

## MEMBER CONFLICT POLICY

The following policy was adopted by the Board of Directors of The Charterwood Association ("the Association") pursuant to Colorado law at a regular meeting of the Board.

### RECITALS:

- A. Pursuant to Colorado Revised Statute 38-33.3-124(1)(b), the Association is required to adopt a policy concerning how to handle conflicts between the Unit/Lot Owners and the Association.
- B. The Executive Board has reviewed the provisions of the Colorado Common Interest Ownership Act and believes that Subsection 124 establishes a good basis for resolving disputes between Unit/Lot Owners and the Association.
- C. It is acknowledged that both Members and the Association have a responsibility to comply with: 1) the provisions of the Colorado Common Interest Ownership Act; 2) the provisions contained in the Articles of Incorporation, the Bylaws, and the Declaration; and 3) reasonable Rules and Regulations, Policies and Procedures and Design Guidelines.
- D. The Association has a responsibility to apply the provisions of the above-cited documents uniformly and use business judgment and reasonable diligence to resolve conflicts between the Association and its Members.

### THEREFORE, IT IS RESOLVED:

In the event that a conflict should arise between Unit/Lot Owner, or Owners, and the Association, the following procedure shall apply:

### HEARING:

1. In the event that a conflict arises between a Member and the Association, either a Unit/Lot Owner or the Association may request a hearing. Any such request must be in writing, and mailed: to the Unit/Lot Owner(s) addressed to the Unit/Lot within the community, unless written notice of an alternate address has previously been provided to the Association; or to the Association addressed to the current Community Manager or to the Registered Agent for the Association as reflected in the records of the Colorado Secretary of State.
2. The hearing shall be set for a mutually convenient date, or at the next Association meeting, not longer than 30 days after request for a hearing is made.

#### MEDIATION:

3. Any controversy between an Association and a Unit/Lot Owner arising out of the provisions of the Association's governing documents (Articles of Incorporation, Bylaws, Declaration, Rules and Regulations, Policies and Procedures, Design Guidelines, etc.) or the Colorado Common Interest Ownership Act may be submitted to mediation by either party to the controversy. The submission to mediation must be prior to the commencement of any legal proceeding, once there has been a good faith effort to hold such a hearing as described above.
4. The parties should decide upon a mutually agreeable mediator. The mediator need not be licensed as a mediator. The parties may be, but do not need to be, represented by counsel at the mediation.
5. The parties shall, unless otherwise agreed to, split the cost of mediation, excluding attorney fees, for which each party shall pay their/its own.
6. The mediation agreement, if one is reached, may be presented to the court as a stipulation. Either party to the mediation may terminate the mediation process without prejudice.
7. If either party subsequently violates the stipulation, the other party may apply immediately to the court for relief, and seek reimbursement of all costs including attorney fees.

#### LITIGATION:

8. If a conflict has not been resolved by the hearing or mediation, nothing in this provision precludes any party from pursuing his rights in a Court of Law or equity.
9. If a dispute impacts the health, safety, or welfare of the community, the real estate, or the Members, the Association may proceed to a Court of Law or equity without scheduling a hearing or mediation.

#### MISCELLANEOUS:

10. No provision herein shall apply to the collection of Homeowner Association assessments as that term is defined in 38-33.3-316(1) C.R.S.
11. This policy is not intended to pertain to disputes between Unit/Lot Owners. In the event of a dispute between Unit/Lot Owners, the Association recommends the Unit/Lot Owners attempt to resolve the dispute between themselves, employing mediation if necessary.
12. In the event the Unit/Lot Owners are unable to resolve their dispute and the dispute is based on a violation of the Association's governing documents, the

complaining Unit/Lot Owner may institute a written complaint with the Association consistent with the Association's Enforcement Policy.

Policy adopted this 16<sup>th</sup> day of January, 200~~7~~<sup>8</sup> by Resolution of the Board of Directors of The Charterwood Association.

By Richard M. Forester

Its President