

Attachment 1.

**RULES OF PROCEDURE FOR IMPLEMENTATION- OF AMENDMENT TO FOREST HILLS
COMMUNITY ASSOCIATION**

**(FHCA) DECLARATION OF COVENANTS RELATING TO THE DUTY TO REPAIR, MAINTAIN,
AND RESTORE OWNERS' LOTS AND IMPROVEMENTS THEREON**

PURPOSE: The amendment to the FHCA Declaration of Covenants adds paragraph 19 to Article VIII and reads as follows:

"(19) In the event an Owner of any Lot in the Properties shall fail to repair, maintain, and restore the Lot and any improvements thereon in a manner satisfactory to the Board of Directors, the Association shall, after notice and hearing and approval by two-thirds (2/3) vote of the Board, have the rights to seek an injunction against the Lot Owner to have them perform the needed repair, maintenance and restoration to the Lot and buildings, and any other improvements erected thereon. The Lot Owner shall be responsible for all legal fees and costs incurred in the enforcement of this section."

This Amendment is necessary to ensure that the FHCA meets the obligations for which it exists. As stated in the Articles of Incorporation:

"the specific purposes for which it [FHCA] is formed are to provide for maintenance, preservation, and architectural control of the residence lots and the Common Areas."

It is the intent of FHCA that the following procedures be used to enforce this Amendment when necessary.

"PREFACE: It is the intent of the Board of Directors of the Forest Hills Community Association (FHCA Board) that the following procedures be utilized in the administration of the FHCA Declaration of Covenants Article VIII(19).

A TITLE I. IDENTIFICATION OF CONDITIONS AND INFORMAL RESOLUTION

"The FHCA Architectural Control Committee (ACC), as part of its normal, on-going inspection activities of Owners' lots and improvements, or upon the written complaint filed with the ACC by any Resident, will identify conditions, which if not corrected, could become potential violations of Article VIII (19) of the FHCA Declaration of Covenants. No alteration to an Owners lot and improvements thereon previously approved by the ACC shall be the subject of these procedures unless that alteration itself is presently in a condition, which if not corrected, could become potential violation of Article VIII(19) of the FHCA Declaration of Covenants.

"In cases involving a complaint from a Resident, the Chair of the ACC shall informally consult with the ACC to ensure that the ACC fully understands the nature of the complaint. If the ACC agrees that there is a potential violation of Article VIII(19) the Chairperson of the ACC in any case initially shall informally advise the Owner of the lot of the condition or conditions of concern. Following the ACC Chair's informal notice to the Owner, the ACC shall engage in informal negotiation with the Owner to reach agreement with that Owner to perform, or have performed, the repairs, maintenance, and/or restoration of the identified conditions in a manner and within a specified period of time. If such repairs, maintenance, or restoration are performed within the specified time as agreed, the matter is closed. The Chairperson of the ACC shall advise the Owner in writing of that determination. If the complaint had been made by another Resident, the Chairperson of the ACC shall also advise the complaining Resident that the matter has been closed. (See Attachment A—ACC Issue Resolution Process for more information concerning ACC informal inspection and negotiation process).

"TITLE 11_ REFERRAL TO FHCA BOARD OF DIRECTORS

"If a matter concerning conditions identified or complained about under Title I is not closed under that Title, the ACC may, by majority vote, refer the matter, including such evidence as the ACC determines to be relevant, to the FHCA Board for possible enforcement action under FHCA Covenant Article VIII(19) or under any other relevant section of the governance documents of the FHCA or under other relevant provisions of equity or law. Upon receipt of such a referral, the FHCA Board may, by majority vote in open session— (A) close or table the matter;

- (B) consider the matter for possible violation and action under FHCA Covenant Article VIII(19); or,
- (C) pursue the matter under any other relevant Covenant of the FHCA or under other relevant provisions of equity or law.

"If a majority of the FHCA Board votes to consider the matter for possible violation of FHCA Covenant Article VIII(19), as provided under subsection (B) above, the procedures set forth in Titles III and IV shall be followed.

"TITLE III. PROCEDURES FOR ENFORCEMENT ACTION UNDER FHCA COVENANT ARTICLE VIII (19)

"(A)(1) If the FHCA Board votes in open session pursuant to Title II(B) above, to consider a matter for possible violation and action under the FHCA Covenant Article VIII(19), the FHCA Board shall notify the Owner by simultaneous US certified and first-class mail, (and if the matter arose from a complaint of another resident, such resident concerned) of—

- a. the nature of the condition or conditions that the FHCA Board believes may violate the requirements of FHCA Covenant VIII (19) and relevant evidence thereof;
- a. the right of the Owner to participate in a hearing, not sooner than 15 days following the mailing of such notice, before a Hearing Board to be designated by the President of the FHCA Board, to be represented at such hearing by a person or persons of the Owners choosing, and to present any relevant evidence and testimony at such hearing as the Owner may choose;

"(2)(a) The President of the FHCA Board shall designate a Hearing Board of at least three (3) Owners, one of whom shall be a member of the FHCA Board, one of whom shall be member of the ACC who is not a Member of the FHCA Board, and one or more who shall be neither a member of the FHCA Board nor the ACC (if such volunteer can be found). No Owner who owns a lot immediately adjacent to the lot of the Owner concerned under this section shall be appointed to such Hearing Board.

"(b)(i) The Hearing Board member who is also a member of the FHCA Board shall be Chair of the Hearing Board. The Hearing Board Chair shall determine the date (but not sooner than 15 days following the mailing of the US certified and first-class mail notice to the Owner required by subsection (A)(1)(b) of this Title), the time, and place of the hearing and whether such hearing shall be conducted in person or by electronic means. Such hearing shall be conducted not later than 45 days following the mailing of the US certified and first-class mail notice to the Owner required by subsection (A)(1)(b) of this Title. However, the Hearing Board Chair shall have discretion to grant delays or continuance of such hearing for good and reasonable reasons, as determined by the Hearing Board Chair. Furthermore, by majority vote of the Hearing Board or upon request of the Owner concerned, the Hearing Board may meet in closed session for the purposes of considering the concerned Owners private personal or financial evidence.

"(ii) Following the receipt of all evidence submitted by the Owner and the ACC, the Hearing Board shall consider all evidence submitted by the ACC, all evidence submitted by the Owner, and such other relevant evidence developed during such Hearing Board proceedings. Following consideration of such evidence, the Hearing Board in open session shall vote to determine whether the preponderance of the evidence establishes that a condition or conditions does or does not exist that violates the FHCA Declaration of Covenants Article VIII(19). Any determination that such a condition or conditions does exist shall be announced by the Hearing Board Chair in open session, shall describe the nature of such condition or conditions, and may only be made by— A. a unanimous vote if the Hearing Board consists of three Owners; or

A. a majority vote if the Hearing Board consists of more than three Owners.

"(iii) Within seven (7) days following the announcement of the determination of the Hearing Board, the Chair shall submit in writing to the FHCA Board and the Owner concerned a report of its determination, including the vote of the Hearing Board with regard to such determination. If that determination is that a condition or conditions exists that violate FHCA Declaration of Covenants Article VIII(19), the report shall include a description of the nature of the condition or conditions found to exist, the vote justifying such determination, and include or incorporate by reference all evidence considered by the Hearing Board.

"TITLE IV. PROCEDURES OF FHCA BOARD FOLLOWING HEARING BOARD

"(A) Following the receipt of a report of determination by a Hearing Board, the FHCA Board shall provide the FHCA with notice of its intent at its next regular or special meeting to consider such determination and relevant evidence in an open session, the time and date of such session, and whether such session shall be conducted in person or by electronic means.

"(B)(1) If the relevant determination of the Hearing Board was that no condition exists that violates Declaration of Covenants VIII (19), the FHCA Board shall be deemed to have tabled any further action under such Covenant VII(19) with respect to the underlying condition or conditions of the subject Owners lot and

improvements considered by the Hearing Board for a period of at least one year from that FHCA Board meeting, except with respect to new or emergency conditions; or

"(2) If the relevant determination of the Hearing Board was that a condition or conditions exists that justify pursuing action under Covenant VIII(19), the FHCA Board shall notify the Owner concerned by first class mail that the Owner may present such

evidence as the Owner deems appropriate at the meeting of the FHCA Board for which notice is given to the FHCA as required by subsection (A) of this Title. Following any presentation of evidence by the Owner concerned at such FHCA Board meeting, if any, the FHCA Board may, in executive session if such session is approved by a majority vote, debate all information contained in the report of determination of the Hearing Board and any other evidence presented to the FHCA Board it deems relevant, and thereafter in open session—

"(i) by a vote of 2/3 of that FHCA Board, pursue action under such Covenant VIII (19); or

"(ii) by a majority vote of that FHCA Board, pursue such other action as may be permitted by other Covenants or provisions of law or equity; or

²(iii) if the FHCA Board does not approve action under either Subsection (B)(2)(i) or (ii) of this Title, the FHCA Board should consider whether, by a majority vote, to table any further action with respect to the underlying condition or conditions of the subject Owner's lot and improvements thereon for a period of at least one year following such vote, except with respect to new or emergency conditions.

"Any FHCA Board decision made under this Title shall be announced by the FHCA Board President in open session and a record of votes taken with respect to such decision shall be reflected in the minutes of such meeting."

FOREST HILLS ARCHITECTURAL CONTROL COMMITTEE ISSUE RESOLUTION PROCESS

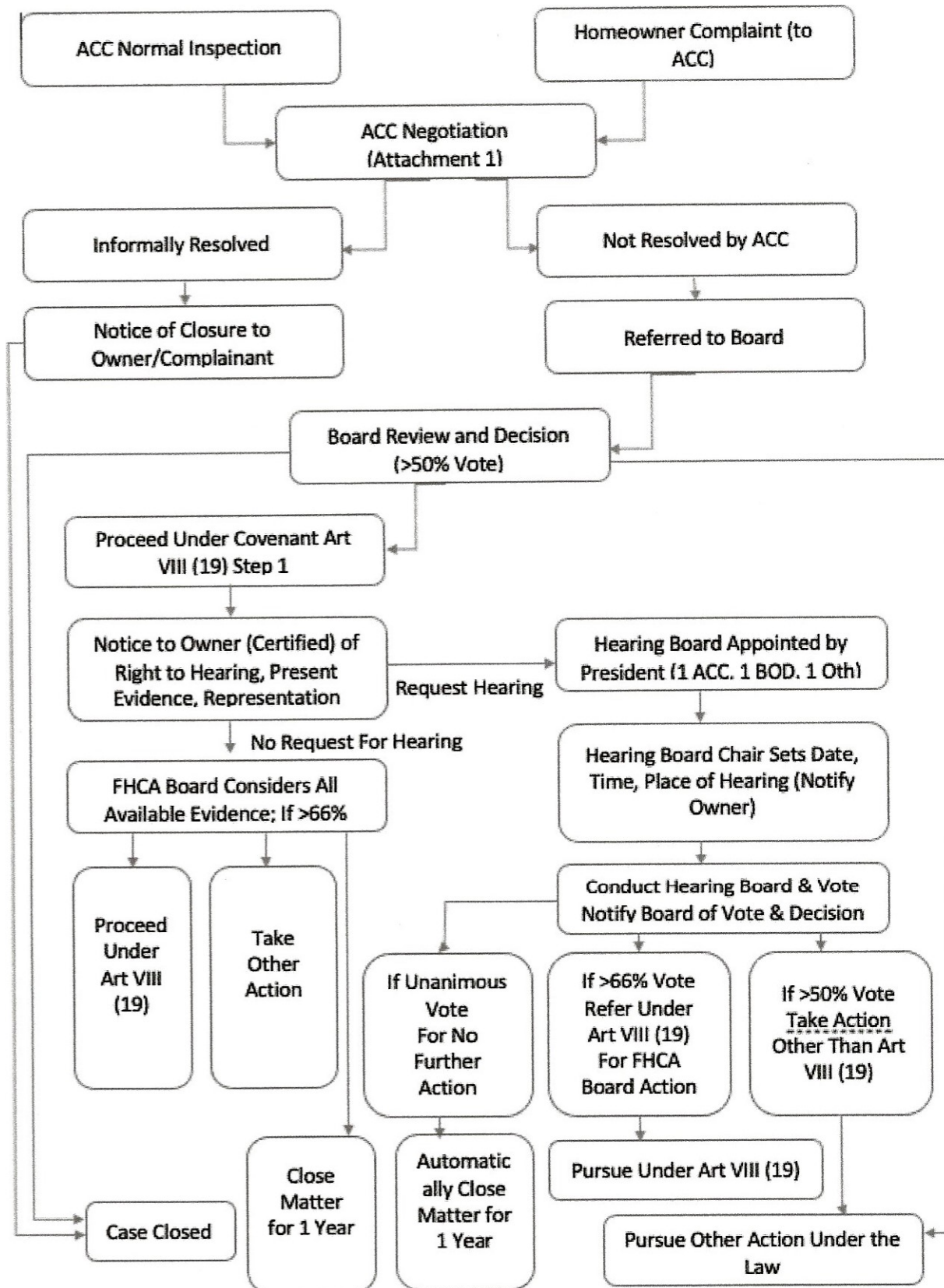
Attachment A to Rules of Procedure for Implementation of Declaration of Covenants Article VIII (19)

Preface: Article VII of the Forest Hills Protective Covenants and Restrictions directs that an Architectural Control Committee (ACC) be appointed by the Board to "conserve the natural beauty of the subdivided property, in ensure its best use and most appropriate development, and to prevent the erection of poorly designed or constructed improvements". The Covenants further direct that the ACC review proposed projects involving the exterior of the home for workmanship, design, materials, and harmony, and assign a variety of enforcement and oversight activities to the ACC. ACC has specific authority to prescribe exterior colors under the Declaration of Covenants Article VIII (1). A 2022 Amendment to Article VIII(19) makes explicit each homeowner's responsibility to perform necessary property repairs, maintenance, and restoration.

When the ACC becomes aware of a significant exterior repair, restoration, or maintenance issue that has not been addressed by the homeowner the following resolution process applies:

1. ACC contacts the homeowner via email or phone to describe the matter and inquire about plans for repair. If the homeowner is unaware of the issue, the ACC may provide photos and discuss repair options with the homeowner. In the vast majority of cases, this informal contact leads to timely resolution.
1. If the homeowner does not respond to phone or email contact, or the repair is not undertaken after a suitable period, ACC reviews the matter at its next scheduled meeting before sending a first class letter to the homeowner's address of record describing the issue and requesting a response.
1. In the rare case when a homeowner does not respond to the postal letter and/or does not undertake the repair, ACC sends another first class letter along with a certified letter requiring signature confirmation of receipt. In cases where the "Duty to Repair" amendment may be invoked, the letters will so state. A courtesy notification to the HOA Board is customary at this point.
1. If steps 1-3 above have not been successful in achieving resolution, the ACC votes on referring the matter to the board for review and further action. If a majority of ACC members support board referral, ACC completes its process by sending a first class letter informing the homeowner that the matter has been referred. If this process was initiated via written complaint, the ACC also sends a first class letter to the complainant describing the disposition.

Covenant Process: Duty to Repair, Maintain, and Restore Owners' Lots and Improvements



Attachment 2.

BACKGROUND ON 2018 SPECIAL ASSESSMENT REGARDING POSSIBLE HOMEBUILDING DEVELOPMENT ON EAST HILLSIDE BEHIND S. QUEEN STREET

On August 13, 2018, the FHCA Board approved a Special Assessment of \$500 per lot for the purpose of FHCA presenting possible opposition to a then-proposed plan for home building development on the hillside behind and to the east of the upper Queen Street, including the exercise by Arlington County of its road easement through the open green space on the east side of the Queen Street Circle.

At a Special Meeting of the full FHCA on September 18, 2018, concerning this entire matter, two motions were made: (1) to defeat this Special Assessment in total, and (2) to reduce the Special Assessment to \$350. Both motions were defeated by majority vote of a quorum at that Special Association meeting.

Thereafter, this Special Assessment was collected from every one of our 130 lots for a total of \$65,000. Since that time this Special Assessment has been maintained on the Association's financial records in a separate interest bearing account to be used as needed only for the purposes for which it was assessed. In no small part due to objections lodged by the FHCA to various relevant agencies of the Arlington County Government, the initial development plan was altered at least one time and then apparently abandoned by all prospective developers.

These efforts, led by Andrea Hoffman, incurred only minimal expenditures totaling \$9548.15, of which \$374.40 was for copying and postage for communications with FHCA owners and Arlington County Government and \$9148.15 for legal and lobbying services provided to us by an experienced Arlington County zoning attorney. Initial estimates of potential expenses if our opposition had to be pursued throughout the entire development process exceeded \$40,000.

Recent inquiries regarding the potential likelihood of new attempts to develop this property suggest that there are no impending plans by the present owners to again place this property for sale for building development or interest by any developers to pursue such an action.

Henceforth, the FHCA Board now supports a motion to return the remaining amount of this Special Assessment which amounts to \$56,458.50, including interest earned as of September 30, 2022. This will result in the return of \$434.29 to each existing lot owner. Outside Counsel advises that this Special Assessment runs with each lot. Hence this amount will be returned to the owner of each lot as of September 30, 2022, regardless of who may have been the owner at the time the Special Assessment was imposed and collected.

During the month of October 2022, our Treasurer, Karen Smith, will be preparing individual checks in the amount of \$434.29 payable to each lot owner. The complication, printing and mailing of these 130 checks will take some time, some owners will receive their check earlier than others. But we hope all checks will be delivered by the end of October 2022.