

Resolution

Myers Mill Homeowners Association, LLC

Administrative Resolution Number: 2017- 20

SPONSOR: Kris Hawkins, President, Board of Directors

Relating to the Violation Enforcement Policy

WHEREAS, Myers Mill, LLC (“Association”) Board of Directors has authority pursuant to Article VIII, and Article IX, Section 1 of the Declaration of Covenants, Conditions and Restrictions for Myers Mill, LLC (“Declaration”) and, Article IV Section 11a of the By-Laws of Myers Mill, LLC (“By-Laws”) to determine, in its reasonable discretion, the manner of remedy for violations of the provisions set forth in the Declaration and/or By-Laws;

WHEREAS, the Board of Directors wishes to establish standards for the operation and governance of the Association that serve as guiding principles for both volunteer leaders and members of the Association; and,

NOW, THEREFORE, BE IT RESOLVED that the following procedures and practices are established for the enforcement of violations of the use restrictions and architectural control provisions of the Declaration and By-Laws of Myers Mill, LLC and for the elimination of violations of such provisions found to exist in, on or about any property within Myers Mill, LLC and the same are to be known as the “Deed Violation Enforcement Policy” of the Association in the discharge of its responsibilities for determination and enforcement of remedies for deed violations within Myers Mill, LLC:

1. **Establishment of a Violation.**

 a. Architectural. Any improvements (as such term is defined in Article VI of the Declaration) of any kind shall be placed, erected or installed upon any Unit and no improvements or other work shall take place on such Unit except pursuant to approval in compliance with this Article and the Architectural Guidelines.

Any improvement constructed on a Unit shall be designed by and built in accordance with the plans and specifications of a licensed architect unless otherwise approved by Declarant or its designee in its sole discretion.

 b. Use Restrictions. Any activity or condition allowed to continue on any Lot that is in direct opposition to Article VIII of the Declaration, or any provision within the Design Guidelines, which is not expressly authorized by the Board is deemed a “Violation” under this enforcement policy for all purpose.

2. **Notice of Violation.**

a. **Initial Notice.** Upon verification of the existence of a violation by the Management staff ("Management") of Myers Mill, LLC, Management will send to the Lot Owner a written notice of the discovery of the Violation ("Initial Notice") the Initial Notice will inform the recipient as follows:

- (i) The nature, description and location of the Violation; and
- (ii) A request to remedy the Violation; and a potential for a fine on the owner's account if corrective action is not taken within ten (10) days.
- (iii) Notice that if the Violation has already been corrected or plans and specifications for a subject improvement have been submitted to the ARB to disregard the notice.

b. **Second Courtesy Notice of Violation.** If the Lot Owner fails to remedy the Violation or fails to submit plans and specifications for the offending improvement to the ARB or if the ARB has denied approval of the plans and specifications submitted, and the violation is continuing, no earlier than ten (10) days from the Initial Notice, Management shall send to the Lot Owner a Second Notice of Violation informing the recipient as follows:

- (i) The nature, description and location of the Violation; and
- (ii) A request to remedy the Violation; and a potential for a fine on the owner's account if corrective action is not taken within ten (10) days.
- (iii) Notice that if the Violation has already been corrected or plans and specifications for a subject improvement have been submitted to the ARB to disregard the notice

c. **Third Notice of Violation.** If the Lot Owner fails to remedy the Violation or fails to submit plans and specifications for the offending improvement to the ARB or if the ARB has denied approval of the plans and specifications submitted, and the violation is continuing, no earlier than ten (10) days from the Second Notice, Management shall send to the Lot Owner a Third Notice of Violation informing the recipient as follows:

- (i) The nature, description and location of the Violation and the failure of the Lot Owner to correct the Violation, as previously requested; and
- (ii) Notice that a fine of \$25.00 has been assessed to the owner's account;

And

- (iii) Notice that if the Violation is corrected or eliminated within ten (10) days from the delivery of the Third Notice of Violation, no further action will be taken;

And

- (iv) If necessary, work on any Improvement must cease immediately and may not resume without the expressed written approval of the ARB; and

- (iv) Failure to remedy or cease work on any subject improvement will result

in the Association electing to pursue any one or more of the remedies available to the Association under the Declaration, By-Laws or this Enforcement Policy.

- d. Failure to Remedy. Failure to (i) cease all work immediately upon receipt of the Second Notice of Violation, or (ii) remedy the current violation existing upon the Lot within ten (10) days of the date of the Second Notice of Violation, shall constitute a continuing Violation and result in one or more of the following: (a) a fine being levied by the Association against the Lot Owner, (b) correction of the offending Improvement by the Association at the expense of the Lot Owner through a Benefited Assessment being levied against the Lot Owner, which may be recorded as a lien against the Lot or (c) any other remedy under law or at equity, the Declaration or this Enforcement Policy, including but not limited to injunctive relief. Management shall send to the Lot Owner a formal Notice of Decision informing the recipient of the continuing Violation and the remedy chosen as a result thereof. The date of the Notice of Decision shall be the "Notice of Decision Date."
 - e. Fine Structure. Any fine imposed pursuant to the provisions of Paragraph 2 shall be imposed at double the latest fine, beginning to accrue no earlier than ten (10) days following the Notice of Decision Date.
 - f. Written Appeal. Included in the Notice of Decision will be the opportunity for the Lot Owner to make a written appeal to the Board. The Notice of Decision will allow the Lot Owner ten (10) days to contact Management, in writing. Should the Lot Owner fail to contact Management within ten (10) days of the Notice of Decision Date, that party will have waived its opportunity for said written appeal.
3. **Corrective Action.** Where a Violation is determined to exist and referred to the Board of Directors of the Association, pursuant to any provision of this Enforcement Policy, Management, with the approval of the majority of the Board of the Association, may undertake to cause the Violation to be corrected, removed or otherwise abated by qualified contractors if Management, in its reasonable judgment, determines the Violation may be readily corrected, removed or abated without undue expense and without breach of the peace. Where management decides to initiate any action by qualified contractors, the following will apply:
- a. Management must give the Lot Owner and any third party directly affected by the proposed action prior written notice of undertaking of the action. The foregoing notice may be given at any time.
 - b. Cost incurred in correcting or eliminating the Violation will be referred to the Association to be recovered from the Lot Owner as an Assessment as set forth in the Declaration.

- c. The Association, and its agents and contractors will not be liable to the Lot Owner or any third party for any damages or costs alleged to arise by virtue of action taken under this Paragraph 3 where the Association and its agents have acted reasonably and in conformity with this Enforcement Policy.
4. **Referral to Legal Counsel.** Where a Violation is determined to exist and is referred to the Board of Directors of the Association pursuant to any of the provisions of this Enforcement Policy and where Management deems it to be in the best interests of the Association, The Board may, at any time during the enforcement process, refer the Violation to legal counsel for action seeking injunctive relief against the Lot Owner to correct or otherwise abate the Violation, or to pursue any other legal or equitable remedy that may be available to the Association.
5. **Notices.**
 - a. Any notice required by this Enforcement Policy to be given, sent, delivered or received in writing will be deemed to have been given, sent, delivered or received, as the case may be, upon the earlier to occur of the following.
 - i. When the notice is delivered by telecopy, the notice is deemed delivered when the sender receives a facsimile acknowledgment acknowledging delivery of telecopy.
 - ii. When the notice is placed into the care and custody of the United States Postal Service, the notice is deemed delivered as of the date the notice is deposited into a receptacle of the United States Postal Service with postage prepaid and addressed to the most recent address of the recipient according to the records of the Association.
 - b. Where the interests of an Owner in a Lot have been handled by a representative or agent of such Owner or where Owner has otherwise acted so as to put the Association on notice that its interests in a Lot has been and is being handled by a representative or agent, any notice or communication from the Association or Management pursuant to this Enforcement Policy will be deemed full and effective for all purposes if given to such representative or agent.
6. **Cure of Violation During Enforcement.** A lot Owner may correct or eliminate a Violation at any time during the pendency of any procedure prescribed by this Enforcement Policy. Upon verification by Management that the Violation has been corrected or eliminated, the Violation will be deemed no longer to exist and the Notice of Violation voided. The Lot Owner will remain liable for all costs and fines under this Enforcement Policy, which costs and fines, if not paid upon demand thereof by Management, will be referred to the Association for collection as an assessment pursuant to the Declaration.

Myers Mill Homeowners Association, LLC
RESOLUTION ACTION RECORD

Duly adopted at a meeting of the Board of Directors held: 7/17/17
 Motion by: Nandy Scherero Seconded by: Megan Everett
 Resolution Effective Date: 6/1/17

	YES	NO	VOTE ABSTAIN	ABSENT
<u>K. Hawkin</u> PRESIDENT	✓			
<u>Mandy T.S.</u> VICE PRESIDENT	✓			
<u>Lauren Keagy</u> TREASURER	✓			
<u>Megan Ryan</u> SECRETARY	✓			
<u>[Signature]</u> DIRECTOR	✓			
<u>[Signature]</u> DIRECTOR	✓			
<u>[Signature]</u> DIRECTOR	✓			
<u>[Signature]</u> DIRECTOR				