

**BOARD OF TRUSTEES OF  
WEXFORD CONSERVANCY  
POLICY RESOLUTION NO. 2012-04**

(Adoption of Conservancy Complaint Procedure)

**RECITALS:**

1. Section 55-515 of the Virginia Property Owners' Conservancy Act charges all lot owners and their tenants, guests and invitees with compliance with the Wexford Declaration of Covenants, Conditions and Restrictions recorded in Deed Book 1867 at page 1363 among the land records of Prince William County, Virginia (collectively, the "**Declaration**").

2. The Declaration establishes Wexford Conservancy (the "**Conservancy**") for the purposes of administering the property submitted to the Declaration.

3. Article VI of the Conservancy's Bylaws ("**Bylaws**") states that the affairs of the Conservancy shall be managed by the Board of Trustees ("**Board**").

4. Section 55-530 of the Code of Virginia, as amended from time to time (the "**Code**") in conjunction with 18 VAC 48-70-30 of the Common Interest Community Ombudsman Regulations (the "**Regulations**") require that the Conservancy adopt a written process for resolving complaints to the Conservancy from members and citizens and that such complaint procedure shall conform with the requirements of the Code, the Regulations and the Conservancy governing documents.

5. The Board deems it necessary to conform to the Code and Regulations and by this resolution does hereby establish this Conservancy Complaint Procedure, attached to this resolution as Exhibit A and made part of this resolution.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board does hereby create the Wexford Conservancy. Complaint Procedure, attached to this resolution as Exhibit A and made part of this resolution, and does hereby adopt the Conservancy Complaint Procedure to be effective as of September 28, 2012.

**WEXFORD CONSERVANCY**  
**RESOLUTION ACTION RECORD**

Resolution Type :  Policy       Administrative      Resolution No. 2012-04

Pertaining to adoption of the Wexford Conservancy Complaint Procedure

Duly adopted by the Board of Trustees of the Wexford Conservancy, held on October 18, 2012.

Motion by: Jason Salley      Seconded by: Brendan McCann

TRUSTEE NAME	YES	NO	ABSTAIN	ABSENT
Jon Williams	✓			
Jason Salley	✓			
Kameshia Pate	✓			
Brendan McCann	✓			
Charles Camupp	✓			
Joe Buckley				✓

ATTEST:  
Ronna E. Parish  
RONNA PARISH  
Secretary

October 18, 2012  
Date

Resolution Effective as of: September 28, 2012

WEXFORD CONSERVANCY

COMPLAINT PROCEDURE

I. DEFINITIONS

Any capitalized term used herein and not otherwise defined shall have the meaning set forth in the Declaration. As the context may require, the term “Owner” shall refer to Owners, members of their families, guests, tenants, employees and invitees.

A. **Adverse Decision** means the determination issued by Conservancy pursuant to this Complaint Procedure that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the Complainant.

B. **CIC Ombudsman** means the current Virginia Common Interest Community Ombudsman who may be contacted at the Office of the Common Interest Community Ombudsman, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, and whose telephone number is 804/367-2941 and whose email address is [CICOmbudsman@dpor.virginia.gov](mailto:CICOmbudsman@dpor.virginia.gov).

C. **CIC Regulations** means the Common Interest Community Ombudsman Regulations, 18-VAC 48-70 *et seq.* as currently effective and as may be amended from time to time.

D. **Complainant** means an Owner or citizen who makes a Complaint pursuant to this Complaint Procedure.

E. **Complaint** means a written complaint filed by an Owner or citizen pursuant to this Complaint Procedure in the form attached hereto as Appendix A. A Complaint shall concern a matter regarding the action, inaction, or decision by the Board of Trustees, Management Agent, or the Conservancy inconsistent with applicable laws and regulations.

F. **Complaint Procedure** means this written process adopted by the Conservancy to receive and consider Complaints from Owners and citizens.

G. **Conservancy** means the Wexford Conservancy, Inc. established by the Conservancy Governing Documents.

H. **Conservancy Governing Documents** means collectively the Articles of Incorporation, Declaration, Supplementary Declaration and Bylaws of the Conservancy, all as may be amended from time to time. For purposes of this Complaint Procedure, Conservancy Governing Documents also includes, to the extent in existence, resolutions, rules and regulations, or other guidelines governing Owner conduct and Conservancy governance.

I. **Final Adverse Decision** means the final determination issued by Conservancy pursuant to this Complaint Procedure that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the Complainant. Such decision means all avenues for internal appeal under this Complaint Procedure have been exhausted. The date of the Final Adverse Decision will be the same as the date of the applicable Notice of Determination.

J. **Management Agent** means a bona fide business enterprise, its principals and employees, which manages common interest residential communities, and which has entered into a written agreement with the Conservancy to perform specific management services.

K. **Notice of Determination** means the notice of determination as discussed in Section IV, Subparagraph B below.

L. **Notice of Final Adverse Decision** means the notice of Final Adverse Decision as discussed in Section IV, Subparagraph D below, the form of which is attached to this Complaint Procedure as Appendix B.

M. **Record of Complaint** means all documents, correspondence, and other materials related to a decision made pursuant to this Complaint Procedure.

## II. FILING A COMPLAINT

A. Any Owner or citizen who alleges an action, inaction, or decision by the Board of Trustees, Management Agent, or the Conservancy to be inconsistent with applicable laws and

regulations may file a Complaint with the Board of Trustees in the form attached to this Complaint Procedure as Appendix A.

B. The Complaint must be accompanied by copies of all documentation referenced in the Complaint, which may include, but not be limited to applicable portions of the Conservancy Documents, all or portions of minutes from Board of Trustees meetings or meetings of the membership of the Conservancy, and to the extent Complainant has knowledge, reference to or copies of the applicable portions of the Virginia Code, applicable portions of the Virginia Administrative Code (Regulations), or any other documentation upon which the Complainant relies in making his/her assertion. The Complaint must also contain the requested action or resolution to be taken by the Board of Trustees as to Complainant's assertion.

### III. RECEIPT OF COMPLAINT AND ACTION

A. Within seven (7) days of receipt of the Complaint in the format set forth in Section II above and Appendix A, the Board of Trustees will acknowledge such receipt in writing hand delivered or mailed by registered or certified mail, return receipt requested, to the Complainant at the address provided on the Complaint. In the alternative, and if consistent with established Conservancy procedures, this acknowledgment by the Board may be delivered through electronic means as long as the Board retains sufficient proof of electronic delivery.

B. The Board will have fifteen (15) days from its receipt of the Complaint to review the Complaint for purposes of identifying whether additional information is necessary for the Complainant to provide in order for the Board to properly assess and respond to the Complaint.

a. If the Board determines additional information is necessary, the Board will request in writing that Complainant provide additional information, and Complainant will have fifteen (15) days from the date of the Board's written request to provide the requested information to the Board for its review.

b. In the sole discretion of the Board, Complainant's failure to provide the information as requested within the designated timeframe will result in either the Complaint

being dismissed by the Board as incomplete, or being considered based solely on the information initially provided if consideration is possible.

C. Within fifteen (15) days from either the receipt of a Complaint, if the Complaint is complete as originally filed, or receipt of further requested information as required in Section III, Subparagraph B above, the Board will provide Complainant with written notice of the date, time and location that the Complaint will be considered, hand delivered or mailed by registered or certified mail, return receipt requested, to the Complainant at the address provided on the Complaint. In the alternative, and if consistent with established Conservancy procedures, this written notice by the Board may be delivered through electronic means as long as the Board retains sufficient proof of electronic delivery.

#### IV. DETERMINATION

A. The Board will consider the Complaint on the date, time and at the location as set forth in its notice to Complainant as described in Section III, Subparagraph C above, which may occur at either a special meeting or a regular Board of Trustee's meeting. Complainant may appear at such meeting of the Board of Trustees, which will be conducted as provided in Article X of the Bylaws and Section 55-510.1 of the Code of Virginia.

B. The Board will issue its written "Notice of Determination" as to the assertion set forth in the Complaint, hand delivered or mailed by registered or certified mail, return receipt requested, to the Complainant at the address provided on the Complaint within seven (7) days of the meeting at which the Board made its determination. In the alternative, and if consistent with established Conservancy procedures, this written notice by the Board may be delivered through electronic means as long as the Board retains sufficient proof of electronic delivery.

C. The Notice of Determination will be dated as of the date of issuance of the determination and will include specific citations to the applicable Conservancy Governing Documents, Virginia Code or Virginia Administrative Code (Regulations) that led the Board to the determination, as well as the Virginia CIC Registration Number of the Conservancy. The Management Agent's name and license number, if any, will also be provided in the Notice.

D. The Notice of Determination will include the Complainant's right to file a "Notice of Final Adverse Decision" with the Common Interest Community Board via the CIC Ombudsman at the address set forth in Section I, Subparagraph C above and on Appendix B attached to this Complaint Procedure. The Notice of Final Adverse Decision must be filed with the CIC Ombudsman within thirty (30) days of the date of the Notice of Determination of the Final Adverse Decision on the form attached to this Complaint Procedure as Appendix B, and otherwise meet the requirements written in Part III of the CIC Regulations.

#### V. COMPLAINTS COMMITTEE

A. The Board may, as provided by Article VI, Section 8 (i) of the Bylaws, appoint a "Complaints Committee" and may charge this committee with accepting, reviewing and responding to Complaints as set forth above in the same capacity as the Board.

B. The Complaints Committee will consist of between two and five Owners, as such term is defined in the Declaration, one of whom must be a member of the Board of Trustees.

C. The Complaints Committee will meet as frequently as may be necessary to review Complaints, hold meetings to address Complaints and issue determinations as to Complaints, all as previously established by Sections III and IV above.

D. The Chair of the Complaints Committee will provide a written report, including full copies of all Complaints and Notices of Determination, to the Board of Trustees at each regularly held Board of Trustees meeting. The report to the Board will briefly discuss the nature of the Complaints received, activities and actions taken by the Complaints Committee.

#### VI. APPEAL

A. If no Complaints Committee is established by the Board of Trustees then any Adverse Decision issued by the Board as provided in Section IV above will be the Final Adverse Decision of the Complaint, and Complainant's appeal rights are through filing a Notice of Final Adverse Decision with the Ombudsman as set forth in Section IV, Subparagraph D above.

B. If a Complaint is reviewed and considered by the Complaints Committee and an Adverse Decision is returned to Complainant, Complainant will have thirty (30) days from the date of Notice of Determination to file an appeal of the Adverse Decision with the Board of Trustees.

C. The Board of Trustees will consider and make its determination of the Complaint subject to appeal per the procedure established in Sections III and IV above, and any Adverse Decision issued by the Board of Trustees will be a Final Adverse Decision.

#### VII. COMPLIANCE WITH REGULATIONS

The Board of Trustees will ensure that this Complaint Procedure is made available to members of the Conservancy in accordance with Section 48-70-60 of the CIC Regulations, and that the Record of Complaint is maintained for no less than one (1) year after the Conservancy acts upon a Complaint in accordance with Section 48-70-70 of the CIC Regulations.





APPENDIX B:



## Notice of Final Adverse Decision

9960 Mayland Drive, Suite 400	Inquiries and Questions: (804) 367-2941
Richmond, VA 23233-1485	TDD: Virginia Relay 7-1-1
E-Mail: <a href="mailto:cicombudsman@dpor.virginia.gov">cicombudsman@dpor.virginia.gov</a>	Fax: (804) 527-4405
Website: <a href="http://www.dpor.virginia.gov">www.dpor.virginia.gov</a>	

A complainant may give notice to the Common Interest Community Board via the Common Interest Community Ombudsman of any final adverse decision issued by a common interest community association.

As defined in regulation 18 VAC 48-70-20, a final adverse decision means the final determination issued by an association pursuant to an association complaint procedure that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the complainant. Such decision means all avenues for appeal have been exhausted.

Any Notice of Final Adverse Decision must be filed within **30 DAYS** of the date of the final adverse decision. Notices of Final Adverse Decision must be complete at the time of filing.

A complete Notice of Final Adverse Decision consists of:

1. a copy of the association complaint;
2. a copy of the final adverse decision;
3. a reference to the laws and regulations the final adverse decision may have violated;
4. any supporting documents, correspondence, and other materials related to the final adverse decision;
5. a copy of the association complaint procedure or form;
6. any applicable association governing documents; and
7. a filing fee or a request for waiver of filing fee.

**Anonymous Notices of Final Adverse Decision will not be accepted.**

### **FEE FOR FILING A NOTICE OF FINAL ADVERSE DECISION**

Complainant must submit a \$25.00 filing fee with the Notice of Final Adverse Decision. The Notice of Final Adverse Decision will not be considered complete until the filing fee has been received by the Department of Professional and Occupational Regulation. The Office of the Common Interest Community Ombudsman will not begin reviewing any Notice of Final Adverse Decision until it is complete.

## WAIVER OF FILING FEE

The Common Interest Community Board may, for good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will cause undue financial hardship for the complainant. A waiver form must be completed and submitted with the Notice of Final Adverse Decision. The Waiver Request form can be obtained at [www.dpor.virginia.gov/](http://www.dpor.virginia.gov/). If a waiver is requested, the Common Interest Community Ombudsman will not review the Notice of Final Adverse Decision until the waiver has been granted or the Complainant has submitted a filing fee of \$25.00.

## WHAT HAPPENS WHEN YOU FILE A NOTICE OF FINAL ADVERSE DECISION?

The Office of the Common Interest Community Ombudsman may request additional information from the association. The Office of the Common Interest Community Ombudsman will review the final adverse decision, and if the final adverse decision is in conflict with laws or regulations governing common interest communities or interpretations thereof by the Common Interest Community Board, the Common Interest Community Ombudsman may provide the complainant and the association with information concerning such laws or regulations or interpretations thereof by the Common Interest Community Board.

The determination of whether the final adverse decision may be in conflict with Virginia laws or regulations or interpretations thereof by the Common Interest Community Board shall be a matter within the sole discretion of the Common Interest Community Ombudsman whose decision is final and not subject to further review. This determination shall not be binding upon the complainant or the association.

## NOTICE OF FINAL ADVERSE DECISION FORM INSTRUCTIONS

**NOTE:** *Anonymity cannot be guaranteed. By law, all Notices of Final Adverse Decision and any accompanying documents received by the Department of Professional and Occupational Regulation are subject to public disclosure once a case is closed.*

- ✓ Fill in complainant information.
- ✓ Fill in the date of the final adverse decision
- ✓ Fill in the name, address, and telephone number(s) of the association.
- ✓ Include a copy of the association complaint, the final adverse decision received from the association, the laws and regulations the final adverse decision may have violated, any supporting documents, correspondence, and other materials related to the final adverse decision, the association complaint procedure, and any applicable association governing documents.
- ✓ Include a check in the amount of \$25.00 made payable to the Treasurer of Virginia.
- ✓ If a waiver of the filing fee is requested, include the Request for Waiver of Filing Fee along with the Notice of Final Adverse Decision.
- ✓ Sign and date the form at the bottom of the page.

Submit the completed form, supporting documents, correspondence, and other related materials to:

Department of Professional & Occupational Regulation  
Office of the Common Interest Community Ombudsman  
9960 Mayland Drive, Suite 400  
Richmond, Virginia 23233-1485

The processing of the Notice of Final Adverse Decision will be conducted in a timely manner. The complainant will be contacted if additional information is required and at the conclusion of the review. Thank you for your patience during the review process.



Department of Professional and Occupational Regulation

## NOTICE OF FINAL ADVERSE DECISION

(PLEASE PRINT LEGIBLY OR TYPE)

**NOTE:** *The Department cannot guarantee anonymity. By law, all complaints received by the Department are subject to public disclosure once a case is closed. Anonymous Notices of Final Adverse Decision will not be accepted.*

**COMPLAINANT INFORMATION**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, and Zip: \_\_\_\_\_

Phone: Home \_\_\_\_\_ Business \_\_\_\_\_ Cell \_\_\_\_\_

E-mail Address: \_\_\_\_\_

City/County: \_\_\_\_\_

Date of Final Adverse Decision: \_\_\_\_\_

**ASSOCIATION INFORMATION**

Name of the Association: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip: \_\_\_\_\_

Phone: Business \_\_\_\_\_ Cell \_\_\_\_\_ Other \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Management Company (if applicable): \_\_\_\_\_

I understand this Notice of Final Adverse Decision will not be complete until I have submitted all required documents and the filing fee. A financial hardship waiver may be submitted in lieu of the filing fee, but this will delay review of my Notice of Final Adverse Decision and there is no guarantee that I will be granted the waiver.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_