

Taberna Master Homeowners Association

Adjudicatory Panel and Procedures, Amended April 1, 2019

I. Adjudicatory Panel

The Board of Directors ("Board") of the Taberna Master Homeowners Association, Inc. ("TMHA") shall appoint an Adjudicatory Panel ("Panel"), of three (3) members, and such alternates as may be appropriate, to hear all matters under North Carolina General Statute Section 47F-3-102 (11) and (12) and 47F-3-107.1, other than assessment of late payment penalties for dues, which action does not require a hearing.

II. Members

- A. The members of the Panel shall be chosen by the Board from the membership of the TMHA. Panel members may not be officers of the TMHA or members of the Board. The members chosen must be in good standing with the TMHA and agreeable to serving as a Panel member without remuneration.
- B. The members of the Panel shall elect their own chairperson and secretary annually or after the appointment of a new member to fill a vacancy.

III. Terms

- A. The Board shall appoint the Panel and alternate members for a term of three (3) years.
- B. The Board has the authority to remove Panel members and to appoint new Panel members to fill any unexpired terms of office caused by resignation, termination of a member's TMHA membership, death or incapacitation of a member or failure of the member to perform the duties of the office.

IV. Notice and conduct of Hearings

- A. For alleged violations of the Taberna Protective Covenants and Amendments thereto, and Rules and Regulations of the TMHA, a "courtesy" or First Notice of the alleged violation shall be sent by the Board or its representative to the property owner(s) by regular mail.
- B. If the alleged violation continues 10 days after the NOTICE is sent a Second Notice (NOTICE OF VIOLATION) will be sent. This notice will contain specific information about the violation and action that could be taken by the Board (fines, etc.).
- C. If the issue continues 10 days after the Second NOTICE is sent and with approval of the Board, a Third Notice or "Notice of Hearing" will be sent. This Notice will specify the alleged violations and provide the home owner a date, time, and place to attend a hearing on this issue.
- D. Mailings of the second and third notices shall be sent by regular mail to the property owner at the address on file with the TMHA. Third notices will be sent by regular mail and Certified Mail return receipt requested. Mail deposited pursuant to this section with the USPS shall constitute and be deemed to be NOTICE under the provisions of N.C.G.S., Section 47F-3-102 (11) and (12).

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- E. Hand delivery of such NOTICE to the property owner or any of them if there be more than one, by any person over the age of eighteen (18) years shall also constitute and be deemed to be NOTICE under said provision and eliminates the requirements in the subparagraph D above.
- F. The Board, or its representative, upon being notified of a NOTICE OF VIOLATION, shall coordinate with the Panel's Chairperson to schedule a hearing on the matter pursuant to paragraph G below, to be held within thirty (30) days after mailing of the NOTICE identified in paragraph IV.D.
- G. Hearings shall be held at the office, unless otherwise directed, of the TMHA, 1310 Old Cherry Point Rd., New Bern, N.C. at a reasonable time. A notice of the time and date for the hearing shall be delivered to the subject property owners as set forth in Section IV. The property owners may request by written application to the Panel a postponement of the date set for the hearing for good cause. Such postponement, at the discretion of the Panel, not to exceed an additional fifteen (15) days may be granted. An alternate date for the hearing, as selected by the Panel, shall be acknowledged by the property owner in writing.

V. Hearings

- A. At the time and date set for the hearing, the Panel's Chairperson shall call the session to order. The Panel's Secretary shall be responsible for taking the minutes of the meeting.
- B. The Board shall present its position on the matter to the Panel through its representative. The presentation may consist of oral or written testimony, photographs, charts, graphs or any combination thereof, or any other evidence deemed material and competent by the Panel.
 - 1. The property owner shall have the right to address reasonable questions to any TMHA witnesses.
 - 2. The property owner shall have the right to object to the entry of any evidence in the proceeding or its consideration by the Panel.
 - 3. All evidentiary rulings will be made by the Panel's Chairperson.
 - 4. Evidence of a kind commonly relied upon by reasonable prudent persons in the conduct of serious affairs shall be the evidentiary standard applied in the making of rulings.
- C. At the conclusion of the presentation by the representative of the Board, the property owner, if they choose to do so, shall have the right to be heard by the Panel. The property owner shall have an equal opportunity to present information to the Panel through oral or written testimony, photographs, charts, graphs, or any combination thereof, or any other evidence deemed material and competent by the Panel.
 - 1. The representative of the Board shall have the right to address reasonable questions to the property owner and their witnesses, if any.
 - 2. The representative of the Board shall have the right to object to the entry of any evidence in the proceeding to its consideration by the Panel.
 - 3. All evidentiary rulings will be made by the Chairperson of the Panel.

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4. Evidence of a kind commonly relied upon by reasonably prudent persons in the conduct of serious affairs shall be the evidentiary standard applied in the making of evidentiary rulings.
- D. At the conclusion of the property owner's presentation, the representative of the Board and the property owner shall each have an opportunity to present a brief oral summation to the Panel.
 - E. At the conclusion of the summations, the Panel's Chairperson shall declare the hearing closed.
 - F. The members of the Adjudicatory Panel shall confer among themselves and shall then deliver a written decision as determined by a majority vote of the Panel members, including findings of fact, and the imposition of any fines, suspensions, or penalties as provided by law in N.C.G.S. Section 47F-3-102 (11) or (12) and 47F-3-107.1, within ten (10) working days after the conclusion of the hearing.
 1. A copy of the decision shall be delivered to the representative of the Board.
 2. A copy of the decision shall be sent to the property owner in the manner set forth in Section IV D or E above
 3. A copy of the decision shall be maintained by the Panel in its records for a period of at least five (5) years.
 - G. With respect to any fines assessed under Section V Subsection F above, the Panel may assess a fine of up to one hundred dollars (\$100.00) per violation and an additional fine of up to one hundred dollars (\$100.00) per day for each day more than five (5) that the violation remains uncorrected following delivery of such Panel decision per Section IV A or B above. Such fines shall be assessments secured by liens.
 - H. The property owner may choose to contest the hearing held by the Panel without appearing before the Panel in person. In that event, the Panel shall conduct the hearing in the property owner's absence, considering any appropriate evidence, if any, submitted on behalf of the property owner. The Panel shall conduct the hearing as set forth herein above and shall notify the property owner of its decision as set forth above.
- VI. Hearings (Uncontested)
- A. If the property owner, after receiving NOTICE of alleged violations of the Taberna Protective Covenants and Amendments thereto, and Rules and Regulations of the TMHA, does not wish to contest the violation, the property owner may so notify the Panel in writing within ten (10) working days following such notification.
 - B. Upon receipt of such notice from the property owner, the Adjudicatory Panel shall duly set a hearing date and time to determine the fines and or other penalties, if any, to be imposed for the violation
 - C. Such hearings shall be conducted by the Panel in accordance with Section V above, with the Panel determining, in its discretion, the extent of the evidence necessary to reach a decision.
 - D. The property owner may decline to attend the hearing on the penalty, in which case the Panel shall comply with all the procedures made and adopted above and give notice of its decision in the manner set forth above in Section V.

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VII. Appeals

- A. A property owner who wishes to appeal the decision of the Panel may do so within 15 days of receipt of the Panel's decision by submitting a written appeal to the Board.
- B. This appeal shall state the specific reasons for the appeal, the remedy desired and all appropriate supporting documentation.
- C. The Board shall consider the appeal in an Executive Session at its next regularly scheduled monthly meeting. In its discretion, the Board may request the property owner to attend the meeting or the Board may rely on the information submitted by the property owner.
- D. The Board may affirm, vacate, or modify the prior decision of the Panel. If penalties are modified, they will be reinstated without further notice, hearing or chance to appeal if the underlying covenant violation reoccurs.
- E. The Board shall inform the property owner in writing, as described in section IV, of its decision.

Voted on and Approved: March 19, 2019



Bart Rovins
President, Taberna Homeowners Association