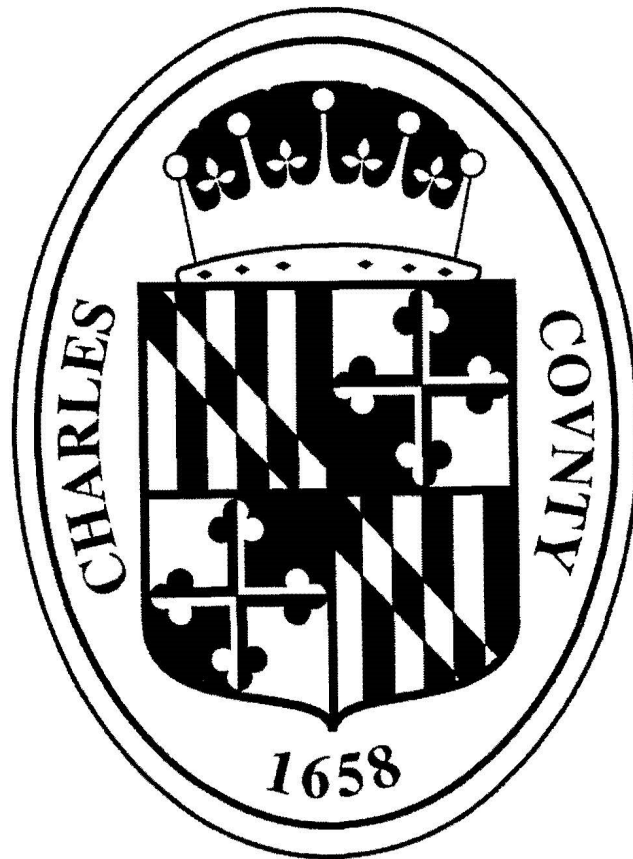


HOMEOWNERS' ASSOCIATION DISPUTE REVIEW BOARD

RULES and PROCEDURES



Adopted July 15, 2021

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Article I. INTRODUCTION

Section 1.1 Purpose

These Rules and Procedures (the “Rules”) are designed to facilitate the operation of the meetings of the Homeowners’ Association Dispute Review Board (the “Board”) and are supplementary to the requirements set forth in Chapter 247 of the Charles County Code (hereinafter referred to as the “Code”).

Section 1.2 Authority

These Rules are adopted in accordance with authority contained in §247-3 of the Code, and the enabling legislation codified in §11B-104(c) of the Real Property Article of the Annotated Code of Maryland (hereinafter referred to as the “Real Property Article”). If there is a conflict between the Real Property Article and the Code, the former shall control. If there is a conflict between the Code and these Rules, the former shall control. If there is a conflict between the Real Property Article and these Rules, the former shall control.

Unless restricted or specified otherwise within the Code, the Board exercises authority to establish and maintain internal policies, rules, procedures, standards, and/or guidance that define and describe approach or method, by which the Board operates, performs, delegates, or executes work.

Article II. ORGANIZATION

Section 2.1 Board Composition and Length of Service

A. Board roles may be found within §247-3 of the Code, as may be amended from time to time.

Section 2.2 Board Responsibilities and Duties

A. Responsibilities not listed in this section may be found within §247-3 of the Code.

B. Board Responsibilities

1. Code of Civility. All Board members shall comply with the County Code of Civility and shall conduct themselves at Board meetings in a fair, understanding and gracious manner. The Board shall seek to be considerate of all individuals, attitudes and differences of opinion involved in official Board business.
2. Open Meetings Act. All Board members shall complete the Open Meetings Act Training on the Maryland Attorney General’s website and provide a copy of the certificate of completion to the Clerk.
3. Annual Report. The Board will draft and submit an annual report as per §247-3E of the Code.
4. Complaint Form. The Board will periodically review and approve the current version of the HOADRB Complaint form as per §247-4A of the Code.
5. Complaint Mediation or Hearings. The Board, in its discretion, may dismiss a dispute if it finds that there are no reasonable grounds to conclude a violation of applicable law, or other agreement has occurred. The Board may reconsider such dismissal if a request to reconsider is filed pursuant to §247-6B of the Code.
6. Electronic Communication. The County appointed Attorney to the Board and Clerk of the Board must be included in all electronic communications.
7. Meeting Agendas. Board members shall submit requested changes to meeting agendas to the Chair of the Board. All agenda changes must be submitted to the Clerk no later than two weeks prior to a given meeting.

8. Attendance. A member who misses three regularly scheduled meetings, in a rolling twelve-month period, may be replaced at the discretion of the County Commissioners, upon request of the Chair of the Board.
9. Board Elections. To ensure fairness and equal ability to serve the Board in all aspects, the members of the Board shall be responsible for the appointment of Board Officers.
 - a. Chair of the Board. A member serving as Chair of the Board shall serve no more than a three-year term. The member serving as Chair shall not serve consecutive terms as the Chair.
 - b. Vice Chair of the Board. The tenure of the Vice Chair of the Board position shall be three years. At the end of three years of service, the member serving as Vice Chair may assume the role of Chair of the Board or serve as a regular member of the Board.
 - i. The member serving as Vice Chair may serve consecutive terms.
 - ii. Every three years, the members of the Board shall nominate and vote, from among its membership, one member to serve as Vice Chair.
 - iii. The members of the Board shall nominate and vote, from among its membership, one member to serve as Chair of the Board when the current Vice Chair declines the opportunity to serve as Chair.
 - c. In any instance when the normal filling of a chair vacancy is not possible, the members of the Board shall nominate and elect, from its membership, a member to serve as Chair or Vice Chair of the Board.

C. Board Duties

1. From time to time, the Chair of the Board may create and assign certain collateral duties to members of the Board. Examples of these duties may be located within Appendix A.

Section 2.3 Board Chair Responsibilities

- A. Dispute Reviews or Hearings. The Chair of the Board, or his/her designee will set hearing dates after the Board accepts jurisdiction of a case and all parties have been notified. The Chair may delegate the duty of scheduling of hearings and meetings to the Clerk of the Board.
- B. Summons & Orders. The Chair shall sign all orders that summon involved parties or request evidence needed for a hearing.
- C. Removal of Board Members. The Chair shall draft and sign all requests for the removal of Commissioner appointed Board Members.
- D. Complainant and Respondent Correspondence. The Chair of the Board shall draft and sign all correspondence to Complainants and Respondents. All draft correspondence shall be reviewed by the Board's assigned County Attorney before submission to the Clerk for preparation on official letter head.
- E. Meeting Agendas. The Chair of the Board shall approve all agendas and modifications to agendas.
- F. Board Functions. The Chair of the Board shall maintain order and decorum of the Board and Board meetings.

Section 2.4 Board Vice Chair Responsibilities

- A. Support the role and responsibilities of the Chair of the Board.
- B. Serve as 'Scribe' of the Board by assisting the Clerk of the Board in tracking/drafting:
 - 1. the current status of a complaint application, complaint review, or case hearing
 - 2. Board Member attendance and tardiness
 - 3. the timely drafting, signing, and submission of correspondence
 - 4. the completion of and timely submission of the Board's annual report
 - 5. initiatives, as stated in the annual report, and report the status of those initiatives during Board meetings

Section 2.5 Board Assigned County Staff Responsibilities

- A. County Clerk. As the custodian of records, it shall be the duty of the Clerk to:
 - 1. Maintain a Board Member's contact list and provide reminders for member compliance with the Maryland Open Meetings Act Training.
 - 2. Agendas. Prepare and submit meeting agendas to Board Members. Meeting agendas shall be distributed electronically 30 (thirty) days prior to a given Board meeting and paper copies provided at the meeting. Any change may be submitted up to 2 (two) weeks prior to a meeting. When feedback is NOT provided to the staff before that time, it shall be assumed that the agenda is accepted, as is, and approved by the Chair. All changes to the agenda must be approved and submitted by the Chair. After the two-week 'cut-off' period, the Chair shall present subsequent changes during the meeting.
 - 3. Quorum Counts. The Clerk shall send an electronic email invitation on the same day a meeting agenda is made available for review. Board members shall accept or decline electronic meeting invitation, no later than two-weeks prior to a scheduled meeting. If a quorum is not established, the Clerk will notify the Chair, automatically reschedule the meeting 30 (thirty) days out, and republish the agenda.
 - 4. Provide clerical support during the meetings of the Board to include providing a written statement to the Chair. The Clerk shall assist the Chair in recording required information for closed sessions, shall maintain records of attendance, shall maintain a record of votes and keep the time clock for hearings.
 - 5. Prepare minutes of each meeting, which shall include an attendance record of all members.
 - 6. Issue all notices as required by law or by these Rules.
 - 7. In the absence of the person designated as Clerk, the County Staff shall notify the Chair and the Chair may subsequently designate a member of the Board or County Staff to assume the duties of the Clerk.
 - 8. Forwards all electronic correspondence to the Chair and Vice chair of the Board for official response
- B. County Attorney. As per the Code, "A designee selected by the County Attorney shall attend all meetings of the Board and provide legal advice, as required from time to time, unless excused by the Chairperson."

- C. Designees of the Department of Planning and Growth Management. As per the Code, “The County Commissioners may also designate other persons as ex officio nonvoting members of the Board.” As an ‘ex officio nonvoting member of the Board’, the Designee provides for the administrative and clerical needs of the Board.
1. Collect and forwards all correspondence of any party desiring information or desiring to provide information to the Board. Correspondence is distributed to the County Attorney, Board Chair, and Board Vice Chair for review and official response.

Article III. PROCEEDINGS BY THE BOARD

Section 3.1 Filing of Complaint Application

- A. Any party may file a complaint with the Clerk of the Board. All complaints must include the following:
1. The Complainant’s contact information including name, address, telephone number, and e-mail address.
 2. The Respondent’s contact information including name and address, along with telephone number and e-mail address, if known.
 3. The name of the Association Manager, if any, along with the contact information of the Association Manager, if known.
 4. An explanation of the dispute/complaint.
 5. The desired outcome sought by the Complainant.
 6. Copies of all pertinent information required for the Board to render a decision, including, but not limited to the recorded covenants and confirmation that the Complainant has made a good faith attempt to exhaust all remedies provided in the covenants together with documentary evidence of the same.
 7. All submittal fees as established in the “Schedule of Fees and Charges” adopted by the Charles County Commissioners.
 8. All conditions of Code §247-4.

Section 3.2 Complaint Review Process

- A. Complaint Application Submission. When a complaint application is submitted, the Clerk and/or the ex-officio member(s) of the Board shall perform the following actions:
1. Collect submittal fees
 2. Create a record file for the complaint
 - a. The complaint is identified using the following format: “APPLICATION: YYYY-XXXX” Ex. “APPLICATION: 2020-0002”
 - b. The record file contains all materials and evidence submitted by the complainant
 3. Update the agenda of the next scheduled HOADR B meeting; describing “Review of Application: YYYY-XXXX”

4. Notify all Board members of the submitted complaint and provide Members copies of the record file.

B. Complaint Application Review

1. In meetings for scheduled complaint reviews, the Board shall review the complaint for completeness and sufficiency of criteria defined in Article III, Section 3.1 of these Rules. The Board's Attorney shall advise whether the Board has the legal authority/jurisdiction to hear the matter and render any requested relief.
 - a. When the Board does not have legal authority/jurisdiction to review a complaint application, hear a matter, or render any requested relief, the Board shall notify the Complainant and Respondent.
 - b. When a complaint application is deemed not complete or sufficient as per Article III, Section 3.1 of these Rules, the Board shall notify the Complainant of what information will be needed to proceed to a case work session.
 - i. The Complainant shall have 30 (thirty) days to respond to the Board's request before the complaint application is denied for review.
 - c. When a complaint application is deemed complete and sufficient as per Article III, Section 3.1 of these Rules, the submittal fee has been paid, and the Board's Attorney confirms a complaint is legally sufficient:
 - i. The Clerk shall assign a case number to the complaint application, using the following format: "COMPLAINT: YYYY-XXXX" Ex. "COMPLAINT:2020-0002", and a case file shall be created for containing all evidence and artifacts, and a case work session shall be scheduled.
 - ii. The Clerk of the Board shall forward a copy of the complaint to the Respondent and the respondent notified of the scheduled day/time when a work session will be held. The Respondent(s) shall have thirty (30) days from receipt of the Complaint to provide a written Response.
 - (1) The written response shall include articles/evidence to support their alternate prerogative.

C. Administrative Working Session

1. As per §247-6 and 7 of the Code, for the purpose of determining if a complaint may proceed to a hearing, the Board shall conduct an 'administrative work session' to "...investigate facts and assemble documents, relevant to a dispute filed with the Board...".
 - a. A complaint application shall be assigned a case number, by which a complaint shall be referenced by throughout the adjudication process.
 - b. The Board shall notify the Complainant when more information is required to consider a complaint and the Complainant shall have 30 (thirty) days to respond to the Board before the case is dismissed.
2. If a complaint is not dismissed, per §247-6 (B) of the Code, the Board shall schedule an administrative hearing when facts filed within a complaint are:
 - a. Not true
 - b. Provide reasonable grounds to conclude a violation of applicable law

c. Provide reasonable grounds to conclude a violation of any association document has occurred.

3. The Board shall notify all parties when an administrative hearing is scheduled.

a. The Respondent(s) shall have thirty (30) days from receipt of the notification to provide a written response.

b. The written response shall include articles/evidence to support their alternate prerogative.

D. An administrative hearing shall be set on the Board's next agenda but not sooner than thirty (30) days after the receipt of the Complaint by the Respondent.

Section 3.3 Administrative Hearings

A. The Board shall prepare and conduct Administrative Hearings in accordance with §247-7 of the Code.

Section 3.4 Conduct of Hearing

A. The Chair shall determine how a hearing shall be conducted, consistent with the Code and these Rules.

B. The Board shall use Robert's Rules of Order when conducting a public hearing.

C. The Chair may consult with the other Board Members and Council prior to reaching a decision as to any procedural matter

1. The Chair may announce, at the beginning of each hearing, a limitation on the amount of time allowed for testimony. Generally, the Board's goal is for each witness' direct testimony to take no more than twenty (20) minutes, and all opening statements and summations to five (5) minutes or less.

2. The general public is invited to attend hearings of the Homeowners Association Dispute Review Board.

3. All persons attending a hearing must maintain order and refrain from disturbing the orderly process of the hearing. In the event of a disruption, the Chair may use discretion in clearing the hearing room of offending persons or recess of the hearing.

D. While many of the formalities of a judicial proceeding will not be observed during the hearing, the procedures outlined in this Section shall guide the conduct of a hearing. Any evidence that would be admissible in a judicial proceeding in Maryland may be considered, but the Chair has the authority to exclude immaterial or unduly repetitious evidence and may limit the number of witnesses when testimony is cumulative in nature.

E. Any individual who is a party to a proceeding before the Board may appear on his/her own behalf. Any member of a Partnership may appear as representing said partnership, if it is a party. A duly authorized representative of a Corporation, Trust, or an Association may appear as representing said body, if it is a party. Any party may be represented in any proceeding by an Attorney at Law.

F. The hearing will commence with opening statements by the Complainant, followed by the Respondent. The Respondent may elect to offer an opening statement after the Complainant has produced all testimony and evidence. Opening statements may not be longer than 5 minutes. If more time is needed, the opposing party must agree but is NOT automatically granted proportional additional time.

- G. After the opening statement(s) is/are given, the Complainant shall offer testimony and evidence to substantiate his/her claim(s). Prior to any testimony being offered, all persons must state his/her name and address and take the following oath as administered by the Clerk: "Do you declare and affirm, under the penalties of perjury, that the testimony that you are about to give is the truth?"
- H. The Board will not recognize or qualify "expert witnesses" but will hear witnesses and give weight to their testimony as the Board deems appropriate.
- I. After a witness offers testimony, the opposing party may ask questions of the witness for the purpose of seeking clarification, but questions of an argumentative tone and nature will not be permitted. The Chair may rule on the suitability of a question, and in the discretion of the Chair, questions or cross-examination may be reduced to writing and asked by the legal advisor attending the Board or by any other individual designated by the Chair.
- J. Any member, upon recognition by the Chair, may question any witness.
- K. After the Complainant has offered all desired testimony, the Respondent shall have the opportunity to offer testimony and evidence to defend against the complaint. The Complainant shall have the same opportunity to ask questions of the Respondent and/or the Respondent's witness(es) for the purpose of seeking clarification.
- L. After all evidence has been presented, the Complainant and Respondent shall have the opportunity to provide a brief conclusory statement.
- M. After closing statements are given, the Board shall close the hearing for future testimony to deliberate and, at its discretion, render a decision during the Hearing.
 - 1. As per §247-7 (F) of the Code, "The Board must apply state and County laws and all relevant case law to the facts of the dispute. At the close of all the evidence, the Board shall deliberate, and, within 14 days, the Board shall issue its written decision and order.
 - 2. If a decision is not rendered during the hearing, the Board shall schedule a case work session within seven working days to render a decision.

Section 3.5 Record of Hearings; Transcription

- A. All hearings shall be recorded. However, in the event of a failure of the recording equipment, the parties will be immediately notified and shall have the option of entering into an agreement as to the substance of the testimony provided.
- B. All hearings shall comply with the Maryland Open Meetings Act.
- C. The Board shall cause to be prepared an official record of its proceedings in each case, which will include all testimony and exhibits, but it will not be necessary to transcribe the testimony unless requested for court review, or when requested by any party in interest appearing at the hearing.
- D. The party taking the appeal or ordering the record must address such request, in writing, to the Clerk of the Board.
 - 1. The Clerk shall certify the accuracy of the transcribed record.
- E. The party taking the appeal or ordering the record must pay the cost of transcribing the record in advance, or pay such deposit as required by the Clerk.
 - 1. The cost of the transcription shall be the same as provided in the rules of the Seventh Judicial Court of

Article IV. BOARD PROCEDURES

Section 4.1 Board Meeting Agenda

- A. The Clerk of the Board shall send meeting agendas to all Board members, 30 days prior to a given HOADR B meeting.
- B. All modifications to an agenda must be submitted to the Clerk of the Board, by the Chair.
 - 1. All agenda topics and recommended edits shall be sent to and reviewed by the Chair for approval.
 - 2. Within two weeks of a given meeting, an agenda shall be considered 'automatically' approved by the Chair when the Clerk of the Board does not receive correspondence from the Chair on the approval of a given agenda.
 - 3. Subsequent agenda changes, should any exist, shall be made on the day of the meeting by the Chair.

Section 4.2 Board Meeting Quorum

- A. A quorum of four (4) Board members shall be necessary for the Board to function and perform fiduciary duties as per the Code.
- B. The Clerk of the Board shall send all Board members an electronic meeting invitation no less than 30 days prior to a given meeting.
- C. All Board members shall accept or decline a meeting invitation within 14 days of receiving an electronic meeting invitation
 - 1. When meeting invitations are declined, notice shall be submitted to the Board Chair, Board Vice Chair, and Clerk of the Board.
- D. Within 14 days of a given scheduled meeting, the Clerk of the Board shall tally the number of members who will attend a given meeting
 - 1. When the tally count indicates the Board will not have a quorum of members, the Clerk of the Board shall notify the Board Chair and Vice-Chair automatically reschedule the meeting 30 days out.

Section 4.3 Annual Report

As per §247-3(E) of the Code, "The Board must submit an annual report by September 1 to the County Commissioners summarizing its activities, needs, and recommendations, and the extent to which the goals of this article are being met."

- A. Within 60 days prior to the submission of the Annual Report, the Board shall begin preparing the report and adopt goals for the next reporting year.
- B. Within 30 days prior to the submission of the Annual Report, the Board shall review and approve the draft report.
- C. The Board's Vice Chair shall coordinate with the Clerk of the Board and or assignee of the Chair to provide each Board member a consolidated list of:

1. Activities acted upon during the reporting year
2. Needs expressed by the Board throughout the reporting year
3. Recommendations expressed by the Board throughout the reporting year
4. Goals that were adopted by the Board, during the previous reporting year, and the extent to which the goals are being met.

Section 4.4 Complaint Application Form

As per § 247-4(A) of the Code, "The Board may hear any dispute between or among parties. Either party may file a dispute with the Board by submitting, in writing, a description of the dispute, naming all parties, in a form approved by the Board."

- A. Annually, the Board shall review the complaint application form for currency, relevancy, applicability, effectiveness, and efficiency. Upon review and affirmative vote, the Board shall provide a current version to the public within 30 days.

Article V. AMENDMENTS

Section 5.1 Amendments

These Rules and Procedures may be supplemented and/or amended from time to time, at the Board's discretion.

Adopted this 15 day of July, 2021.

Signature: 
Alan Harper (Sep 3, 2021 11:34 EDT)

Alan Harper, Chairperson



Charity R. Clements, Vice-Chairperson

Signature: MYRON C. HIGGINS
MYRON C HIGGINS (Sep 9, 2021 21:02 EDT)


Myron Higgins, Board Member

Signature: 
Donald Poole (Sep 9, 2021 16:12 EDT)

Donald Poole, Board Member

Signature: 
Brandi NicCole Jackson (Sep 3, 2021 12:37 EDT)

Brandi Jackson, Board Member

Signature: 

Katarina Eyler, Board Member

ATTEST:

 Amy Coombs, Clerk

Appendix A: Collateral Duties of the Board

The following duties reflect initiatives of the Chair and are assigned to members of the Board from time to time:

1. State Legislative Affairs – monitor state legislation that is proposed or passed that regards, involves, or impacts HOA/Common Ownership Communities and HOA members of Maryland
2. County Legislative Affairs – monitor Charles County legislation and housing development initiatives, that regards, involves, or impacts Charles County HOAs/common ownership communities and residents
3. Community Outreach – As a resident of Charles County, advertise the HOADR B activities and events through social media platforms, but NOT speak on behalf of the Board
4. Knowledge Management – draft and maintain knowledge learned by the Board regarding state and county legislative affairs, and rights of homeowners within managed communities; track proposed amendments to the Boards Rules and Procedures document; draft/maintain document templates for use by the Board.
5. Parliamentary Advisor – This duty is reserved for the past Board Chair (if available) who steps back to rejoin the regular membership of the Board. This role assists the Chair by providing council and in maintaining meeting decorum, structure, and process by monitoring Board members' usage of Robert's Rules of Parliamentary Procedure.

Appendix B: Terms and Definitions

The following terms and definitions reflect those found in §247-2 of the Code and those unique to this Board.

ASSOCIATION DOCUMENT

- A. The Master Deeds, Declaration, Incorporation documents, Bylaws, and Rules of any Homeowners' Association;
- B. Any written private agreement between any parties concerning the operation of the community or maintenance or control of common or limited common property; and
- C. Any similar document concerning the operation or governance of a homeowners' association.

BOARD

The Homeowners' Association Dispute Review Board.

COMMON OWNERSHIP COMMUNITY

A development subject to a declaration enforced by a homeowners' association, as those terms are used in state law.

DISPUTE

- A. Any disagreement between two or more parties that involves:
 - (1) The authority of a governing body, under any law or association document, to:
 - (a) Require any person to take any action, or not to take any action, involving a unit or property;
 - (b) Require any person to pay a fee, fine, or assessment; or
 - (c) Alter or add to a common area or element.
 - (2) The failure of a governing body, when required by law or an association document, to:
 - (a) Properly conduct an election;
 - (b) Give adequate notice of a meeting or other action;
 - (c) Properly conduct a meeting;
 - (d) Properly adopt a budget or rules;
 - (e) Maintain or audit books and records; or
 - (f) Allow inspection of books and records.
- B. "Dispute" does not include any disagreement that only involves:
 - (1) Title to any unit or any common area or element;
 - (2) The percentage interest or vote allocatable to a unit;
 - (3) The interpretation or enforcement of any warranty;
 - (4) The collection of an assessment validly levied against a party; or
 - (5) The judgment or discretion of a governing body in taking or deciding not to take any legally authorized action;
 - (6) An allegation of a public nuisance which is the subject of a complaint filed with the Charles County Nuisance Board.

GOVERNING BODY OF A HOMEOWNERS' ASSOCIATION

The board of directors, or any other body authorized by an association document to adopt binding rules or regulations.

HOMEOWNERS' ASSOCIATION

The legal entity, incorporated or unincorporated, that is responsible for the governance or common property of a common ownership community.

OWNER

A lot owner in a homeowners' association.

PARTY

Includes:

- A. An owner; and
- B. A governing body.

