

THE LAW OFFICES OF  
**JUDITH A. FALLAT**

MEMBER NJ AND NY BAR

JAMES F. KANE, OF COUNSEL  
CERTIFIED BY THE SUPREME COURT OF NEW JERSEY  
AS A CIVIL TRIAL COUNSEL ATTORNEY  
MEMBER NJ AND CA BAR



November 25, 2014

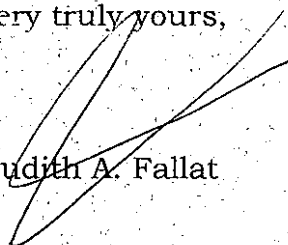
Donna Wilner, Manager  
Matrix Property Management, Inc.  
Panther Valley Square Mall  
PO Box 57, Route 517  
Allamuchy, NJ 07820

Re: Mountainview Manor Condominium Association, Inc.  
Policy Resolution - Alternative Dispute Resolution

Dear Donna:

Enclosed please find recorded copy of the above Resolution for your file.

Very truly yours,



Judith A. Fallat

JAF/mps  
File 7103  
Encl.

MASTER DEED  
RECORDED October 29, 1986  
Book 2897, Page 348

Prepared By:

  
\_\_\_\_\_  
JUDITH A. FALLAT, ESQ.

**MOUNTAINVIEW MANOR CONDOMINIUM ASSOCIATION, INC.  
ROCKAWAY, NEW JERSEY**

**POLICY RESOLUTION**

**ALTERNATIVE DISPUTE RESOLUTION**

**WHEREAS**, the Governing Board is cognizant of the New Jersey Condominium Act at N.J.S.A. 46:8B-14(k) which provides, in pertinent part, that:

An association shall provide a fair and efficient procedure for the resolution of housing-related disputes between the individual unit owners and the association, and between unit owners, which shall be readily available as an alternative to litigation. A person other than an officer of the association, a member of the governing Board or a unit owner involved in the dispute shall be made available to resolve the dispute.

and;

**WHEREAS**, it is the Board's desire to comply with the existing law, and to establish herein an appropriate committee to implement the law, and to establish the available procedures; and

**WHEREAS**, the Governing Documents empower the Board to perform all duties necessary for the proper conduct and administration of the affairs of the Association, and the operation and maintenance of the Condominium; and

**WHEREAS**, the Governing Documents authorize the Board in administering the affairs of the Association to adopt and enforce rules and regulations governing the operation and use of the Property; and

**WHEREAS**, the Governing Documents mandate compliance by Unit Owners with the Governing Documents, including rules and regulations; and

**WHEREAS**, the Board, recognizing the extensive nature of this rules enforcement task, and in compliance with the New Jersey Condominium Act, wishes to employ an Alternative Dispute Resolution Committee (hereinafter "Committee") and establish the due process procedures to be followed in connection with the actions of the Committee.

**NOW, THEREFORE, BE IT RESOLVED** that an Alternative Dispute Resolution Committee will be established and governed by the following policies and procedures:

**I. DUTIES**

The primary responsibility of the Committee is to hear and resolve disputes

between individual unit owners and the Association, or between individual owners regarding violations of the covenants and rules and regulations, and other housing-related disputes.

In fulfilling its responsibility, the Committee shall perform functions which include, but are not necessarily limited to, hearing complaints and disputes which constitute violations of the Governing Documents or rules and regulations in accordance with the due process procedures outlined herein and issue decisions in an effort to resolve such disputes.

Any action, ruling or decision of the Committee will serve to exhaust the administrative remedies available through the Association, and shall be deemed final unless one of the parties chooses to pursue litigation.

The Committee shall have such additional duties, powers and authority as the Board in its discretion may from time to time provide by resolution. The Board may relieve the Committee of any of its duties, powers and authority either generally or on a case by case basis by vote of a majority of its full authorized membership. The Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or resolutions of the Board.

Notwithstanding the foregoing, no action may be taken by the Association, including the issuance of a fine, without giving the persons involved at least ten (10) days prior written notice and affording them the opportunity to be heard, with or without counsel, with respect to the violations asserted.

## **II. ORGANIZATION**

1. **Membership:** The Committee shall be an ad hoc Committee comprised of one to three members appointed by the Governing Board as the need for alternative dispute resolution arises. Committee members shall be comprised of unit owners not involved in the dispute. In accordance with the Condominium Act, no officers of the Association, members of the Board, or unit owners involved in the dispute shall serve on the Committee.

## **III. OPERATION**

The Committee shall conduct its business in strict accordance with the due process procedures set forth herein, as well as any other Resolutions which condition or guide the Committee and its operation, and in the interests of the membership.

**BE IT FURTHER RESOLVED THAT** the following due process procedures are hereby established:

"Due Process", as used in this resolution, refers to the following basic rights:

1. Respondent will be notified of the charges.
2. Respondent will have an opportunity to respond and/or to be heard at a hearing of the ADR Committee.
3. Basic principles of fairness will govern.

"Owner", as used in this resolution refers to an owner, his guests, invitees, or lessees.

A matter will be referred to the Committee only upon the filing of a written complaint.

## I. ADR PROCEDURES

1. Notice of Violation. A letter will be hand delivered or sent by regular mail and certified mail, return receipt requested, giving notice of the violation to the Owner addressed to the Owner at the address appearing on the books of the Association. Service by mail will be deemed effective three (3) days after posting in a regular depository of the United States mail.

The Notice of Violation letter must specify the provisions of the Governing Documents or Rules and Regulations which the Owner has violated and specify the date(s) the violation was observed. The notice must also request the Owner to cease and desist the alleged violation within a specified time period.

The violation letter must state that if the unit owner disputes the charge and would like to be appear before the Committee, he must respond in writing to the Committee within ten (10) days of receiving the letter.

2. Response By Subject. Within ten (10) days of receiving a Notice of Violation, the subject of the complaint (hereinafter "Respondent") must file a written response with the Committee if the Respondent disputes the charge. At that time, the Respondent may request a hearing before the Committee.

3. Failure to Respond. In the event the Respondent fails to respond and fails to remedy the violation within the specified time periods, the Committee shall refer the matter to the Board for any action as may be authorized by the Association documents and Board Resolution.

4. Confirmation of Hearing. In the event the Respondent makes a timely request for a Committee hearing, a confirmation of hearing must be sent to all parties which sets forth the time, place and date of hearing. It must contain a statement that the Respondent may, but need not be represented by counsel, may present any relevant evidence, and be given full opportunity to cross-examine all witnesses against him regarding the alleged violation. It must also contain a statement that the Respondent is entitled to request the attendance of witnesses and the production of books, documents, or other items by applying to the Association. A minimum of 24 hours notice is required for the cancellation of any meeting.

### 5. The Hearing.

a. The Committee will select a person who need not be an Owner or a member of the Committee to preside as hearing officer over the hearing. At the request of the Board, Association legal counsel may serve as the hearing officer. It is the duty of the hearing officer to explain the rules and procedures by which the hearing is to be conducted. Generally, any relevant evidence may be admitted and hearsay evidence may be used to supplement or explain other evidence, but will not be sufficient in itself to support a finding. Each party has the right to make a statement, introduce evidence, testimony and witnesses, and question opposing parties and witnesses.

b. At the request of either Complainant or Respondent or on its own motion, the Committee may conduct the hearing in private session.

c. Technical rules of evidence or procedure may be relaxed by the hearing officer who, nevertheless, may reserve the right to exclude all irrelevant, immaterial, or repetitious evidence. The hearing officer also has the discretion to impose reasonable limits on the time allowed to testify and the number of witnesses.

d. If the Complainant does not appear at the hearing, the complaint will be dismissed.

e. Oral evidence may be taken only on oath or affirmation administered by the hearing officer.

f. Whenever the Committee has commenced to hear a matter, and a member of the Committee withdraws before a decision, the remaining members will continue to hear the case and the President of the Board will name a replacement for the withdrawing member who will make his decision from the existing record.

g. At any time prior to rendering a final determination, the Committee may accept supplemental factual information for its consideration.

h. At any time after issuing a complaint and prior to the date for hearing, any party may request the Committee to provide the names and addresses of witnesses to be called, and copies of any statements, writings, and investigative reports to be introduced at the hearing.

i. Each member of the Committee must be able to perform in a disinterested and objective manner in consideration of the case before the Committee, or must disqualify himself and have it so recorded in the minutes. Any member of the Committee may be challenged by any other member or by the Complainant or the Respondent for cause. The Board will decide the challenge and all decisions of the Board in this regard are final.

j. Respondent's failure to appear before the Committee at a scheduled hearing will be deemed a default. In the event of a default, the Committee will render its decision on the allegations in the Complaint and on the facts before it.

k. After a hearing on any matter, the Committee must make every effort to render a decision promptly, but in any event, must issue a written decision on the matter within thirty (30) days. To be effective, a decision of the Committee must be by a majority vote. Copies of the decision will be submitted to Association management for delivery to the parties by regular and certified mail return receipt requested, promptly after the decision is issued.

l. In the event the Committee concludes that a violation of any covenants or rules and regulations of the Association has occurred, the Governing Board shall have the authority to pursue enforcement action as provided for by the Governing Documents.

## **II. COSTS**

The Committee is authorized to impose costs related to the alternative dispute resolution hearing on the party which does not prevail at the hearing. These costs shall include, but shall not be limited to, the cost of rental of the hearing room, photocopying, postage, association administrative fee, legal fees incurred by the Association, and cost of committee member's time in attendance at the meeting in accordance with the terms of the Association governing documents. Any costs requested by either party must be presented to the Committee at the hearing and documented to the satisfaction of the Committee.

## **III. EFFECT OF COMMITTEE DECISION**

The decision of the Committee is deemed to be final, and there will be no further administrative process within the Association, including an avenue of appeal. All parties will be free to pursue their legal remedies with the courts in the event they have not found the ADR process to be satisfactory.

## **IV. MISCELLANEOUS**

Any inadvertent omission or failure to follow the procedures for due process in this Resolution will not invalidate the results of any decision or ruling, as long as a prudent and reasonable attempt was made to assure the above basic due process rights.

**VII. ALTERNATIVE ADR THROUGH CAI MEDIATION PROGRAM**

1. In the event the Association is unable to assemble an ADR Committee from among the Association membership as set forth above, the Association has elected to engage the alternative dispute resolution mediation services of New Jersey chapter of the Community Association Institute as its alternative dispute resolution procedure.

2. The mediation shall be conducted in accordance with the CAI ADR mediation services program. A copy of the CAI ADR request form and related information is attached to and incorporated into this Resolution.


3. The ADR process shall be in accordance with the CAI ADR mediation services program, and determined by the mediator. Costs of mediation are as established by CAI ADR Mediation Services Program from time to time. Payment shall be made in accordance with that program and applicable law.

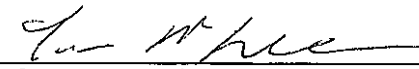
4. The result of the CAI ADR mediation is not binding and there will be no further administrative process within the Association, including an avenue of appeal. All parties to the dispute will be free to pursue their legal remedies with the courts in the event they have not found the CAI ADR process to be satisfactory.

I hereby certify that the foregoing was duly adopted at a regular meeting of the Governing Board of the Mountainview Manor Condominium Association, Inc. held on *October 28*, 2014.

ATTEST:

**MOUNTAINVIEW MANOR  
CONDOMINIUM ASSOCIATION, INC.**

  
Marylin Wechseldlatt, Secretary

  
Tom Mcnee, President

STATE OF NEW JERSEY)

ss

COUNTY OF MORRIS )

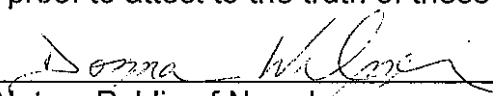
I CERTIFY THAT on *Oct 28*, 2014, *MARYLIN Wechseldlatt* personally came before me and this person acknowledged under oath, to my satisfaction, that:

(a) this person is the secretary of the Mountainview Manor Condominium Association, Inc. the corporation named in the attached document;

(b) this person is the attesting witness to the signing of this document by the proper corporate officer who is *Tom Mcnee*, the President of the corporation;

(c) this document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors;

(d) this person signed this proof to attest to the truth of these facts.

  
A Notary Public of New Jersey

**DONNA WILNER  
A Notary Public of New Jersey  
My Commission Expires JANUARY 10, 2016**

Record & Return to:  
Judith A. Fallat, Esq.  
92 Broadway, Suite 201  
Denville, NJ 07834  
(973) 586-2120