

**TATE CONDOMINIUMS OWNERS' ASSOCIATION**  
**Resolution of the Board of Directors**

**ENFORCEMENT RESOLUTION**

**RECITALS**

- A. **“Association”** is the Tate Condominiums Owners' Association, an Oregon nonprofit corporation. The Association governs the administration, management, and operation of The Tate Condominiums (the **“Condominium”**), located in Lane County, Oregon.
- B. The Condominium and Association are governed by the Oregon Condominium Act, ORS chapter 100, and the following documents recorded in the Records of Lane County, Oregon, referred to herein as **“Governing Documents”**:
  - 1. *Declaration of Condominium Ownership for The Tate Condominiums*, recorded July 26, 2006 as Document No. 2006-053800, including any amendments or supplements thereto (**“Declaration”**);
  - 2. *Bylaws of The Tate Condominiums Owners' Association*, recorded July 26, 2006 as Exhibit F to the Declaration, Document No. 2006-053800, as amended from time to time (**“Bylaws”**);
  - 3. Plat of *Tate Condominiums*, recorded July 26, 2006 as Document No. 2006-053799.
- C. ORS 100.405, 100.417, and Section 3.2 of the Bylaws vest the Board of Directors (**“Board”**) with all of the powers and duties necessary for the administration of the affairs of the Association.
- D. ORS 100.417, ORS 100.405(4)(a), and Sections 3.2.5 and 7.24 of the Bylaws empower the Board to adopt Rules and Regulations.
- E. ORS 100.405(4)(k), and Section 3.2.14 of the Bylaws provide that the Board may levy reasonable fines for violations of the Declaration, Bylaws, and Rules and Regulations of the Association after notice and an opportunity to be heard if the fine is based on a *Schedule of Fines* adopted by a resolution of the Board.
- F. ORS 100.450(5) provides that fees, late charges, fines, and interest imposed according to ORS 100.405(4)(k), are enforceable as assessments.
- G. For the benefit and protection of the Association and of the individual owners, the Board deems it necessary and desirable to establish a formal procedure for the handling of complaints and the enforcement of the Declaration, Bylaws, and Rules and Regulations to ensure that owners receive notice and an opportunity to be heard in cases involving alleged violations of the Declaration, Bylaws, or Rules and Regulations.

- H. The Board deems it necessary and desirable to adopt a *Schedule of Fines*, attached as Exhibit A to this Resolution, to be used by the Board in imposing sanctions for violations of the Declaration, Bylaws, or Rules and Regulations of the Association.

## **RESOLUTION**

**NOW, THEREFORE, IT IS RESOLVED** that the procedure set forth below shall be the process for handling complaints and enforcement of violations of the Declaration, Bylaws, and Rules and Regulations.

### **ARTICLE 1 OVERVIEW OF PROCESS**

- 1.1 **Complaint.** An owner may file a written complaint with the Board of Directors regarding a violation of the Declaration, Bylaws, or Rules and Regulations by another owner, tenant, or guest. The Board of Directors may also initiate a complaint (Article 2).
- 1.2 **Investigation.** The Board of Directors has the discretion to investigate the complaint and decide if it is valid (Article 3).
- 1.3 **Violation and Notice.** If the Board of Directors finds there is sufficient evidence of a violation, the Board or its representatives must provide notice to the Alleged Offending Owner. If the violation is not remedied or ceased within the time specified in the notice, then the Board will provide a formal notice to the Alleged Offending Owner. This notice must contain certain provisions, including giving the Alleged Offending Owner an opportunity for a hearing (Article 4).
- 1.4 **Hearing.** If requested, the Alleged Offending Owner may present testimony or evidence regarding the violation at the next board meeting (Article 5).
- 1.5 **Fines.** The Board may impose fines according to the Schedule of Fines if the violation is not remedied or ceased within the time specified in the notice, provided the owner has the opportunity to be heard (Articles 3, 6, and 7).

### **ARTICLE 2 ORIGINATION / INITIATION OF COMPLAINT**

- 2.1 **Board of Directors.** A complaint may be initiated by the Board of Directors based on information from a management agent, owner, or other information the Board deems reliable.

- 2.2 **Owners.** An owner (“**Complaining Owner**”) who desires the Board of Directors to take corrective action against another owner or tenant (“**Alleged Offending Owner**”) must submit a complaint to the Board of Directors. The complaint must be in writing and must include:
- (a) The name, if known, and address of the Alleged Offending Owner;
  - (b) The name of the Complaining Owner;
  - (c) A statement indicating that, to the extent required by the Board of Directors, the Complaining Owner is willing to cooperate by testifying in a rules violation hearing or court proceeding initiated by the Association;
  - (d) A description of the offending behavior or activity, including the date(s) and approximate time(s); and
  - (e) Whether or not the Complaining Owner attempted contact with the Alleged Offending Owner in good faith regarding the alleged violation and what the outcome was of that discussion.
- 2.3 **Anonymous Rules Violations Complaints.** It is the general policy of the Board of Directors not to rely solely on an anonymous complaint as the basis for an enforcement action. However, if an owner’s personal safety or property has been threatened, the Board retains limited discretion to rely on an anonymous rules violation complaint or to keep the identity of the Complaining Owner confidential. However, in the event a Complaining Owner wishes to remain anonymous, the Board shall inform the Complaining Owner that the Association cannot guarantee anonymity of the Complaining Owner or guarantee that the Board will be able to take action on an anonymous complaint without independent verification of the violation.

### **ARTICLE 3 INVESTIGATION OF COMPLAINT**

- 3.1 **Investigation.** Upon receipt of a written complaint, the Board, or a person authorized by the Board, has the discretion to conduct an investigation to confirm the nature and existence of the allegations contained in the complaint.
- 3.2 **Determination of Violation.** If, after review of a complaint, the Board of Directors determines that there is sufficient evidence of a violation of the Declaration, Bylaws, Rules and Regulations, or other Governing Documents and the Board determines that it is in the best interest of the Association and owners to address the violation with the Alleged Offending Owner, the Board shall proceed to give notice to the Alleged Offending Owner as described below. In accordance with Section 2.3 above, the Board generally will not be able to rely on an anonymous complaint of an owner unless the violation can be independently verified.

## ARTICLE 4 NOTICE PROCEDURE

- 4.1 **Notice of Violation.** If the Board determines that there is sufficient evidence of a violation of the Declaration, Bylaws, Rules and Regulations, or other Governing Documents, the Board shall give the Alleged Offending Owner the following Notice of Violation:
- (a) Notice and Right to a Hearing. After making the determination that the Alleged Offending Owner is in violation of the Declaration, Bylaws, Rules and Regulations, or other Governing Documents, the Board shall give the Alleged Offending Owner a Notice and Right to a Hearing.
    - (1) Required Notice Provisions. The notice required under this Subsection must:
      - (i) Describe the violation;
      - (ii) Contain a statement that the Alleged Offending Owner has the opportunity to request a hearing, and the manner by which to request a hearing;
      - (iii) Contain a statement advising the Alleged Offending Owner that if no request to be heard is received and the violation is not remedied or corrected within fourteen (14) days, fines will be assessed according to the *Schedule of Fines* adopted by the Board as “Exhibit A” to this Resolution.
    - (2) Optional Notice Provisions. The notice may also provide or specify any or all of the following:
      - (i) Specific action the Board is requiring to remedy the violation;
      - (ii) The particular language or section from the Declaration, Bylaws, or Rules and Regulations which has been violated; and
      - (iii) Any other information as directed by the Board.
    - (3) Delivery of Notice. The notice shall be mailed by certified mail to the addresses on record with the Association or personally served on the Alleged Offending Owner.
  - (b) A sample Notice is attached to this Resolution as Exhibit B. This sample notice is for illustrative purposes only.

- 4.2 **Repeat Violations.** Owners who repeat any violation within a 12-month period of receiving a Notice are not entitled to an additional notice or hearing, regardless of whether or not the owner participated in a hearing as a result of the first violation. For such repeat violations, the Board may automatically begin fines as outlined in the attached *Schedule of Fines*.
- 4.3 **Informal Action.** Nothing in this article precludes the Chairperson, a designated Board member, or other person authorized by the Board from first attempting to resolve the matter either by an informal meeting, telephone call, or a warning letter to the Alleged Offending Owner. Section 4.3 applies only to the Board and their authorized agents, and is not intended to prevent individual Owners from resolving their own disputes when possible.

## **ARTICLE 5 HEARING PROCEDURE**

- 5.1 **Hearing Procedure.** In the event that an owner requests a hearing, the Board shall utilize the following procedure for violation hearings to be held during a regular open Board meeting:
- (a) Appearances at the Hearing. If the Alleged Offending Owner fails to appear within fifteen (15) minutes of the time set for the hearing, the Board may, at its sole discretion:
    - (1) Conduct the hearing without the presence of the Alleged Offending Owner;
    - (2) Allow the Alleged Offending Owner additional time that day to appear;
    - (3) Reset the hearing to another date and time; or
    - (4) Dismiss the complaint.
  - (b) Dismissal. In the case of dismissal, the Board shall notify the Alleged Offending Owner, in writing, that the complaint has been dismissed.
  - (c) Conduct of Hearing.
    - (1) Testimony from Parties. If the Complaining Owner chooses to appear and the Alleged Offending Owner appears, the Board shall proceed to hear from the Complaining Owner and then from the Alleged Offending Owner.
    - (2) Evidence and Witnesses. The Complaining Owner and the Alleged Offending Owner may present evidence and witnesses at the hearing. The Board may limit testimony and evidence as it determines is reasonable and necessary. An owner's testimony shall not exceed 15 minutes. For joint owners, the collective testimony shall not exceed 15 minutes.

(d) Board Determination. Following the testimony and any evidence presented by the parties, the Board has the discretion to reevaluate its prior determination of violation under Sections 3.1 and 3.2 above. The Board also has the discretion to reevaluate the fine, any required or appropriate resolution for the violation, and any other matter which may result in the resolution of the violation.

(1) The discussions must be in open session.

(2) The Board shall either give its decision after the hearing or take the matter under advisement and give the decision at a later date not to exceed fourteen (14) days after the hearing date.

## **ARTICLE 6 OTHER LEGAL ACTION**

6.1 **Board Actions.** In addition to levying fines, action by the Board may include, but need not be limited to:

(a) Seeking injunctive or declaratory relief action against any Alleged Offending Owner and tenants, guest, or other occupants of the Alleged Offending Owner; and/or

(b) Taking immediate legal action, as the Board finds reasonably necessary, to stop conduct which it determines is in violation of the Governing Documents, Bylaws, Rules and Regulations, or applicable state or federal law.

6.2 **Additional Corrective Action by Board.**

(a) Right of Board to Take Additional Corrective Action. If the Alleged Offending Owner fails to correct the matter which is the ultimate cause of the violation, the Board may take additional corrective action without prior notice to the Offending Owner or opportunity for a hearing.

(b) Notice of Additional Action. The Board shall give an Alleged Offending Owner written notice of any additional action taken under Subsection (a) of this section.

## **ARTICLE 7 MISCELLANEOUS**

7.1 **Renters and Other Non-Owner-Occupied Units and Guests.** The owner of any unit shall be responsible for the violations of any renter, tenant, guest, or family member who violates any portion of the Declaration, Bylaws, or Rules and Regulations.

- 7.2 **No Fines Pending Resolution of a Hearing.** Pending resolution of a requested hearing or the Board meeting, no fines may be charged against the account of an Alleged Offending Owner.
- 7.3 **Mediation.** ORS 100.405(11)(a) provides for dispute resolution before any litigation is initiated between the Association and any member of the Association. For purposes of this Enforcement Resolution, the dispute resolution requirements of the Oregon Condominium Act and the Bylaws do not apply to the actions of the Association in its enforcement responsibilities, as long as no litigation has been filed.

**BE IT FURTHER RESOLVED** that the *Schedule of Fines* attached as **Exhibit A** is adopted by the Board of Directors to determine the fines for violations of the Declaration, Bylaws, and Rules and Regulations of the Association. A copy of this Resolution and amendments will be sent to each owner at the address shown in the records of the Association.

DATED: \_\_\_\_\_

\_\_\_\_\_, Chairperson  
Tate Condominiums Owners' Association

\_\_\_\_\_, Secretary  
Tate Condominiums Owners' Association

## EXHIBIT A

### SCHEDULE OF FINES

| <b>Type of Violation</b> (references are to the Bylaws)                                                                          | <b>Amount</b> | <b>Frequency</b>              |
|----------------------------------------------------------------------------------------------------------------------------------|---------------|-------------------------------|
| 1. Rental violation (Section 7.1)                                                                                                | <b>\$100</b>  | <b>Weekly</b>                 |
| 2. Non-residential use violation (Section 7.2)                                                                                   | <b>\$100</b>  | <b>Daily</b>                  |
| 3. Nuisance violation (Section 7.9)                                                                                              | <b>\$50</b>   | <b>Per occurrence</b>         |
| 4. Unlawful or Improper Activity violation (Section 7.10)                                                                        | <b>\$100</b>  | <b>Per occurrence</b>         |
| 5. Storage Area violation (Section 7.13)                                                                                         | <b>\$50</b>   | <b>Per occurrence</b>         |
| 6. Parking of inoperative or unsightly vehicle (Section 7.14)                                                                    | <b>\$50</b>   | <b>Daily</b>                  |
| 7. Other parking violation (Section 7.14)                                                                                        | <b>\$25</b>   | <b>Daily</b>                  |
| 8. Unleashed pet on Common Element (other than while being carried to or from the Unit from a street or sidewalk) (Section 7.16) | <b>\$25</b>   | <b>Per occurrence</b>         |
| 9. Other Animal/Pet violation (Section 7.16)                                                                                     | <b>\$50</b>   | <b>Per occurrence / Daily</b> |
| 10. Presence of unauthorized sign (Section 7.17)                                                                                 | <b>\$25</b>   | <b>Daily</b>                  |
| 11. Allowing rubbish, debris or trash to accumulate on property (Section 7.18)                                                   | <b>\$25</b>   | <b>Daily</b>                  |
| 12. Other trash violation (Section 7.18)                                                                                         | <b>\$25</b>   | <b>Daily</b>                  |
| 13. Unauthorized window covering (Section 7.22)                                                                                  | <b>\$25</b>   | <b>Daily</b>                  |
| 14. Smoking violation (Section 7.23)                                                                                             | <b>\$100</b>  | <b>Per occurrence</b>         |
| 15. Failure to maintain Unit or Limited Common Elements (Section 8)                                                              | <b>\$100</b>  | <b>Weekly</b>                 |
| 16. Other per occurrence violations of the Declaration, Bylaws, or Rules and Regulations                                         | <b>\$50</b>   | <b>Per occurrence</b>         |
| 17. Other continuing violations of the Declaration, Bylaws, Rules and Regulations                                                | <b>\$25</b>   | <b>Daily</b>                  |



**EXHIBIT B**

**SAMPLE VIOLATION NOTICE**

**Tate Condominiums Owners' Association**

Attn: [Association Representative], [Title]  
[Address]

[Date]

John Doe

[Address]

**RE: Notice of Violation and Opportunity for a Hearing**

Dear Mr. Doe:

This letter is to inform you that a condition or occurrence on your property appears to be in violation of the Association's Declaration, Bylaws and rules and regulations. Owning a home in the community comes with many advantages, but also imposes some restrictions that are necessary to maintain harmony and consistency within the community and help enhance property values.

Specifically, the following violation has been noted:

[Description of Violation with citation to specific rule]

You have the opportunity to request a hearing to discuss this violation with the Board of Directors. You must request a hearing or correct the violation within fourteen (14) days of this letter. If you do not request a hearing or correct the violation within that time, the Board may exercise any or all of its remedies related to the violation, including but not limited to fines according to the Tate Condominiums Owners' Association Schedule of Fines.

The Board of Directors will meet to discuss this violation and vote upon levying fines on [date] at [time] at [location of meeting] if no good faith effort to resolve the violation has been commenced. You are welcome to attend this meeting to discuss the violation with the Board.

Thank you for your prompt attention in this matter.

Sincerely,

Association Representative: \_\_\_\_\_

Title: \_\_\_\_\_