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NOTICE AND HEARING OUTLINE FOR FINES, SUITS AND OTHER PROCEEDINGS *

Before an association imposes a fine, commences a suit or institutes other proceedings against a unit owner, the Common Interest Ownership Act requires it to give the unit owners notice of the proposed action and an opportunity to be heard. This procedure is referred to as “Notice and Hearing” in the declarations and bylaws of many Connecticut communities. The procedure for giving notices and holding hearings found in the documents of many communities has been modified by Subsection 47-278(c) of the Act.

The following is an outline of what an association must do in order to give notice and hold a hearing in accordance with Subsection 47-278(c) and with the requirements of the documents of most Connecticut common interest communities created since January 1, 1984:

1. Prepare a notice of the hearing concerning the action the board is proposing to take.
 - a. The hearing must be held as part of a regular or special board meeting.
 - b. The notice must contain:
 - i. The date, time and location of the hearing;
 - ii. A statement of the circumstances or condition prompting the association to take the proposed action;
 - (1) If the circumstances relate to a violation of the documents or rules, the notice must list the section or sections of the documents or rules which are alleged to have been violated.

* This outline has been prepared to provide readers with information concerning the law of condominiums and community associations in Connecticut. It is not meant to be a substitute for competent professional advice. Readers are encouraged to consult with legal counsel before taking action.

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- iii. A statement of what action the board is proposing to take;
 - (1) If the circumstances relate to a violation of the documents or rules for which the association can impose fines, restrictions or penalties, describe the actions the association may take.
 - (2) If the documents permit fines to be imposed on a daily basis, this should be explicitly stated.
 - (3) Even if the board is currently considering a fine, restriction or penalty, also mention that the association can bring a lawsuit or institute some other enforcement proceeding.
 - (4) If the circumstances do NOT relate to a violation for which the association can impose fines, restrictions or penalties, state that the board is proposing to commence a lawsuit or institute some other enforcement proceeding.
 - iv. A statement that the unit owner may make an oral presentation at the hearing or submit a written presentation;
 - v. A statement that the unit owner may bring or send a representative to make the presentation on their behalf at the hearing; and
 - vi. The address to which any written presentations can be sent.
2. The notice of hearing must be sent as follows:
- a. The notice must be sent to the unit owner or owners involved at least **10 business days** before the hearing, or any longer period specified in the documents.
 - b. The notice must be sent to the unit owner or owners involved at the address appearing on the association's records.
 - c. The notice must be sent by first class mail. The association may send the notice by other delivery methods, including email, so long as a copy is also sent by first class mail.

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3. The individual who sends out the notices should complete a proof of notice and file it with the association's permanent records. The proof of notice should be signed and dated by the individual who sent out the notices. A copy of the notice, and a copy of the mailing address or addresses to which the notice was sent should be attached to the proof of notice.
4. Because the hearing must take place at a regular or special board meeting, in addition to sending the involved unit owner notice of the hearing, a notice of the board meeting must be sent as required by the Common Interest Ownership Act to all of the directors and all of the unit owners in the common interest community.
5. Except in very unusual circumstances, the board cannot hold the hearing in executive session.
6. The hearing is not a formal trial. People giving presentations are not required to take an oath. Parties can be permitted to ask questions of one another and directors may also ask questions. However, parties are not entitled to conduct formal cross examinations.
7. Before taking a vote, the board must give the unit owner or owners involved an opportunity to make a presentation in person or through a representative, either orally or in writing.
 - a. Copies of any written presentations should be distributed to all directors.
8. Frequently, the hearing can be used to open a discussion between the unit owner and the association in order to resolve any problems that may exist without the need for fines or other formal action.
9. Once the board has received all oral or written presentations, and the hearing is concluded, the board can then consider all that has been presented to it and vote on the proposed action. The vote cannot be taken in executive session.
10. The board must notify the unit owner or owners involved of its decision on the proposed action within 30 days. The notice must be sent by first class mail. The association may send the notice by other delivery methods, including email, so long as a copy is also sent by first class mail.

A sample Notice and sample Proof of Notice are attached.

SAMPLE NOTICE FOR NOTICE AND HEARING

WINDY HILLS CONDOMINIUM ASSOCIATION, INC.
NOTICE OF HEARING

Mr. Bob Owner
100 Aeolis Drive, Unit 100
East Westwich, CT 06000

Re: Hearing on Rules Violation

Dear Mr. Owner:

The board of the association has scheduled a hearing as follows:

The Purpose of the Hearing.

The hearing is being held because you constructed a Ferris wheel on your deck. This violates Section 3.17 of the Rules and Regulations of Windy Hills which specifically prohibits the installation of carnival rides on decks. A Copy of Section 3.17 of the Rules is attached to this Notice as Exhibit A.

The Time and Place of the Hearing.

The hearing will be held at a meeting of the board which is schedule as follows:

Date: Monday, May 16, 2011

Time: 8:00 P.M.

Location: East Westwich Volunteer Fire Department
23 Westwich Road
East Westwich, Connecticut 06000

The Action the Board Can Take.

At the meeting, the board may vote to impose a fine on you of up to \$25 per day for each day the Ferris wheel remains on your deck. It may also vote to sue for an injunction ordering you to remove the Ferris wheel.

How You Can Participate in the Hearing.

Under Section 24.2 of the Windy Hill Declaration, you have the right to attend the hearing personally to present testimony orally or in writing or to have a representative attend on your behalf and present testimony. The evidence presented will be considered by the board in reaching its decision, but will not be binding on the board.

If you would prefer to make a written presentation, please send it to:

Windy Hills Condominium Association, Inc.
c/o Mary Smith, Manager
XYZ Management Company
12 Main Street
East Westwich, Connecticut

Please be sure to mail your written presentation far enough in advance so that it will reach the association prior to the board meeting.

Dated _____
At the Direction of the Secretary

SAMPLE
PROOF OF NOTICE

I hereby certify that on May 5, 2011, I sent a copy of the Notice, attached to this Proof as Exhibit A. I sent the Notice by first class mail, postage prepaid to the unit owner members listed on Exhibit B at the addresses listed on Exhibit B.

Dated _____.

Mary Smith, Manager

EXHIBIT A
Copy of Notice

EXHIBIT B
Copy of Unit Owner Name(s) and Mailing Address(es)