

Brook Meadows Homeowners Association, Inc. (BMHA)
Administrative Resolution A004

**BMHA Board Action and Procedures Regarding
Non-Compliance of CC&R, Bylaws, or Articles of Incorporation**

WHEREAS, ARTICLE I of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions (the "CC&R's") for Brook Meadows, changing the Brook Meadows Homeowner Association, Inc. (the "Association") from a voluntary to a mandatory Association, was approved by a majority of the Association membership (the "Membership") and filed by the Association Board of Directors (the "Board") on June 13, 2006; and

WHEREAS, ARTICLE VI, Section 6.2 of the CC&R's states, "The Board of Directors has the authority to promulgate reasonable rules and regulations concerning enforcement of the covenants and restrictions contained in this Declaration and/or amendments concerning the use and enjoyment of Commonly Maintained Areas."; and

WHEREAS, ARTICLE VI, Section 6.4 of the CC&R's states that "Every Owner shall comply with all provisions of this Declaration, the Bylaws, and the rules and regulations of the Association, all other dedicatory instruments of the Association and any amendments or supplements to any of the foregoing. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association."; and

WHEREAS, ARTICLE 3.01 of the Amended and Restated Bylaws of Brook Meadows Homeowners Association Inc. (the "Bylaws") approved and filed by the Board on October 30, 2006, states that the powers of the Association shall be exercised by or under the authority of, and the business and affairs of the Association shall be managed under the direction of, the Board or its designees, who may exercise all such powers of the Association and do all such lawful acts and things as are not by statute or by the Articles or by these Bylaws directed or required to be exercised or done by the Members."; and

WHEREAS, it is the intent of the Board to establish an orderly non-compliance process and procedures to improve continuity from one Board to the succeeding Board;

Now, therefore, be it resolved that the steps to be followed to effect action for BMHA Member non-compliance complaints and related issues shall be as follows:

1. **Board Action Upon Receipt of Non-Compliance Complaint:** Upon receipt of a written, or Board recorded verbal complaint, from any BMHA Member making a non-compliance complaint or raising a non-compliance issue regarding the BMHA CC&R's, Bylaws, or Association Article of Incorporation, the Board shall open a new BMHA non-compliance issue/action item (in the "Issue Log") and record the BMHA Member's non-compliance complaint and/or issue information in that action item.

2. **Board Action To Respond to Complainant:** The Board will respond to the complainant within one (1) week of receipt of the complaint, advising the complainant of an impending Board investigation and/or action regarding the complaint, and that same information shall be added to the Issue Log.
3. **Board Classifies Complaint and Assigns Responsibility:** The Board will discuss the complaint and make a formal determination as to the type/classification of the complaint (e. g., it is a Board issue, an ARC issue, another committee issue, a government/legal issue, etc.) and assign a Board Member to be responsible for addressing and resolving the non-compliance issue. The resulting determination and assignment information shall be added to the Issue Log.
4. **Board Member Delegation and Responsibility:** If the responsible Board Member delegates responsibility to address the issue to the ARC Chairman, another committee chairman, governmental authority, etc., the Issue Log remains the responsibility of the assigned Board member, who will actively track and report the progress of addressing and resolving the Issue. All Issue tracking and reporting information shall be added to the Issue Log.
5. **Board Complaint Oversight and Issue Log:** The Board will ensure that a proper investigation is conducted into the non-compliance allegation and will ensure that documentation of the facts and methods of all investigations are properly documented and maintained in the Issue Log.
6. **Board Action for Compliance Violation Notification:** If the Board determines that the investigation confirms the BHMA Member is not in compliance with BMHA CC&Rs, Bylaws, or Articles of Incorporation, the Board will send a written notification to the non-compliant BMHA Member, advising of the compliance violation and the requested/required action(s) to be performed by the BMHA Member in order to clear the compliance violation. The notification will also indicate a specific, maximum time-line for the BMHA Member to clear the violation. The written notification must also include what action(s) will be taken by the Board, if the BMHA Member refuses, ignores or fails to clear the violation within the Board's specified time-line. The Board "Penalty Actions" for failure to clear the violations identified in the Notification Letter may include sanctions, fines, fees, legal action, or other such actions deemed proper and appropriate by the Board. The Board will record the "penalty action" decision and clearly identify all motions, seconds to the motion, and Board member votes by name in the minutes of the Board.
7. **Board Action for BMHA Member Failure to Clear Violation:** If the BMHA Member fails to clear the violation within the Board's specified time-line, the Board will take the action(s) as stated in the Board's Compliance Violation notification letter to the BMHA Member.
8. **Board Action for BMHA Member Successfully Clearing Violation:** If the BMHA Member successfully responds to all demands as specified in the Board's notification letter and within the Board's specified time-line, the Board will send the BHMA Member a violation-cleared certification and thank you letter to the BMHA Member.
9. **Board Action for BMHA Member Successfully Clearing Violation:** The Board will then notify the original complainant of the successful clearing of the compliance violation and thank the complainant for his/her concern for the Brook Meadows neighborhood.
10. **Board Action for Invalid Non-Compliance Complaint:** If the Board's investigation confirms that there is no basis to the alleged compliance violation, the Board will notify all parties involved accordingly. Any BHMA Member who lodges multiple complaints, which result in the Board finding no basis in fact to support the alleged

violation(s) complaint, the BMHA Member making the complaints may be considered by the Board to be a "nuisance," and therefore, may be sanctioned by the Board. Sanctioning may include all administrative, legal and/or civil actions available to the Board, including assessing a "Nuisance" fee, up to \$100 per occurrence, against the BMHA Member being the nuisance, and if the matter is taken to a civil proceeding, asking the court to issue an injunction(s) against the BMHA Member making the nuisance complaints. In which case, the Board will assess the BMHA Member being the "nuisance" the associated administrative, legal and court costs incurred by the Board.

The Board reserves the right to amend, waive, or rescind this resolution, or any part of this resolution, at any time by proper majority Board vote.

BMHA Web Page Item _____, BMHA Web Page Hyperlink _____

ATTEST:

Record of Board's Vote on this Resolution:

Kevin Elder, President: Yes _____

No _____

Dick Cress, Vice President: Yes _____

No _____

Howard Wixson, Treasurer: Yes _____

No _____

Jim Tressler, Director At Large: Yes _____

No _____

~~Carole Taylor, Secretary:~~ Resigned

Date _____ President _____

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting President of Brook Meadows Homeowners Association, Inc., a Texas non-profit corporation;

That the foregoing Administrative Resolution of said Association, as duly adopted by a resolution of the Board of Directors of the Association on the 8th day of November, 2006.

IN WITNESS WHEREOF, I have hereunto subscribed my name this the ____ day of _____, 2006.

Kevin Elder, President

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, on this day personally appeared Kevin Elder, the President of Brook Meadows Homeowners Association, Inc. known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed and in the capacity therein and herein stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this ____ day of _____, 2006.

Notary Public – State of Texas