



4 October 2019

New PGCE Complaints and Dispute Resolution Process

This new Process to manage the enforcement of rules by the HOA Board and Management against Members and people under their control as defined in our MOI as well as any disputes arising as the result of said enforcement; to manage complaints submitted by Members against the Board or HOA Management; and, to manage complaints submitted by a Member against another Member, was approved at the 2019 AGM.

The Process does not cover Contractor complaints and dispute resolution or the whole fines system as well as the enforcement of rules against visitors who do not fall within the ambit of the MOI i.e. who are not under the deemed control of a Member. It is suggested that the current processes to manage these also be reconsidered and updated in a follow-up exercise in line with the proposed updated process where it makes sense.

Underlying the updated Process is the Board's conviction that the sustainable long-term wellbeing of our Estate is best served by a management approach that focuses on shaping desired people values and behaviour, rather than the policing and unilateral enforcement of rules transgressions as the main priority. As such, the updated Process makes ample provision for both parties to a complaint/dispute to be heard and sufficient management energy be expended during a conciliation phase before an adjudication and enforcement phase is entered.

In line with the above conviction, the Board has also joined the Community Societies Ombud Services (CSOS) to provide our Members with further independent options to pursue complaints and resolve disputes after our updated internal processes have been exhausted without a solution.

The Estate is currently governed by our MOI as well as three supporting documents namely, the Operational Rules, the Homeowners Rules and Regulations and the Governance and Procedures document. The Board has commenced a process to update the MOI and to simplify the supporting governance documents by consolidating it into one document. This approved updated Complaints and Dispute Resolution process will be incorporated into that single document.

Articles 10 (10.11.2; 10.12; 10.15), 11 (11.11) and 13 (13.4; 13.7; 13.8 and 13.9) of our current MOI provide the Board with a strong legal framework to manage the behaviour of Members to be in line with the vision for the Estate. Apart from adding wording to the MOI to confirm that the HOA Board and Members have access to the CSOS dispute resolution processes should the internal ones not lead to an acceptable solution, no further material amendments to the current MOI dispute resolution Articles are required.

The new Process provides for four steps namely an Initiation step followed by a Conciliation step and, if necessary, a subsequent Adjudication step followed by Enforcement. Mediation and Arbitration steps are not formally part of our internal Process but are available should they be agreed upon during the subsequent CSOS process.

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1. If the Process is initiated by a Member, be it against the HOA Management or another Member, a Complaint Letter (see attached standard Form) needs to be submitted to the HOA Admin Offices. This Letter must include at least a description of the Complaint/issue under Dispute; a description of attempts made to resolve the issue; and, a description of the proposed resolution and/or relief sought.
2. If the Process is initiated by the HOA then a standard Infringement Letter will be issued. This Letter must clearly state the alleged breach of the MOI or Rules, a suggestion as to how the breach could be resolved and an indication of the potential penalty if the breach is not resolved.
3. The General Manager (GM) will be in charge of setting reasonable deadlines for the process and will clearly indicate a time when the Respondent must respond to the Complaint or Infringement Letter, with a maximum of 10 business/working days to be allowed.
4. If a timely response is not received from the Respondent, then the Board has the right to skip the Conciliation step and move directly to the Adjudication and Enforcement steps.
5. If a response is received in time, the GM will arrange for conciliation to commence. Ideally, a Courtesy Letter should be used for this. This step may include a meeting between the parties, the GM and some Directors if deemed necessary and as requested by the GM.
6. If no solution is arrived at, the GM is to request the Board to appoint a Committee of three (as per Article 13.8 of the MOI) to commence with a final attempt to conciliate, and if not successful, to thereafter adjudicate on the matter. The elected Chairman of this Committee will be in charge of setting reasonable timelines and process steps of this phase. The rules of Natural Justice will apply in all instances, including the right of a person to object to the participation of any Committee member so appointed by the Board or the Chairman as elected by the Committee.
7. If no solution is arrived at and adjudication is completed by the Committee, the GM is to issue an Enforcement Letter as approved by the Committee to the Respondent.
8. The Enforcement Letter will clearly indicate that the Respondent has a maximum of 10 business/working days to appeal the decision of the Committee to the full Board.
9. If an appeal is filed, the Chairman of the Board will be in charge of the process going forward.
10. The decision of the Board will be final, and enforcement will not be suspended based solely on pending possible future referral of the matter to CSOS or pending future litigation.

Regards
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General Manager

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