

KOGER MANAGEMENT GROUP, INC.
3554 Chain Bridge Road, Suite 400, Fairfax, Virginia 22030 (703) 591-2414

E-mail: lisaj@Koger.bmsi.com

April 20, 1999

TO: All Owners, Millwood Estates Homeowners Association

FR: Board of Directors

RE: New Policy Resolution

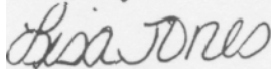
Dear Millwood Estates Homeowner:

Enclosed for your review is Policy Resolution No. 99-1 "Establishing Due Process Procedures" that was approved by your Board of Directors on April 6, 1999. Please retain this for your permanent records.

The Resolution was passed with the intent of the Board of Directors to establish procedures that the Board must follow and take action relative to questions of compliance by an individual with the provisions of the Virginia Property Owners' Association Act or the governing documents of the Millwood Estates Homeowners Association.

If you have any questions, comments or concerns regarding this Resolution, please do not hesitate to contact my office.

Thank you.



Lisa Jones Association

Manager

Millwood Estates Homeowners Association

MILLWOOD ESTATES HOMEOWNERS' ASSOCIATION

POLICY RESOLUTION NO. 99-1

ESTABLISHING DUE PROCESS PROCEDURES

WHEREAS, the Virginia Property Owners' Association Act requires all Lot Owners and those entitled to occupy a Lot to comply with all provisions of the Declaration and rules adopted by the Board of Directors, (the "governing documents") and provides for suspension of privileges and imposition of charges and other remedies for violations; **AND**

WHEREAS, Article IV, Section 4.1 of the Bylaws of the Millwood Estates Homeowners Association states that the Board of Directors shall manage the affairs of the Association; **AND**

WHEREAS, Article IV, Section 4.7(1) of the Bylaws assigns to the Board the power to adopt and publish Rules and Regulations; **AND**

WHEREAS, Article IV, Section 4.8(1) of the Bylaws assigns to the Board the duty to keep a complete record of its acts and the corporate affairs of the Association; **AND**

WHEREAS, for the benefit and protection of the Association and the individual Lot Owners or occupants, the Board of Directors deems it desirable to establish and operate by a procedure to assure due process in cases where there is a question of compliance by a Lot Owner or occupant with provisions of the Virginia Property Owners' Association Act or the governing documents 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 of Directors to establish procedures for the Board of Directors where it must take action relative to questions of compliance by an individual with the provisions of the Virginia Property Owners' Association Act or the governing documents;

NOW, THEREFORE, BE IT RESOLVED THAT these due process procedures shall be adopted and shall replace any prior Resolutions on this topic:

I. THE HEARING PROCESS

Section 1. Prior to Initiation of Formal Complaint Process

Any Lot Owner or occupant or agent of the Association has the authority to request that a Lot Owner or occupant (hereinafter, the "respondent") cease or correct any act or omission which appears to be in violation of the governing documents. Such informal requests must be made before the formal process is initiated.

If informal requests do not result in compliance, a written complaint providing in reasonable detail the specifics of the alleged violation shall be filed with the Board of Directors.

Section 2. Written Complaint

A. Substance of Complaint

A written complaint may be filed by any person. 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 respondent is charged, to the end that the respondent will be able to prepare a defense. The complaint shall specify the specific provisions of the Virginia Property Owners' Association Act or the governing documents which the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such provisions without supporting facts. The complaint must be as specific as possible as to times, dates, places, and persons involved. The complaint must be signed. In the case of disputes between Lot Owners regarding activities within the Lot, the Association will not become involved in the dispute or act on a complaint unless there are two or more complaining parties.

B. Preliminary Investigation.

Upon receipt and consideration of the written complaint, the Board of Directors may request a committee to make a preliminary investigation as to the validity of the complaint and promptly report the findings. If the alleged violation has been corrected since the complaint was made, or if the complaint is for any other reason no longer valid, the Board of Directors shall determine the

appropriate disposition of the matter and respond in writing to the complainant. The Board of Directors or assigned committee may make initial attempts to secure compliance through correspondence to the Owner or occupant which states the time, date, place, and nature of the violation and which sets forth the time period in which the violation must be corrected. Copies of such correspondence shall be maintained in the Association files, and a copy may be sent to Legal Counsel for the Association. If preliminary investigation indicates the need for further action, the Board of Directors may proceed as appropriate with the steps set forth below.

Section 3. Service of Complaint

Upon the filing of the complaint and completion of any appropriate preliminary investigation, the Board of Directors shall serve a copy thereof on the respondent by either of the following means:

- (1) Personal delivery with receipt; or
- (2) By certified mail, return receipt requested, and also by regular mail addressed to respondent, at the address appearing on the books of the Association. Service by mailing shall be deemed effective upon deposit in a regular depository of the United States mail.

No order adversely affecting the rights of the respondent may be made in any case, unless the respondent shall have been served as provided herein, although the failure or refusal of the respondent to claim the certified mail notice shall not prevent the Board of Directors from acting on any matter.

Section 4. Notice of Hearing

Along with service of the complaint, the Board of Directors shall mail in accordance with Section 3(2) above, or deliver by hand a Notice of Hearing, as provided herein, to all parties at least fourteen (14) days prior to the hearing. The Notice of Hearing sent to the respondent shall be substantially in the following form, but may include other information:

"You are hereby notified that a hearing will be held before the Board of Directors at _____

on the __ day of _____ 1999, at the hour of _____, upon the charges made in the complaint served upon you. You may be present at the hearing; may, but need not, be represented by counsel, may present any relevant evidence, and you will be given full opportunity to cross-examine all witnesses testifying against you."

If any of the parties can show, prior to the scheduled hearing, good cause as to why they cannot attend the hearing on the set day and indicate times and state dates on which they would be available, the Board of Directors may reset the time and date of hearing and promptly transmit notice of the new hearing date. Mailing notice of the new hearing date and time shall be sufficient.

Section 5. Cease and Desist Orders

The Board of Directors may, at its own discretion, issue a Cease and Desist Order along with the complaint and Notice of Hearing, to be substantially in the following form:

"The Board of Directors has received the attached complaint. The Board of Directors hereby requests that you CEASE AND DESIST such acts or actions until such time, if any, as a ruling of the Board of Directors or court of law permits."

Section 6. Amended or Supplemental Complaints

At any time prior to the hearing date, the Board of Directors may file or permit the filing of an Amended or Supplemental Complaint. All parties shall be notified thereof in the manner herein provided. If the Amended or Supplemental Complaint presents new charges, the Board of Directors shall afford the respondent a reasonable opportunity to prepare a defense thereto.

Section 7. Constraints on the Board of Directors

It shall be incumbent upon each member of the Board of Directors to make a determination as to whether he is able to function in a disinterested and objective manner in consideration of the case before the Board of Directors. Any member incapable of such objective consideration of the case shall disclose such to the Board of Directors and remove himself

from the proceedings and have it so recorded in the minutes. The President shall also have the authority to remove a member of the Board of Directors from a hearing with the concurrence of the Board of Directors.

In any event, the respondent may challenge any member of the Board of Directors for cause, where a fair and impartial hearing cannot be afforded, at any time prior to the taking of evidence and testimony at the hearing. In the event of such a challenge, the Board of Directors shall determine the sufficiency of the challenge. If the Board of Directors cannot meet to consider the challenge prior to the scheduled hearing, the hearing shall be postponed until after such a determination is made by the Board of Directors. All decisions of the Board of Directors in this regard shall be final.

Section 8. Hearing

- A. Whenever the Board of Directors has commenced to hear a matter and a member of the Board of Directors is forced to withdraw prior to a final determination, the remaining members shall continue to hear the case. Oral evidence shall be taken only on oath or affirmation administered by an officer or official of the Association.

- B. Each party shall have these rights:
 - (1) To call and examine witnesses;
 - (2) To introduce exhibits;
 - (3) To cross-examine opposing witnesses; and
 - (4) To rebut the evidence against him.

Even if respondent does not testify in his own behalf, he may still be called and examined as if under cross-examination.

- C. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.

- D. Neither the complainant nor the respondent must be in attendance at the hearing, but the Board of Directors shall be entitled to make inferences from the unexplained absence of any party. At the request of the complainant or respondent, the hearing shall be conducted in executive session.

- E. If the President of the Board of Directors or the Chairman of the Architectural Control Committee does not serve as the hearing officer, the Board of Directors shall select a person to serve as hearing officer and preside over the hearing. Such person need not be a Lot Owner or a member of the Board of Directors. At the beginning of the hearing, the hearing officer shall explain the rules and procedures by which the hearing is to be conducted. Generally, the parties are each entitled to make an opening statement, starting with the complainant. Then, each party is entitled to produce evidence, witnesses, and testimony and to cross-examine the witnesses and opposing party. Then, each party is entitled to make a closing statement. Any party may waive the rights to exercise any part of this process, and the Board of Directors is entitled to exercise its discretion as to the specific manner in which the hearing will be conducted, so long as the above rights are protected.

- F. After all documentary evidence and testimony has been presented to the Board of Directors, the Board of Directors shall vote on the issue. Such vote may be conducted in executive session. Agreement of a majority of the participating members of the Board of Directors shall be required for a decision. The decision shall be made as promptly as possible after the hearing and a written ruling shall be issued by the Board of Directors to the parties. A summary of the decision, excluding names, may be included in the newsletter.

Section 9. Self-Help, Suspension of Privileges and Assessment of Charges

- A. The Board of Directors, pursuant to Article VI, Section 6.17 of the Millwood Estates Homeowners' Association Declaration, may, after a hearing as provided in this Resolution, enter upon the Lot of a

violating owner and perform corrective action all at the cost and expense of the Lot owner. Such entry to correct a violation shall not constitute trespass by the Board of Directors or its agents.

- B. Disciplinary action imposed by the Board of Directors may include suspending or conditioning the respondent's and his family's or tenant's right to use facilities or non-essential services offered by the Association for non-payment of assessments to the extent that access to the Lot through the common area is not precluded. Any such suspension shall be during any period-in which such Lot Owner is in default in the payment of any assessment or charge provided for in the Declaration for a period in excess of thirty (30) days. Such rights may also be suspended for infraction of the Declaration, the Bylaws or the Rules and Regulations, and until such infraction is cured.
- C. The Board of Directors may also assess charges against Lot Owners, after a hearing as provided for in this Resolution, for violations of the Association's rules and regulations. The charge shall not exceed Ten Dollars (\$10.00) per day for a continuing offense or Fifty Dollars (550.00) for a single offense. Any charges made pursuant to this Section shall be collectible as an assessment.
- D. Such other sanctions or corrective action may be imposed or required in the discretion of the Board of Directors, subject to limitations of law and as contained in the governing documents.

II. REQUESTS FOR RECONSIDERATION AND APPEALS

Section 1. Rights of Petitioning Lot Owners

Any Lot Owner may submit in writing, within thirty (30) days of the date of the letter issuing the Board of Directors' decision, a request that the Board of Directors reconsider its decision, if new or additional information might clarify the matter. The Board of Directors may determine, based upon information submitted with the request for reconsideration, whether to reopen the matter and shall respond to the parties and, if appropriate, schedule a new hearing to be noticed and held in accordance with the provisions of this Resolution, including the rendering of a final decision.

Section 2. Delegation to Committee

The Board may delegate the hearing and decision responsibility hereunder to a committee (hereinafter, the "Hearing Committee") which shall fulfill its hearing responsibility in accordance with all of the provisions stated in this Resolution, and all references to the Board of Directors shall be construed to mean the Hearing Committee in Part I of this Resolution. Decisions of the Hearing Committee may be appealed to the Board in accordance with the following sections.

Section 3. Appeal to the Board of Directors

The decision of the Hearing Committee may be appealed to the Board in accordance with the following sections. If a Lot Owner wishes to appeal the decision of the Hearing Committee, the Lot Owner must notify the Board in writing within ten (10) days of the Hearing Committee's final decision.

Section 4. Notice of Hearing

Notice of hearing shall be provided as if for the hearing on the original complaint except that it will be served by the Board of Directors.

Section 5. Procedures

- A. It shall be incumbent upon each member of the Board of Directors to make a determination as to whether he is able to function in a disinterested and objective manner in consideration of the appeal before the

Board of Directors. Any member incapable of such objective consideration of the appeal shall disclose such to the Board of Directors and remove himself from the proceedings and have it so recorded in the minutes. The remaining members shall hear the appeal without respect to quorum. In any event, the parties to the appeal may challenge any member of the Board of Directors for cause, where a fair and impartial hearing cannot be afforded, at any time prior to the taking of evidence and testimony at the hearing. The Board of Directors shall meet to determine the sufficiency of the challenge. If a majority of the Board of Directors sustains the challenge, the remaining members shall hear the appeal without respect to quorum.

B. The Board of Directors may decide to hear arguments from the parties on the appeal or allow the Hearing Committee's decision to stand. The appeal shall be heard only if it is alleged that:

- < Proper review procedures were not followed by the Hearing Committee.
- < A fair hearing was not given by the Hearing Committee.
- < The Hearing Committee's decision was arbitrary and had no rational basis.

If the appeal is denied, such denial is, in effect, an affirmation by the Board of Directors of the Hearing Committee's decision and is the final word on the matter within the Association.

C. If any appeal is based upon substantially new information pertaining to the original Hearing Committee case or substantially new evidence pertaining to same, it shall not be heard by the Board of Directors, but shall be returned to the Hearing Committee for reconsideration.

D. The Board of Directors shall render a decision, through a vote of the majority of the Board of Directors hearing the appeal and present at such hearing, within a reasonable time. That decision shall be the final word within the Association on the matter.

Section 6. Effect of Decision

The Board of Directors may uphold the Hearing Committee's decision in its entirety, may amend such decision (except that where a Hearing Committee decision includes a penalty, the Board in no event shall impose more stringent disciplinary action than that imposed by the Hearing Committee), or may overturn such decision.

This Resolution is intended to serve as a protection to Lot Owners and residents to ensure that their rights are protected and to serve as a guideline for the Board of Directors in enforcing the governing documents.

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

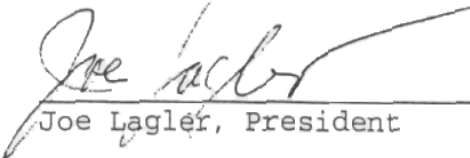
Any inadvertent omission or failure to conduct any proceeding in exact conformity with this Resolution shall not invalidate the results of such proceeding, so long as a prudent and reasonable attempt has been made to ensure due process according to the general steps set forth in this Resolution.

Section 8. Legal Action

Notwithstanding any provision of this Resolution, the Association may initiate legal action at any time without following the procedures set forth herein if, in the judgment of the Board of Directors, the interests of the Association so require.

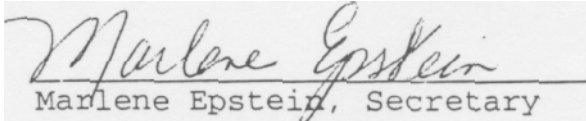
MILLWOOD ESTATES HOMEOWNERS' ASSOCIATION

By:


Joe Lagler, President

ATTEST:

I hereby certify that the foregoing Resolution was adopted by the Board of Directors of Millwood Estates Homeowners' Association, Inc. at a duly constituted meeting on this 6th day of April, 1999.


Marlene Epstein, Secretary

MILLWOOD ESTATES HOMEOWNERS ASSOCIATION, INC.

RESOLUTION ACTION SHEET

Resolution Type: Policy Number: 99-1

Subject: Establishing Due Process Procedure

Duly adopted at a meeting of the Board of Directors held on April 6, 1999.

Motion by: Tom Rupp

Seconded by: Stew Dorris

<u>Vote</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
<u>Joe Lagler</u> Joe Lagler, President	√	—	—	—
<u>Stew Dorris</u> Stew, Dorris, Vice President	√	—	—	—
<u>Bill Sloan</u> Bill Sloan, Director	√	—	—	—
<u>Ron Woodward</u> Ron Woodward, Director	—	—	—	√
<u>Tom Rupp</u> Tom Rupp, Director	√	—	—	—

Attest:

Marlene Epstein
Marlene Epstein, Secretary

File:

Book of Minutes - 1999

Book of Resolution: Book No. Page No.
 Policy
 Administrative
 Special
 General

Resolution effective: , 1999
 Policy resolution 3-11