

SULLY STATION II COMMUNITY ASSOCIATION

POLICY RESOLUTION NO. 14

ENFORCEMENT PROCEDURES

Relating to Enforcement of the Rules and Regulations and Legal Documents  
(originally adopted on October 21, 1993 and revised on September 20, 2004)

WHEREAS, Article 4, Section 4.1 of the Bylaws states that "The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not required by the Act or the Association Documents to be exercised and done by the members;" and

WHEREAS, the Board previously approved Policy Resolution No. 5, which establishes due process procedures for situations where members are not in compliance, with provisions of the Code of Virginia, the Association's founding Legal Documents or Rules and Regulations; and

WHEREAS, the Virginia Property Owners Association Act was amended in July of 1991 to further broaden the power of executive organs of community associations to enforce compliance with the provisions of the legal documents of the association by providing the executive organ with the power to assess monetary charges against any member in non-compliance with the association's legal documents; and

WHEREAS, the Board deems it necessary and desirable to establish and follow revised procedures to assure reasonable and timely enforcement of the legal documents of the Association:

NOW, THEREFORE, BE IT RESOLVED THAT the following procedures be adopted by the Board, and that this resolution shall supercede in its entirety Policy Resolution No. 5.

I. ENFORCEMENT OF LEGAL DOCUMENTS

- A. Written Complaint. Any member or resident may initiate the enforcement process by filing a written complaint with the Association's Managing Agent.

The complaint must include a concise statement of charges setting forth in clear language the specific act(s) or omission(s) with which the offending party is to be charged. The complaint should be as specific as possible with respect to times, dates, places and persons involved. All complaints must be signed by the Complainant.

- B. Preliminary Investigation. Upon receipt and consideration of the complaint, the Managing Agent or a member of the Board may make a 'preliminary investigation as to the validity of the complaint. If the condition has been corrected, or the complaint is invalid for any reason, the Managing Agent shall respond in writing to the Complainant in writing. If the preliminary investigation indicates the need for further action, the Managing Agent may proceed as appropriate. If it is questionable as to whether a violation exists, the Managing Agent or member of the Board shall ask the Board to investigate and provide direction.
- C. Notice. If preliminary investigation indicates further action is necessary, the Managing Agent shall mail a written notice by certified mail, return receipt requested, to the alleged offender at the alleged offender's address listed on the records of the Association and to the property address, if the record address is different. In instances when certified mail is refused or not picked up, notification shall be deemed effective two days after mailing.

If the violation is not of an urgent nature, as determined by the Managing Agent or member of the Board, an informal notice may be sent prior to the certified notice.

Written notice to an alleged offender shall advise the alleged offender of the nature of the offense, the identity of the specific provision within the legal documents which has allegedly been offended, the specific remedy required, and the number of days by which corrective action must be begun or completed in order to preclude the possible imposition of a penalty or remedy.

## II. ENFORCEMENT REMEDIES

If written notice to the alleged offender does not result in an abatement of the alleged offense, the Board may pursue enforcement remedies, which may include either or both of the following measures:

- A. The suspension of recreational facility use privileges of any owner over a period not to exceed sixty (60) days for any infraction of the legal documents and/or rules and regulations of the Association. The effective date of the suspension is to be determined by the Board and may be deferred to a date certain.
- B. The levying of monetary charges in accordance with the current provisions, and in the maximum amounts, specified in Section 55-513.B of the Code of Virginia (Virginia Property Owner's Association Act). Section 55-513.B currently states that such amount shall not exceed fifty dollars for a single offense or ten dollars per day for any offense of a continuing nature and the charge shall be treated as an assessment against the member's lot. The total charges shall not be assessed for a period exceeding ninety days, thereby limiting the assessment to \$900 for each continuing offense until further revision of Section 55-513.B, at which time the assessment will be limited by the maximum assessment allowed under the revised statute.

## III. HEARING GUIDELINES

Neither of the two enforcement remedies cited above may be pursued by the Board until an opportunity for a hearing has been provided to the alleged offender. The following guidelines apply to the hearing procedure:

- A. The Managing Agent shall send a written notice, mailed by registered or certified mail, return receipt requested, to the member, advising the member of his or her right to contest the complaint at a hearing before the Board of Directors.
- B. Such notice shall advise the member of the date, time and location of the hearing, of the member's right to be represented by counsel, and of an earlier date, at least fourteen (14) days following the date of the receipt of the notice, by which the alleged offender must, by written notification to the Association's Managing Agent, confirm the intention to attend the hearing or make a request for the hearing to be conducted on a date other than as specified in the notice. This request may be granted if reasonable and satisfactory justification for rescheduling the hearing is presented. The Board shall set all hearing dates at its discretion.

When no response is received by the Association from the alleged offender by the hearing confirmation date, or the member confirms attendance but fails to attend the hearing without providing reasonable and satisfactory explanation, the alleged offender shall be deemed to have waived the right to attend the hearing. In such a case, the Board may impose a monetary charge or suspension of recreational use facility use privileges in the absence of the alleged offender. No such monetary charge or suspension shall be effective until a motion of the Board is duly passed. The minutes of the hearing at which the motion is passed must contain a written statement of the results of the motion, the imposed sanction, if any, and proof that the notice and invitation to be heard was mailed.

When the member exercises his or her right to a hearing, the member has a right to present evidence, present and cross-examine witnesses, and a general right to be heard.

Following the evidentiary portion of the hearing, the Board may conduct its deliberations in Executive Session to determine whether satisfactory proof of the alleged offense exists and, if so, whether monetary charges or suspension of recreational or facility use privileges should be imposed.

Notice of the decision of the Board shall be mailed to the alleged offender by certified mail within ten (10) calendar days of the hearing.

When the judgment is unfavorable to the member, the Board shall instruct the Managing Agent to undertake the administrative actions required to effect the charge as an assessment against the member's lot and/or suspend the use of recreational facility privileges. When judgment is favorable to the member, the records of the Association shall be revised to so indicate, and the occurrence in question shall be disregarded for purposes of determining whether any alleged allegation of subsequent offenses are regarded as continuing offenses.

If the Board, after providing an opportunity for a hearing to the alleged offender, determines there is satisfactory proof that a member has committed or is committing a continuing offense, and that monetary charges should be assessed, the calendar days for which daily charges may accrue will be those beginning after the date the member is in receipt of the notice of the decision made at the hearing and ending with the date on which the Association's Board or Managing Agent observes that correction has occurred, or is notified by the member that such correction has occurred, subject to later confirmation by the Association; however, in no case may the daily charge for a continuing violation exceed a total of thirty (30) days.

#### IV .APPLICABILITY

The procedures delineated herein may be applied to offenses of the rules and regulations and legal documents of the Association, but do not preclude the additional independent application of any other specialized and more expeditious enforcement procedures and remedies, as authorized in the Association's Policy Resolutions and state law, including, but not limited to:

- A. Tagging and towing of prohibited or unauthorized vehicles as authorized under Policy Resolution No. 7, Vehicle Policies.
- B. Removal of offending animals as authorized under Policy Resolution No. 8, Pet Policies.
- C. Initiation of legal action as authorized by the Declaration and Articles of Incorporation.

SULLY STATION II COMMUNITY ASSOCIATION

RESOLUTION ACTION RECORD

Resolution Type Policy No. 14

Pertaining to: Enforcement Procedures

Duly adopted at a meeting of the Board of Trustees of the Sully Station II Community Association, held September 20, 2004.

Motion by: Mr. Gay


Seconded by: Ms. Cronin

TRUSTEES:

VOTE:

	YES	NO	ABSTAIN	ABSENT
<u>Ralph Gay, President</u>	X			
<u>Terri Miller, Vice President</u>				X
<u>Mark Pledger, Treasurer</u>	X			
<u>Gretchen Cronin, Secretary</u>	X			
<u>Frank Ojeda, Trustee</u>	X			
<u>Nancy White, Trustee</u>				X
<u>Tina Weinheimer, Trustee</u>				X

ATTEST:

  
Secretary

9/20/04  
Date

File: Book of Minutes: 2004, Book of Resolutions

Resolution Effective September 20, 2004