

PELHAM'S CROSSING COMMUNITY ASSOCIATION, INC.

RESOLUTION NO. 10-15-2012

INTERNAL COMPLAINT POLICY

*Establishing guidelines and procedures for the registration and resolution of written complaints from Association members and citizens.*

**WHEREAS**, Section 4.1 of the Bylaws for Pelham's Crossing Community Association, Inc. ("Bylaws") provides that the business and affairs of Pelham's Crossing Community Association, Inc. ("Association") shall be managed by the Board of Directors ("Board") elected in accordance with the Articles of Incorporation;

**WHEREAS**, Section 4.1(4) of the Bylaws provides that the Board shall adopt and amend any reasonable Rules and Regulations' not inconsistent with the Association Documents;

**WHEREAS**, Section 55-530.E of the Code of Virginia ("Code") provides that all condominium, cooperative and property owners associations shall establish reasonable procedures for resolution of written complaints from owners or residents of the association and other citizens;

**WHEREAS**, 18VAC48-70-10 of the Common Interest Community Ombudsman Regulations ("Regulations") defines *association complaint* as a written complaint filed by a member of the association or citizen concerning a matter regarding the action, inaction or decision by the governing board, managing agent or association inconsistent with applicable laws and regulations;

**WHEREAS**, Section 55-530.E.1 of the Code provides that a record of each complaint shall be maintained for no less than one year after the association acts upon the complaint;

**WHEREAS**, Section 55-530.E.2 of the Code provides that all associations shall provide complaint forms or written procedures to be given to persons who wish to register complaints with the Association and such forms or procedures shall include certain specific information; and,

**WHEREAS**, for the benefit and protection of the Association, the Board deems it necessary and desirable to establish a procedure for the registration, review and resolution of written complaints by Association members and citizens.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board hereby establishes the following internal complaint procedure for use in the event an Association member or citizen makes a complaint as defined in the Code and Regulations.

**ARTICLE 1**  
**Internal Complaint Reviewing Entity**

**Section 1.1 Internal Complaint Reviewing Entity.**

(a) The Board shall serve as the Internal Complaint Reviewing Entity (“Reviewing Entity”). Alternatively, the Board may appoint one or more Association members who are not Board members to serve as members of the Reviewing Entity.

(b) The Board shall elect a Board member to serve as the Reviewing Entity Chair. The Chair shall:

- (1) Preside over meetings of the Reviewing Entity;
- (2) Preside over Resolution Conferences pursuant to the procedures set forth in this Resolution;
- (3) Consult with Association legal counsel and managing agent in connection with the responsibilities set forth in this Resolution; and,
- (4) Do all such things and acts not prohibited by the Act or the condominium instruments necessary to carry out the purposes of this Resolution.

(c) The Reviewing Entity shall elect a Secretary who will be responsible for maintaining accurate minutes of Reviewing Entity meetings and Resolution Conferences and a record of action taken at Reviewing Entity meetings and Resolution Conferences.

(d) If the Board, any member of the Board or Association member appointed to serve on the Reviewing Entity cannot serve on the Reviewing Entity or as the Reviewing Entity Chair due to a conflict of interest or recusal, the Board may appoint other Association members to serve as members of the Reviewing Entity or serve as the Reviewing Entity Chair.

(e) If a Complaint is filed by an individual serving on the Reviewing Entity, that individual must recuse himself from acting as a member of the Reviewing Entity.

**Section 1.2 Meetings and Resolution Conferences.**

(a) The Reviewing Entity shall convene meetings and Resolution Conferences, as necessary. Meetings and Resolution Conferences of the Reviewing Entity may be called by the Chair of the Reviewing Entity or by a majority of the members of the Reviewing Entity.

(b) All Reviewing Entity meetings shall be open to members of the Association. The Reviewing Entity may meet in executive session to discuss matters before the Reviewing Entity pursuant to Section 55-510.1C of the Virginia Property Owners’ Association Act (“Act”). Any vote of the Reviewing Entity shall be taken in an open meeting.

(c) A majority of the members of the Reviewing Entity present at any meeting or Resolution Conference constitutes a quorum.

(d) A simple majority vote of Reviewing Entity Members while a quorum is present constitutes a decision of the Reviewing Entity.

(e) A copy of all minutes, rules, regulations and policy statements of the Reviewing Entity shall be filed with the records of the Association and shall be maintained by the Association. The Association shall make copies thereof available, except as may be withheld from review by Section 55-510C of the Act, to any interested member of the Association according to policy established by the Board.

(f) All Reviewing Entity meetings shall be conducted generally in accordance with Robert's Rules of Order, Newly Revised.

(g) All Reviewing Entity Resolution Conferences shall be conducted in the manner set forth in Article 3 of this Resolution.

## **ARTICLE 2**

### **Registration of Complaints**

#### **Section 2.1 Written Complaint.**

(a) The Internal Complaint Procedure is initiated upon filing a written complaint ("Complaint") with the Reviewing Entity signed by any Association member or citizen ("Complainant"). The Association shall provide Complaint forms substantially similar to the form attached hereto as Exhibit 1.

(b) The Complaint shall constitute a written statement of charges which set forth in ordinary and concise language the acts or omissions which the Association, Board or Managing Agent ("Respondent") is alleged to have violated.

(c) The Complaint shall identify the person or entity (whether governing board, managing agent or Association) alleged to have violated applicable laws and regulations and, to the greatest extent practicable, the specific provisions of applicable laws or regulations which are alleged to have been violated. The Complaint shall also contain basic supporting facts. Where possible and if appropriate, supporting documentation showing the date and description of the violation shall be provided.

(d) The Complaint must be as specific as possible as to times, dates, places, acts or omissions and persons involved.

(e) A record of each Complaint shall be maintained for one year after the Reviewing Entity acts upon the Complaint. For the purposes of this subsection, "acts upon" includes any action taken dismissing a Complaint or any decision made regarding the Complaint.

**Section 2.2 Receipt and Initial Review of Complaint.**

(a) The Association will provide written acknowledgment of receipt of the Complaint to the Complainant within seven days of receipt. Acknowledgment may be hand delivered, mailed by registered or certified mail, return receipt requested, or sent by electronic means provided the sender retains proof of electronic delivery.

(b) Upon receipt of a Complaint, the Reviewing Entity or the management agent, on behalf of the Reviewing Entity, will review the Complaint for completeness and specificity, to confirm that the Complainant has standing to file the Complaint and to determine that the Complaint pertains to a matter appropriate for review by the Reviewing Entity. The Reviewing Entity or the management agent, on behalf of the Reviewing Entity, may request additional information from the Complainant and may consult with Association legal counsel, with Board approval if the Board does not serve as the Reviewing Entity.

(c) If the Reviewing Entity determines that the Complainant does not have standing to file the Complaint, that any allegation within the Complaint is not appropriate for review by the Reviewing Entity, that the alleged violation has already been addressed or that the Complaint is otherwise invalid for any reason, the Reviewing Entity may dismiss the Complaint, in whole or in part. The Reviewing Entity shall send written notice to the Complainant advising of the dismissal and explaining the reasons for the dismissal.

(d) If the Reviewing Entity determines that the Complaint is valid, complete and sufficiently specific, that the Complainant has standing to file the Complaint, and that the Complaint is appropriate for review by the Reviewing Entity, the Reviewing Entity will schedule a Resolution Conference and provide notice of the Resolution Conference in accordance with Section 2.3.

**Section 2.3 Notice of Resolution Conference.**

(a) Upon scheduling the Complaint for a Resolution Conference, the Reviewing Entity shall provide Notice of Resolution Conference to the Complainant and Respondent, if the Board does not serve as the Reviewing Entity, at least fourteen days prior to the Resolution Conference by hand-delivery or certified mail, return receipt requested. Notice may also be sent by electronic mail with Complainant authorization.

(b) The Complainant and the Respondent, if the Board does not serve as the Reviewing Entity, may request a continuance of the Resolution Conference for any reason. Continuance may be authorized at the sole discretion of the Reviewing Entity and shall be given only for good cause. Only one continuance shall be permitted.

**Section 2.4 Amended and Supplemental Complaints.**

(a) At any time prior to the Resolution Conference date, the Complainant may file an amended or supplemental Complaint. The Complainant and the Respondent, if the Board does not serve as the Reviewing Entity, shall be notified of any amendments or supplements in the manner provided in this Resolution. The Reviewing Entity may request additional information

from the Complainant regarding the amended or supplemental Complaint and may consult with Association legal counsel, with Board approval if the Board does not serve as the Reviewing Entity.

(b) If the amended or supplemental Complaint presents new allegations, the Reviewing Entity shall afford the Respondent a reasonable opportunity to prepare for the Resolution Conference.

(c) If the amended or supplemental Complaint presents new allegations, the Reviewing Entity may reschedule the Resolution Conference to permit the Reviewing Entity an opportunity to consider the new allegations. The Reviewing Entity will provide written notice to the Complainant and the Respondent, if the Board does not serve as the Reviewing Entity, of any rescheduled Resolution Conference in accordance with Section 2.3 of this Resolution; provided, however, that fourteen days' prior written notice is not required. The Complainant and the Respondent, if the Board does not serve as the Reviewing Entity, may request a continuance of the rescheduled Resolution Conference for any reason. Continuance may be authorized at the sole discretion of the Reviewing Entity and shall be given only for good cause.

(d) If the Reviewing Entity determines that the new allegations are not appropriate for review by the Reviewing Entity, the Reviewing Entity may dismiss all or any portion of the amended or supplemental Complaint. The Reviewing Entity shall send written notice to the Complainant and the Respondent, if the Board does not serve as the Reviewing Entity, advising of the dismissal and explaining the reasons for the dismissal.

### **ARTICLE 3 Resolution Conference**

#### **Section 3.1 Resolution Conference.**

(a) The Reviewing Entity Chair shall preside over the Resolution Conference, unless otherwise determined by the Reviewing Entity. Association legal counsel may attend the Resolution Conference at the request of the Reviewing Entity, and with Board approval if the Board does not serve as the Reviewing Entity. The Complainant or Respondent may be represented by legal counsel at the Resolution Conference, at the Complainant's or Respondent's expense.

(b) At the beginning of the Resolution Conference, the Chair shall explain Resolution Conference procedures. The Reviewing Entity may determine the manner in which the Resolution Conference will be conducted, so long as the rights set forth in this Resolution are protected. The Resolution Conference need not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant information may be presented.

(c) Neither the Complainant nor the Respondent need be in attendance at the Resolution Conference, but neither may be prohibited from attending the Resolution Conference. Depending upon the circumstances, the Reviewing Entity may conduct the Resolution Conference in executive session.

**Section 3.2 Decisions.**

(a) To be effective, a decision of the Reviewing Entity shall be by simple majority vote. The Reviewing Entity is encouraged to discuss the matter with Association legal counsel and the managing agent and may rely upon the expertise and opinion of either in reaching a decision. The Notice of Final Decision shall be dated and hand delivered or mailed by certified mail, return receipt requested, to the Complainant, Association legal counsel and the Respondent if the Board does not serve as the Reviewing Entity, within seven days of the Resolution Conference.

(b) If the decision of the Reviewing Entity is adverse to the Complainant, the Complainant may give written notice of the adverse decision to the Common Interest Community Board within thirty days of the decision date. Notice of an adverse decision to the Common Interest Community Board shall include copies of all records pertinent to the decision by the Reviewing Entity and shall be accompanied by a \$25.00 filing fee, payable to the Treasurer of Virginia.

(c) If the Reviewing Entity decision is adverse to the Respondent, the Reviewing Entity shall issue a determination letter identifying the basis for the adverse determination and specifying remedial action. If applicable, the determination letter shall include the time-frame by which such action is required.

(d) Upon receipt of the determination letter, the Board shall take the action specified in the determination letter within a reasonable period of time.

**ARTICLE 4  
General Provisions**

**Section 4.1 Proceedings.**

This Resolution is intended to assure that all Complaints are considered and, if necessary, acted upon to comply with the Act and regulations and to serve as a guideline for the resolution of such complaints.

**Section 4.2 Implementation.**

The Reviewing Entity may determine the specific manner in which the provisions of this Resolution are to be implemented, provided that internal complaints are resolved.

**Section 4.3 Severability.**

Any inadvertent 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 effect the general steps set forth in this Resolution.

**Section 4.4 Definitions.**

(a) *Adverse decision* or *final adverse decision* means the final determination issued by the Reviewing Entity that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the Complainant. All avenues for internal appeal under this Resolution must be exhausted prior to a decision being deemed final.

(b) *Complaint* means a written complaint filed by a member or citizen pursuant to this Resolution concerning a matter regarding the action, inaction or decision by the Board, the Association managing agent or the Association inconsistent with applicable laws and regulations.

**PELHAM'S CROSSING COMMUNITY ASSOCIATION, INC.**

Mailing Address:  
Landmarc Real Estate, Inc., AAMC  
P.O. 7268  
Fredericksburg, Virginia 22404

Physical Address:  
Landmarc Real Estate, Inc., AAMC  
3715 Lattimers Knoll Court  
Fredericksburg, Virginia 22408  
(540) 371-3406 Phone

**INTERNAL COMPLAINT FORM**

**COMPLAINING PARTY** (The Party Filing the Complaint)

Complaining Party's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Address in Pelham's Crossing: \_\_\_\_\_

(if different than mailing address) \_\_\_\_\_

Home Phone: \_\_\_\_\_

Other Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Are you a lot owner in the Association?    Yes        No   

**NATURE OF COMPLAINT**

**COMPLAINT INVOLVES:**                      (Check as appropriate)

The authority of the Association/Board of Directors, under any law or regulation, to:

- Require any person to take action, or not to take any action, involving a lot
- Require any person to pay a fee, charge or assessment





\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DESIRED ACTION:**

Please state what actions you think will resolve your complaint:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby certify that the statements made on this form and in any attached documents are true and complete to the best of my knowledge, information and belief. I authorize notices under the Internal Complaint Procedure to be sent by electronic mail to the electronic mail address provided in this form.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

If, after the Reviewing Entity's consideration and review of the Complaint, the Reviewing Entity issues a final decision adverse to the Complainant, you have the right to file a notice of final adverse decision with the Common Interest Community Board ("CICB") in accordance with the regulation promulgated by the CICB. The notice shall be filed within 30 days of the date of the final adverse decision, shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman ("Ombudsman"), shall include copies of any supporting documents, correspondence and other materials related to the decision, and shall be accompanied by a \$25.00 filing fee, payable to the Treasurer of Virginia. The Ombudsman may be contacted at:

Office of the Common Interest Community Ombudsman  
Department of Professional and Occupational Regulation  
9960 Mayland Drive, Suite 400  
Richmond, Virginia 23233  
804/367-2941  
CICOmbudsman@dpor.virginia.gov

PELHAM'S CROSSING COMMUNITY ASSOCIATION, INC.

RESOLUTION ACTION RECORD

Resolution No. 10-15-2012

Pertaining to: Internal Complaint Procedure

Duly adopted at a meeting of the Board of Directors held 10-15-2012

Motion by: Kevin Plourde Seconded by: Mike Gillis

VOTE: YES NO ABSTAIN ABSENT

[Signature]  
Director X \_\_\_\_\_

[Signature]  
Director X \_\_\_\_\_

[Signature]  
Director X \_\_\_\_\_

[Signature]  
Director X \_\_\_\_\_

[Signature]  
Director X \_\_\_\_\_

ATTEST:

[Signature]  
Secretary

10-15-2012  
Date

Resolution effective: 10/15/12, 2012

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