

RESOLUTION 2008-5
ADOPTING POLICIES, PROCEDURES AND
PENALTIES FOR ENFORCEMENT

SUBJECT: Adoption of policies and procedures regarding enforcement of Rules, Regulations and Policies and Declaration.

PURPOSE: To provide notice of the Association's adoption of a uniform procedure regarding enforcement of the Rules, Regulations and Policies and Declaration of the Association.

AUTHORITY: The Declaration, Bylaws and Articles of Incorporation of the Association and Colorado law.

EFFECTIVE

DATE: July 18, 2008

RESOLUTION: The Association hereby adopts the following policy:

1. Commencement.

- (a) In order to commence the enforcement process, an Owner, occupant, director, committee member or the management company providing management services to the Association ("Management Company") shall submit any complaint concerning an alleged violation to the Association in writing.
- (b) Alleged violations shall be heard by the Executive Board.
- (c) References to actions of the Association contained herein shall include and refer to actions of the Executive Board.
- (d) The Association shall seek immediate legal and equitable relief on all violations that endanger the health, safety and welfare of the Association and/or its Owners.

2. Notice.

- (a) If the Association concludes that a complaint has validity, the Association will cause a notice to be sent to the alleged violator.

- (b) If appropriate, each notice shall contain a description of the alleged violation, including:
 - (1) the date and approximate time it occurred, except in those cases justifying immediate action by the Association;
 - (2) a reasonable time period in which the alleged violation may be abated without further sanction;
 - (3) a provision that informs the alleged violator that he/she has a right to a hearing and that the request for a hearing must be made in writing within the time frame allotted for the abatement of the violation;
 - (4) an invitation to the alleged violator to provide a statement, evidence or witnesses on his/her behalf; and
 - (5) the maximum sanction that the Association may impose if it is determined that the violation has occurred.
- (c) All notices shall be sent to the Owner, and the Owner's tenant, if applicable, by personal delivery or by first-class United States mail, to the registered address of the alleged violator, as contained in the Association records. It is the Owner's obligation to make sure that the Owner's and, if applicable, the Owner's tenant's contact information on file with the Management Company is current. All notices shall be deemed received upon personal delivery or three (3) days after the notice is sent, postage prepaid, by first-class United States mail.

3. Hearings.

- (a) If the alleged violation continues, or if requested in writing by the alleged violator, a hearing will be held.
- (b) If a hearing is to take place, the Association shall send a notice to each complainant, requesting him/her to attend the hearing to produce evidence and substantiate the complaint.
- (c) All hearings are open to all Owners and tenants unless the matter is to be discussed at an executive session as more fully provided in C.R.S. 38-33.3-308.

- (d) All parties may have an attorney present, provided that if the Owner and/or the Owner's tenant desires to be represented by an attorney at the hearing, written notice must be given to the Association at the time of the request of the hearing.
- (e) Upon written request to the Association, not later than ten (10) days prior to the date of the hearing, the alleged violator shall be entitled to:
 - (1) obtain the name and address of witnesses, to the extent known to the Association; and
 - (2) inspect and make copies of any statements or investigative reports relative to the case contained in the Association's records. Nothing shall authorize the inspection or copying of anything that is privileged from disclosure by law or otherwise confidential or protected, such as attorney work product.
- (f) The hearing shall be an informational, administrative procedure. Formal rules of evidence shall not apply. The general procedure for the hearing shall consist of opening statements by each party, presentation of testimony and evidence, including the cross-examination of witnesses by each party, where appropriate, and closing statements by each party. However, if the Owner and/or the accused party does not present a defense, this general procedure may be waived.
- (g) The Association may exercise its discretion as to the specific manner in which a hearing may be conducted and may question witnesses, review evidence and take such reasonable action during the course of a hearing as it deems appropriate to reach a just decision.
- (h) Each Executive Board member must make a determination as to whether he or she is able to function in a disinterested and objective manner in considering the violation matter. Any Executive Board member incapable of objective and disinterested consideration shall voluntarily withdraw or be disqualified by the Board from all proceedings relating to that matter.

4. Determination.

- (a) After all testimony and other evidence has been presented to the Executive Board at a hearing, the Executive Board shall render its decision within thirty (30) days after the hearing. A decision shall be reached by a majority

of the members present. The Executive Board shall issue a written decision explaining the reasons for its decision and, if applicable, shall impose a fine as provided in Section 6 hereof.

- (b) The Owner, and the Owner's tenant, if applicable, shall be notified, in writing by first-class United States mail, of the decision of the Executive Board.

5. Violation Types.

- (a) Type 1 Violations: Type 1 violations involve those violations which can be corrected immediately (e.g., removal of unauthorized signage). Generally, Type 1 violations must be corrected within ten (10) days of the date of the notice. However, the foregoing time frame may be increased or decreased by the Executive Board if the Board determines that such increase or decrease would be in the best interests of the Association and the Owners.
- (b) Type 2 Violations: Type 2 violations involve those violations that take time to correct, such as repair work. Owners/tenants who receive a Type 2 violation notice must submit in writing within ten (10) days from the date of the notice, a detailed plan to correct the violation within forty-five (45) days of the date of the notice. If the proposed plan is satisfactory, the Association will send a notice within ten (10) days of the Association's receipt of the Owner's/tenant's response, advising of the Association's acceptance of such plan. If the proposed plan is incomplete or unsatisfactory, the Association will send a notice within ten (10) days of the Association's receipt of the Owner's/tenant's response, advising that the matter will be set for a hearing before the Executive Board.

6. Fine Policy. The following fines shall be imposed for violations of the provisions of the Declaration, Rules, Regulations and Policies, Bylaws and other governing documents of the Association (other than those associated with the payment of assessments):

First Offense: A letter advising of the alleged violation and requiring correction of the same within the time frame specified in the notice shall be issued.

Second Offense: A letter advising of the second alleged violation imposing a fine of up to One Hundred Dollars (\$100.00) and requiring correction of the violation within the time frame specified in the notice shall be issued.

Third Offense: A letter advising of the third alleged violation imposing a fine of up to Two Hundred Dollars (\$200.00) and requiring correction of the violation within the time frame specified in the notice shall be issued.

Fourth/Subsequent Offenses: A letter advising of the fourth (or such other subsequent number) alleged violation imposing a fine of up to Three Hundred Dollars (\$300.00) and requiring correction of the violation within the time frame specified in the notice shall be issued.

Continuing Violations: Up to Three Hundred Dollars (\$300.00) each day the violation continues (every day constitutes a separate violation) up to a maximum of sixty (60) days.

Violations that are not corrected within the time frame specified in the notice shall immediately constitute the subsequent violation upon the expiration of such time frame.

7. Personal Obligation of Owner. The Owner of each Unit shall be personally liable for all fines, penalties and assessments. In the event said fines, penalties and assessments are not paid by the Owner within thirty (30) days of first notification, the Association may thereafter commence an action at law, or in equity, or both against any Unit Owner personally obligated to pay the same. The prevailing party shall be entitled to recover its reasonable attorneys' fees and associated costs and expenses incurred in connection with such legal proceedings.
8. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
9. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Common Interest Community.
10. Deviations. The Executive Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
11. Amendment. This Policy may be amended at any time by the Executive Board.

**PRESIDENT'S
CERTIFICATION:**

The undersigned, being the President of TIMBER PLAZA CONDOMINIUM ASSOCIATION, a Colorado nonprofit corporation, certifies that the foregoing Resolution was adopted by the Executive Board of the Association, as of July 18, 2008, and in witness thereof, the undersigned has subscribed his name.

TIMBER PLAZA CONDOMINIUM ASSOCIATION,
a Colorado nonprofit corporation

By: _____


Paul Brinkman, President