



DECISION PAPER

DATE December 7, 2020

TITLE:

Resolution 97-5: Procedures for Member Appeals from Covenants and Architectural Standards Committee Decisions

RECOMMENDATION:

By Motion:

Direct staff to prepare proposed update to Resolution 97-5: Procedures for Member Appeals from Covenants and Architectural Standards Committee Decisions with goal of presenting an updated resolution for the board of directors to approve for 45-day notification and member comment.

BACKGROUND:

The Tahoe Donner Covenants and Restrictions (C&Rs) Article V section 12 and Article XIII section 7 establish authority to the board to establish appeal procedures and hearing of appeals. In 1994 the board of directors established Resolution 94-4: Procedures for Member Appeals from Covenants and Architectural Standards Committee Decisions. This resolution was subsequently revised in 1997, with Resolution 97-5 now in force.

ANALYSIS:

Davis-Stirling, the governing law in California for HOAs and Civil Code have updated several times since the adoption of the resolution. Upon reviewing Resolution 97-5 alongside state law and the C&Rs and the Architectural Standards and Covenants rules, we are now aware of several areas that need updating to conform between documents. Additionally, there are areas that clarification of procedures would help members understand the appeals process, and the board and staff administer appeals.

Areas Recommended to Address:

- Appeals procedures are part of the Association Rules, therefore any modification to the resolution requires 45-day notice and comment period
- Hearing procedures clarifications including but not limited to,
 - What comprises the 30 minutes of an appeal hearing
 - Strengthen basis of member appeal language
- Conform with state law and C&Rs including but not limited to,
 - Scheduling of appeals and reasons to deny hearing of appeal
 - What and when appeals can be held in executive session versus open session
 - Board appeal decisions when committee decision is reversed or modified
 - There is a conflict between the resolution and Architectural Standards Rules and Procedures for Land Use (AS Rules) when naming who is an eligible appellant. That resolution states an owner of the property affected by the committee decision is eligible for appeals. The AS Rules state that neighbors who provide neighbor comment during a project application submittal also have appeal rights.
- Typographical errors





Staff is recommending the board of directors direct staff to prepare proposed update to Resolution 97-5: Procedures for Member Appeals from Covenants and Architectural Standards Committee Decisions with goal of presenting an updated resolution for the board of directors to approve for 45-day notification and member comment.

OUTREACH:

Board of Directors December 18, 2020 meeting agenda item posting. Email to members for December 18, 2020 board meeting included topic.

Staff has had initial discussion and review of topic with Architectural Standards and Covenants Committee Chairmen, Rod Whitten and Fred Zapponi.

If the board directs the staff to proceed, staff will work on drafting proposed update to the resolution to bring forward to the board for 45-day notice and member notification at the next appropriate board meeting. Publication of the 45-day notice and member notification will be published in the Tahoe Donner News, 45-day Notice webpage, and in member eblasts. During the 45-day notice period, the board will hear and review member comments at a board meeting prior to an action item for adoption at the conclusion of the notice period.

FISCAL IMPACT

None resulting from this agenda item.

ALTERNATIVE:

As an alternative, the board of directors could stick with the existing resolution.

ATTACHMENTS:

97-5 Resolution - Procedures for Member Appeals from Covenants and Architectural Standards Committee Decisions

Prepared By: Annie Rosenfeld, Director of Risk Management and Real Property

Board Meeting Date: December 18, 2020

General Manager Approval to Place on the Agenda: _____

