

# NELSON FARM HOMEOWNER'S ASSOCIATION

## POLICY

### REGARDING ALTERNATE DISPUTE RESOLUTION

#### **PURPOSE:**

The purpose of this document is to adopt a standard procedure to be followed for alternative dispute resolution. The verbiage in this document is also contained in the policy document entitled "Enforcement of Covenants, Rules and Architectural Standards" adopted by the Board of Directors September 22, 2005

#### **RESOLUTION:**

The Association hereby adopts the following policy:

#### **BOARD HEARING:**

In order to allow the Owner receiving the Notice of Violation an opportunity to voice their concerns, a hearing will be offered by the Board before imposing any fines. This informal hearing will state the rule allegedly violated and the possible penalty (e.g., fine). The hearing will use the following rules: 1) All remarks are to be addressed to the chair of the Board, 2) Complaining witness(es) speaks first and/or presents evidence, if any, 3) Board may then ask that person questions, 4) Alleged violator speaks next and/or presents evidence, if any, 5) Board may then ask that person questions, 6) Chair asks if anyone else has anything to say, 7) Panel will then adjourn and deliberate in private, 8) Written decision will be issued the following day unless mitigating circumstances prohibit this decision.

#### **REQUEST FOR CONFLICT RESOLUTION:**

Any owner who believes the Notice was sent in error, or who feels there are mitigating circumstances, has the right to request a hearing before the Resolution Committee (RC). To request a hearing, the Owners must contact the Management Company within ten days of the Board hearing. The Management Company will contact the Resolution Committee and set a date for the hearing convenient for the involved parties. If the hearing for whatever reason cannot be held prior to the date when the fine is otherwise scheduled to commence, the date the fine begins shall be extended to the day following the hearing.

The RC is made up of Board members at this time. At a future date, the Board may decide to appoint other interested Homeowners as RC members with a Board Member as a liaison. Either the RC or the Owners may seek the assistance of the City of Fort Collins Community Mediation Program. The Board and the RC will decide if any potential conflict of interest might exist on a case-by-case basis.

The purpose of the hearing is three-fold:

1. To determine if a mistake was made in issuing the Notice.
2. To determine if there are mitigating circumstances.
3. To make arrangements for bringing the violation into compliance over a prolonged time if it seems warranted.

The Resolution Process will not and cannot be used to determine the desirability of a particular provision of the governing documents.

The general procedure for a Resolution Hearing is as follows:

1. The Presiding member of the RC will:
  - Establish a quorum
  - Explain the rules, procedures and guidelines for conducting the process.
  - Describe the nature of the violation as specified in the Notice.

2. The Owner may then provide rebuttal to the Notice using witnesses or any other salient information deemed relevant and necessary.

3. After all testimony and other evidence have been presented, the RC shall decide whether or not the Notice was justified, or whether there are any mitigating circumstances. If the RC finds the Notice was justified, a penalty shall then be assessed or mutually agreeable arrangements made with the Owners to ensure compliance in the future. If the RC finds the Notice was not justified, no penalty shall be assessed.

**PENALTIES NOT EXCLUSIVE REMEDY:**

Penalties levied under this policy are not the Association's exclusive remedy for addressing a violation. Nothing in this policy precludes the Association from pursuing any other remedy provided under the Association Documents or under law for correcting the violation.

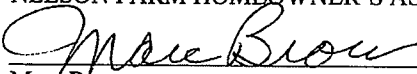
Neither the Association nor the Owner waives any right to pursue whatever legal or other remedial actions available to either party.

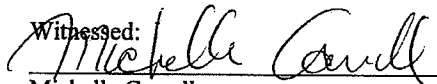
**AMENDMENT POLICY:**

This document is written with the knowledge that it may be required, from time to time, to be amended or modified to be congruent with NFHOA member concerns or to be congruent with changes in City, County or State law. Refer to the NFHOA policy document titled "Adoption and Amendment of Policies, Procedures and Rules".

IN WITNESS WHEREOF, the undersigned certify that this RESOLUTION was adopted by the Board of Directors of this association on this 30<sup>th</sup> day of November 2006.

NELSON FARM HOMEOWNER'S ASSOCIATION by:

  
\_\_\_\_\_, President  
Marc Brown

Witnessed:  
  
\_\_\_\_\_, Secretary  
Michelle Carroll