
Item B

Common Interest Community Board Complaint Submitted by RA Member Ed Abbott

Ken Chadwick, Esq., Chadwick Washington Moriarty Elmore & Bunn PC

AGENDA ITEM SUMMARY

February 23, 2017

ITEM B: Common Interest Community Board Complaint Submitted by RA Member Ed Abbott

PRESENTER: Ken Chadwick, Esq., Chadwick Washington Moriarty Elmore & Bunn PC

BACKGROUND

On Saturday, February 5, 2017 Reston Association Member Ed Abbott, owner of the property located at 2218 Wakerobin Lane, filed a Common Interest Community Board Complaint (CICB) Form with the Reston Association Board of Directors. *See attached for complaint and related email message.*

BOARD AUTHORITY

In accordance with Section G of Member Rights Resolution 4; Common Interest Community Board Mandated Members Complaint Procedure (attached), the process for the Board of Directors to consider CICB Complaints is as follows:

1. Meeting at which Complaint will be Considered. Complaints will be considered by the Board at a regular or special Board meeting held within 90 days from the date on which the Complaint was forwarded to the Board for consideration.
2. Notice to the Complainant. At least fourteen (14) days prior to the Board meeting at which the Complaint will be considered, the Managing Agent shall provide the Complainant with notice of the date, time, and location of the Board meeting at which the matter will be considered by the Board. This Notice may be combined with the acknowledgment of receipt of Complaint.
3. Board's Decision on Complaint. The Board shall make a decision on the Complaint by an appropriate vote of the members of the Board at the meeting pursuant to the Association's Governing Documents. The Board's decision at the meeting shall fall into one of the following two categories:
 - a. A decision that there is *insufficient information* on which to make a final determination on the Complaint or that *additional time is otherwise required* to make a final determination, in which case the Board shall postpone making a final determination on the Complaint until a later scheduled Board meeting (announced at the meeting or by giving at least 14 days notice to the Complainant) and, if needed, make a written request for additional information from the applicable party(s), specifying a deadline by which time the additional information must be received by the Association's Assistant Secretary for forwarding to the Board; or
 - b. A *final determination* on the Complaint, indicating whether the Complainant's requested action or resolution is, or is not, being granted, approved or implemented by the Board. A final determination may include, for example, a decision that no action will be taken on the Complaint due to the Complainant failing to timely provide additional information that was requested by the Association. No appeal process is available; the Board's rendered decision is final.

-----Original Message-----

From: Edward Abbott [mailto:edabbott@me.com]

Sent: Saturday, February 04, 2017 9:07 PM

To: BoardOfDirectors

Subject: Removal of Eve Thompson as Director for violation of COI Policy. See attached

I have made a number minor corrections to my previous complaint. It is attached. Please consider the attachment as superseding my previous email. If you have questions, let me know.

Ed Abbott
2218 Wakerobin Lane
Reston, VA 20191
703-476-4513

-----Original Message-----

From: Edward Abbott [mailto:edabbott@me.com]

Sent: Friday, February 03, 2017 4:21 PM

To: BoardOfDirectors

Subject: Completed Complaint Form for Removal of Eve Thompson as Director for Violation of COI Policy

Please see attached form. Let me know if you have any questions.

Ed Abbott
2218 Wakerobin Lane
Reston, VA 20191
703-476-4513

**Common Interest Community Board Complaint Form**

Mailing/Delivery: Reston Association
c/o Assistant Secretary of the Board, 12001 Sunrise Valley Drive, Reston, VA 20191 -3404

Phone Number: 703-435-6530 **Email:** Member_Services@reston.org

Pursuant to Section 55-530(E) of the Code of Virginia, 1950, as amended, the Board of Directors ("Board") of the Reston Association (the "Association") has established this complaint form for use by persons who wish to register written complaints with the Association regarding the action, inaction or decision by the Association or its Board or managing agent inconsistent with applicable laws and regulations.

1. Legibly describe your complaint in the area provided below, as well as the requested action or resolution of the issues described in the complaint. Include references to the specific facts and circumstances at issue and the provisions of Virginia laws and regulations that support the complaint. If there is insufficient space, attach a separate sheet of paper to this complaint form. Also, attach any supporting documents, correspondence and other materials related to the complaint (not including copies of laws, regulations or the Association's governing documents).

Removal of Eve Thompson as Director for violation of COI Policy. See attached

2. Sign, date & print your name and address below and submit this completed form to the Association at the above address.

Edward Abbott
Printed Name
2218 Wakerobin Lane, Reston, VA

Signature

Date

Mailing Address
2218 Wakerobin Lane, Reston, VA

Reston Association Property Address
edabbott@me.com

703-476-4513

Email Address

Phone Number

Contact Preference: Phone ☐ Email ☒ Other ☐

If, after the Board's consideration and review of the complaint, the Board issues a final decision adverse to the complaint, you have the right to file a notice of final adverse decision with the Common Interest Community Board (CICB) in accordance with the regulations promulgated by the CICB. The notice shall be filed within 30 days of the date of the final adverse decision, shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman (Ombudsman), shall include copies of any supporting documents, correspondence and other materials related to the decision, and shall be accompanied by a \$25 filing fee. The Ombudsman may be contacted at:

Office of the Common Interest Community Ombudsman
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400, Richmond, VA 23233
804/367-2941 or CICombudsman@dpwr.virginia.gov

Description of facts and circumstances:

- 1.) Director Thompson has not disclosed her ownership of the Lake Anne Coffee House and Wine Bar. Her current COI, which is dated April 15, 2015, lists only her condo. There is no updated version on Reston Association website.
- 2.) She has not disclosed that her husband is President of the Lake Anne of Reston Condominium Association, LARCA.
- 3.) She did not disclose that her real estate office was located near Lake Anne on the plaza.
- 4.) At a full Board Meeting on January 22, 2017, a motion was introduced to hold a public hearing related to the proposed capital improvements of the docks at Lake Anne. When Director Thompson spoke in favor of the motion, Director Lucinda Shannon raised the issue of Ms. Thompson's conflict of interest. Ms. Thompson retorted that her ownership of a condo and a coffee house at Lake Anne were not conflicts.

Specific action being requested:

Director Thompson should be dismissed from the Board for being in violation of COI Policy.

Controlling laws/policies:

RA's controlling policy on conflict of interest is "Operations Resolution 6 on Conflict of Interest Statement" ("COI Policy"). (For Virginia law, see Virginia Nonstock Corporation Act, Section 13.1-871.) Following are the provisions of the COI Policy:

Purpose

The purpose of the COI Policy is stated as:

WHEREAS, the Board of Directors, recognizing its duty to serve the Reston community rather than the material personal or economic interest of any Director, desires to establish a Conflict of Interest Policy consistent with existing statutory requirements, to assure that the members of the Board of Directors, in executing their official duties, serve the public rather than their personal interests.

NOW, THEREFORE, BE IT RESOLVED that the following Conflict of Interest Policy shall govern any matter to which the interests of the Reston Association may conflict with the material personal or economic interest, direct or indirect, of any member of the Board of Directors.

Thus, the purpose of the COI policy is to assure that the Directors shall serve the interests of the public and RA rather than any personal or economic interest.

Disclosure

Each Director must disclose any COI. The penalty for failing to disclose a COI is harsh. The Reston Deed (Section iii.5(d)(2)) states that: "A Director shall be deemed to have resigned and his membership on the Board of Directors shall be terminated immediately upon occurrence of . . . (ii) failure to disclose a conflict of interest pursuant to Bylaws Section XI.2 on any matter on which he or she votes."

In addition, the penalty to a Director for filling out an inaccurate COI Statement is similarly harsh since the Director's signing of the statement certifies that: "The information provided in this Statement is true and accurate. I understand that falsifying such information will result in my immediate resignation from the Board of Directors."

Reston Association Conflict Of Interest Statement

NAME: EVE THOMPSON
ADDRESS: 11400 WASHINGTON PL W #403, RESTON VA 20190
POSITION: LAKE ANNE / TALL OAKS

Per Board & Association Operations Resolution 6 on Conflict of Interest Policy and Statement, I submit the following:

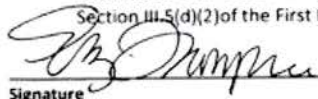
- a. Employer(s) of all family members over age 16: Long & Foster
- b. All assets (including land, stocks, bonds, leases, partnerships, or other material assets) located in Reston or involved in Reston based activities: 11400 WASHINGTON PL W #403, RESTON VA 20190
- c. Loans from Reston based persons or entities, which are not state or federally regulated: N/A
- d. Other sources of significant income (income which exceeds \$1,000 from the same source in one calendar year):
- e. Membership(s) in organizations which are Reston oriented: RESTON HISTORIC TRUST
- f. Any material fact which may be a direct or indirect conflict of interest:

NA

By signing this Statement and checking the boxes below, I certify that:

☒ I have read the Reston Association Conflict of Interest Policy; and

☒ The information provided in this Statement is true and accurate. I understand that falsifying such information will result in my immediate resignation from the Board of Directors, pursuant to Section III.5(d)(2) of the First Deed of Amendment to the Deeds of Dedication of Reston.


Signature

April 15, 2015
Date



Member Rights Resolution 4; Common Interest Community Board Mandated Members Complaint Procedure

WHEREAS, the Board of Directors is responsible for the administration and operation of the Reston Association (“Association”) consistent with the amended provisions of the Reston Documents; and

WHEREAS, Section III.2(e) of the First Amendment to the Deed of Amendment to the Deeds of Dedication of Reston (“Amended Reston Deed”) delineates that it is a purpose of the Association to do any and all lawful things and acts that it, in its discretion, may deem to be for the benefit of the Property and the Owners and inhabitants thereof; and

WHEREAS, Section III.2(f) of the Amended Reston Deed of the Amended Reston Deed delineates that it is a purpose of the Association to exercise the powers now or hereafter conferred by law on incorporated property owners associations including those powers specified in the Virginia Nonstock Corporation Act and the Property Owners’ Association Act (“POAA”), as may be necessary or desirable to accomplish the purposes set forth above; and

WHEREAS, pursuant to Section 55-530(E) of the Virginia Code, the Virginia Common Interest Community Board (“CICB”) has promulgated final regulations imposing a requirement that each common interest community (including condominiums, property owners’ associations and cooperatives) adopt a reasonable procedure for the resolution of certain written complaints from the members of such association and other citizens; and

WHEREAS, within 90 days of the effective date of the CICB regulations, all common interest communities must adopt a complaint procedure that is compliant with the CICB regulations;

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Reston Association, acting through its Board of Directors, hereby adopts and establishes the following CICB-mandated Association complaint procedure **for handling written complaints concerning actions or inactions allegedly inconsistent with state laws and regulations governing common interest communities:**

- A. Definitions.** Unless otherwise defined in this Resolution, the words, terms or phrases used in this Resolution shall have the same meanings as defined in the CICB regulations and/or in the Association’s recorded covenants.
- B. Complaint Form.** If a Member of the Association, a resident or other individual alleges that an action, inaction or decision of the Association, its Board of Directors (“Board”) or Officers of the Association is inconsistent with state laws or regulations governing common interest communities, then that individual must submit a formal written complaint (“Complaint”) to the Board using the attached Complaint Form (Exhibit A) in order to trigger the formal procedures described below. If the individual does not wish to trigger these formal procedures, then the individual should submit their questions, concerns or issues to the Association’s Chief Executive Officer or the Board without using the attached form.

- C. Complaint Form Instructions and Attachments.** A completed Complaint Form must include a description of the specific facts and circumstances relevant to the individual's Complaint, and the specific action, result or resolution that is being requested. If the individual submitting the Complaint Form (the "Complainant") knows the law or regulation that has been allegedly violated or is otherwise applicable to the Complaint, then the Complainant must provide a reference to that law or regulation on the Complaint Form. The Complainant must also attach to the Complaint Form a copy of any documents that Complainant believes support the validity of the Complaint (not including laws, regulations or the Association's governing documents).

A copy of these complaint procedures (including the required Complaint Form) will be available upon request from the Association by contacting the Assistant Secretary of the Association at 703-435-6530 or sending an email to Member_Services@reston.org.

- D. Mailing or Delivering Complaint to Board of Directors.** The fully completed, signed and dated Complaint (including the Complaint Form and all attachments) shall be mailed or otherwise delivered to the Board at the following address:

By Mail: Board of Directors, Reston Association
12001 Sunrise Valley Drive
Reston, VA 20191-3404

By Hand Delivery: Board of Directors, Reston Association
12001 Sunrise Valley Drive
Reston, VA 20191-3404

By Email: BoardofDirectors@reston.org

- E. Means of Providing Notices to Complainant.** All written acknowledgments or other notices required by these procedures to be provided by the Association to the Complainant shall be hand-delivered or mailed by registered or certified mail, return receipt requested, to the Complainant at the address provided on the Complaint Form, or by facsimile transmission or email if the Complainant has previously provided the Association with the Complainant's written consent to communicate with him/her by electronic transmission. The Association shall retain in the Association's records proof of the mailing, delivery or electronic transmission of the acknowledgments and notices per Section H below.

- F. Acknowledging Receipt of Complaint.** Within seven (7) days of receipt of a Complainant's Complaint Form, the Association shall provide the Complainant with written acknowledgement of the Association's receipt of the Complaint.

1. Incomplete Complaint. If it appears to the Association that the submitted Complaint is missing the required minimum information, then the acknowledgment of receipt shall include notice to the Complainant of the identified problem(s) with the Complaint and advise the Complainant that he/she will need to submit a revised/corrected Complaint before it can be accepted and forwarded to the Board for consideration.

2. Forwarding to the Board. If it appears to the Association that the submitted Complaint includes the required minimum information, then on the same day that acknowledgment of receipt of the Complaint is provided to the Complainant, the Association shall provide the Board with a copy of the Complaint for consideration.

G. Formal Action – Consideration of Complaint by Board. All completed, signed and dated Complaints forwarded to the Board shall be considered by the Board at a meeting, and the Board shall decide what action, if any, to take in response to the Complaint.

1. Meeting at which Complaint will be Considered. Complaints will be considered by the Board at a regular or special Board meeting held within 90 days from the date on which the Complaint was forwarded to the Board for consideration.
2. Notice to the Complainant. At least fourteen (14) days prior to the Board meeting at which the Complaint will be considered, the Managing Agent shall provide the Complainant with notice of the date, time, and location of the Board meeting at which the matter will be considered by the Board. This Notice may be combined with the acknowledgment of receipt referenced in Section D above.
3. Board's Decision on Complaint. The Board shall make a decision on the Complaint by an appropriate vote of the members of the Board at the meeting pursuant to the Association's Governing Documents. The Board's decision at the meeting shall fall into one of the following two categories:
 - a. A decision that there is **insufficient information** on which to make a final determination on the Complaint or that **additional time is otherwise required** to make a final determination, in which case the Board shall postpone making a final determination on the Complaint until a later scheduled Board meeting (announced at the meeting or by giving at least 14 days notice to the Complainant) and, if needed, make a written request for additional information from the applicable party(s), specifying a deadline by which time the additional information must be received by the Association's Assistant Secretary for forwarding to the Board; or
 - b. A **final determination** on the Complaint, indicating whether the Complainant's requested action or resolution is, or is not, being granted, approved or implemented by the Board. A final determination may include, for example, a decision that no action will be taken on the Complaint due to the Complainant failing to timely provide additional information that was requested by the Association. No appeal process is available; the Board's rendered decision is final.

H. Notice of Final Determination. Within seven (7) days after the final determination is made (per subsection F.3.b. above), the Assistant Secretary of the Association shall provide the Complainant with written notice of the Board's final determination. The notice of final determination shall be dated as of the date of issuance and include:

1. Specific citations to applicable provisions of the Association's governing documents, laws or

regulations that led to the final determination;

2. The Association's registration number as assigned by the CICB, and if applicable, the name and CICB-issued license number for the Managing Agent; and
 3. Notice of the Complainant's right to file a "Notice of Final Adverse Decision" with the CICB via the CIC Ombudsman (providing the applicable contact information).
- I. **Records.** The Assistant Secretary of the Association shall retain, as part of the Association's records, a record of each Complaint (including the Complaint Form and attachments, related acknowledgments and notices, and any action taken by the Association or Board in response to such Complaint) for a period of at least one (1) year from the date of the Association's final action on the Complaint.
- J. **Resale Disclosure Packet.** A copy of this Resolution (including the Exhibit A Complaint Form) shall be included as an attachment to Association-issued disclosure packets.

ATTEST: Resolution was adopted at a Regular Meeting of the Reston Association's Board of Directors held on September 27, 2012.

Cate L. Fulkerson

Assistant Secretary



Common Interest Community Board Complaint Form

Mailing/Delivery: Reston Association
c/o Assistant Secretary of the Board, 12001 Sunrise Valley Drive, Reston , VA 20191 -3404

Phone Number: 703-435-6530 **Email:** Member_Services@reston.org

Pursuant to Section 55-530(E) of the Code of Virginia, 1950, as amended, the Board of Directors ("Board") of the Reston Association (the "Association") has established this complaint form for use by persons who wish to register written complaints with the Association regarding the action, inaction or decision by the Association or its Board or managing agent inconsistent with applicable laws and regulations.

1. Legibly describe your complaint in the area provided below, as well as the requested action or resolution of the issues described in the complaint. Include references to the specific facts and circumstances at issue and the provisions of Virginia laws and regulations that support the complaint. If there is insufficient space, attach a separate sheet of paper to this complaint form. Also, attach any supporting documents, correspondence and other materials related to the complaint (not including copies of laws, regulations or the Association's governing documents).

2. Sign, date & print your name and address below and submit this completed form to the Association at the above address.

<hr/> Printed Name	<hr/> Signature	<hr/> Date
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Mailing Address

Reston Association Property Address

<hr/> Email Address	<hr/> Phone Number
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Contact Preference: Phone ☐ Email ☐ Other ☐

If, after the Board's consideration and review of the complaint, the Board issues a final decision adverse to the complaint, you have the right to file a notice of final adverse decision with the Common Interest Community Board (CICB) in accordance with the regulations promulgated by the CICB. The notice shall be filed within 30 days of the date of the final adverse decision, shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman (Ombudsman), shall include copies of any supporting documents, correspondence and other materials related to the decision, and shall be accompanied by a \$25 filing fee. The Ombudsman may be contacted at:

Office of the Common Interest Community Ombudsman
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400, Richmond, VA 23233
804/367-2941 or CICOmbudsman@dpor.virginia.gov