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Date : 6/05/2006  
Time : 10:49:33  
Control # 200606050292  
INST# DE 2006 010022  
Employee ID LESUERY

SOCIETY HILL AT PISCATAWAY CON  
DOMINIUM ASSOCIATION , INC.

RECORDING	\$	85.00
DARM	\$	45.00
NJPRPA	\$	30.00
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Total:	\$	160.00

STATE OF NEW JERSEY  
MIDDLESEX COUNTY CLERK

ELAINE FLYNN  
COUNTY CLERK



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**SOCIETY HILL AT PISCATAWAY  
CONDOMINIUM ASSOCIATION, INC.  
(the "Association")**

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**POLICY RESOLUTION NO. \_\_\_\_\_**

**REGARDING ALTERNATIVE DISPUTE RESOLUTION**

WHEREAS, the Association's Board of Trustees (the "Board") deems it necessary to adopt a uniform procedure for the resolution of disputes between Unit Owners and the Association through its covenants committee (the "Committee"); and

NOW, THEREFORE, BE IT RESOLVED, by the Board that the following procedures are hereby adopted:

**I. There shall be two (2) methods of addressing any act(s), omission(s), conduct, incident(s) or otherwise (the "Violation") which appears to be in violation of the Association's master deed, by-laws and/or rules and regulations (the "Governing Documents"). In the event either the managing agent of the Association ("Managing Agent") or a member of the Board ("Board Member"), serving as such at the time of the Violation, witnesses and/or identifies the Violation, the following shall occur:**

1. The Managing Agent or the Board Member shall create a written report describing the Violation, noting with specificity the time(s), place(s), date(s) and/or person(s) involved (to the extent known) (the "Report").
2. Within 30 days of the date hereof, the Association shall comprise a list of those unit owners who have previously violated the Governing Documents (the "Prior Offender"). Such list shall set forth the owner's name(s), address, unit number and detail as to the nature of the violation(s) (the "Prior Violation").

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3. Upon the creation of the Report, any prior offender shall be fined in an amount as set forth by the Association and/or have all, or some, of his membership rights and privileges revoked until such time as the Violation is abated and/or in accordance with any other policy set by the Board, so long as the violation noted in the Report mirrors the Prior Violation. If the violation is of a continuing nature, such rights and privileges may be suspended indefinitely until such time as the violation is abated. Every day that the Prior Violation remains unabated shall constitute a separate violation, generating a separate per diem fine. Upon creation of the Report, all other owners shall receive written notice of the violation demanding its abatement. No fine shall be paid until such time as the prior offender(s) has had the opportunity to participate in the Association's alternative dispute resolution process, as set forth below.

4. Within 20 days after the imposition of the fine or other sanction, the prior offender(s) fined and/or sanctioned, shall receive a notice, via regular mail, which details the action taken, the basis therefor and that the prior offender(s) is entitled to participate in the Association's dispute resolution process (a copy of an acceptable notice is attached hereto as "Exhibit B"). This notice should also contain a statement that the owner(s) may be represented by counsel, present any relevant evidence, question any individuals with relevant knowledge of the Violation, including the Managing Agent or the Board Member, and/or secure the production of books, documents, or other items relevant to the Violation.

5. In the event the owner(s) avails himself of the Association's dispute resolution process, that process shall be administered by the Committee and proceed procedurally in accordance with the procedures set forth below.

6. In the context of this section, the Committee may mediate the dispute, with the possibility that any fine(s) may be waived, upheld or modified and/or sanctions may be waived, upheld or modified, and/or take any reasonable action in light of the circumstances. With respect to this Section, the Committee shall merely provide a written recommendation to the Board; the Board reserving the right to render the ultimate decision. This is in addition to any rights granted to the

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Committee in Article II below. Any provision set forth below which conflicts with any provision of Article I herein shall be deemed void and the Article I provision shall govern.

7. Notwithstanding anything elsewhere to the contrary however, the Association may issue a cease and desist and/or warning letter to the prior offender(s) prior to the levying of any fine or other penalty. The Association however retains the right to utilize such an informal action in lieu of fine in its sole discretion.

**II. In the event of a complaint made by an owner other than the Managing Agent or a Board Member, the following shall occur:**

1. Any owner, Officer, Board Member or agent of the Association has the authority to request that an owner cease or correct any act or omission which appears to be in violation of the Governing Documents.

2. Upon the request of an owner on his own initiative, the Association may make initial attempts to secure compliance with the Governing Documents through correspondence to the owner which may include the time, date, place and nature of the Violation and which may set forth the time period in which the Violation must be corrected.

3. **FORMAL ACTION**

A. **Written Complaint.** Any owner may file a written Complaint with the Committee. The Complaint must set forth the acts or omissions with which the respondent is charged and should be as specific as possible as to times, dates, places, and persons involved. To the extent possible, the Complaint should specify the provision(s) of the Governing Documents which the respondent is alleged to have violated.

B. **Preliminary Investigation.** Within 10 days of a written Complaint, the Committee may request the Managing Agent or a member of the Committee to make a preliminary investigation and promptly report to the Committee. If a resolution has been reached, the Committee may request that

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the Complaint be withdrawn. The Managing Agent may conduct a preliminary investigation on its own accord. The Committee shall hold a hearing within 30 days of its receipt of a written complaint.

C. Service of the Complaint. The Committee shall serve a copy of the Complaint, or serve the details thereof which may be in the form of a letter (either document to be known as the "Notice of Hearing"), on the respondent at least 10 days prior to any hearing on the matter before the Committee either (1) by personal service or (2) by registered or certified mail, return receipt requested and via regular mail, addressed to respondent at the respondent's last known address. Service by mail will be deemed effective, in the event proof of certified mailing is not secured, if the regular mailing is not returned. The Committee may take no action and no fine may be imposed, unless the respondent has been served as provided in this paragraph.

D. Contents of the Complaint. The complaint or summary thereof must contain the specific allegations of acts or omissions with which respondent is charged, setting forth the times, dates, places, and persons involved (to the extent known), along with the specific provisions of the Governing Documents and/or rules and regulations which respondent is alleged to have violated. It may also request the respondent to cease and desist the Violation.

E. Answer. The respondent shall file with the Association a written response within 14 days of his receipt of any complaint.

F. Costs. In an action involving a dispute between two (2) or more unit owners, each party will pay the equal proportionate share of the costs associated with administrating the hearing. Failure of the complaining party to pay his or her share of the administrative costs will result in a dismissal of the complaint. Failure of any respondent to pay his or her share of the administrating costs, will preclude him or her from filing an answer to the complaint or from otherwise participating in the hearing.

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G. Contents of the Notice of Hearing. The Notice of Hearing must set forth the time, place, and date of hearing. The Notice of Hearing should contain a statement that the respondent may be present at the hearing; may, but need not be, represented by counsel; may present any relevant evidence, and be given full opportunity to cross-examine all witnesses testifying against the respondent; is entitled to request the attendance of witnesses and the production of books, documents, or other items by applying to the Board or Managing Agent. The Notice of Hearing must also advise the respondent that he/she must contact the Association's designated agent, whose identity should be indicated in the Notice of Hearing, at least four (4) days before the date scheduled for the hearing either by filing a written Answer, or by notifying the Committee and/or its designated agent, that he/she will appear at the hearing. **A failure to do so will be deemed a default, and the hearing will not be held.**

H. Amended or Supplemental Complaints. At any time prior to the hearing date, the Committee may file or permit the filing of an Amended or Supplemental Complaint. All parties must be notified in the same manner as notified of the original Complaint, and of a new hearing date set on or before 15 days after the new notice. If new charges are presented, the respondent may file a Supplemental Answer.

I. Discovery. At any time after service of the Notice of Hearing and prior to the date for hearing, either party may request the Board or the Managing Agent to provide the names and addresses of witnesses to be called, and copies of any statements, writings, and investigative reports to be introduced at the hearing. It shall be the obligation however, of any individual to which such information is provided, to utilize same only for legitimate purposes in the context of the hearing. Failure to do so shall subject the unit owner to liability and/or penalties.

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J. Challenges to the Committee. Each member of the Committee must be able to perform in a disinterested and objective manner in consideration of the case before it, or must disqualify himself and have it so recorded in the minutes. Any member of the Committee may be challenged by any other member or by the complainant or the respondent for cause. The Board will decide the challenge and all decisions of the Board in this regard are final.

K. The Hearing.

1. The Committee will select a person who need not be an owner or a member of the Committee to preside as hearing officer. It is the duty of the hearing officer to explain the rules and procedures by which the hearing is to be conducted. Generally, any relevant evidence may be admitted and hearsay evidence may be used to supplement or explain other evidence, but will not be sufficient in itself to support a finding. Counsel for the Association may be present at the hearings and may serve as hearing officer, or may simply attend to advise the Committee as to the proper procedure to be followed.

2. At the request of either complainant or respondent, or on its own motion, the Committee may conduct the hearing in private session.

3. Each party has the right to make a statement, introduce evidence, testimony, and witnesses, cross-examine opposing parties and witnesses. and/or to rebut evidence and testimony.

4. Technical rules of evidence or procedures may be relaxed by the hearing officer who, nevertheless, may reserve the right to exclude all irrelevant, immaterial, or repetitious evidence. The hearing officer also has the discretion to impose reasonable limits on the time allowed to testify and the number of witnesses.

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5. In the event the respondent complies with paragraph 3E above but nevertheless fails to appear at the hearing, the allegations will be deemed true and penalties may be imposed.

6. Oral evidence may be taken only on oath or affirmation administered by the hearing officer.

7. Whenever the Committee has commenced to hear a matter, and a Committee Member withdraws before a decision, the remaining members will continue to hear the case and the president or committee chairman will name a replacement for the withdrawing member who will make his decision from the existing record.

L. Decisions. After a hearing on any matter, the Committee must issue a written decision on the matter, through the managing agent if appropriate, within 10 days. To be effective, a decision of the Committee must be by a majority vote. Copies of the decision must be delivered to the parties by personal service or regular mail.

M. Penalties After Decision. Disciplinary action imposed by the Committee may include the imposition of a fine in accordance with the Governing Documents and/or suspension of the respondent's membership rights until the infraction is corrected and any applicable fine paid. For a continuing infraction, including non-payment of any assessment or fine after it becomes due, suspension may be imposed for as long as the violation continues. Any fine imposed shall be in accordance with the rules and/or fining schedules as set by the Board, but at all times must be consistent with the Act. A summary of the decision may also be published in a newsletter.

#### 4. APPEALS

A. Any decision or ruling of the Committee may be appealed to the Board.

B. All appeal petitions must be submitted to the Board within 30 days after receipt of a copy of the written decision or ruling from the Committee. In the event that an appeal petition is not filed within the 30 day period, the decision or ruling of the Committee is final; however, for good cause shown, the Board has the power to extend the appeal period on an individual basis any time it deems it appropriate.

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C. Owners must exhaust all remedies provided by this Resolution before resorting to a court of law for relief.

5. **CONSTRUCTION**

A. "Due Process" as used in this Resolution refers to the following basic rights: 1) Respondent will be notified of the charges; 2) Respondent will have an opportunity to be heard at a hearing at which witnesses may appear and may be cross-examined and at which evidence may be introduced; 3) An opportunity to appeal will be available; and 4) Basic principles of fairness will govern.

B. Any inadvertent omission or failure to follow the procedures for due process will not invalidate the results of any decision or ruling, as long as a prudent and reasonable attempt was made to protect the above basic due process rights.

6. **ESTABLISHMENT OF THE COMMITTEE**

A. The Committee shall be established by the Board, in accordance with the Association's By-Laws Section 5.11(T)(5) and shall all of the rights, powers and authority as reflected therein.

B. The Committee shall have such additional duties, powers and authority as the Board may provide including the power to fine. The Board may relieve the Committee of any of its duties, powers and/or authority, either generally or on a case-by-case basis, and may also supplement its duties, powers and/or authority, either generally or on a case-by-case basis.

7. **MISCELLANEOUS**

A. Any monies due hereunder shall be collected by the Association in the same manner as assessments.

B. Notwithstanding anything stated herein and/or recommendation of the Committee, the Association may exercise all rights and remedies available to it at law, in equity and, and/or pursuant to the Association's Governing Documents.

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C. **The Committee's findings, its recommendations and any thing or statement presented to the Committee by the Association shall be inadmissible in any court for any purpose whatsoever unless consented to in writing by the Association.**

D. Any provision contained in any previously adopted resolution of the Association which conflicts with any provision set forth herein, shall be deemed void and the provision contained herein shall govern.

E. Notwithstanding elsewhere herein to the contrary, it shall not be the function of the Committee to modify, alter, or amend in any way any rule, regulation, or policy of the Board, or any restriction or covenant in the Governing Documents.

F. This resolution shall not be applicable to disputes involving the non-payment of regular or special assessments.

8. **INFORMAL ACTIONS** Any unit owner who has a claim against the Association for an act or omission of the Association in violation of the Governing Documents should contact the Managing Agent or a member of the Board to resolve the dispute before initiating any formal action. If appropriate, the Association may seek to resolve the dispute or cure the complaint through informal means such as negotiation or mediation.

A. Written Notice

(a) If the complaining unit owner (the "Complainant") and the Association are unable to resolve the claim or dispute through informal means, the Complainant may file and serve a written Notice upon the Association. Such Notice shall set forth in clear and concise language the acts or omissions with which charged and should be as specific as possible as to times, dates, places and persons involved. The Notice should specify the provision(s) of the Governing Documents or Rules and Regulations that the Association is alleged to have violated.

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b) After receipt of the Notice, the Association may take further action to resolve the Notice through informal means such much negotiation or mediation and if such action proves unsuccessful or the Association chooses not to take such action, the Association shall forward a copy of the Notice to the Committee for alternate dispute resolution proceedings. Such forwarding of the Notice shall take place within 60 days of the Association's receipt of the Notice, unless there are ongoing negotiations between the unit owner and the Association, in which case the Notice shall be forwarded within 60 days of initial receipt or 30 days after the negotiation or mediation fails, which ever is later. Upon forwarding the Notice to the Committee, the Association may also forward a written answer to the Notice, a copy of which shall be provided to the Complainant.

B. Service of Notice After receipt of the Notice, the Committee shall provide notice to the Complainant and the Association that they may appear at an alternate dispute resolution hearing. Such notice shall be sent to the Complainant and the Board no less than ten (10) days before the scheduled date of the proceeding. In order to have a hearing, the Complainant must request same in writing within 10 days. This request shall be accompanied by the total and equal payments by both parties to cover and to be applied against, the administrative costs of the hearing. Parties will be notified of the cost at that time. A request for hearing shall not be deemed complete until this payment is made.

C. The Alternate Dispute Resolution Proceeding

(a) At the hearing, the Committee will select a person who need not be an owner to act as presiding officer of the proceeding. It is the duty of the presiding officer to explain the rules and procedures of the proceeding. Counsel for the Association may be present at the proceeding and may serve as presiding officer. At the request of either Complainant or the Association, or on its own motion, the Committee may conduct the proceeding in private session. A quorum shall be established by the attendance of two (2) or more Committee members.

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(b) Each party has the right to be represented by counsel, the right to present relevant evidence, the right to cross-examine all adverse witnesses, the right to request the attendance of witnesses and the right to the production of books, documents, or other items relevant to the dispute. Complainant may obtain copies of the relevant books, document or other items if available, by applying to the Board or the Managing Agent.

(c) Technical rules of evidence or procedure may be relaxed by the presiding officer who, nevertheless, may reserve the right to exclude all irrelevant, immaterial, or repetitious evidence. The presiding officer also has the discretion to impose reasonable limits on the time allowed to testify and the number of witnesses.

(d) If the Complainant requests a hearing and the Complainant or critical witness does not appear at the proceeding, the Notice may be dismissed, and the administrative payment shall be forfeited.

(e) The Complainant and the Association may rely upon their written submissions in lieu of requesting an Alternate Dispute Resolution Proceeding. In such an event, the Committee, at its discretion, may decide the matter at an informal meeting of the body.

D. Decisions To be effective, a Decision of the Committee must be made by a majority vote. Copies of the Decision must be delivered to the parties by personal service or regular mail promptly after the Decision is issued within a reasonable time following the decision.

E. Matters or Issues in Litigation The Board may, at its discretion, deny a unit owner the right to an Alternate Dispute Resolution Proceeding where the matter or issue for which the proceeding is requested has been or is currently being litigated by the Association or a unit owner. The Association may, upon notice to the Complainant, postpone forwarding the Notice to the Committee for up to 90 days after its receipt of the Notice of litigation of the matter or issue raised in the Complaint is pending or imminent. If the anticipated litigation does not commence during the 90 day period, the Board must forward the Notice to the Committee for Alternate Dispute Resolution Proceeding.

**SOCIETY HILL AT PISCATAWAY CONDOMINIUM ASSOCIATION, INC.**

Resolution Type: Policy No. \_\_\_\_\_

Pertaining To: Relating to Alternative Dispute Resolution

Duly adopted at a meeting of the Board of Trustees of Society Hill at Piscataway Condominium Association, Inc., held this 5<sup>th</sup> day of May, 2006.

Officer

Vote:

YES   NO   ABSTAIN   ABSENT

KEVIN WINE, Trustee

X               

MAPAN SHARMA Trustee

X               

ATIF NAZIR, Trustee

X               

JAMES COE, Trustee

X               

GREGORY MACHYOWSKY, Trustee

     X          

Attest:

Gregory Machyowsky  
Secretary

5/8/06  
Date

File:

Book of Minutes - 200\_

Book of Resolutions:

Book No.

Page No.

Policy

\_\_\_\_\_

Administrative

\_\_\_\_\_

Special

\_\_\_\_\_

General

\_\_\_\_\_

Resolution Effective: \_\_\_\_\_, 200\_.

Resolution Expires: \_\_\_\_\_, 200\_.

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ACKNOWLEDGMENT

I Certify that on 5/8/06, 2006, Gregory Machyowsky, came


before me and this person acknowledged under oath, to my satisfaction, that:

(a) this person is the Secretary of Society Hill at Piscataway Condominium Association, Inc., the corporation named in the within resolution regarding the membership fees;

(b) this person is the attesting witness to the signing of this document by the proper corporate officer, Kevin Wine, the President of the Corporation;

(c) this person knows the proper seal of the corporation which is affixed to this document;

(d) this person signed this proof to attest the truth of these facts.

  
Richard B. Linderman, Esquire  
Notary Public  
Attorney - state of New Jersey.

Record and Return to:

David J. Byrne, Esquire  
Stark & Stark P.C.  
P.O. Box 5315  
Princeton, NJ 08543- 5315  
609-896-9060

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**ASSOCIATION'S SCHEDULE OF FINES  
SHOULD BE INSERTED HERE AS EXHIBIT "A"  
(if applicable)**

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Date

VIA CERTIFIED and REGULAR MAIL

Homeowner

**Re: Society Hill at Piscataway Condominium Association, Inc.**

Dear Homeowner:

This office manages Society Hill at Piscataway Condominium Association, Inc.

A fine in the amount of \$\_\_\_\_\_ has been levied against you as a result of the following:

**(Describe violation)  
(Detail particular relevant provision of either governing documents or Rules and Regulations)**

Each day for which this violation continues unabated shall generate an additional fine of \$\_\_\_\_\_. Prior to paying this fine however, you are entitled to participate in the dispute resolution process of the Association. The Association has scheduled a mediation at which time this matter will be discussed. The mediation will be held on \_\_\_\_\_ at \_\_\_\_\_ at \_\_\_\_\_ at \_\_\_\_\_ at \_\_\_\_\_ at least 4 (four) days prior to the date set forth above. Failure to appear or secure an adjournment shall render the above-referenced fines due and payable.

You may be represented by counsel, present evidence, question individuals, and/or secure the production of books and records.

Sincerely,

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