

COUNTRYSIDE PROPRIETARY, INC.

ADMINISTRATIVE RESOLUTION 289

(Creation of Procedures to Ensure Due Process in Enforcement Cases)

WHEREAS, Article VI, Section 7 of the Bylaws of the Countryside Proprietary, Inc. (“Bylaws”) states that the Board of Directors (“Board”) shall have all powers for the conduct of the affairs of the Countryside Proprietary, Inc. (“Proprietary”) which are enabled by law, the Declaration, and the Articles of Incorporation which are not specifically reserved to Members or the Declarant; and

WHEREAS, Article IV, Section 1(d) of the Amended Declaration of Covenants and Restrictions (“Declaration”) states that a Member’s right and easement of enjoyment in and to the common areas is subject to the right of the Proprietary to suspend the voting rights and the rights to use the common areas for any period during which any assessment remains unpaid and for any period not to exceed sixty (60) days for any infraction of any of the published rules and regulations of the Proprietary; and

WHEREAS, Article VI of the Declaration”) charges the Design Review Committee (“DRC”) or its designates with the powers of review, approval, and disapproval of all architectural and design requests; and

WHEREAS, Article VI, Section 11 of the Declaration states that in the event any violation or attempted violation of any of the covenants or restrictions contained in the Declaration shall occur or be maintained on any Lot, or in the event of any other conduct in violation of any of the provisions or requirements of the Declaration, then the same shall be considered to have been undertaken in violation of the Declaration and without approval of the DRC, and upon written notice from the DRC, such violation shall be promptly removed or abated; and

WHEREAS, Article VI, Section 11 of the Declaration further states that in the event a violation is not removed, terminated, or abated within fifteen (15) days (or such shorter period as may be required in any such notice) after notice of such violation has been delivered to the owner of a Lot upon which such violation exists or to the member responsible for such violation if the same shall be committed or attempted on premises other than the Lot owned by such member, then the Proprietary shall have the right, through its agents and employees (but only after a resolution of the DRC) to enter upon such Lot to take such steps as may be necessary to remove or otherwise terminate or abate such violation and the costs thereof may be assessed against the Lot upon which such violation occurred; and

WHEREAS, Section 55.1-1819 of the Virginia Property Owners’ Association Act (“Act”) sets forth certain remedies and due process requirements as related to enforcement of the terms of the Proprietary’s Documents against Members; and

WHEREAS, the Board of Directors has determined that it is in the best interest of the Proprietary for the Board to clarify and refine its enforcement procedures and the rights of members to due process in connection with those procedures; and

NOW, THEREFORE, BE IT RESOLVED THAT the Board hereby adopts the following due process procedures (“Resolution”).

I. PROCEDURES

A. **Complaints.** Complaints may be submitted by residents to the DRC, Management, and/or the Board of Directors. If possible, complaints should identify the specific provisions in the Proprietary Documents that allegedly have been violated. Complaints must also specify the date, time, place and person(s) involved in order for the Association to initiate an investigation under the terms of this Policy.

B. **Preliminary Investigation.** Upon receipt of a complaint under Paragraph I.A., Management shall make a preliminary investigation to determine if there are reasonable grounds to believe that a violation has or is occurring.

C. **Informal Resolution.** Before instituting formal due process procedures, the Board may attempt to resolve the subject matter contained in a Complaint informally.

II. DUE PROCESS

A. **Initial Notice of Violation.** If there are sufficient grounds to believe that a violation has occurred following receipt of a Complaint and completion of a preliminary investigation, the Board, through Management, shall provide a written notice and opportunity to cure (“Notice of Violation”) to the offending Member by first class mail and e-mail at the address on record with the Proprietary. Notice of Violation also may be provided to the Occupant, if applicable, but the Member bears the obligation to notify the tenant and resolve the alleged violation. Notice of Violation shall specify the nature of the alleged violation and the related provision(s) of the Proprietary Documents that are alleged to have been violated. Notice of Violation shall provide a reasonable time to cure the alleged violation, which may vary depending on the nature of the violation. If the alleged violation constitutes a health, safety or other hazard to other people or property, the period for correction shall be appropriate to the level of the potential threat and shall not obstruct the Board from taking emergency steps to mitigate danger or loss to person or property.

B. **Second Notice of Violation and Notice of Hearing.** If the Member and/or Occupant does not remedy the offense within the number of days requested in the Initial Notice of Violation or if the offense is urgently in need of correction to prevent further damages or poses a hazard, the Board reserves the power to issue a Second Notice of Violation and Notice of Hearing, which shall follow the basic form of the Initial Notice of Violation and include any additional information deemed important by the Board concerning the offense. The Second Notice of Violation and Notice of Hearing shall include the time, date and place of the hearing before the Board, which hearing date shall be determined at the Board’s discretion. Such Notice

shall be delivered by e-mail and mailed by registered or certified mail, return receipt requested at the address on record with the Proprietary, at least fourteen (14) days in advance of the hearing date to the Member and/or tenant's address listed in the Proprietary's records, and may also be sent to the property address, if the Member's listed address is different from the property address. The Proprietary will deem notification effective if any Member and/or Occupant fails or refuses to sign for any registered or certified mailing from the Proprietary.

The Second Notice of Violation and Notice of Hearing shall inform the Member and/or Occupant that at the hearing, the Board shall provide the Member and/or Occupant with a reasonable amount of time to present any and all defenses to the citation and that the Member and/or Occupant may have counsel present at the hearing. The notice shall also inform the Member and/or Occupant of all remedies that the Board may pursue if a violation is found, including filing a lawsuit for injunctive relief to compel compliance with the Proprietary's Documents.

C. Hearing. Hearings shall be held before the Board, which may be held either in person or electronically, and shall be held either in open session or executive session, at the Board's discretion. If the Member is not present, the hearing shall proceed in the Member's absence. If the Member is present, the Board shall present the Member with the facts related to the alleged violation and the Member shall have a reasonable amount of time to be heard, to present information which bears on the alleged violation, and to present and cross-examine witnesses. The hearing need not be conducted according to the technical rules of evidence applied in a court of law. Following the hearing, the Board may meet in executive session, if necessary, to determine whether satisfactory proof of the alleged violation was presented, and if so, whether remedial action should be taken. Once a decision is made, the Board shall announce its decision in Open Session.

D. Notice of Hearing Results. After the hearing, the Board shall provide Notice of Hearing Results to the Member and/or Occupant. Notice of Hearing Results must be delivered by hand or by registered or certified mail, return-receipt requested within seven (7) days following the hearing date and identify the decision and/or remedial action that the Board determined to take at the hearing.

E. Remedial Actions. In accordance with the authority established in the Proprietary Documents and authorized by the Act, the Board may impose the following remedial actions to encourage compliance by an offending Member:

1. Exercise self-help to abate or remove the violation and assess the costs of such action to the Member, in accordance with any terms of the Proprietary Documents. For any action that requires access to a Lot, the Proprietary will provide appropriate prior notice to the Member before entering the Lot, unless an emergency exists;
2. Suspend the member(s) voting rights and rights to use of common areas in accordance with Article IV, Section 1(d) of the Declaration; and
3. File suit for injunctive relief or other relief if permitted by law; and

4. Such other remedies afforded under Virginia law and the Proprietary Documents.

III. MISCELLANEOUS

A. Household Members. The Board reserves the power to hold the Member and/or Occupants legally responsible for ensuring the members of their household, and their tenants, guests, or invitees comply with the Proprietary Documents.

B. Waiver. The failure of the Proprietary to enforce a provision of this Resolution or the Proprietary Documents on any occasion is not a waiver of the right to enforce the provision on any other occasion.

C. Election of Remedies. This Resolution shall not be deemed to prevent the exercise of any other enforcement remedies authorized or available by law now or in the future or set forth in the Proprietary Documents and shall not constitute an election of remedies.

D. Legal Action. If legal action is initiated to enforce any provision of the Proprietary Documents, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fee as determined by the Court.

The effective date of this Resolution shall be _____, 2023, and shall supersede any previously adopted Administrative Resolution or guideline regarding the Proprietary's covenant enforcement procedures, including explicitly Resolutions 231 and 235.

COUNTRYSIDE PROPRIETARY, INC.

By: Genevieve M. Francke
President 26 Jan 2024