

SAMPLE
ASSOCIATION COMPLAINT PROCEDURE

WHEREAS, the Illinois Condominium and Common Interest Community Ombudsperson Act (765 ILCS 615/1, *et. seq.* (“Ombudsperson Act”)) requires that each condominium and common interest community association (“Association”) which is not exempt from the Common Interest Community Association Act (765 ILCS 160/1, *et. seq.*) adopt a written policy for resolving complaints made by unit owners; and

WHEREAS, on or before January 1, 2019, each association described above must adopt a complaint resolution policy which meets the requirements of Section 35 of the Ombudsperson Act;

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Association, acting through its Board of Directors, hereby adopts and establishes the following Ombudsperson Act-mandated Association policy for resolving complaints:

A. Definitions. The following terms shall have the following meanings:

1. “Association” means the unit owners association of a condominium or common interest community.
2. “Association complaint” means a written complaint filed by a unit owner of the association pursuant to the association complaint procedure. An association complaint (a dispute between a unit owner and an association) shall concern a matter which is not pending in any court of law or equity or administrative tribunal, regarding the alleged or perceived action, inaction or decision by the Board of Directors, managing agent or association inconsistent with applicable laws and regulations, including but not limited to the association governing documents and rules and regulations, if any, of the association.
3. “Association governing documents” means all documents and authorized amendments thereto recorded by a developer or condominium or common interest community association, including, but not limited to, the declaration, bylaws, articles of organization, operating agreement, plat of survey, and rules and regulations.
4. “Board” means the duly elected board of managers or board of directors of an association.
5. “Complainant” means a unit owner who makes a written complaint pursuant to this association complaint procedure.
6. “Final determination” means the final decision issued by the association pursuant to this association complaint procedure that shall (1) be made in writing within 180 days after

the association received the unit owner's original complaint; and (2) be marked clearly and conspicuously as "final."

7. "Record of complaint" means all documents, correspondence, and other materials related to a decision made pursuant to this association complaint procedure.
8. "Acceptable technological means" includes, without limitation, electronic transmission over the Internet or other network, whether by direct connection, intranet, telecopier, electronic mail, and any generally available technology that, by rule of the association, is deemed to provide reasonable security, reliability, identification, and verifiability.

B. General Provisions

1. The association complaint procedure shall be readily available to all unit owners of the association.
2. The association complaint procedure shall be distributed to all unit owners using the association's established reasonable, effective and free method for communicating with the Board.

C. Procedures

1. The association complaint must be in writing.
2. A sample of the form on which to submit an association complaint is available upon request from the association office at [address], or by telephone at [phone number] or by electronic mail at [email address].
3. The completed complaint form shall be hand-delivered, mailed by registered or certified mail, return receipt requested, or if consistent with the association's established procedure, delivered by acceptable technological means, provided the sender retains sufficient proof of delivery. Delivery shall be made to the President or Secretary of the association or to the manager at the principal office of the association.
4. The association shall provide written acknowledgement of the receipt of the complaint to the complainant within seven (7) days or receipt. Such acknowledgement shall be hand-delivered to the complainant, mailed by registered or certified mail, return receipt requested, or if consistent with the association's established procedure, delivered by acceptable technological means, provided the sender retains sufficient proof of the electronic delivery.

D. Contents of association complaint

1. The complainant shall provide, with the association complaint, copies of all documents that the complainant believes the Board of Directors should consider in connection with the association complaint. In addition, to the extent the complainant has knowledge of the law, rule or regulation applicable to the association complaint, the complainant shall provide that reference, as well as the requested action or resolution.
2. If the association identifies additional information necessary for the association to continue processing the association complaint, then, no later than 30 days after the association's receipt of the association complaint, the association shall request such information from the complainant. The request shall be hand-delivered to the complainant or mailed by registered or certified mail, return receipt requested.
3. The request for additional information shall bear a reasonable relationship to the association complaint and not be used to overburden the complainant or frustrate a complainant's efforts to have an association complaint considered by the Board. If the additional information requested is not received within the time frame stated in the association's request (such date to be reasonably determined based on the nature of the information requested), and the time frame has not been extended by consent of the Board, but in no event shall be beyond thirty (30) days after the request was made or the extended time has expired whichever is later, the association complaint will be deemed withdrawn and the process will terminate.

E. Consideration of association complaint and final determination

1. The association's Board of Directors shall hold a hearing on the association complaint no less than 30 nor more than 60 days after receiving the association complaint and any additional information it has requested. The Board or complainant, or both, may record the hearing by tape, film or other means.
2. Within a reasonable time prior to the consideration of the association complaint, the complainant shall be notified of the date, time and location on and at which the hearing will be held. "Reasonable time" shall not be less than 14 prior to the hearing date. Notice of the date, time, and location for the hearing shall be hand-delivered, mailed by registered or certified mail, return receipt requested, or if consistent with the association's established procedure, delivered by acceptable technological means, provided the sender retains sufficient proof of the electronic delivery.
3. A complainant may, but is not required to be, represented by an attorney. If the complainant chooses to be represented by an attorney, then s/he must notify the Board of Directors that s/he intends to be represented by an attorney no later than 7 days prior to the hearing date.

4. A complainant may bring witnesses or documents to the hearing in support of his or her association complaint.
5. The final determination of the association shall be contained in a Resolution adopted by the Board at an open meeting in conformance with the association's governing documents. The final determination of the association must be made in writing within 180 days after the association received the complainant's association complaint and marked clearly and conspicuously as "final."
6. Written notice of the Board's final determination shall be hand-delivered or mailed by registered or certified mail, return receipt requested within 7 days of the Board's final determination.
7. The association shall maintain a record of each association complaint it receives for at least 7 years following adoption of the Board's Resolution setting forth the final determination with respect to that association complaint.

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