportunity to cross-examine any witnesses testifying against you. You may request that records and documents of the Association which you believe are relevant to your case can be made available to you by so notifying the undersigned.

If you wish to admit to the complaint in whole or in substantial parts or if you wish to waive your right to a hearing as stated above, you are requested to so notify the undersigned in writing within five (5) days following receipt of this communication.

If you wish to attend the hearing as scheduled or designate another person to appear in your behalf, you are requested to similarly inform the undersigned. You may request an alternate hearing date and/or time by showing good cause why the scheduled date and/or time is not suitable.

You may inform the undersigned, in writing, that you object to the complaint on whatever grounds you deem fit, including, but not limited to, your belief that the complaint does not charge a violation of an applicable rule (giving the reason therefor), that the complaint is so vague or indefinite that you cannot adequately respond without being furnished more specific information. Whatever your grounds, you may, in addition, file with the Board a written statement setting forth your side of the case. Your response under this paragraph shall be deemed to constitute your notice of defense to the Board.

The sanctions which may be imposed against you after a hearing, should you be found in violation of the Association legal documents, include but may not be limited to: injunctive relief, cost of enforcement, attorney's fees, charges for violating legal documents which are not to exceed Fifty Dollars (\$50.00) for a single offense or Ten Dollars per diem for any offense of

a continuing nature, equitable relief to enter a unit and abate violations and lien charges to unit owners, right to foreclose on a lawful lien, suspension of voting privileges, suspension of the right to use facilities suspension of nonessential common services offered by Association for nonpayment of assessments to the extent that access to the unit through the Common Elements is not precluded, and like in kind remedies available under law or the legal documents of the Association. Any decision of the Board may be appealed to a court of law.

b. Cease and Desist Requests. In serving a complaint on a respondent, the Board or its committee may, in its discretion, also serve on the respondent a cease and desist request which shall be substantially in the following form and ordinarily will be included as a part of the communication described in Section 8, Subparagraph b, above:

By the authority of Article 12, Section 12.1, of the Declaration of the Association, the Board of Directors hereby requests that you cease and desist the alleged acts or actions set forth in the attached complaint. Failure to comply with this cease and desist request may result in the assessment of charges against you. You are further directed to advise the Board or Management Agent within (_____ hours), or (_____ days) following receipt of this communication, of the steps you have taken to comply with this directive.

Section 9 - Amended or Supplemental Complaints

At any time prior to the scheduled hearing date, the formal complaint may be amended or supplemented by the Board or committee, and if so amended or supplemented, the Board or its committee shall notify all parties involved in the manner of an original notice and may reschedule the hearing, if necessary, to afford the respondent a reasonable opportunity to prepare a defense.

Section 10 - Conduct of the 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. Neither the respondent nor complainant must attend the hearing. Hearsay evidence is admissible to explain or supplement other evidence but shall not be sufficient in itself to support a finding.

b. Evidence deemed by the hearing body to be irrelevant or immaterial shall be excluded from the record of proceedings.

c. Signed sworn statements shall be admitted if a copy of the statement is mailed or delivered to the Board or committee and opposing party(ies) at least seven (7) days prior to the date of the hearing.

d. Management agent, respondent, the person lodging the initial complaint, and members of the hearing panel shall have the right (a) to call, examine, and cross-examine witnesses, (b) to introduce testimony and evidence, and (c) to rebut testimony and evidence.

e. The hearing shall be conducted in private unless the respondent request that the hearing be open to Unit Owners and further provided that the Chairman of the hearing body may impose a reasonable limit on the number of such persons who can be accommodated in the hearing

room. During the course of any hearing held, the committee shall afford all Unit Owners directly involved with the dispute or violation an opportunity to be heard.

f. If at any time during the course of the hearing a member of the hearing body must 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 or its committee the record shall include the formal complaint and any amendment thereof; proof of service of the complaint, the respondent's defense, if any, and any amendment thereof; any motions filed during the course of the proceeding and the rulings thereof; any sworn statements or exhibits presented at the hearing; and the summary as finally adopted.

h. In order to facilitate the work of the hearing body, the body, may, in its discretion, arrange for a tape recording of all oral testimony and related discussion. Such tape recording shall not be a part of the official record and shall be erased immediately upon the issuance of the Hearing Body's decision.

Section 11 - Use of Hearing Panels

In applying the procedures set forth in this resolution, the Board is authorized to establish hearing panels to hear cases presented to it. Such panels may be established, however, only if the board or its committee

determine that the volume or complexity of the case to be heard, or the non-availability of Board or committee members, warrants the use of such panels.

Such panels, if established, shall include at least one (1) member of the Board who shall serve as Chairman and shall include a total of not less than three (3), nor more than five (5), members. Non-committee members shall be composed of Unit Owners in good standing. Any Unit Owner who has been found to have violated an applicable Code, Covenant, or Rule under these regulations, or who shall be a witness to appear before the panel shall be conclusively ineligible to serve. Members of hearing panels shall be selected by and serve at the pleasure of the Board.

Section 12 - Decision of the Hearing Body and the Covenants Committee

a. Upon completion of the record and within forty-five (45) days of conclusion of hearing, the hearing body shall decide whether or not the respondent is responsible, either in whole or in part, for the offense or offenses charge. If the hearing body determines that the respondent is responsible, it shall decide what sanctions should be imposed for such infraction. The hearing body shall prepare a written finding of fact and decision based on the record. The decision of the hearing body becomes a part of the record.

b. Decisions of the hearing body shall be by majority vote, and when made shall become a part of the record.

c. Once a final decision has been made, a copy of the findings of fact and decision of the hearing body shall be served without delay on each party to the proceedings, including any attorney who has appeared on behalf of any such party.

d. The Board or its committee shall furnish the management agent a copy of the finding of fact and decision and request that the management agent take all necessary follow-up action to enforce and obtain compliance of the sanctions imposed.

Section 13 - Sanctions

a. Assessment of Sanctions. The Board or its committee may assess charges and rights against any Unit Owner after complying with the notice and hearing requirements provided in this Resolution and in the Act. Such sanctions may include and not necessarily limited to: injunctive relief, cost of enforcement, attorney's fees, charges for violating legal documents which are not to exceed Fifty Dollars (\$50.00) for a single offense or Ten Dollars per diem for any offense of a continuing nature, equitable relief to enter a unit and abate violations and lien charges to unit owners, right to foreclose on a lawful lien, suspension of voting

privileges, suspension of the right to use facilities, suspension of nonessential common services offered by Association for nonpayment of assessments to the extent that access to the unit through the Common Elements is not precluded, and like in kind remedies available under law or the legal documents of the Association.

b. Legal Proceedings. Any sanctions imposed hereunder shall not constitute an election of remedies nor limit the Association's right to relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for assessments, and any other relief provided for in the Governing Documents by law.

II - EFFECTIVE DATE

This Policy Resolution shall become effective 1st
day of January
1994, and shall apply to all proceedings initiated on or after that date.

Book of Minutes December 8, 1993

Attest:

Kenneth King
Secretary

Dee S. Stone
President

December 17, 1993
Date

December 17, 1993
Date

This Resolution supersedes all other Rules and Regulations concerning violations and Due Process and may from time to time be amended by a majority of the Board of Directors.

STATE OF VIRGINIA

CITY OF VIRGINIA BEACH, TO WIT:

The foregoing instrument was acknowledged before me this 17th day of December, 1993

Marcia N. Altobelli
Notary Public

My commission expires: August 31, 1994

RECORDED WITH
CERTIFICATE ANNEXED

93 DEC 29 AM 11:24

558.1-802 TAXES PAID \$ _____
VIRGINIA BEACH, VA.

TESTE:

Alfred J. [Signature]
CLERK, CIRCUIT COURT

7001 0100 1000

PMI MANAGEMENT
2232 Virginia Beach Blvd
Suite 112
VIRGINIA BEACH
VA 23454

0100 0100 1000

0100 0100 1000