

MUTUAL OPERATIONS
7585.05
PROTOCOL FOR ENFORCING GOVERNING DOCUMENTS

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Any activity, situation instance or circumstance that is an alleged violation of the governing documents will generally be processed according to the procedures outlined herein.

In the event any member of the Board of Directors or a Shareholder of Mutual 5 files an Alleged Violation Report form with the Board, the following steps will be taken:

Step No. 1 Director Complainant: Director shall make the complaint via email or letter to the President. The information to be included: Name (if known), Unit #, Nature of the violation, Policy violated (if known), Picture (if possible), any other supporting documents or complete the Alleged Violation Report. Shareholder Complainant: Shareholder shall complete the Alleged Violation Report.

Step No. 2. If it is determined that the alleged violation has potential merit, proceed with Step No. 3.

Step No. 3 Warning to Correct The President shall arrange for Mutual Administration to send a “Warning to correct” letter, which shall include:
a) nature of the alleged Violation,
b) specific governing document violated (Policy Number, Occupancy Agreement, Bylaws, etc.) and
c) the notice to “immediately correct but in no event later than 30 days.” If the alleged violation is not one that is “correctible”, Step No. 4 will be followed.

Step No. 4 Notice of Intent to Impose Discipline (see attached form) When an alleged violation has not been corrected by the 30th day: (or fewer days if so warned,) or if the alleged violation is not “correctible”, send the “Notice of Intent to Impose Discipline” to the shareholder stating the nature of the alleged violation and the member’s right to appear before the Board of Directors at a hearing in executive session on at least 10 days’ notice by first class mail or by personal delivery, concerning the potential imposition of monetary fine and/or any other discipline.

Step No. 5. A hearing with the Board of Directors will be held, at the shareholder's option, so that the member may be heard and may present pertinent evidence, along with the testimony and evidence of interested persons.

Step No. 6. If the shareholder is found to be in violation of the Association's governing documents, the Board may exercise any of the following options:

(a) choose to correct (or cause to be corrected) the violation and assess the shareholder for the costs and expenses of doing so, including attorney's fees; and/or

(b) impose and assess monetary fine(s) against the shareholder pursuant to the Fine Schedule;

(c) suspend the shareholder's voting or other privileges (if applicable).

(d) seek a remedy in the legal system, including, without limitation, the imposition of a lien and/or foreclosure on the shareholder's property, where allowed by law;

Step No. 7. The shareholder will be notified as to any disciplinary action rendered by the Board of Directors within 15 days after such action.

NOTE: The governing documents are defined as the Bylaws, the Occupancy Agreement and the Policies.

ALLEGED VIOLATION REPORT

DATED: _____

**I. PERSON MAKING REPORT
(Complainant)**

NAME: _____

ADDRESS: _____

PHONE NUMBER: _____

II. Time, Place & Nature of Alleged Violation (fill in as completely as possible)

DATE: _____ TIME: _____

LOCATION: _____

NATURE OF VIOLATION: _____

**III. VIOLATOR'S INFORMATION:
(Respondent)**

NAME: _____

PHONE NO.: _____

ADDRESS: _____

IV. ADDITIONAL WITNESSES:

NAME: _____

ADDRESS/PHONE: _____

NAME: _____

ADDRESS/PHONE: _____

**V. OTHER EVIDENCE (PHOTOGRAPHS, DOCUMENTS, ETC.) SUPPORTING
THE ALLEGED VIOLATION:** _____

**VI. SPECIFIC GOVERNING DOCUMENT VIOLATED (Cite exact provision of
Declaration of Covenants, ByLaws, Rules or Regulations violated):**

VII. ORIGINAL COMPLAINANT:

The original complainant (person making this complaint) acknowledges that he or she must agree to appear as a witness at any formal hearing hereon or the Board may refuse to consider the alleged violation.

It is so acknowledged: _____
(Signature of Complainant)

NOTICE OF INTENT TO IMPOSE DISCIPLINE

To Shareholder:

Please be advised that you are hereby given notice that the Board of Directors will hold a hearing on:

_____ (Date)
_____ (Time)
_____ (Place)

to consider the imposition of a formal warning or a monetary fine or other disciplinary measure against you concerning an alleged violation of the Association's governing documents, that is:

You have the right to attend the hearing and address the Board of Directors and to present any pertinent evidence on your behalf.

Please acknowledge your receipt of this notice and indicate, by checking the appropriate box (1) if you will contest the alleged violation and if so (2) if you desire the hearing to be held in executive session.

Very truly yours,

BOARD OF DIRECTORS

I hereby acknowledge my receipt of this notice and:

- will not oppose the alleged violation or
- will oppose the alleged violation and
- desire a hearing in executive session.

Dated: _____ Signed: _____

PROCEDURE FOR SHAREHOLDER HEARING

1. Statement of alleged violation(s) by acting chairperson.
2. Shareholder in alleged violation decides to hold hearing in executive session or not.
3. (a) Each party will be entitled to make an opening statement, starting with the complainant's case;
(b) Each party will be entitled to produce documentary evidence and testimony and to cross-examine the opposing party and the opposing party's witnesses;
(c) Each party will be entitled to make a closing statement;
(d) Formal rules of evidence will not apply and all relevant evidence should be admitted, although hearsay evidence, by itself, will not be sufficient to support a finding;
(e) Any party will be permitted to waive the right to exercise his or her rights in any part of the hearing process, and the Board will be entitled to exercise its reasonable discretion in specifying the rules by which the hearing will be conducted, as long as the alleged violator is given an opportunity to confront and to cross-examine the evidence introduced by the opposing party and to be heard in his or her own defense.
4. Alleged violator, complainant and witnesses are excused.
5. Discussion and decision by the Board, or, that the matter will be taken under submission with a determination within 35 days after the hearing. Notice to shareholder given within 15 days of the imposition of disciplinary action, if any.
6. Adjournment.

DOCUMENTATION

Name of Shareholder: _____
Phone Number: _____
Address: _____

Factual Findings on Issues:

Board ruling on any discipline to be imposed:

Additional Comments:

Date: _____
By: _____

SIGNATURE OF CHAIRPERSON

FINE SCHEDULE

1. If a member does not oppose the alleged violation or if the result of the hearing is a decision that a violation of the governing documents existed, a fine of \$100.00 may be imposed for each separate violation of the governing documents, subject to the following:
 - (a) If the violation is of a continuous nature and necessitates remedial action, the failure of the member to remedy the underlying situation or circumstance within 60 days of the imposition of the first monetary fine, will constitute a new and separate violation, subject to an additional fine of \$200.00. The failure of the member to correct the **violation** within 120 days of the imposition of the first monetary fine will constitute a third separate violation, subject to an additional fine of \$400.00.
 - (b) If a member violates the same provision of the governing document on two separate occasions within any 12 month period of time, the fine for the second offense will be \$200.00. If the member violates the same provision three or more times within any 12 month time period, the fine for the third and subsequent violations will be \$400.00 each.
2. At any point, the Board may choose to use the legal system or cause a correction of a violation to effect a remedy or cure, and the member may be assessed the costs and expenses incurred by the Mutual, including attorney's fees.
3. Should a violation occur which causes the Mutual to incur a financial obligation or expense, then the member responsible for the violation shall be assessed the amount of the obligation or expense incurred by the Mutual. For example, if a member damages any common property, the repair and replacement costs will be assessed to the member.
4. The Mutual may also, under appropriate circumstances, suspend voting privileges.