

AMERICANA CENTRE CONDOMINIUM, INC.

POLICY RESOLUTION NO.2017-06-01

(Due Process and Dispute Settlement Procedures)

WHEREAS, Article V, Section 3 of the By-laws of Americana Centre Condominium, Inc.(hereinafter referred to as “By-laws” and “Council” or “Corporation,” respectively) states that “The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Corporation and the condominium project and may do all such acts and things as are not by law or by these By-laws directed to be exercised and done by the members;” and

WHEREAS Article V, Section 3(d) of the Bylaws empowers the Board to promulgate and enforce rules and regulations “respecting the use, occupancy and maintenance of the project and the use of the general and limited common elements as are designated to prevent unreasonable interference with the use and occupancy of the condominium project and of the general and limited common elements by the members, all of which shall be consistent with law and the provisions of these By-Laws and the Master Deed;” and

WHEREAS, Section 11-109(d)(16) of the Maryland Condominium Act (“Act”) authorizes the Council, after notice and an opportunity to be heard, to levy reasonable fines for violations of the Council’s Master Deed, By-Laws and rules and regulations (collectively, “Governing Documents”); and

WHEREAS, Section 11-113(b) of the Act provides the procedure that the Council must follow prior to the imposition of a fine, suspension of voting rights or infringement upon any other rights of the member or other occupant; and

WHEREAS, the Board deems it necessary and desirable to establish procedures to ensure due process and consistency of enforcement for the benefit and protection of the Council and the members in cases involving alleged violations of the Governing Documents.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board adopts the following rules and procedures regarding violations of the Governing Documents:

I. PROCEDURES

A. Commencement. While informal and cooperative efforts to resolve alleged violations of the Governing Documents and related disputes are preferred and encouraged, where formal action is recommended, such action can be commenced in two ways:

1. If the complaint or request for action is made by a Unit Owner/Resident, such Unit Owner/Resident must submit a written complaint unless the violation is one which the General Manager believes can be sufficiently verified to warrant investigation/formal notice. Such complaint shall specify the facts of the alleged violation in sufficient detail

so that the General Manager will understand the nature of the alleged violation. If known, the complaint shall identify the specific provisions of the Governing Documents that allegedly have been violated. The complaint must be as specific as possible as to time(s), date(s), place(s) and person(s) involved and must be signed and dated by the complainant. The General Manager shall provide a copy of the written complaint to the Board; or

2. The General Manager may commence action upon the request of the Board. To the extent the procedures set forth in this Resolution specify duties or action by the General Manager, such duties can be allocated by the Board to such other persons (e.g., a Committee) as the Board deems appropriate from time to time.

B. Preliminary Investigation. Upon receipt of the written signed complaint by Unit Owner/Resident, the General Manager shall make a preliminary investigation as to the validity of the complaint and to determine whether the complaint was made in good faith and if there are reasonable grounds to believe that a violation has or is occurring. Such investigation may include, but not be limited to, contacting the complainant and the alleged violator or others to try to resolve the complaint. The decision to pursue an alleged violation is within the sole discretion of the General Manager and Board. Such investigation may not be necessary should the complaint be instituted by the General Manager or Board pursuant to A1. above.

C. Cease and Desist Demand. If the preliminary investigation warrants further action or where such action is commenced by the General Manager and/or Board, a written demand to the violator that he or she cease and desist from the offending conduct or otherwise cure the violation. The notice shall:

1. Be sent by first class United States mail or hand-delivered to the Unit Owner at the address shown in the records of the Council. Notice may also be effected by electronic means provided that the Unit Owner has previously consented to such electronic notice. A copy may, but need not be, sent to the tenant if the tenant is responsible or involved with the alleged violation.
2. Specify (i) the alleged violation; (ii) the action required to abate the violation; (iii) a time period not less than ten (10) days during which the violation may be abated without further sanctions (for continuing violations) or a statement that any further violation of the same provision of the Governing Document may result in the imposition of sanctions after notice and a hearing.

D. Hearing Notice. If the alleged violation has not been remedied pursuant to the written request specified above or is repeated within twelve (12) months of the demand in C above, the General Manager shall serve a Notice of Hearing ("Notice") on the Unit Owner.

1. The Notice shall be served not less than ten (10) days prior to the date of the hearing or within such time as may be allowed or required by the Act. The Notice shall be hand delivered or mailed by first class United States mail to the mailing address shown in the

records of the Council. Notice may also be served by electronic means provided that the Unit Owner has previously advised the General Manager that all notices related to the Council are to be sent by electronic means. A copy may also be sent to a tenant if the tenant is responsible or involved with the alleged violation.

2. The Notice shall contain:
 - a. The nature of the alleged violation, citing provisions of the Governing Documents that allegedly have been violated;
 - b. The time, date and place of the hearing and an invitation to attend the hearing (not less than 10 days from service of the Notice);
 - c. The charges or sanctions that may be imposed.
3. The hearing shall be scheduled at a reasonable and convenient time and place within the Board's discretion. If the original hearing date is rescheduled, only the new date, time and location of the meeting shall be provided in that subsequent notice.

E. Hearing. The Unit Owner may admit the violation in writing and may waive the scheduled hearing. Without such written admission, a hearing shall be conducted by the Board (in executive session) to provide a reasonable opportunity for the alleged violator to present evidence and to cross examine witnesses.

F. Hearing Minutes. Before the effectiveness of any sanction rendered as a result of the hearing:

1. Proof of notice of the hearing and invitation to be heard shall be placed in the minutes of the hearing. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer or director who delivered such notice.
2. The Board shall make a decision within a reasonable period of time after the hearing and written notice shall be sent to the Unit Owner within a reasonable period of time after the hearing. The minutes of the hearing shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

F. Sanctions/Assessment of Fines: Any fines assessed pursuant to this Resolution shall be treated as an assessment against such Unit Owner's unit pursuant to Article IX of the By-laws and may be collected in the same manner as assessments for common expenses. The Board may, but is not required to, adopt a Schedule of Fines and shall use its discretion in both the amount and duration of such fines (e.g., in the case of a continuing violation, the Board may assess the Unit Owner a fine for each day that the violation continues).

II. WAIVER

An omission or failure to conduct any enforcement process in exact conformity with this Resolution shall not invalidate the results of such process, so long as the Board has substantially complied with the procedures set forth in this Resolution.

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

III. REMEDIES

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

IV. LEGAL ACTION

Notwithstanding any provision of this Resolution, if any Unit Owner fails to comply with the Act, the Governing Documents or a decision rendered pursuant to this Resolution, the Council may proceed to Court or any other administrative body to seek injunctive relief, damages or both and the Council is entitled to an award for legal fees and costs of such action.

This resolution supersedes and replaces all prior resolutions related to the investments. The effective date of this Resolution shall be June 15, 2017

This resolution was adopted pursuant to §11-111 of the Maryland Condominium Act.

AMERICANA CENTRE CONDOMINIUM, INC.

By: _____


Janet Wilson, President
Board of Directors

RESOLUTIONS ACTION RECORD

Resolution Type: Policy No. 2017-06-01

Pertaining to: Due Process and Dispute Settlement Procedures

Duly adopted at a meeting of the Board of the Americana Centre Condominium, Inc. held, June 1, 2017

Motion by: John Becker Seconded by: Janet Wilson

VOTE: YES NO ABSTAIN ABSENT

<u>Janet Wilson</u>	✓			
Janet Wilson, President				
<u>Sam Brewster</u>	✓			
Sam Brewster, Vice President				
<u>Debbie Jackson</u>	✓			
Debbie Jackson, Secretary				
<u>Shashi Koduru</u>	✓			
Shashi Koduru, Treasurer				
<u>John Becker</u>	✓			
John Becker, Director				
<u>Tyler Bennett</u>	✓			
Tyler Bennett, Director				
<u>Absent</u>				
Connie Mar-Pawloski, Director				

ATTEST:

Debbie Jackson
Secretary

June 30, 2017
Date

Resolution effective: June 15, 2017.