

UNIT OWNERS ASSOCIATION OF MARKET STREET AT TOWN
CENTER CONDOMINIUM

RESOLUTION NO. 01-16

Procedures to Ensure Due Process in Rule Compliance

WHEREAS, Article III, Section 1 of the Bylaws of the Unit Owners Association of Market Street at Town Center Condominium ("Bylaws") provides that the affairs of the Unit Owners Association of Market Street at Town Center Condominium ("Association") shall be governed by a Board of Directors ("Board");

WHEREAS, Article III, Section 2 of the Bylaws provides that the Board 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 by the Condominium Act ("Act"), the Declaration or by the Bylaws required to be exercised and done by the Association;

WHEREAS, Article III, Section 2 of the Bylaws further provides that the Board shall have the power from time to time to adopt any rules and regulations deemed necessary for the benefit and enjoyment of the Condominium provided that such Rules and Regulations are not in conflict with the Condominium Act, the Declaration or the Bylaws;

WHEREAS, Article X, Section (n) of the Declaration provides that each person have the right to use the Common Elements and each person to whom such right has been delegated shall comply with any Rules and Regulations regarding such use, as such rules may be established and amended from time to time by the Board. Such rights to use may be suspended upon failure of a Unit Owner to pay assessments due the Association;

WHEREAS, Article II, Section 9(c) of the Bylaws provides that no Unit Owner may vote at any meeting of the Association or be elected to or serve on the Board if the Unit Owner is delinquent by more than sixty days and the amount necessary to bring the account current has not been paid within seventy-two hours prior to the time of such meeting or election;

WHEREAS, Article X, Section 1(i) of the Bylaws provides that failure by a Unit Owner to comply with any of the terms of the Declaration, these Bylaws and the Rules and Regulations, shall subject such Unit Owner to other penalties that may be established by resolution of the Board, including but not limited to, the imposition of charges;

WHEREAS, Article X, Section 1(i) of the Bylaws further provides that failure to pay assessments may cause the Board to suspend use by a Unit Owner or his tenant of any Common Elements, in accordance with Section 55-79.80:2A of the Act. Any such resolution duly adopted by the Board shall be adopted in accordance with Section 55-79.80:2B of the Act, as amended, which requires the Unit Owner be given the opportunity to be heard and represented by counsel before the Board;

WHEREAS, Article X, Section 1 of the Bylaws provides that each Unit Owner of a Unit shall be governed by, and shall comply with, all of the terms of the Declaration, the Bylaws and the Rules and Regulations of the Association, and any amendments of the same;

WHEREAS, Article X, Section 1(a) of the Bylaws provides that failure to comply with any of the terms of the Declaration, the Bylaws, and the Rules and Regulations shall be grounds for relief, which may include, without limitation to, an action to recover any sums due for money damages, injunctive relief... any other relief provided for in the Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board, or the Managing Agent;

WHEREAS, Article X, Section 1(c) of the Bylaws provides that in any proceeding arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court;

WHEREAS, Article X, Section 1(h) of the Bylaws provides that the violation of any Rule or Regulation adopted by the Association, or the breach of any Bylaw, or the breach of any provision of the Declaration shall give the Board the right, in addition to any other rights set forth in the Bylaws: (1) to enter the Unit in which or as to which such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of the Bylaws and (2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity the continuance of such breach;

WHEREAS, Article XI, Section 3 of the Bylaws provides that each Unit and the Common Elements shall be occupied and used in compliance with the Rules and Regulations which may be promulgated and amended by the Board;

WHEREAS, Section 55-79.53A of the Act provides that every unit owner and all those entitled to occupy a unit shall comply with all lawful provisions of the Act and all provisions of the condominium instruments and that any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association, the Board, or any managing agent on behalf of the Association;

WHEREAS, for the benefit and protection of the Association and unit owners, the Board deems it necessary and desirable to establish a procedure to assure due process in cases where there is a question of compliance by unit owners and occupants in Market Street at Town Center Condominium with provisions of the Act or the condominium instruments, thereby attempting to minimize the necessity of seeking action in or through a court of law; and,

WHEREAS, it is the intent of the Board to establish procedures where action must be taken relative to questions of compliance by an individual with the provisions of the Act, the condominium instruments, or the Rules and Regulations.

NOW, THEREFORE, BE IT RESOLVED that the following Due Process Procedures are adopted.

ARTICLE 1
VIOLATIONS OF CONDOMINIUM INSTRUMENTS

Section 1.1 Actions Prior to Initiation of Formal Due Process Procedures

A. Any Unit Owner, Officer or Director of the Association or the Association managing agent has authority to request that an Owner cease or correct any act or omission which appears to be in violation of the condominium instruments or Rules and Regulations. Such informal requests should be made before formal Due Process Procedures are initiated.

B. In the case of disputes between Unit Owners and occupants regarding activities within units, the Association will generally not become involved in the dispute or act on a complaint, unless two or more Unit Owners have complained in writing.

Section 1.2 Written Complaint

A. If the actions described in Section 1.1 of the Resolution prove unsuccessful, the Due Process Procedure shall be initiated upon the filing of a written complaint ("Complaint") with the managing agent signed by any Unit Owner, occupant, management agent, employee, or Board member. This Due Process Procedure also may be initiated by a vote of a majority of the Board.

B. The Complaint shall constitute a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the Unit Owner or occupant (hereafter referred to as "Respondent") is charged, so that the Respondent will be able to prepare a response to the Complaint.

C. The Complaint shall identify the specific provisions of the Act, condominium instruments or the Rules and Regulations which the Respondent is alleged to have violated and shall contain basic supporting facts. Where possible and appropriate, supporting documentation showing the date and a 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. If the violation involves a pet, the Complaint should reasonably identify the pet, if possible.

Section 1.3 Notice of Violation; Opportunity to Cure

A. Upon receipt of a Complaint, the Association managing agent or other Association representative will inspect the Unit, or further investigate the Complaint to determine whether the Complaint accurately identifies a violation of the Act, the condominium instruments or the Rules and Regulations.

B. If the Complaint alleges a violation of a non-continuing nature that cannot be readily confirmed by the Association managing agent or other Association representative, the Board will take no action unless the violation is independently reported at least twice.

C. If the Association managing agent determines the Complaint identifies a violation of the Act, the condominium instruments or the Rules and Regulations, the managing agent will notify the Respondent that a violation has been noted ("Notice of Violation"). The Notice of Violation will include the time, date, place and nature of the violation, a reasonable opportunity to cure the alleged violation, and a description of possible sanctions to be imposed or other actions that may be taken if the violation is not cured. The Notice of Violation should be substantially in the form attached hereto as Exhibit A, offering the Unit Owner the opportunity to take corrective action and specifying the time period for corrective action to be taken.

D. The Notice of Violation shall be sent by first class mail or shall be hand-delivered to the Owner at the address which the Unit Owner has provided to the Association or at the Unit address, if no other address has been provided. Copies of the Notice of Violation will be maintained in the Association files.

E. If the Association managing agent cannot determine that the Complaint identifies a violation, the Association managing agent will refer the Complaint to the Board which shall conduct a preliminary investigation to determine the validity of the Complaint. If the preliminary investigation by the Board indicates a need for further action, the Association managing agent will provide Notice of Violation to the Respondent.

F. If the violation has been corrected or the Complaint is invalid for any reason, the Association managing agent will respond in writing to the Complainant.

G. If the violation is not remedied to the satisfaction of the Association managing agent within the designated correction period specified in of the Notice of Violation or if the Respondent requests, in writing, a hearing on the violation, the Association managing agent will schedule the matter for a hearing at a meeting of the Board scheduled at least fourteen days or more from the end of the designated correction period.

Section 1.4 Notice of Hearing

Upon referral of a Complaint, the Board may serve a Notice of Hearing on all parties at least fourteen days prior to the hearing by hand-delivery or registered or certified mail, return receipt requested. The Notice of Hearing shall be sent to the parties at the address appearing on the books of the Association. The Notice of Hearing may also provide for an opportunity to address and cure the condition or conduct giving rise to the Complaint. The Notice of Hearing may be substantially in the form attached as Exhibit B and shall include a description of sanctions.

Section 1.5 Service of Complaint

The Board should provide a copy of the written Complaint, if any, to the Respondent along with the Notice of Hearing.

Section 1.6 Hearing

A. A hearing shall be held before the Board prior to imposition of charges, initiation of self-help or legal action. The President of the Board shall serve as hearing chair and preside over the hearing, unless otherwise determined by the Board. Association legal counsel may attend the hearing at the request of the Board. The Respondent may, but is not required to be represented by counsel at the hearing.

B. The Board may determine the manner in which the hearing will be conducted, so long as the rights set forth in this Resolution are protected. The hearing need not be conducted according to technical rules relating to evidence and witnesses.

C. Neither the Complainant nor the Respondent need be in attendance to conduct the hearing. At the request of either the Complainant or the Respondent, the Board may agree to conduct the hearing in executive session.

D. The Board may reschedule any hearing within its discretion upon good cause shown by the member. Notice of the rescheduled hearing date will be provided to the member at his or her address of record by certified mail.

E. The Respondent may make a statement to the Board in response to the Complaint.

F. If the Respondent fails to attend the hearing without providing a reasonable and satisfactory explanation, the Respondent shall be deemed to have waived the right to such hearing, and sanctions may be imposed as if the hearing had been held with a final decision unfavorable to the Respondent.

Section 1.7 Decisions

Following the hearing, the Board may deliberate in private and shall determine whether it has received satisfactory proof of the alleged violation, and if satisfactory proof has been presented, determine the appropriate action to be taken against the member to prompt correction of the violation and compliance with the condominium instruments. All decisions shall be made by a majority vote. A Notice of Hearing Result shall be mailed or hand-delivered to the Respondent summarizing any decision made by the Board.

Section 1.8 Records

The Board and the management agent shall keep copies of all correspondence related to rule violations in the Unit file.

**ARTICLE 2
TENANTS**

Section 2.1 Notice to Unit Owner

If the person charged with a violation of the Act, the condominium instruments or the Rules and Regulations is a tenant or occupant, the Unit Owner of the Unit in which the person resides shall be considered the Respondent and as a party to the action shall receive certified copies of all correspondence or other documents sent to the tenant or occupant pursuant to this Resolution.

Section 2.2 Unit Owner Rights

The Unit Owner shall have all rights provided in Article 1.

**ARTICLE 3
SANCTIONS**

Section 3.1 Remedies

The Board may impose, but is not limited to the following:

- (1) Initiating self-help remedies when appropriate and authorized by the condominium instruments;
- (2) Assessing expenses incurred during self-help remedies to the Respondent;
- (3) Imposing monetary charges for violations of the condominium instruments or the Rules and Regulations governing the use of the Common Elements and facilities;
- (4) Suspending voting rights and rights of a Unit Owner to be elected to or serve on the Board and suspending rights to use the Common Elements;
- (5) Authorizing Association legal counsel to file legal action for damages or injunctive relief in General District Court or Circuit Court; or,
- (6) Referring the matter to appropriate County or government authorities.

**ARTICLE 4
PROCEDURES SPECIFIC TO SELF-HELP**

Section 4.1 Initiating Self-Help

In those circumstances in which the Board determines it to be in the best interest of the Association for the Board to initiate self-help remedies, the following procedures shall be applied by the Board after the hearing contemplated above:

A. If the Respondent fails to correct the violation within seven days of the date of the Notice of Hearing Result, then the Board or its designee shall give at least fourteen days' notice of the intent to enter the Unit to correct the violation.

B. The Notice of Intent to Engage in Self-Help shall be hand delivered, posted at the front door of the Unit and sent by first-class mail, postage prepaid, to the Unit address or such other member's address on file with the Association.

C. The Association may, if appropriate seek authority from General District Court or Circuit Court to enter a Unit to take corrective action.

**ARTICLE 5
CONSTRUCTION**

Section 5.1 Proceedings

This Resolution is intended to assure that due process is provided to members and occupants in proceedings before the Board to enforce the Act, the condominium instruments and the Rules and Regulations and to serve as guidelines for such proceedings.

Section 5.2 Implementation

The Board may determine the specific manner in which the provisions of this Resolution are to be implemented, provided that due process is protected.

Section 5.3 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 assure due process according to the general steps set forth in the Resolution.

Section 5.4 Emergency Circumstances

The procedures set forth herein do not preclude the Association from taking accelerated measures if a violation creates an emergency circumstance, including, but not limited to, manifest danger to life or property, or immediately necessary for the preservation and safety of

the Association or residents, provided that the unit owner or resident in violation has been provided such adequate notice as circumstances permit, and the Association's actions are consistent with the condominium instruments and the Act.

Section 5.5 Due Process Defined

"Due Process" as used in this Resolution refers to the following basic rights:

- (a) Notice;
- (b) Opportunity to cure or take corrective action;
- (c) Opportunity to be heard; and,
- (d) Fairness.

UNIT OWNERS ASSOCIATION OF
MARKET STREET AT TOWN CENTER CONDOMINIUM

RULES VIOLATION COMPLAINT

Date: _____

1. Name of person(s) charged with violation: _____
2. Address of person(s) charged with violation: _____
3. Is the person(s) charged with violation a tenant or unit owner? _____
4. Describe in detail how and where the violation occurred: _____

5. Describe in detail which provision of the condominium instruments or rules has been violated: _____

6. When did the violation(s) occur? _____
7. Have you personally requested the unit owner or tenant to cease the violation?
 Yes No Verbally Written Request.
When? _____
8. Name and address of person(s) filing the Complaint: _____
9. Signature(s) _____

Use additional sheets of paper if necessary and include additional documentation, if appropriate.

FOR ASSOCIATION USE ONLY

10. Unit Owner: _____ Tenant: _____
11. Provision(s) of condominium instruments violated: _____

12. Registered name(s) of Unit Owner(s): _____
13. Unit owner's address if non-resident: _____
14. Registered name(s) of tenant(s): _____
15. Comment: _____
16. Date Notice of Violation sent to Unit Owner: _____
17. Referred to Board on _____, 20____
19. Date Notice of Hearing sent: _____

cc: Unit Owner File

UNIT OWNERS ASSOCIATION OF
MARKET STREET AT TOWN CENTER CONDOMINIUM

Date

VIA CERTIFIED MAIL,
RETURN RECEIPT REQUESTED &
FIRST CLASS MAIL

(Unit Owner) _____

Re: Unit Owners Association of Market Street at Town Center Condominium--
Notice of Violation

Dear (Unit Owner/ Resident):

Pursuant to the Due Process Resolution of the Unit Owners Association of Market Street at Town Center Condominium, this is to serve as notification that according to information provided to the Association, a condition or behavior on your unit or on the common element of the Association has been noted as a violation of:

The specific action/condition has been described as follows:

Before proceeding forward under the Due Process Procedure, we encourage you to address this condition. Please take action within _____ from the date of this letter to correct all above noted violations. If you need more time, you may request additional time by notifying the Board of Directors in writing as to when the condition will be corrected. Please advise our office of the action you have taken to address this matter. If you fail to take corrective action, the matter will be scheduled for a hearing before the Board, and the following sanctions may be imposed, among others:

- (1) Initiation of self-help remedies when appropriate and authorized by the condominium instruments;
- (2) Assessment of expenses incurred during self-help remedies to the Respondent;

- (3) Imposition of monetary charges for violations of the condominium instruments or the rules and regulations governing the use of the Common Elements and facilities;
- (4) Suspension of voting rights and rights of a Unit Owner to be elected to or serve on the Board and suspension of rights to use the Common Elements;
- (5) Authorizing Association legal counsel to file legal action for damages or injunctive relief in General District Court or Circuit Court; or,
- (6) Referring the matter to appropriate County or government authorities.

Thank you for your prompt attention to this matter and your cooperation. If you have questions please contact _____ at _____.

Sincerely,

Managing Agent

cc: Unit Owner file

UNIT OWNERS ASSOCIATION OF
MARKET STREET AT TOWN CENTER CONDOMINIUM

Date

VIA CERTIFIED MAIL,
RETURN RECEIPT REQUESTED &
FIRST CLASS MAIL

(Unit Owner) _____

Re: Unit Owners Association of Market Street at Town Center Condominium --
Notice of Hearing

Dear (Unit Owner/ Resident):

Pursuant to the Due Process Resolution of the Unit Owners Association of Market Street at Town Center Condominium, this is to serve as notification that according to information provided to the Association, you are in violation of _____.

Notice of this Violation was previously provided to you by letter dated _____, 20__ and you were encouraged to take steps to remedy the conditions or conduct. A copy of the letter is enclosed for your reference. The specific allegations are also set forth in the enclosed Complaint.

You are hereby notified that a hearing will be held before the Board of Directors at _____ on the ___ day of _____, 20__, at __.m., upon the charges set forth in the Complaint. You may be present at the hearing but need not be represented by counsel, and you may present any relevant information including witnesses concerning the Complaint. You will be given a full opportunity to examine any witnesses you wish to present and cross-examine all witnesses presented by the Association.

Please confirm your attendance by calling _____ at _____ or if you have a reason why you cannot attend the hearing on the scheduled date, so that an alternative date may be scheduled.

If no response is received from you, or if you confirm attendance but fail to attend without providing a satisfactory explanation, the hearing will proceed on the written information and any testimony provided, you will be deemed to have waived the opportunity for a hearing.

If you are found in violation of the allegations set forth in the Complaint, the Board of Directors has the authority to initiate self-help remedies when appropriate and authorized by the

condominium instruments, impose monetary charges, pursue legal action as the Board of Directors determines appropriate, or refer the matter to appropriate County or government authorities.

If you have any questions or wish to communicate with the Board regarding this matter, please call _____ at _____.

Sincerely,

Board of Directors

cc: Unit Owner File

UNIT OWNERS ASSOCIATION OF
MARKET STREET AT TOWN CENTER CONDOMINIUM

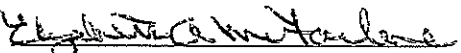

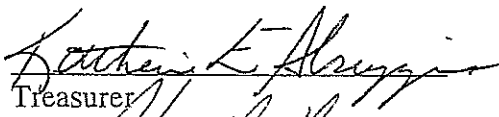

RESOLUTIONS ACTION RECORD

Resolution No. 01-16

Pertaining to: Due Process

Duly adopted at a meeting of the Board of Directors held on April 28, 2016

Motion by: Katie Abruzzino Seconded by: Gillian SESCOE

VOTE:	YES	NO	ABSTAIN	ABSENT
<u></u> President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u></u> Vice President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u></u> Treasurer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u></u> Secretary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	_____	_____
Member at Large				

ATTEST:

Secretary

4-28-2016
Date

Resolution effective: 04/28/2016, ~~2016~~

