

## RESOLUTION M-01

### POLICY AND COMPLIANCE PROCEDURES FOR DECLARATION OF RESTRICTIONS AND ARC GUIDELINES VIOLATIONS

1. **Purpose.** This Resolution establishes policy, assigns responsibilities, and provides procedures to be followed by the Architectural Review Committee (hereinafter referred to as ARC), General Manger (hereinafter referred to as GM), the Ocean Pines Association (hereinafter referred to as OPA) and the Board of Directors (hereinafter referred to as Board) for enforcing compliance with the Association's Declarations of Restrictions (hereinafter referred to as DR's) and the ARC Guidelines. The overall intent of the resolution is to bring quick and permanent resolution to violations. This Resolution differs from Resolution M-04 by broadening the categories of violations and introduces progressive procedural steps to be taken associated with those violations.

2. **Authority.** The OPA derives its authority to establish, enforce, and interpret rules and regulations through its Articles of Incorporation, DR's, and Guidelines. These documents address the basic rules necessary to promote the common welfare of Association members. They assign to the Board responsibility for enforcement of these rules and the authority to delegate part of this task to Association staff and committees. It is understood the Board has the authority, with a supermajority vote, to authorize the clean up and repair of the outside of properties to bring them into compliance. It is further understood the Board must petition the courts for any removal of personal property, where such removal is needed to remove a violation.

3. **Policy.** The appeal of the Ocean Pines community depends on the cooperation of residents, property owners and financial entities in control of properties in creating and maintaining clean and aesthetically pleasing homes and surroundings. The privileges of membership and/or control of a property are not without responsibility.

a. Therefore, it is the policy of the OPA to exercise the authority provided above to rigorously and proactively enforce it covenants and restrictions. The enforcement authority shall be exercised, to the extent possible, in a uniform and fair manner based on the approved process and procedures outlined in this resolution. Further, enforcement shall be conducted with due regard to the rights of property owners or any financial entity in control of the property (i.e. property in foreclosure process), particularly with respect to:

- (1) courteous and respectful interchange that encourages voluntary compliance,
- (2) timely and effective notification of all pending actions affecting the issue under consideration,
- (3) the opportunity to attend an ARC meeting where the alleged violation is discussed.

b. It is the intent of the Board that the GM and Compliance, Permitting and Inspection (hereinafter referred to as CPI) staff focus on those violations that present a health or safety risk, and/or compromise the appearance of the surrounding neighborhood, thereby detracting from another member's property values. . Health and Safety issues may be resolved by the GM and CPI Staff prior to any ARC or Board review listed under number (3) above.

c. It is acknowledged that in an association as large as Ocean Pines not all violations will be discovered or processed. The failure, however, to address any given violation shall not restrict the Association from acting on others of the same nature.

#### **4. Responsibilities**

a. The Board: The Board is responsible to the membership for the overall compliance program. The DR's designate the Board as the deciding authority for authorizing Association employees to enter onto a lot to repair, maintain, and restore it in a manner satisfactory to the Board. The Board is the deciding authority for referral of a member to the Association's attorney to pursue legal action against that member.

b. The GM: The GM is designated as the individual under whose authority the compliance program is to be administered. The GM may delegate any or all of the responsibilities herein included to one or more subordinate OPA staff members. Commensurate with Resolution M-01, it is understood the GM is given pre-authorization by the Board to take actions deemed necessary to address health and safety violations (such as, but not limited to conditions similar to: replacement of a missing plank on a pier, covering a three foot hole) and to report such actions taken to the Board, as soon as reasonably possible, by electronic means and to include a summary of the action at the next regularly scheduled Board meeting.

c. The CPI Department:

(1) Shall be the point of contact for violations with the first step to resolve the violation, being an initial, informal communication, with the member or financial entity.

(2) Shall include, but not be limited to, the inspection of properties, receipt and investigation of complaints, preparation and issuance of notices of violations to members, maintenance of records of complaints and violations, recommendations for the disposition of violations, and preparation of reports and records of violations.

d. The ARC

(1) Shall review violations of the DR's and Guidelines, identified by CPI, provide the member or financial entity with an opportunity to be heard at the next meeting of the ARC and, if deemed appropriate, forward the violation to the GM for further action.

(2) Shall, upon application by a member for a variance or an exception, review a violation to determine if sufficient justification exists to grant a variance to the DR's or an exception to the ARC Guidelines or an extension of the permitting process.

(3) Shall, upon request from a member for an extension beyond the agreed to timeline which was created at the ARC meeting, have the authority to grant one extension before the violation is referred to the GM.

#### **5. Definitions**

a. OPA Member: is any person who owns property in the OPA and who has access to Member rights and responsibilities

**b. Financial Entity:** is an entity who has control of and is responsible for a property within the OPA but who may not have membership rights. (i.e. Bank in foreclosure process)

**c. Routine Violation:** is a violation that poses no health or safety risk, and no urgent need exists for immediate correction of the conditions associated with the violation.

**d. Safety and/or Health Violation:** is a violation that poses a health or safety risk and exhibits an immediate need for correction of the conditions or to avoid the escalation to a safety and/or health violation.

**e. Repeat Violation:** is a violation of the same problem which has been documented and addressed previously through the CPI process at the same property within the last five years.

**f. Formal Notification:** is notification to a member, or financial entity, of a violation and shall be in writing, by USPS Certified Mail-Return Receipt requested.

**g. Informal Notification:** is contact with member, or financial entity, in person, by telephone, email, etc., to inform them of a violation, to obtain additional information if appropriate, to request corrective action, or to determine the member's intent to correct the violation.

**h. Complaint:** is the notification to the CPI Office that a violation of the DR's or ARC Guidelines exists. A Complaint may result from, but is not limited to, inspection reports by CPI inspectors, in person reports by Association members or residents, telephone calls, email or US Mail.

## **6. General Procedures**

**a.** Upon receipt of a Complaint, CPI shall initiate an inspection of the property within 3 business days to determine if a violation exists. If a violation is found, CPI shall first determine if it is a Health and Safety violation. If it is a health and safety violation, the procedures outlined in Addendum A shall be followed.

**b.** If the violation is not a Health and Safety violation, CPI shall determine if it is a repeat offender violation. If it is a repeat offender violation, the procedures outlined in Addendum A shall be followed. If the violation is neither a health and safety or repeat offender violation, CPI shall attempt to negotiate a voluntary resolution of the violation by Informal Notification. If the violation is voluntarily corrected under agreed terms, a record of the Informal Notification and action taken need not be maintained, but the violation is added to the CPI violation list for future reference.

**c.** If Informal Notification fails to resolve the violation, then a Routine or Foreclosure Violation shall be initiated and the appropriate procedures outlined in Addendum A shall be followed.

**d.** Reports of action taken or recommendation for action to be developed by the GM with the approval of the Board.

## **7. Additional Procedures:**

**a. Records:** Records of every Complaint and all actions related thereto shall be maintained by CPI.

**b. Inspections:** In the process of evaluating the existence and extent of a violation, CPI inspectors may have a need to enter onto a lot to determine whether there is a violation of the DR's or ARC Guidelines. The GM shall establish written procedures to be followed by CPI inspectors. These procedures shall detail documented efforts to obtain permission for inspections prior to entering onto a property. In the

event a CPI inspector cannot obtain permission from the owner or an adjoining owner to enter onto a property, the GM shall make the decision to authorize entering onto the property to conduct the inspection or to close the file. The GM's decision to authorize entry onto a property, without the member's permission, shall be exercised on rare and limited occasions. Should, however, entering onto a property be deemed necessary for an evaluation of a violation, the examination shall be limited to observation and/or documentation.

c. **Member Notification:** Except for safety and health related violations, if the ARC determines the violation should be pursued, a letter (with evidentiary photos) shall be sent by certified mail, return receipt requested, informing the member that if the violation is not corrected within the specified date set by the ARC, the violation will be referred to the GM; the GM may refer the violation to the Board for action, which may include the possibility of legal action. The notification shall also contain information on how to request a variance and of the owner's right to be present at the next ARC meeting to present any information regarding the alleged violation.

8. **Board Review and Action:** Except for safety and health related violations, if the violation is not resolved, the GM shall present the violation to the Board for its review and action. The Board will take into consideration all facts related to the case, any matters of extenuation and mitigation and the GM's recommendation. Action to be taken by the Board may include:

- a. taking no action.
- b. directing the GM to take action by entering onto the property to maintain or repair the property. This action may be directed only after a 2/3 vote of the Board; the work may be performed by OPA employees or by contracting for the work, as deemed appropriate by the GM.
- c. sending the case to legal counsel for appropriate action.

9. **Legal Action:** In a further attempt to correct the violation, the Board may request legal counsel to send a Certified letter to the member or financial entity, outlining what steps, in what time period, must be taken to correct the violation. At the same time, the Board may authorize the GM and Legal Counsel to take additional action until the violation is either resolved or it is determined that no resolution is possible; while keeping the Board advised.

Effective Date: \_\_\_XXXX XX, 2016\_\_\_ Approved by the Board on \_\_\_XXX XX, 2016\_\_\_

President \_\_\_/S/\_\_\_\_XXX\_\_\_\_ Secretary \_\_\_/S/\_\_\_\_ Review History: General  
Manager \_\_\_/S/\_\_\_\_ Date: \_\_\_XXXXXX\_\_\_\_

Legal \_\_\_\_\_ Date: \_\_\_\_\_

By-laws and Resolutions Advisory Committee \_\_\_/S/\_\_\_\_XXX\_\_\_\_ Date: \_\_\_xx/xx/2016\_\_\_

**Addendum A - Procedures and Outlines for Violations**

<b>Unsafe/Health</b>	<b>Regular/Foreclosed</b>	<b>Repeat Offender</b>
Initial complaint & Initial Inspection*	Initial complaint Initial Inspection*	Initial complaint Initial Inspection*
Initial Verbal report to GM. GM takes action.	Check current payment status: If current, move to next step; If not current, check for pending potential foreclosure and include such details in the written report in the next step.	Compare violation with previous violations. If violation is a repeat, notify Board, ARC and Legal and move to next step. If a new type of violation, move to regular path.
Board, ARC and Legal notified, Owner notified via a call.	Written Report developed by OPA Staff. Report is given to ARC and Certified letter is sent to Owner or financial entity inviting them to the ARC meeting and a call is placed to the owner.	Owner or lending institution contacted by phone with certified letter. Owner or institution given 14 days to respond and resolve issue.
Certified letter sent to Owner outlining actions taken and future plan of action.	If Owner is contacted via the call, a timeline for resolution is set to be concluded prior to the ARC meeting.	Board is updated bi-weekly until conclusion.
Board is updated bi-weekly until conclusion.	Inspection is done based on resolution time line or within 2 days of the ARC meeting.	Address listed and violation remains on repeat offender list.

Address of violation is entered on the CPI violation list.	If not resolved and ARC confirms the violation still exists, (Owner has the option to present a case that there is no violation at the ARC meeting), ARC refers to the GM. GM may contact the Owner to encourage resolution or refer to next step.	GM coordinates with Legal to resolve issue (No Board approval needed).
	GM presents case at the next Board meeting with recommendation; Board may authorize GM to take legal action to resolve issue.	Address remains on the CPI violation list.
	Board is updated bi-weekly until issue is resolved.	
	Address of violation is entered on the CPI violation list.	

\*Routine violations resolved on an informal basis are not addressed via the above procedures, but a record must be maintained and included on the CPI violation list.