

The Malvern Club, Inc.
PROCEDURES RELATIVE TO THE ASSOCIATION COMPLAINT PROCESS

RESOLUTION NO. 003 (2012-09-13)

Purpose: to establish rules that clarify the Association Complaint Process so that the Board of Directors and homeowners can be guided by a consistent policy.

Authorization: Virginia Code, Section 55-530(E), requires the Board of Directors to establish reasonable procedures for the internal resolution of written complaints from the members of the association and other citizens

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors duly adopts the following Complaint Process:

I. DEFINITIONS

Unless otherwise defined, the words, terms and phrases used in this policy document shall have the same meanings as defined in the Virginia Administrative Code, 18VAC48-70-10.

II. PROCEDURES

A. Complaints. The Association encourages Owners and residents to contact each other to discuss complaints before initiating formal procedures that involve the Board. If discussions fail, complaints must be made in writing using the Malvern Club, Inc. Complaint Form (Exhibit A). The form must include a cite to the particular provision(s) in Association's Declaration, Bylaws, or Rules and Regulations that the other Owner/Board of Director(s) has allegedly violated, along with specific allegations of fact sufficient to support a showing that the Owner, resident, or Board of Director(s) has violated the particular provision(s). Should the Board of Directors elect to proceed with enforcement action, the Board of Directors reserves the right to release to the respondent Owner and resident a copy of any and all complaints it receives. The Board must act on the Complaint within forty-five (45) days of receipt of a fully completed Complaint Form.

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1. The complainant has the sole responsibility to complete the form fully in accordance with the instructions on the form.
2. The form may be forwarded by postal mail or electronic means to the Board of Directors.
3. The Board of Directors will acknowledge receipt of the completed complaint form within seven days of receipt by hand delivery or mailed by certified mail, return receipt requested.
4. The Board of Directors will return a form deemed incomplete or improperly completed within seven days of receipt, indicating the corrections necessary for the form to be returned for action by the Board of Directors.

B. Board of Directors. Upon receipt of the signed complaint form, the President of the Board of Directors will promptly oversee distribution of copies of the complaint to the Board of Directors. The Board will determine whether it has the authority and means by which to proceed with an investigation into the complaint. Should the Board decide to proceed, they will distribute copies of the complaint to the Owner, with a copy to any tenant, against whom the charge is made. The Board of Directors will have forty five (45) days to review, consider and then respond to a correct complaint form received by the Board of Directors.

III. LIMITATIONS AND OTHER REMEDIES

A. Police. The County Sheriff's office (hereinafter the "police" or "law enforcement") may enforce the law against violations of noise or other local ordinances without regard to any other remedies available in the Association's Declaration, Bylaws or Rules and Regulations. The law enforcement officers are specifically permitted to enter upon the Common Elements to enforce the law, and any Owner or resident may call the Police for any violation without regard to other remedies available in the Association's Declaration, Bylaws, or Rules and Regulations.

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IV. EXHAUSTION OF REMEDIES

A. The complainant will be informed prior to the Board of Directors meeting at which the complaint will be considered. The complainant may attend or request postponement if the complainant is willing but unable to attend. If there is sufficient information to make a decision, the Board shall make a final determination on the complaint by simple majority vote. The Board has the option to convene an “executive session” to discuss the complaint prior to voting in open session. At the Board’s option, direct and indirect costs may be assessed to the Complainant so long as the majority of the Board agrees that the complaint is found to be without merit.

B. The Board shall provide a written response (the Final Determination), setting forth the decision of the Board within seven (7) calendar days of the meeting by hand delivery or mail. The Owner may file an appeal of the decision by the Board of Directors. The appeal must be done, in writing, within ten (10) days of the issuing date of the Board's final determination letter.

C. The Board shall review and act upon any request for an appeal promptly submitted by a party who is determined to have standing. The Board shall review the appeal, schedule and conduct a meeting within fifteen days (15) of receipt in order to provide the Owner with an opportunity to be heard. Written meeting results must be mailed to the Complainant and or Owner within seven (7) calendar days of the meeting.

D. The Board of Directors may submit a written request for additional information from the Complainant. If the Complainant fails to provide the requested information within the Board requested timeframe, the Board shall treat the complaint as though it had not been resubmitted.

E. Ninety days after an initial decision is made and communicated by mail to the Owner or Complainant, the determination of the Board shall be deemed a Final Decision not subject to revision, modification, or reversal without unanimous agreement of the full Board of Directors.

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V. WRITTEN RESPONSE

A. A written response by email or letter shall be provided to all Complainants by the Board of Directors. The written response is to be deemed a Board Determination letter and subject to the provisions of Paragraph IV.

B. All written responses to the Complaint Form from the Board shall include notice to the Owner that Virginia Code and regulation provide the Complainant with thirty (30) days to file a written Complaint with the office of the Common Interest Community Board (“CIC Board”) Ombudsman from the date of the final, adverse Board Determination letter, where the Complainant believes that Virginia laws may have been violated.

This Resolution supplements and expressly does not supersede all previously adopted Resolutions governing enforcement procedures.

I hereby certify that this Policy Resolution was adopted by the Board of Directors on the 13th day of September, 2012.

The Malvern Club, Inc.

By:

_____/s/_____

Roberta Jalbert, President

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POLICY RESOLUTION NO. 003 (2012-09-13)

Exhibit A

MALVERN CLUB, INC. COMPLAINT FORM

[This form must be completed signed/dated on each page by the complainant]

Please deliver your complaint via United States Postal Service Mail, hand-delivery, or by electronic mail to the Association using the following information:

The Malvern Club, Inc.
c/o President
905 Malvern Dr.
Madison, Virginia, 22727 or

malvernhoa@malvernofmadison.org

Name of Complainant(s): _____

Mailing Address: _____

Address of Property located within the Association if different than mailing address:

Phone: (Home) _____ (Work) _____

(Mobile) _____ (Email) _____

Please describe the nature of your complaint and cite any provisions of the Association Documents or Virginia Code that is the basis for your complaint:

Date _____ Signature _____

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Name and address of persons that are the subject of Complaint:

Be advised, the Association may elect not to take action on any complaint which does not conform to the above-referenced delivery requirements or include the requested information on this form.

Upon receipt of your complete, written complaint, the Association will begin investigation of your complaint. The Association will maintain a record of your complaint for one year from the date upon which it takes action to resolve your complaint.

The Office of the Common Interest Community Ombudsman ("Office") is a governmental body, which may assist you in using the complaint procedures set forth in the Association's governing documents, as well as the Virginia Property Owners' Association Act.

In accordance with the Common Interest Community Board's ("CIC Board") rules and procedures and VA Code § 55-530, you may give notice to the CIC Board of any final adverse decision which the Association may make regarding your complaint. You must file the notice within 30 days of the final adverse decision. Your notice must be in writing on forms prescribed by the Commonwealth Board, shall include copies of all records pertinent to the decision, and shall be accompanied by a \$25 filing fee. The Commonwealth Board may, for good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will cause you undue financial hardship. For more information or to submit a complaint to the Common Interest Community Ombudsman, please contact:

Office of the Common Interest Community Ombudsman
Department of Professional and Occupational Regulation
9960 Mayland Drive
Suite 400
Richmond, Virginia 23233-1463
Email: CICombudsman@dpol.virginia.gov

Anonymous complaints will not be accepted nor acted upon.

Date _____ Signature _____

To be completed by Association representative only Malvern Use: Complaint# _____ Year _____

Received by: _____

Date: _____

Date Final Board Action taken: _____

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RESOLUTION ACTION RECORD

Resolution Type: Policy No. 003 (2012-09-13)

Pertaining to: Internal Complaint Policy.

Duly adopted at a meeting of the Board of Directors held September 13, 2012.

MOTION BY: Donna Phillips

SECONDED BY: Wallace Harvey

OFFICER	TITLE	YES	NO	ABSTAIN	ABSENT
Roberta Jalbert	President	x			
Randell Allen	1 st Vice President	x			
Joseph Graham	2 nd Vice-President	x			
Donna Phillips	Treasurer	x			
Edward Johnson	Secretary			x	
Wallace Harvey	Member At Large	x			
Paul Hankla	Member At Large	x			

ATTEST: /s/ Edward Johnson Secretary September 13, 2012 Date