

COUNTRYSIDE PROPRIETARY

ADMINISTRATIVE RESOLUTION NO. 174

ARCHITECTURAL REVIEW, MEMBERS' RIGHT OF APPEAL

WHEREAS, Article VI, Section 3 of the Covenants and Restrictions of the CountrySide Proprietary establishes a Member's right to appeal any decision rendered by the Neighborhood Advisory Council to the Design Review Committee within certain designated timeframes; and

WHEREAS, Article VI, Section 5 of the Covenants and Restrictions of the CountrySide Proprietary further establishes a Member's right to make a final appeal to the Board of Directors of any decision rendered by the Design Review Committee within certain designated timeframes; and

WHEREAS, a member who is aggrieved by a decision of the Neighborhood Advisory Council and/or the Design Review Committee may desire an impartial review or hearing on the decision; and

WHEREAS, the Board desires to rescind Administrative Resolution No. 123 and hereby substitutes Resolution No. 174.

NOW, THEREFORE, BE IT RESOLVED THAT Administrative Resolution #123 be, and hereby is, rescinded, and that the Board hereby establishes the following guidelines for appeal:

- I. **APPEAL TO THE DESIGN REVIEW COMMITTEE BY AGGREIEVED APPLICANT**
 - A. Each architectural ruling of the Neighborhood Advisory Councils (NACs) must be reported to the Design Review Committee (DRC) and/or its administrative designate within seventy-two (72) hours from the date of the ruling. Upon receipt of such rulings, either the DRC and/or the administrative designate shall forward rulings of denial or contingent approval to the applicants, together with an Appeal Request Form for either a hearing in person or in writing before the DRC.
 - B. Any applicant receiving a NAC denial or contingent approval, and who is aggrieved by such decision, must file an Appeal Request Form within ten (10) days from the date the decision was reported to the DRC and/or the administrative designate.
 - C. Upon timely receipt of an Appeal Request Form from an aggrieved applicant, the DRC and/or its administrative designate shall schedule an appeal hearing, either in person or in writing, before the DRC at the next regularly-scheduled appeal hearing.

- D. At least three (3) days before the appeal hearing, the DRC and/or its administrative designate shall notify the respective NAC that originated the denial as to the date and time of the appeal hearing before the DRC. It shall be the responsibility of the NAC either to send a committee representative as spokesperson on behalf of the decision or, in advance of the hearing, to deliver a written statement detailing the rationale in support of the decision.
- E. The DRC and/or its administrative designate shall notify the applicant as to the date and time of the appeal hearing before the DRC. The applicant may attend the appeal hearing and present his/her views.
- F. The DRC shall conduct the appeal hearing in accordance with the procedures as described below.
- G. In the event that an aggrieved party does not comply with the appeal filing timeframes, as specified above, then he/she shall not be entitled to appeal such NAC decision to the DRC.

II. **APPEAL TO THE BOARD OF DIRECTORS BY AGGRIEVED APPLICANT**

- A. As soon as practicable following the monthly DRC meeting, either the Board or its administrative designate shall forward the rulings to the applicants. In the event that the ruling was for denial or contingent approval, an Appeal Request Form shall be included for either a hearing in person or in writing before the Board of Directors. However, if the DRC denies the application(s) for incompleteness or lack of required information, the application(s) shall be returned to the applicant for completion and or more information. Once the application(s) is complete or need information is attached to the application(s) and returned to the Proprietary's office, the application(s) shall be placed on the next available DRC agenda. This shall apply to all application appeals before the Board of Directors, and shall apply to all articles and sections in this Resolution.
- B. Any applicant receiving a DRC denial or contingent approval, and who is aggrieved by such decision, must file an Appeal Request Form within ten (10) days from the date of the DRC meeting rendering such decision.
- C. Upon timely receipt of an Appeal Request Form from an aggrieved applicant, the Board and/or its administrative designate shall schedule an appeal hearing, either in person or in writing, before the Board of Directors at the next regularly scheduled appeal hearing.

- D. At least three (3) days before the appeal hearing, the Board and/or its administrative designate shall notify the respective NAC and the DRC as to the date and time of the appeal hearing before the Board of Directors. It shall be the responsibility of the NAC and the DRC either to send a committee representative as spokesperson on behalf of its decision or, in advance of the hearing, to deliver a written statement detailing the rationale in support of its decision.
- E. The Board and/or its administrative designate shall notify the applicant as to the date and time of the appeal hearing before the Board of Directors. The applicant may attend the appeal hearing and present his/her views.
- F. The Board of Directors shall conduct the appeal hearing in accordance with the procedures described below.
- G. In the event that an aggrieved party does not comply with the appeal filing timeframes, as specified above, then he/she shall not be entitled to appeal to the Board of Directors, and the aggrieved party shall not have any further right of appeal through the CountrySide Proprietary.
- H. In the event the Board of Directors should reverse the DRC appeal ruling and/or modify the ruling in any way, such decision by the Board shall be considered final, and the applicant in question shall not have any further right of appeal through the CountrySide Proprietary.

III. **APPEAL TO THE DESIGN REVIEW COMMITTEE BY AGGRIEVED PARTY OTHER THAN THE APPLICANT**

- A. Should a party other than the applicant, register to the NAC and/or its administrative designate, prior to the regularly-scheduled NAC meeting, opposition to an application request and/or ruling, then he/she shall have the right to file a written statement, which shall accompany the application for review before the Neighborhood Advisory Council. In such case, the applicant shall be notified that opposition has been formally registered; however, unless expressly requested by the applicant, the name of the aggrieved party shall not be divulged to the applicant at such time.

- B. In the event that a party other than the applicant (including a NAC member) should be aggrieved by a decision of the NAC, then he/she shall be requested to file an Appeal Request Form within ten (10) days from the date the decision was reported to the DRC and/or its administrative designate.
- C. Concurrent with such notification to file for an appeal, the applicant in question shall be notified that the aggrieved party has a right to register an appeal before the DRC and therefore, the applicant shall be advised that any construction undertaken during the period of appeal is at risk to the applicant.
- D. Upon timely receipt of an Appeal Request Form from the aggrieved party, the DRC and/or its administrative designate shall schedule an appeal hearing, either in person and/or in writing, before the DRC at the next regularly-scheduled appeal hearing.
- E. At least three (3) days before the appeal hearing, the DRC and/or its administrative designate shall notify the respective NAC as to the date and time of the appeal hearing before the DRC. It shall be the responsibility of the NAC either to send a committee representative as spokesperson on behalf of its decision or, in advance of the hearing, to deliver a written statement detailing the rationale in support of its decision.
- F. The DRC and/or its administrative designate shall notify the applicant and the aggrieved party as to the date and time of the appeal hearing before the DRC. The applicant and the aggrieved party are requested to attend the appeal hearing to present his/her views.
- G. The DRC shall conduct the appeal hearing in accordance with procedures as described below.
- H. In the event that an aggrieved party does not comply with the appeal filing timeframes, as specified above, then he/she shall not be entitled to appeal such NAC decision to the DRC.

IV. APPEAL TO THE BOARD OF DIRECTORS BY AGGRIEVED PARTY OTHER THAN THE APPLICANT

- A Immediately following the monthly DRC meeting, either the Board or its administrative designate shall forward the rulings to the applicant. In the event the ruling was for denial or contingent approval, an Appeal Request Form shall be sent to the applicant for either a hearing in person or in writing before the Board of Directors. Should a party other than the applicant be aggrieved by the DRC ruling, upon becoming aware of such grievance, the Board of Directors or its administrative designate shall forward such ruling and an Appeal Request Form for either a hearing in person or in writing before the Board of Directors. The applicant shall be notified that he/she shall not undertake the subject modification until the aggrieved party, or the applicant, has exercised his/her right of final appeal before the Board of Directors.
- B Notwithstanding any provision to the contrary in paragraph 1 above, in the event that a party other than the applicant should be aggrieved by a decision of the DRC, then he/she shall be required to file an Appeal Request Form within ten (10) days from the date of the DRC meeting rendering such ruling.
- C Upon timely receipt of an Appeal Request Form from the aggrieved party, the Board and/or its administrative designate shall schedule an appeal hearing, either in person or in writing, before the Board of Directors at the next regularly scheduled appeal hearing.
- D At least three (3) days before the appeal hearing, the Board and/or its administrative designate shall notify the respective NAC and the DRC as to the date and time of the appeal hearing before the Board of Directors. It shall be the responsibility of the NAC and the DRC either to send a committee representative as spokesperson on behalf of its appeal decision or, in advance of the hearing, to deliver a written statement detailing the rationale in support of its decision.

- E The Board an/or its administrative designate shall notify the applicant and the aggrieved party as to the date and time of the appeal hearing before the Board of Directors. The applicant and aggrieved party are requested to attend the appeal hearing to present his/her views.
- F The Board of Directors shall conduct the appeal hearing in accordance with the procedures as described below.
- G In the event that an aggrieved party does not comply with the appeal filing timeframes, as specified above, then he/she shall not be entitled to any further avenues of appeal. The applicant in question thereafter shall be permitted to undertake the modification pursuant to the existing application ruling.
- H In the event the Board of Directors should reverse the DRC appeal ruling and/or modify the ruling in any way, such decision by the Board shall be considered final, and neither the aggrieved party nor the applicant in question shall have any further right of appeal through the CountrySide Proprietary.

V. **APPEAL HEARING PROCEDURES**

- A No appeal hearing shall be convened and/or appeal rulings undertaken without a quorum of the Design Review Committee or the Board of Directors.
- B Appeal hearings shall generally be scheduled first on the meeting agenda following approval of the minutes of the previous month and resident participation.
- C. A standard format for conducting an appeal to the DRC is as follows:
 - 1. NAC Ruling on Application - 1 minute
 - 2. Opening Statement by Aggrieved Party - 5 minutes
 - 3. Opening Statement by Applicant - 5 minutes
 - 4. NAC Comments - 5 minutes
 - 5. Questions from DRC - 5 minutes
 - 6. Closing Statement by Aggrieved Party - 2 minutes
 - 7. Closing Statement by Applicant - 2 minutes

8. Closing Statement by Chairperson - 1 minute
9. DRC Discussion and Vote - 5 minutes

If the applicant is the aggrieved party, the indicated seven (7) minutes for statements by the applicant will be omitted.

D. A standard format for conducting an appeal to the Board of Directors is as follows:

1. Background - DRC Coordinator - 1 minute
2. Opening Statement by Aggrieved Party - 5 minutes
3. Opening Statement by Applicant - 5 minutes
4. NAC Comments - 3 minutes
5. DRC Comments - 3 minutes
6. Questions from Board of Directors - 9 minutes
7. Closing Statement by Aggrieved Party - 1 minute
8. Closing Statement by Applicant - 1 minute
9. Board Discussion and Vote - 5 minutes

E. If the applicant is the aggrieved party, the indicated five (5) minutes for statement by the applicant will be omitted.

F. Rulings on all appeals to the Board of Directors shall take one of the following forms:

1. **APPROVED:** An affirmative decision of a majority of the members present.
2. **APPROVED CONTINGENT:** An affirmative decision by a majority of the members present subject to restrictions. This ruling may be necessary if an application is lacking minor information, or in the event the Board of Directors has a conditional requirement for the proposed modification. The applicant will be allowed thirty (30) days from the Board's ruling to comply with the Board contingency unless otherwise specified. If the applicant does not comply, violation proceedings may be instituted.

3. DENIED: A negative decision by a majority of the members present. A ruling of denial requires additional supporting documentation which should be included under "Ruling Comments". These comments must state the basic rationale for denial action. It is encouraged that the reviewing body cite specific language from the Covenants and Restrictions and the Architectural Guidelines which will substantiate a ruling of this nature. The applicant will be allowed thirty (30) days from the Board's ruling to comply with the Board ruling unless otherwise specified. If the applicant does not comply, violation proceedings shall be instituted.
 4. TABLED: A decision by a majority of the members present which is based upon insufficient application information. Every effort shall be made to request that the applicant submit additional information as noted in order to remove the tabled status of an application prior to the next regular meeting.
 5. OTHER VOTES & TIE VOTES: A vote by a majority of the Board members present at a meeting is required to pass a motion. In the event a vote is taken and a majority of the members present cannot be obtained, the motion shall fail and no action shall have been taken by the Board. If no action is taken by the Board of Directors and the Design Review Committee (or the Neighborhood Advisory Council, as may be appropriate) has previously ruled on an application, the decision of the Design Review Committee (or the Neighborhood Advisory Council, as may be appropriate) shall stand.
- G. Minutes of the meeting which involve an appeal hearing are not considered final until formally approved by the respective committee and/or Board. Only formally-approved Minutes of the meeting can be distributed to any requesting party to the appeal. If the Board takes any action in executive session, the action shall be recorded in the Minutes of the Board.
- H. Applications shall at all times be open to inspection by the membership upon request.

- I. In certain circumstances, the Board may wish to consult legal counsel concerning appeal issues, and therefore may table a decision pending consultation with legal counsel. Appeal hearing decisions shall be forwarded in writing to all parties in the appeal immediately following the date of the decision.

ATTEST:

PRESIDENT: David Barrie

DATE:

SECRETARY: Jeff Camera

DATE: