

Resolution Establishing LVCA Board Policy for Addressing Subdivided Residential Units

WHEREAS, the Lafayette Village Community Association was incorporated in part to “to enforce the covenants, restrictions, easements, reservations, servitudes, profits, licenses, conditions, agreements and liens provided in the Declaration of Covenants” (Article 2(a), Articles of Incorporation); and

WHEREAS, Article VI, Section 6(f) of the Declaration of Covenants, Conditions, and Restrictions of the Lafayette Village Community Association provides that “No portion of any dwelling (other than the entire dwelling) shall be leased”; and

WHEREAS, the Board of Directors has recently learned that portions of some dwellings within Lafayette Village have been leased in form of basement apartments; and

WHEREAS, it is part of the fiduciary responsibility of the Lafayette Village Board of Directors to enforce the provisions of the Declaration of Covenants of the Association by appropriate action; and

WHEREAS, the Board desires to clarify some of the types of leasing that will be considered to be violations of Article VI, Section 6(f) of the Declaration;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LAFAYETTE VILLAGE COMMUNITY ASSOCIATION that the following statements establish the Association’s policy and procedures for enforcing Article VI, Section 6(f) of the Declaration of Covenants when evidence of a rented subdivided unit is received:

A. Definitions.

- a. A “subdivided unit” may be a basement apartment in the bottom portion of a townhouse or detached house or may be some other portion of the townhouse or detached house leased for the exclusive use of one or more tenants, with the any of following characteristics:
 - i. Entrance and egress to and from the subdivided unit is separate from the main entrance to the townhouse or detached house.
 - ii. The owner or primary tenant of the townhouse or detached house does not have regular and unfettered access to the subdivided unit.
 - iii. The tenant of the subdivided unit does not have normal access to the main portions of the dwelling, and in particular does not have access to the kitchen and dining areas in the main portion of the dwelling nor to the main entrance to the dwelling.
 - iv. A subdivided unit does not need to have a full kitchen including a stove, refrigerator, and sink to qualify as a portion of the dwelling being leased.

B. Identification of “Subdivided Units”.

- a. A subdivided unit may be identified by:
 - i. Advertisements in newspapers, online classified ads, websites such as Airbnb, Craigslist, posting in stores, bulletin boards, etc.;
 - ii. Complaints made by residents and homeowners to the Board or the Association’s management company; or
 - iii. Visual evidence, including but not limited to worn pathways or evidence of repeated foot traffic leading to the rear entrance of a dwelling.

C. Actions to be taken once a subdivided unit has been identified.

- a. The Board may at its discretion file a complaint with the Fairfax County Office of Code Compliance or other appropriate County agency, requesting that the existence of the subdivided unit be investigated.

- b. The Board will direct the management company to send a violation letter to the homeowner asserting a violation of Article VI, Section 6(f) of the covenants, and requesting that the violation be corrected within a time certain, and providing the homeowner with the opportunity for a hearing before the Board.
 - c. The Board may at its discretion request the Association's legal counsel to prepare and send a letter to the homeowner demanding the violation be corrected.
- D. Hearing procedures.
- a. If the homeowner requests a hearing before the Board, the Board shall provide the homeowner with the opportunity to explain why there is no "subdivided unit" in the dwelling and/or why there is no violation of Article VI, Section 6(f) of the Covenants. Notice of the hearing shall be sent to the owner at his/her address of record with the Association, by certified mail, at least 14 calendar days before the hearing.
 - b. If the explanation is accepted by the Board, the Board will conclude that no violation has been found and that conclusion will be sent to the owner and filed with the homeowner's records maintained by the management company.
 - c. If the explanation is not accepted by the Board, the Board will proceed with the enforcement actions outlined in Section E.
- E. Enforcement.
- a. If, following the finding of a violation by the Board, the owner fails to (i) cease advertising the subdivided unit for rental, (ii) terminate any existing rental agreement for the subdivided unit and/or (c) diligently pursue removal of the existing tenant of the subdivided unit, the Board will authorize its legal counsel to pursue such legal remedies as are allowed by the Lafayette Village Declaration of Covenants and Virginia law, which may include an action for an injunction and assessment against the owner of all attorney's fees incurred in obtaining the injunction pursuant to Section 55-513 of the Virginia Property Owners Association Act.
 - b. After the Board concludes that Article VI, Section 6(f) of the Declaration has been violated due to the presence of a rented subdivided unit, the homeowner's voting rights and the rights to use any and all Common Areas and community facilities (other than necessary for access) may be suspended by vote of the Board for a period not to exceed sixty (60) days.

Adopted on February 21, 2017. This resolution is effective March 1, 2017.

LAFAYETTE VILLAGE COMMUNITY ASSOCIATION

By: _____

President

Attest: _____

Secretary