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Jeffrey M. Parrott, County Clerk
Sussex County, NJ

PLEASE RECORD AND RETURN TO:
LAW OFFICES OF ARNOLD J. CALABRESE
A Professional Corporation
25B Hanover Road, Suite 120
Florham Park, New Jersey 07932

**ROLLING HILLS CONDOMINIUM ASSOCIATION, INC.
RESOLUTION RELATING TO ESTABLISHMENT OF AN
ALTERNATE DISPUTE RESOLUTION AND DUE PROCESS PROCEDURES**

WHEREAS, this Resolution made this 10th day of August, 2015, by Rolling Hills Condominium Association, Inc., a non-profit corporation located in the Township of Andover, County of Sussex, in the State of New Jersey.

WHEREAS, by the Master Deed dated December 15, 1983 and recorded May 31, 1983, in the Office of Sussex County Clerk in Deed Book 1114, Page 109, et seq.; said Master Deed was re-recorded on December 20, 1983, in Deed Book 1155, Page 201, and as amended, the condominium has been established upon certain lands in the Township of Andover, County of Sussex and State of New Jersey, all pursuant to N.J.S.A. 46:8B-1, et seq.; and

WHEREAS, Section 46:8B-13d of the Condominium Act of New Jersey provides that the By-Laws of an Association may provide a method for the "enforcement of reasonable administrative rules and regulations relating to the operation, use, maintenance and enjoyment of the Units and of the common elements including limited common elements"; and

WHEREAS, pursuant to N.J.S.A. 46:8b-14 (k), "An association shall provide a fair and efficient procedure for the resolution of housing-related disputes between individual unit owners and the association, and between unit owners, which shall be readily available as an alternative to litigation. A person other than an officer of the association, a member of the governing board or a unit owner involved in the dispute shall be made available to resolve the dispute. A unit owner may notify the Commissioner of Community Affairs if an association does not comply with this subsection. The commissioner shall have the power to order the association to provide a fair and efficient procedure for the resolution of disputes."

WHEREAS, it is the intent of the Governing Board to establish procedures consistent with the principles of due process in the event the Board must take action to enforce the provisions of the Governing Documents or if a Unit Owner has a concern with the non-discretionary actions of the Governing Board or another owner or resident;

NOW, THEREFORE, BE IT RESOLVED THAT the following resolution process be adopted to provide for due process with this Resolution taking the place of all prior due process resolutions:

I. DEFINITIONS:

The Book of Resolutions will incorporate by reference all definitions contained in the enabling statute, applicable rules and regulations promulgated by the New Jersey Department of Community Affairs, and the Governing Documents, as the case may be. The terms defined below will also be used:

- A. "Board"** means the Board of Directors or Trustees for **Rolling Hills Condominium Association, Inc.**

- B. **“Association”** means **Rolling Hills Condominium Association, Inc.** provided for by the Master Deed and By-Laws which shall be responsible for the administration and management of the property, including but not limited to the conduct of all activities of common interest to the Owners. The Association may be an entity recognized by the laws of New Jersey, including, but not limited to, a business corporation or a nonprofit corporation.
- C. **“ADR Committee”** shall mean the ADR Committee or selected Mediator.
- D. **“Complainant”** shall mean any Unit Owner, Resident (as to rule violations only), or the Board or Managing Agent (as agent of the Board), who files a Complaint against any Respondent.
- E. The terms **“Owner”** or **“Unit Owner”** means the owner or owners of a unit named on the Deed to the Unit in the Association or holding ownership by other means such as a testamentary trust or corporate representatives.
- F. **“Governing Documents”** means the Master Deed, Articles of Incorporation, By-Laws, Rules and Regulations of the Association and Book of Resolutions, collectively, for the Association as from time to time amended.
- G. **“Respondent”** shall mean the Unit Owner, Resident or Board who is the subject of the Complaint.

II. COMPOSITION AND PURPOSE OF THE ADR COMMITTEE

- A. The ADR Committee shall consist of three (3) Members who shall be either: (i) Unit Owners appointed by the Board; or (ii) Board Members serving local condominium associations. As an alternative, no less than one arbitrator/mediator certified by the New Jersey Chapter of the Community Associations Institute to conduct ADR hearings and mediations (hereinafter **“Certified Mediator”**) shall be appointed.
- B. No ADR Committee Member shall be an officer, Board member or employee of the Association.
- C. Each ADR Committee Member appointed by the Board shall serve on the Committee at the will of the Board of Directors.
- D. The purpose of the ADR Committee is to attempt to resolve disputes between Unit Owners/residents or between the Association and Unit Owners/residents without the need for litigation.

III. PROCEDURES TO RESOLVE DISPUTES:

- A. **Informal Actions.** Before any formal process is initiated against an Owner/resident to enforce compliance with the Governing Documents, or by an Owner against the Association/ Board, the Complainant may request that the Association’s manager send an informal notice to the Respondent requesting that they cease or correct the act or omission which is alleged to be in violation of the Governing Documents. A copy of the Complainant’s request and notice may be sent to any active ADR Committee.

- B. Written Complaint.** If informal action is not taken or proves unsuccessful, a Complainant may file a signed written complaint with the Association. The complaint must set forth in clear and concise language the acts or omissions with which the Respondent is charged and must be as specific as possible as to times, dates, places, and persons involved. The complaint should specify the provisions of the Governing Documents including any rules and regulations or resolutions which the Respondent is alleged to have violated.
- C. Preliminary Investigation.** Upon receipt of a written complaint, the Board may request the managing agent of the Association (the "Managing Agent") make a preliminary investigation and promptly report the results of the same to the Board. If a resolution of the alleged violation has been reached, the Board shall request that the complaint be withdrawn. If a complaint is made about the actions/inactions of another owner, and the Board finds those actions/inactions to be violations of the governing documents, the Board will inform the Complainant that the Association will be taking enforcement action directly and the Complainant's request for ADR should be withdrawn or will be deemed withdrawn.
- D. Service of Notice of the Complaint.** If resolution of the complaint has not been achieved upon receipt of the written complaint by Complainant, the Managing Agent, or Association Attorney, shall serve a Notice of Complaint upon the Respondent by certified mail, return receipt requested, and regular mail, addressed to Respondent at the address appearing on the books of the Association. The Notice of Complaint may also be served upon the Respondent by personal service. The Notice of Complaint shall advise the Respondent that a fine will be assessed against the Unit of the Respondent and/or action will be taken to obtain compliance within 10 days from the date of the Notice of Complaint. The Notice of Complaint shall advise the Respondent that he/she has the right to an ADR hearing if requested by the Respondent within 7 days from the date of the Notice of Complaint. The Association may take no action unless the Respondent has been served as provided in this Paragraph. If certified mail is refused, but the regular mail is not returned, the Complaint will be deemed served. The Notice of Complaint should also request the Respondent to cease or correct the act or omission which is alleged to be in violation of the Governing Documents.
- E. Contents of the Notice of Complaint.** The Notice of Complaint should contain in clear and concise language the specific allegations of acts or omissions with which Respondent is charged, setting forth the times, dates, places, and persons involved, and the specific provisions of the Governing Documents, rules, regulations and resolutions which Respondent is alleged to have violated. A recommended form of Notice of Complaint is attached hereto.
- F. Commission of the Hearing.** If requested by the Respondent or Complainant, Management will provide a Notice of Hearing, which will set forth the time, place, and date of hearing, which shall be reasonably convenient to all parties with an effort to accommodate the schedules of the Owner. Management shall make reasonable efforts to select a mutually agreed upon date/time if the originally scheduled date/time is not convenient for the Owners. No penalties shall accrue during the period allowing Respondent to request a hearing as set forth in Section III (D) above. Once a proper request for ADR hearing is received, penalties and enforcement actions shall be stayed, unless (i) the Respondent does not agree to schedule a hearing within a reasonable period of time if the original hearing date is not convenient or (ii) an emergency seriously and

reasonably affects the health, safety and welfare of the residents requiring immediate enforcement. Any party may be present at the ADR hearing; may be represented by counsel; may have present a non-attorney to support and/or assist the party; may present any relevant evidence; may be given full opportunity to cross examine all witnesses testifying; may request the attendance of witnesses; and may request the production of books, documents, or other items by applying to the Board or Managing Agent. (Also, see Section III, K hereinafter). The ADR Committee should attempt to resolve the matter through a mediation effort.

- G. Amended or Supplemental Complaints.** At any time prior to the ADR hearing date, an amended or supplemental complaint may be filed. All parties must be notified in the same manner as required for an original complaint, and a new ADR hearing date shall be established at least 10 days after the new notification of the amended or supplemental complaint is made upon the parties.
- H. Discovery.** At any time after service of the Notice of Complaint, or amended or supplemental complaint, and prior to the ADR hearing date, either party may request the names and addresses of witnesses to be called, and copies of any statements, writings, and investigative reports to be introduced at the ADR hearing.
- I. Challenges to the ADR Committee and Qualification.** The ADR Committee does not act as an enforcement entity. Each member of the ADR Committee must be able to perform in a disinterested and objective manner in consideration of the case before the ADR Committee. If the ADR Committee member is not disinterested or cannot act objectively, that ADR Committee member must be disqualified and have it so recorded in the minutes of the ADR Committee. Any member of the ADR Committee may be challenged for cause by any other ADR Committee member, the Complainant, or the Respondent. Any Member in good standing may serve on the ADR Committee except for (i) an Officer, Board Member, (ii) an employee of the Association, (iii) the Manager or any member of the managing entity, or (iv) an Owner who may be involved in the dispute. If a Member of the ADR Committee is not in good standing, he/she is not eligible to vote on any ADR Committee matters until such Member's account is in good standing. If any ADR Committee member is not in good standing for a period of sixty (60) consecutive days, such ADR Committee member may be removed from the ADR Committee upon ten (10) days written notice by the Board.
- J. Default by Failure to Answer.** Respondent must answer the allegations in the Notice of Complaint, or amended or supplemental complaint, within seven (7) business days from the date of the Notice of Complaint or date of notice for the amended or supplemental complaint, and should be sent along with Respondent's request for a hearing. A Response Form is attached hereto. Failure to request a hearing in writing within seven (7) business days from the date of the Notice of Complaint, will be deemed a default unless there are extraordinary circumstances such as hospitalization or vacation. In the event of a default, the ADR Committee will not have to convene and a fine or action can be imposed or initiated based upon the allegations in the complaint. If an appearance is not possible by one party, a submission on the papers may be allowed by the ADR Committee.
- K. The ADR Hearing:**

1. No hearing shall take place or be conducted unless the ADR Committee present at the hearing consists of at least (i) a majority of the Committee members or (ii) one Certified Mediator.
2. If a Certified Mediator is not used, the ADR Committee shall select an impartial individual to preside as hearing officer over the ADR hearing. It is the duty of the hearing officer to explain the rules and procedures by which the ADR hearing is to be conducted. Generally, any relevant evidence may be admitted and hearsay evidence may be used to supplement or explain other evidence, but will not be sufficient in itself to support a decision. Counsel for the Association may be present at all hearings and may be used as the hearing officer.
3. Each party has the right to:
 - a. make a statement;
 - b. introduce evidence, testimony, and witnesses;
 - c. cross examine opposing parties and witnesses; and
 - d. rebut evidence and testimony.
4. Technical rules of evidence or procedures may be relaxed by the hearing officer who, nevertheless, may reserve the right to exclude all irrelevant, immaterial or repetitious evidence. The hearing officer also has the discretion to impose reasonable limits on the time allowed to testify and the number of witnesses.
5. If the Complainant does not appear at the hearing, the complaint will be dismissed with prejudice.
6. Oral evidence may be taken only on oath or affirmation administered by the hearing officer.
7. If a complaint is made about the actions/inactions of the Board or the Association at least one (1) Board Member must be present at the hearing, as well as any others the Association believes should be present.

L. Decisions. After an ADR hearing on any matter, the ADR Committee shall issue a written decision or mediation agreement on the matter within fifteen (15) days. If the matter is complicated, the Committee can, upon agreement by the parties, extend the due date. All decisions of the ADR Committee must be by a majority vote, if applicable. Copies of the decision must be delivered to the parties by certified mail, return receipt requested, and regular mail, addressed to the parties last known address appearing on the books of the Association. The decision may also be served upon the parties by personal service.

M. Penalties After Decision. Disciplinary action after decision may be imposed by the Board and may include the imposition of a fine or fines pursuant to Board Resolution establishing a system of fines and/or suspension of the Respondent's rights to vote and/or use of the Association amenities and recreational facilities as set forth in the Association's governing documents and/or Association selfhelp. For a continuing infraction, including, but not limited to, non-payment of any assessment after it becomes due, suspension of Respondent's rights may be imposed for as long as the infraction continues. Copies of the Board's decision on disciplinary action must be delivered to the Respondent by certified mail, return receipt requested, and regular mail, addressed to the

ROLLING HILLS CONDOMINIUM ASSOCIATION, INC.
NOTICE OF COMPLAINT

Case No. _____

Date _____

Name and Address of Complainant:

Name and Address of Respondents:

Provisions of Governing Documents Alleged to Have Been Violated:

Nature of Violations and Statement of Facts:

Fines Which May Be Imposed:

Sanction to be Imposed or Requested Reimbursement:

Attach additional sheets, if necessary.

WITNESS: _____

DATE _____

ROLLING HILLS CONDOMINIUM ASSOCIATION, INC.
RESPONSE

Case No.: _____

Date _____

Name and Address of Respondent:

Name and Address of Complainant:

Response to provisions of Governing Documents Alleged to Have Been Violated:

Response to alleged Violations and Statement of Facts:

This response should be sent to the Managing Agent within fifteen (15) business days from the date of the Notice of Complaint.

Attach additional sheets, if necessary.

WITNESS: _____

DATE _____

Respondent's last known address appearing on the books of the Association. The decision may also be served upon the Respondent by personal service

- N. Remedies. Owners and their tenants are strongly encouraged to exhaust all remedies provided by this Policy Resolution before resorting to a Court of Law for relief.

IV. CONSTRUCTION

- A. It is intended by the resolution to provide Respondents with "Due Process," which term used in this Resolution refers to the following basic rights:
1. Respondent will be notified of the alleged violations in writing including notification of the right to an ADR hearing and how to exercise that right;
2. Respondent will have an opportunity to be heard at an ADR hearing at which witnesses may appear and may be cross examined and at which evidence may be introduced;
3. Basic principles of fairness will govern.
B. Any inadvertent omission or failure to follow the procedures for Due Process in this Policy Resolution will not invalidate the results of any decision or ruling, as long as a prudent and reasonable attempt was made to assure the above basic Due Process rights.

V. REFERENCE OF PRONOUNS

All pronouns refer to the masculine, feminine, neuter, singular and plural as the identity of the person or entities may require.

CERTIFICATION

I hereby certify that the foregoing Resolution was duly adopted at a regular meeting of the Board of Trustees of ROLLING HILLS CONDOMINIUM ASSOCIATION, INC. held on the 10th day of August, 2015.

Phyllis Becker, Acting Secretary*

Virginia Kolstad, President

STATE OF NEW JERSEY)
) ss:
COUNTY OF SUSSEX)

BE IT REMEMBERED that on this 10th day of August, 2015, before me the subscriber, Notary Public or an Attorney at Law of the State of New Jersey, personally appeared Virginia Kolstad and Phyllis Becker, President and Secretary respectively, of Rolling Hills Condominium Association, Inc., a New Jersey nonprofit corporation, who, I am satisfied, are the persons named in and who executed the within Instrument, after notice and meeting upon a vote of the membership in accordance with the Condominium Instruments, and thereupon they acknowledged that they signed, sealed and delivered the same as the act and deed of the Association for the uses and purposes therein expressed.

*Acting Secretary

Gregory Vinogradsky
Attorney at Law of the State of New Jersey