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Bergen County Recording Data Page
Honorable John S. Hogan
Bergen County Clerk



Official Use Only - Barcode



19-032065 Deed
V Bk: 03249 Pg: 0128-0139 Rec. Fee \$153.00
John S. Hogan, Bergen County Clerk
Recorded 05/22/2019 02:27:00 PM

Official Use Only - Realty Transfer Fee

Date of Document:

04/30/2019

Type of Document:

Resolution - ADR with Marginal Notation

First Party Name:

Executive House Condo. Assn., Inc.

Second Party Name:

Additional Parties:

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

Block:

Lot:

Municipality:

Consideration:

Mailing Address of Grantee:

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGE INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY

Original Book:

Original Page:

BERGEN COUNTY RECORDING DATA PAGE

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EXECUTIVE HOUSE CONDOMINIUM ASSOCIATION, INC.
301 BEECH STREET, HACKENSACK, NJ 07601
PROCEDURE FOR ALTERNATIVE DISPUTE RESOLUTION
Resolution No. 2019-9

WHEREAS, the Sponsor, Green Mountain Homes, Inc., a New Jersey corporation, recorded the Master Deed of Executive House Condominium Association, Inc., a New Jersey non-profit corporation (the "Association") in the Office of the Bergen County Clerk on April 18, 1985, in Deed Book 6913, Page 916, et seq. and as amended; and

WHEREAS, the New Jersey Condominium Act (N.J.S.A. 46:21 et seq.) requires the Association to:

***provide a fair and efficient procedure for the resolution of disputes between individual unit owners and the association, and between unit owners, which shall be readily available as an alternative to litigation; and

WHEREAS, it is the purpose of the Resolution to establish an Alternative Dispute Resolution Procedure in compliance with the section of the New Jersey Condominium Act stated above; and

WHEREAS, it is contemplated that the procedure set forth herein will be utilized after attempts to resolve the housing related dispute have been unsuccessful by the property manager, Board (informally), and grievance committee; and

NOW THEREFORE, BE IT RESOLVED THAT the following Resolution shall be and hereby is adopted.

1. Form of Alternative Dispute Resolution. All alternative dispute resolution proceedings (ADR) will be in the form of a **non-binding arbitration**, requesting a decision of the ADR Committee or Professional Mediator (as hereinafter designated) as to whether or not a violation or violations of any Governing Documents has occurred or is occurring. The ADR Committee will be formed by the Board from members of the Association.
2. Who may engage in Alternative Dispute Resolution. The Association may, but is not obligated to, initiate enforcement proceedings against any other unit owner, when the initiating unit owner believes the unit owner has violated or is violating any provision of the

Governing Documents.

Any unit owner (Respondent) against whom the Association has issued a Notice of Violation, alleging that such unit owner has violated or is violating any provision of the Governing Documents, may request ADR.

Except as provided in Articles 6 and 24 of this Resolution, when a unit owner against whom the Association has issued a Notice of Violation requests an ADR proceeding, the Association must participate in such proceeding and may not institute litigation against such unit owner until the ADR has been completed in the manner provided for in this Resolution.

Whenever ADR is requested by a unit owner who believes that another unit owner is violating or has violated any provision of the Governing Documents, then the unit owner against whom the request for ADR has been made must participate in the ADR proceedings as provided in the Resolution.

No request for ADR may be made with respect to a unit owner who is a member of the Board of Directors for any matter or thing which involves such unit owner's capacity as a member of the Board.

3. **Request for ADR.** The following is a method by which an ADR proceeding is requested.
 - A. A form entitled Request for ADR Hearing (Request Form) is available on request and without charge in the Management office.
 - B. The party initiating the ADR hearing will return the completed Request Form to the Property Manager's office along with a \$30.00 refundable fee. If the party initiating the ADR hearing abandons his or her request or otherwise does not move forward to conclusion with the ADR hearing, the filing fee is not refundable. All applicable sections in the Request Form must be completed.
 - C. Within five (5) business days, the Property Manager will furnish any completed Request Form to the ADR Committee or Professional Mediator.
 - D. If the Request Form is not complete, the Property

Manager will not furnish the Request Form to the ADR Committee or Professional Mediator. Instead, the Property Manager will return the Request Form and the filing fee to the complainant.

E. The information that the Request Form will provide is as follows:

- (1) When the party initiating the ADR hearing claims the other party has committed violations, the Request Form shall state the time, date, place and nature of the violation(s) including the specific provision(s) of the Governing Documents claimed to be violated.
- (2) When the party initiating the ADR hearing is the party whom it is claimed committed violations, the Request Form shall state from what decision the party is appealing.

4. **Response to Any Request for an ADR hearing.** The party against whom the ADR proceeding has been initiated ("Recipient") must file an Answering Statement to the Request Form. The Answering Statement must be furnished to the ADR Committee or Professional Mediator, c/o the Property Manager, within five (5) business days after the Recipient receives the Request Form.

5. **Service of Request Form by the Property Manager; Consequences of Failure to Respond to the Request Form or Participate in the ADR Proceedings.**

A. Upon receipt of a Request Form, the ADR Committee or Professional Mediator must serve it on the Recipient within five (5) business days. Service can be made personally, or by certified mail, return receipt requested.

B. The Request Form will contain a notice to the Recipient that if the Recipient fails to respond to the Notice (i.e. fails to submit an Answering Statement) within five (5) business days, not counting the date of receipt by the Recipient, the Request Form will be deemed admitted by the Recipient.

C. The Request Form will contain a notice to the

Recipient that if the Recipient files an Answering Statement but thereafter fails to participate in the ADR hearing, the ADR Committee or Professional Mediator shall still consider the matter and render a decision accordingly.

6. **Exclusion of Certain Disputes From the ADR Procedure.** Any dispute arising out of any of the following are hereby excluded as matters which can be the subject of an ADR proceeding:
 - A. the payment or non-payment of common area maintenance, which are in accordance with the Governing Documents;
 - B. the payment or non-payment of special common expense assessments duly levied against a unit owner in accordance with the Governing Documents;
 - C. election outcomes; or
 - D. any matter in which the Board or individual Board members are exercising their discretion.
7. **ADR Committee.** No member of the Board of Directors shall sit on ADR Committee. The ADR Committee will not participate in the adjudication, if any, rendered in any ADR hearing.
8. **Hearing.**
 - A. The members of the ADR Committee as appointed by the Board will consist of resident unit owners of the Association, so long as they are not directors, offices or agents of the Association. The Board may also have the right to appoint to the ADR Committee members who are unit owners or members of any other community association who consent to serve. At the discretion of the Board the matter will be heard by an individual engaged in providing mediation and/or arbitration services, either for a free or as a volunteer member of a professional organization (Professional Mediator). If an individual so engaged is selected then only one individual will be necessary to conduct the ADR proceedings in lieu of the ADR Committee. Any fee

in connection with retaining a Professional Mediator shall be paid by the Association.

- B. Each ADR Committee member must be capable of acting, and must in fact act, in an objective and disinterested manner with respect to the dispute. If any member is not capable of such objectivity and disinterest, then that individual must disclose such to the Board, who will designate a replacement member.
9. **Notice of Hearing.** The ADR Committee or Professional Mediator will issue a Notice of Hearing to the parties, scheduling the hearing for no longer than fifteen (15) days after the ADR Committee or Professional Mediator receives the Answering Statement to the Request Form. The Notice of Hearing will set forth the date and time of hearing, and the names of the Committee Members or Professional Mediator. All hearings will be held Monday through Thursday, and will commence no later than 7:00 P.M. or as agreed to by the parties. The hearing date may be rescheduled upon mutual agreement by all parties and the Hearing Officers, or at the unanimous discretion of the Hearing Officers.
10. **Hearing.** One or more hearings, presided over by the ADR Committee or Professional Mediator shall be conducted in accordance with the provisions of this Resolution. All hearings of the dispute must be concluded within sixty (60) days from the date the Recipient files an Answering Statement. The parties may extend this time by mutual consent.
11. **Failure of Either Party to Appear.**
- A. If the party who initiated the ADR proceeding does not attend the hearing(s) and the complaint is against another unit owner, the ADR Committee or Professional Mediator will terminate the ADR proceedings without a decision. The ADR Committee will not accept a refiling of a Request for ADR from any such party, for a violation or violations which are substantially the same as the subject matter for the terminated ADR proceedings. If the party who initiated the ADR proceeding does not attend the hearing(s) and the complaint has been filed against' the Board, the panel shall review it

and not dismiss it unless the complainant withdraws it.

B. If the party against whom the ADR proceedings have been instituted does not attend the hearing(s), then the ADR Committee or Professional Mediator will conduct the hearing(s) and if they can, issue a recommendation as provided in Paragraphs 15 through 17, inclusive, of this Resolution.

12. **Hearing Proceedings.** At the beginning of any hearing, the ADR Committee or Professional Mediator will explain the rules and procedures by which the hearing is to be conducted. The ADR Committee may determine the manner in which the hearing(s) will be conducted so long as the parties are given due process. The ADR Committee or Professional Mediator may, but are not obligated to, exclude irrelevant, immaterial or repetitious evidence. The Hearing Officers may impose reasonable limits on the time allowed for any person to testify and on the number of witnesses.
13. **Additional Hearings.** If additional time is necessary to consider the dispute, the ADR Committee or Professional Mediator may, at their discretion, conduct additional hearings at dates and times mutually agreed upon by the parties and the Hearing Officers, and in accordance with the provisions of this Resolution. The parties will be notified of the continued date and time for the hearing in writing at least ten (10) days before the continued hearing. If either party objects to any hearings after sixty (60) days from the date of filing Answering Statement, then no further hearings will be conducted and the Hearing Officer(s) will proceed to decide the matter.
14. **Closed Hearings.** All hearings will be conducted privately, with only the parties, witnesses (if any) and ADR Committee or Professional Mediator present. Attorneys may be present as representatives of the respective parties.
15. **Decision.** Within fifteen (15) days after the final hearing, the ADR committee or Professional Mediator will issue either a recommended decision (the Recommendation), or a Notice of No Recommendation. The ADR Committee must by a majority vote agree in all respects with the provisions of the Recommendation, attesting to their agreement. The Recommendation will be based on the

Governing Documents, and the facts as determined by the ADR committee or Professional Mediator. If they wish, the ADR committee or Professional Mediator may accept memoranda from any other attorneys who participate, setting forth legal principles the attorneys believe apply to the dispute. The Recommendation will set forth the ADR committee or Professional Mediator's factual findings, reasoning and conclusions in clear and concise language. The Board may but is not obligated to disseminate decisions of the panel omitting therefrom the names of the participant.

16. **Service of Decision.** Recommendations and Notices of No Recommendation will be provided to the parties in the same manner as prescribed in this Resolution for Notices.
17. **Effect of Recommendation.** The Recommendation of the ADR Committee or Professional Mediator will not be binding. The parties are free to institute legal proceedings after the completion of ADR proceedings. The parties may also voluntarily accept the Recommendation of the ADR Committee or Professional Mediator, and agree to be bound by its provision, by signing and attesting on the Recommendation to be binding. All parties to the dispute must sign and attest in this manner.

GENERAL

18. **Due Process.** At all times during the ADR procedure, all parties have a right to due process. Due Process as used in this Resolution includes but is not limited to the right of the parties to:
 - A. adequate notice of the charges and the hearing date;
 - B. representation by counsel;
 - C. presentation of relevant evidence at the hearing;
 - D. cross-examination of all adverse witnesses at the hearing;
 - E. production and submission of documents in their possession, or other items relevant to the dispute; and
 - F. application of basic principles of fairness.

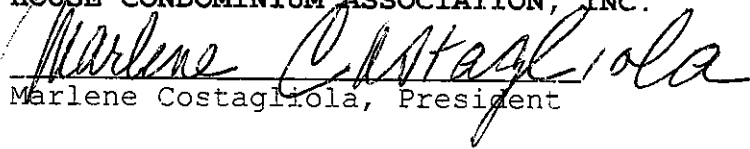
19. **Tenant Use of ADR.** A Tenant of the Association may use ADR proceedings upon submission to the Board of written authorization by the unit owner(s) to whom the apartment occupied by the resident is leased.
20. **Failure to Conform to Resolution.** Any inadvertent omission or failure to conduct an arbitration proceeding in exact conformity with this Resolution will not invalidate the results of the proceeding, so long as due process has been preserved.
21. **Grievances Against Association.** The Association has followed a policy of permitting any unit owner to appear before the Board to voice any grievance the unit owner may believe he or she possesses against the Association. Nothing in this Resolution is intended to change that policy. The Board will continue to make itself available for such meetings, which may occur entirely independent either of litigation or ADR proceedings. However, nothing in this paragraph shall be deemed to obligate the Board to participate in a voluntary meeting with any person with whom a dispute exists between the Association and such person.
22. **Notices.** All notices required by this Resolution will be deemed to be adequately given if served upon the intended recipient of the notice either personally or by certified mail, return receipt requested.
23. **Interim Judicial Relief.** Nothing in this Resolution is intended to and nothing in this Resolution shall be construed to prevent any party from applying to the Superior Court of New Jersey, under the legal standards generally applicable to such applications, for temporary injunctive relief (including but not limited to temporary restraining order or preliminary injunction) to prevent irreparable harm or to preserve the status quo pending completion of the ADR proceedings.
24. **Duties of Attorney.** When an attorney represents a party to an ADR proceeding, that attorney is obligated to

advise the attorney representing each adverse party and if unrepresented, then to the adverse party personally, of each communication the attorney has with the ADR Committee, or with the Hearing Officer(s). Copies of any submissions to the ADR Committee or Hearing Officer(s) must be served on the adverse party.

25. **Effective Date.** The Policy established in this Resolution shall be effective immediately upon its approval.

I HEREBY CERTIFY that the above Resolution was duly adopted by vote of the Board of Directors present at the meeting of the Board held on the 30th day of April , 2019.

**BOARD OF DIRECTORS OF EXECUTIVE
HOUSE CONDOMINIUM ASSOCIATION, INC.**


Marlene Costagliola, President

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