

**Conflict of Interest and Compensation Policy of  
The Mahogany Run Condominium Association  
("the Association")**

**Adopted by the Board of Directors on Thursday, July 23<sup>rd</sup>, 2020**

**I. Overview**

**1. Purpose**

The purpose of this Conflict of Interest and Compensation Policy (the "policy") is to protect the Association's interests when it is considering taking an action or entering into a transaction that might benefit the private interests of a director, officer, executive or managerial employee, result in the payment of excessive compensation to a director, officer, executive or managerial employee; or otherwise violate territorial laws governing conflicts of interest applicable to nonprofit organizations.

**2. Why is a policy necessary?**

As a nonprofit, the MRCA is accountable to both government agencies and members of the Association for responsible and proper use of its resources. Directors, officers and executive and managerial employees, have a duty to act in the Association's best interests and may not use their positions for their own financial or personal benefit.

Conflicts of interest must be taken very seriously since they can damage the Association's reputation and expose both the Association and affiliated individuals to legal liability if not handled appropriately. Even the appearance of a conflict of interest should be avoided.

**3. To whom does the policy apply?**

This policy applies to all directors, officers and executive and managerial employees.

**II. Identifying Conflicts of Interest**

**1. What is a conflict of interest?**

A potential conflict of interest arises when a director, officer or employee, or that person's **relative**<sup>1</sup> or business (a) stands to gain a financial benefit from an action the Association takes or a transaction into which the Association enters (excluding employment compensation and related employment benefits paid by the Association to executive and managerial employees); or (b) has another interest that impairs, or could be seen to impair, the independence or objectivity of the director, officer or employee in discharging their duties to the Association.

**2. What are some examples of potential conflicts of interest?**

It is impossible to list all the possible circumstances that could present conflicts of interest. Potential conflicts of interest include situations in which a director, officer or employee or that person's relative or business:

- has an ownership or investment interest in any third party that the Association deals with or is considering dealing with;

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<sup>1</sup> **Relative** means a person's spouse or domestic partner, grandparents and other antecedents, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses or domestic partners of brothers, sisters, children, grandchildren and great-grandchildren.

- receives or may receive compensation or other benefits in connection with a transaction into which the Association enters;
  - receives or may receive personal gifts or loans from third parties dealing with the Association;
  - has a close personal or business relationship with a participant in a transaction being considered by the Association;
  - would like to pursue a transaction being considered by the Association for their personal benefit.
3. In situations where you are uncertain, err on the side of caution and disclose the potential conflict as set forth in Section III of this policy.
  4. **A potential conflict is not necessarily a conflict of interest.** Disclosure is key to establishing the presence of a conflict.

### **III. Disclosing Potential Conflicts of Interest**

1. You must disclose to the best of your knowledge all potential conflicts of interest as soon as you become aware of them and always before any actions involving the potential conflict are taken. Submit a signed, written statement disclosing all the material facts to the MRCA Treasurer.
2. You must file an annual disclosure statement in the form attached to this policy. **If you are a candidate for election to serve as a director**, you must also file this statement prior to your initial election. Submit the form to the MRCA Treasurer.

### **IV. Determining Whether a Conflict of Interest Exists<sup>2</sup>**

1. After there has been disclosure of a potential conflict and after gathering any relevant information from the concerned director, officer or employee, the MRCA Treasurer shall determine whether there is a conflict of interest. The director, officer or employee shall not be present for deliberation or vote on the matter and must not attempt to influence improperly the determination of whether a conflict of interest exists.
2. In determining whether a conflict of interest exists, the MRCA Treasurer shall consider whether the potential conflict of interest would cause a transaction entered into by the Association to raise questions of bias, inappropriate use of the Association's assets, or any other impropriety.
3. A conflict always exists in the case of a **related party transaction** – a transaction, agreement or other arrangement in which a **related party** has a financial interest and in which the Association or any affiliate of the Association is a participant.
4. If the MRCA Treasurer determines that there is a conflict of interest, s/he shall refer the matter to the board of directors ("board").

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<sup>2</sup> Alternatively, the policy could provide for disclosure (1) to the board of directors, in which case, the board would decide both whether there is a conflict and how to handle the conflict; or (2) to a different board committee.

## V. Procedures for Addressing a Conflict of Interest

1. When a matter involving a possible conflict of interest comes before the board, the board may seek information from the director, officer or executive or managerial employee with a conflict of interest, or a potential conflict, prior to beginning deliberation and reaching a decision on the matter. However, a conflicted person shall not be present during the discussion or vote on the matter and must not attempt to influence improperly the deliberation or vote.
2. **Additional Procedures for Addressing Related Party Transactions**

### A **related party** is:

1. a director, officer or managerial or executive employee of the Association or any affiliate of the Association, or
2. a relative of any individual described in (1), or
3. an entity in which any individual described in (1) or (2) has an ownership or beneficial interest of 35% or more, or in the case of a partnership or professional Association, a direct or indirect ownership interest in excess of 5%.

### <sup>1</sup> A transaction is not a related party transaction if:

1. the transaction, or the related party's financial interest in the transaction, is *de minimis*;
  - a. The Association may not enter into a related party transaction unless, after good faith disclosure of the material facts by the director, officer or managerial or executive employee, the board or a committee authorized by the board determines that the transaction is fair, reasonable and in the Association's best interest at the time of such determination.
  - b. If the related party has a substantial financial interest, the board or authorized committee shall:
    - i. prior to entering into the transaction, consider alternative transactions to the extent available;
    - ii. approve the transaction by a vote of not less than a majority of the directors present at the meeting; and
    - iii. contemporaneously document in writing the basis for its approval, including its consideration of any alternative transactions.

## VI. Minutes and Documentation

The minutes of any board meeting at which a matter involving a conflict of interest or potential conflict of interest was discussed or voted upon shall include:

- a. the name of the interested party and the nature of the interest;
- b. the decision as to whether the interest presented a conflict of interest;
- c. any alternatives to a proposed contract or transaction considered by the board; and
- d. if the transaction was approved, the basis for the approval.

**Mahogany Run Condominium Association  
Conflict of Interest Disclosure Statement**

By signing below, I affirm that:

1. I have received and read a copy of the Conflict of Interest and Compensation Policy;
2. I agree to comply with the policy;
3. I have no actual or potential conflicts as defined by the policy or if I have, I have previously disclosed them as required by the policy or am disclosing them below.

Disclose here, to the best of your knowledge:

1. any entity in which you participate (as a director, officer, owner, or member) with which the Association has a relationship;
2. any transaction in which the Association is a participant as to which you might have a conflicting interest; and
3. any other situation which may pose a conflict of interest.

Name:

Position:

Signature:

Date: