



MIDDLESEX COUNTY CLERK  
County Clerk's Recording Page

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Book 04515 Page 0645  
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Date : 7/10/1998  
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Control # 199807100413  
INST# DE 1998 008846  
  
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ENCLAVE OF EDISON CONDOMINIUM  
ASSOCIATION

RECORDING	\$	29.00
OVERCHARGE	\$	.00
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Total:	\$	29.00

STATE OF NEW JERSEY  
MIDDLESEX COUNTY CLERK

ELAINE FLYNN  
COUNTY CLERK



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**THE ENCLAVE AT EDISON CONDOMINIUM ASSOCIATION, INC.**

**REGULATION ESTABLISHING DISPUTE RESOLUTION PROCEDURES**

WHEREAS, Article V Section I(1), of the By-laws of the Enclave of Edison Condominium Association authorizes the Board of Trustees to do everything necessary and proper for the sound management of the condominium including enforcement of the restrictions and rules and regulations of the Association; and

WHEREAS, the New Jersey Condominium Act requires the Association to make available an alternative mechanism other than litigation for resolving disputes; and

WHEREAS, it is the intent of the Board of Trustees to establish procedures for dispute resolution and rules enforcement consistent with the principles of fairness;

NOW, THEREFORE, BE IT RESOLVED that the following Regulation be adopted to provide for fair process:

1. **COVENANTS COMMITTEE**

A. There is hereby established a Covenants Committee, consisting of three (3) permanent residents appointed by the Board. The Covenants Committee shall have such power and authority to hear and determine disputes between unit owners and claims of violations of the Association restrictions and rules and regulations pursuant to the procedures set forth herein. No officer of the Association nor member of the Board may serve on the Covenants Committee.

B. The Board also may appoint up to two (2) alternates who shall serve on the Covenants Committee when a member is not available or is disqualified. Alternates shall serve on a rotating basis.

C. The president of the Association shall appoint one of three (3) Committee members as chairperson.

D. Members and alternates shall serve for terms of one year, but maybe reappointed.

E. In the event of a vacancy, the president shall appoint a replacement and may appoint an alternate to the position of member. Such appointment shall be for the balance of the of the vacated term.

F. A quorum for hearings shall be two (2) members and/or alternates.

11. **PROCEDURES TO RESOLVE DISPUTES AND VIOLATIONS OF ASSOCIATION DOCUMENTS**

A. **Informal Actions.** Before any formal process is initiated against an owner to enforce compliance with the Association's documents, an informal request may, but need not, be made by any unit owner, officer, or agent of the Association to that owner to cease or correct the act or omission which appears to be in violation of the Association documents. A copy of the request should be sent to the Covenants Committee

B. **Written Complaint.** If informal action is not taken or proves unsuccessful, any unit owner, officer, director, or agent of the Association may file a written Complaint with the Covenants Committee, through the Management Company. or other agent designated by the Board. The Complaint must contain the name and address of the complainant, must set forth in clear and concise language the acts or omissions with which the respondent is charged, must be as specific as possible as to times, dates, places, and persons involved, and must be signed by the complainant. The Complaint also should specify the provisions of the Association documents or regulations which the respondent is alleged to have violated. No Complaint shall be acted upon until and unless it complies with these requirements.

C. **Preliminary Investigation.** Upon receipt of a written Complaint, the Covenants Committee may request the Managing Agent or a member of the Covenants Committee to make a preliminary investigation and promptly report to the Covenants Committee. If a resolution of the alleged violation has been reached, the Covenants Committee will request that the Complaint be withdrawn.

D. **Service of the Complaint.** The Covenants Committee, through management, will serve a copy of the Complaint, which may be in the form of a letter, on the respondent at least 10 days prior to any hearing on the matter before the Covenants Committee. Service shall be either (1) by personal service or (2) simultaneously by regular first class mail and also by registered or certified mail, return receipt requested, addressed to respondent at the address appearing on the books of the Association. Service by mail will be deemed effective on the date the return receipt is signed or three (3) days after posting in a regular depository of the United States mail, whichever is earlier, unless the materials are returned as undeliverable. The Complaint must be served along with a Notice of Hearing. The Covenants Committee may take no action unless the respondent has been served as provided in this paragraph.

E. **Contents of the Complaint.** The Complaint to respondent, which can be combined with the Notice of Hearing from the Covenants Committee, must contain in clear and concise language the specific allegations of acts or omissions with which respondent is charged, setting forth the times, dates, places, and persons involved, and the specific provisions of the Association Documents or regulations which respondent is alleged to have violated. It should also request the respondent to cease and desist the alleged violation.

F. **Contents of the Notice of Hearing.** The Notice of Hearing, which may be combined with the Complaint, must set forth the time, place, and date of hearing. It must contain a statement that the respondent: may be present at the hearing; may, but need not, be represented by counsel; may present any relevant evidence; shall be given full opportunity to cross-examine all witnesses testifying against the respondent; and is entitled to request the attendance of witnesses and the production of books, documents, or other items by applying to the Board of Trustees or the managing agent of the Association.

The Notice must also advise the respondent to answer the allegations in the

Complaint at least five (5) days before the hearing either by filing a written answer, or by

notifying the Covenants Committee in writing that respondent will appear at the hearing, and that failure to answer or notify in writing in advance of the hearing will be deemed a default.

G. **Amended or Supplemental Complaints.** At any time prior to the hearing date, the Covenants Committee may file or permit filing of an Amended or Supplemental Complaint. All parties must be notified in the same manner as notified of the original Complaint, and a new hearing date set on or after ten(10) days after the new notice. If new charges are presented, the respondent may file a Supplemental Answer in the manner set forth in paragraph F.

H. **Discovery.** At any time after service of the Complaint and prior to the date for hearing, either party may request the Board of Trustees or the Managing Agent 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. The Board or Managing Agent shall provide these materials within a reasonable time after the request and before the scheduled hearing date.

I. **Challenges to the Covenants Committee.** Each member of the Covenants 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 Covenants Committee may be challenged by any other member or by the complainant or the respondent for cause. It is not sufficient cause that a member of the Covenants Committee is related by blood or marriage to a member of the Board. The challenge shall be decided by the remaining members of the Covenants Committee, provided that no member of the Committee making such a challenge shall be permitted to participate in the decision other than to set forth their reasons for such challenge. All decisions of the Covenants Committee in this regard are final.

J. **Default by Failure to Answer.** The respondent must answer the allegations in the Complaint at least five (5) days before the scheduled hearing

on the matter either by filing a written Answer or by notifying the Covenants Committee in

writing that respondent will appear at the hearing. Failure to answer or notify the Covenants Committee in advance of the hearing will be deemed a default. In the event of a default, the Covenants Committee will render its decision on the allegations in the complaint and on the facts and evidence submitted to it.

K. **The Hearing.**

I. The Covenants Committee will select a person to preside over the hearing. It is the duty of the presiding officer to explain the rules and procedures by which the hearing is to be conducted and to conduct the hearing. Generally, any relevant evidence may be admitted. The Committee chairman should serve as the presiding officer, in his/her absence any other member or alternate may preside, or Counsel for the Association may be present at the hearings to render legal advice to the Committee and may serve as presiding officer but shall have no vote in rendering a decision.

2. At the request of either complainant or respondent, or on its own motion, the Covenants Committee may conduct the hearing in private session.

3. Each party has the right to:

- a. make a statement;
- b. introduce evidence, testimony, and witnesses;
- c. cross-examine opposing parties and
- d. rebut evidence and testimony.

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

5. If the complainant or a necessary witness to the violation does not appear at the hearing, the Complaint may be dismissed by the Committee. Any Complaint so dismissed by the Covenants Committee may be re-instated only where the

complainant can demonstrate good cause for his or her failure or the witness' failure to appear at the hearing.

6. Oral evidence may be taken only on oath or affirmation administered by the presiding officer.

7. Whenever the Covenants Committee has commenced to hear a matter, and a member or members withdraws before a decision is rendered, the remaining members or member will continue to hear the case and render a decision even if a quorum is no longer present.

L. **Decisions.** After a hearing on any matter, the Covenants Committee must issue a written decision on the matter within ten (10) days. To be effective, a decision of the Covenants Committee must be by a majority vote of those participating in the decision. The decision shall set forth findings of fact, conclusions, and any disciplinary sanctions imposed. Copies of the decision must be delivered to the parties by personal service or regular mail promptly after the decision is issued.

M. **Penalties.** Disciplinary sanctions imposed by the Covenants Committee may include: 1) the imposition of a fine in accordance with the Association's governing documents and any resolutions adopted by the Board relating to fines; and/or 2) the suspension of respondent's right to vote or use the recreational facilities until the infraction is corrected. For a continuing infraction, including non-payment of any assessment or fine after it becomes delinquent, an additional fine and/or suspension may be imposed for as long as the violation continues. A summary of the decision may also be published in an Association Newsletter.

N. The decision of the Covenants Committee shall be a final decision, subject only to review and enforcement by a court of law, except that where one party to the dispute is the Association, the other party may appeal the Committee's decision to the Board of Trustees by filing a written notice of appeal with the Board, within five (5) days after receipt of the decision. In the event of such appeal, the Board shall consider the

matter and render a written decision within 10 days after receipt of the request. The Board's decision shall be based upon the written decision of the Covenants Committee, but the Board may invite the appellant to address it.

### III.. MEDIATION

A. At any time before a decision is rendered by the Covenants Committee, any party (including the Association) may request mediation, whereby the parties to the dispute shall meet with a mediator in an attempt to reach a negotiated resolution of the dispute. Mediation shall proceed only if all parties agree to mediation.

B. The mediator shall be a neutral, independent third party with knowledge of community association law and/or management. A member of the Covenants Committee or another resident of the community trained by the Association attorney or through provisions made by the Board for such training may serve as a mediator. No board member may serve as mediator.

C. The mediator may be paid for by the Association as a common expense and shall be arranged for by the Association attorney or manager.

D. It is intended that if mediation conducted for a reasonable period of time, determined in the discretion of the mediator, fails to result in a negotiated resolution of the dispute, the mediator may terminate the mediation so that the parties may commence or resume the Covenants Committee hearing process.

### IV. CONSTRUCTION

A. The intent of this regulation is to provide fundamental fairness to parties to a dispute through the following rights:

- 1 . Complainant will be given a fair opportunity to present his or her complaint and proofs.
2. Respondent will be notified of the charges.
3. Respondent will have an opportunity to be heard at a hearing at which witnesses may appear and may be cross-examined and at which evidence may be



introduced.


4. Basic principles of fairness will govern.

B. Any inadvertent omission or failure to follow the procedures in this Regulation 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 rights.

C. Any provision of this Regulation notwithstanding, participation in any process set forth in this Regulation shall not be a prerequisite to or serve as a bar upon any party to initiate litigation over issues pertaining to housing related disputes within the Condominium community, although the Association may not institute litigation, except in an emergency, without first providing to the unit owner(s) involved an opportunity for Alternative Dispute Resolution as set forth in this Regulation.

This resolution was passed by the Board of Directors, of The Enclave At Edison Conominium Association, Incorporated, this 10 day of September, 1997.

ATTEST:



Secretary



President

STATE OF NEW JERSEY :

SS:

COUNTY OF MIDDLESEX:

BE IT REMEMBERED that on this 10 day of September, 1998<sup>7</sup> before me, the subscriber, personally appeared Roberta Pruda, who being by me duly sworn on his/her oath, deposed and made proof to my satisfaction that (1) he/she is the Secretary of the ENCLAVE AT EDISON CONDOMINIUM ASSOCIATION, the corporation named in the within instrument, (2) Robert Slavick is the President of said corporation, (3) the execution, as well as the making of this instrument, has been duly authorized by a proper resolution of the Board of Directors of the said corporation, (4) he/she knows the corporate seal which was affixed to this addendum, and (5) this addendum was signed by the President as his/her voluntary act and as a deed of the corporation, in the presence of Secretary who subscribed his/her name as attesting witness.

Roberta Pruda  
\_\_\_\_\_  
, Secretary

Sworn to and Subscribed  
before me this 10 day  
of September 1998<sup>7</sup>

[Signature]

GINGER D. PITACCIO  
A Notary Public of New Jersey  
My Commission Expires August 11, 1998

**Record and Return:**  
HILL WALLACK Attention: Terry A. Kessler, Esq.  
202 Carnegie Center  
CN 5226  
Princeton, New Jersey 08543-5226

RETURN TO →

ADDENDUM TO THE MASTER DEED AND BY-LAWS  
OF ENCLAVE AT EDISON CONDOMINIUM ASSOCIATION

THIS ADDENDUM to the Master Deed and By-Laws is made this \_\_\_\_ day of \_\_\_\_\_, 1998 by the Enclave at Edison Condominium Association, a New Jersey non-profit corporation, having its offices c/o Avitt Management, 160 Liberty Street, 3C, Post Office Box 4457, Metuchen, New Jersey 08840-4457 (hereinafter referred to as the "Association").

The Association does hereby add the following regulation regarding alternative dispute resolution procedures as an addendum to its Master Deed and By-Laws recorded in the Clerk's Office of Middlesex County on October 17, 1988, in Deed Book 3737 at Page 437.

Prepared By:   
Terry A. Kessler, Esquire

Record and Return:  
Terry A. Kessler, Esq.  
HILL WALLACK  
202 Carnegie Center  
CN 5226  
Princeton, NJ 08543-5226

RETURN TO →

END OF DOCUMENT