

TAHOE DONNER ASSOCIATION
RESOLUTION 97-5
PROCEDURES FOR MEMBER APPEALS FROM COVENANTS
AND ARCHITECTURAL STANDARDS COMMITTEE DECISIONS

WHEREAS, on May 21, 1994, pursuant to Covenants & Restrictions (C&Rs), Article V, Sec. 12, the Tahoe Donner Association (TDA) Board of Directors adopted Resolution 94-4 establishing appeal procedures and identifying the composition and powers of an Appeal Board allowing members (owner(s)) to appeal a decision rendered by the Environmental Control Committee (ECC); and

WHEREAS, on February 15, 1997, pursuant to the request of the ECC, the TDA Board of Directors approved changing the name of the ECC to the Architectural Standards Committee (ASC); and

WHEREAS, on March 17, 1995, pursuant to Article X, Section 1 of the Bylaws, the TDA Board of Directors established a Covenants Committee to hear and decide cases involving alleged violations of the Governing Documents; and

WHEREAS, pursuant to the C&Rs, decisions of the Covenants Committee (Article XIII, Section 7) and the ASC (Article V, Section 12) are appealable to the Board of Directors or a duly authorized committee; and

THEREFORE, BE IT RESOLVED, that this Resolution amends Resolution 94-4 in order to establish a unified procedure for owner(s) appeals from ASC and Covenants Committee (hereinafter jointly referred to as "Committee") decisions; and

THEREFORE, BE IT FURTHER RESOLVED, that the TDA Board of Directors adopts the following statement of purpose, composition and powers of the Appeal Board and related procedures for appeals from Committee decisions:

I. PURPOSE

The Appeal Board is established pursuant to the governing documents and to hear owner's appeals from decisions of the Committee.

II. COMPOSITION OF THE APPEAL BOARD

The Appeal Board shall consist of the five members of the Tahoe Donner Association Board of Directors, service on the Appeal Board shall be concurrent with service on the Board of Directors. The Vice President of the Board of Directors shall serve as the Chair of the Appeal Board (Chair), and the President of the Board of Directors shall serve as Co-chair.

III. AUTHORITY AND RESPONSIBILITIES OF THE APPEAL BOARD

The authority and responsibilities of the Appeal Board include, but are not limited to, the following:

- a) Elect to hear the appeal, or to affirm the decision of the Committee without a hearing;
- b) Reverse or modify the decision of the Committee;
- c) Make findings related to the facts or the applicability of the rules and return the matter to the Committee for further consideration;

- d) Recommend specific action to be undertaken by the General Manager relative to individual cases or Tahoe Donner policies. Such recommendations may include appropriate review by legal counsel, conducting surveys, or consulting with governmental agencies;
- e) All members of the Appeal Board shall review, approve and sign the record of appeal for each proceeding.

IV. APPEAL PROCEDURES

Owners who wish to appeal the decision of the Committee shall adhere to the following procedures:

A. Basis and Timeliness for Member Appeals.

If, after receiving notice of the Committee's decision, an owner(s) believes that the Committee has erred in the process of reaching its decision, has not adhered to the existing rules regarding said decision, or that there were extenuating circumstances that were not considered by the Committee, the owner(s) of the subject property must submit the Request to the Appeal Board at 11509 Northwoods Blvd., Truckee, CA 96161. The Request must include a written statement as to why the owner(s) is appealing the Committee's decision and must be **received** in the General Manager's Office within 15 days following receipt of the Committee's decision. Once an appeal has been filed, the owner(s) shall be referred to as appellant(s).

B. The Appeal Board May Deny to Schedule an Appeal Hearing.

- 1) Appeals may only be requested by the owner(s) of the property associated with the appeal and requests by other parties will not be entertained.
- 2) Incomplete information provided on the REQUEST FOR APPEAL (Request) may result in denial of an appeal hearing and a request for further information.
- 3) The Appeal Board shall have the discretion to hear any appealed matter, or decline to take the appeal and thus affirm the decision of the Committee (C&R, XIII, 7c & C&R, V, 12).

C. Hearing Date.

The date of the hearing shall be set by the Chair within a reasonable time considering the convenience of all parties. Such date shall be determined by the Chair and will ordinarily be scheduled for the next regularly scheduled Board of Directors' meeting, *if* the Request is received at least two weeks prior to that date, unless the Chair determines otherwise. If the Chair determines that a delay is necessary, the appellant shall be notified in writing at least ten days before the scheduled hearing date. A new hearing date shall be scheduled within 60 days from the date of the original hearing date. Each hearing will be scheduled for 30 minutes.

D. Request for Continued Hearing Date.

The appellant may continue a scheduled appeal hearing by submitting a REQUEST FOR CONTINUANCE (Continuance) to the Chair at 11509 Northwoods Blvd., Truckee, CA 96161. Such Continuance must be received at least five days prior to the date of the scheduled hearing. A continuance *may* be granted at the discretion of the Chair; and, if granted, the appellant(s) shall immediately be notified in writing, or by telephone of the continued date. Said hearing will be scheduled within 60 days of the originally scheduled date, and no more than two continuances will be granted per appeal, unless the Chair determines there are extenuating circumstances that require otherwise.

E. Agent or Representative of the Appellant.

If the appellant cannot be present at the hearing and desires to appoint a representative, his/her agent shall be so designated on the Request, or in writing to the Chair at least five days before the

hearing date. If neither the appellant, nor his/her representative appears before the Appeal Board at the hearing, the Appeal Board will decide the matter based upon the written statements presented by the appellant, if any, and the written or verbal presentation of the Committee.

F. Appeal Hearing Record.

Proceedings at the Appeal hearings will be recorded by the Secretary and a permanent record shall be transcribed for approval by all members of the Appeal Board. The hearing shall be open to all property owners unless the appellant requests a closed hearing on the Request, or the Appeal Board determines a closed hearing to be in the Association's best interests (Civil Code sec. 1365.05(b)).

G. Decisions.

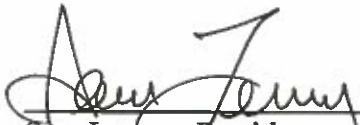
The Appeal Board shall communicate its decision as follows:

- 1) in open or closed session at the end of the hearing followed by written confirmation within ten days of the hearing date; or
- 2) render a decision following further deliberations followed by written confirmation within ten days of the hearing date; or
- 3) render a decision not more than 30 days after the hearing by providing written notification of such delay within the ten-day period following the appeal hearing.

All decisions of the Appeal Board shall be final.

This Resolution shall supersede Resolution 94-4, and the procedures adopted herein shall be administered through the Office of the General Manager and Appeal Board.

DATE: SEPT 20th 1997



Sam Lemon, President



Ted Langan, Vice President



Bruce Cornell, Secretary



Ken Knutsen, Treasurer



Dick Kreutzen, Director

REQUEST FOR APPEAL

This is a Request for Appeal from a Decision of the Following Committee:

Architectural Standards _____

Covenants _____

COMMITTEE DECISION INFORMATION

Date of Meeting _____

Date of Decision _____

Result of Decision _____

SUBJECT PROPERTY

Unit _____ Lot _____

Address: _____
Tahoe Donner Physical Address

APPELLANT INFORMATION

Property Owner Name: _____

Mailing Address: _____

Telephone Number(s): Home: _____ Local: _____ Work: _____

APPEAL HEARING

Name of owner(s) or designee(s) to appear at the hearing:

I request that the hearing be closed: _____ (initial if applicable)

Attached is a written statement why I believe I have a basis for appeal. I understand that all decisions of the Appeal Board shall be final and binding.

Date: _____

(Signature of Owner(s)/Appellant

**REQUEST FOR CONTINUANCE
OF APPEAL HEARING**

This is a request for a continuance of my appeal hearing
scheduled for _____ (date)

Unit _____ Lot _____

Property Owner Name _____

Tahoe Donner Address _____

Mailing Address _____

Telephone Numbers:

Home: _____ Local: _____ Work: _____

I understand that pursuant to Resolution No. 97-5, only two continuances will be granted per appeal, unless the Appeal Board determines there are extenuating circumstances that require further continuances.

Date: _____
_____ Signature of Owner(s)/Appellant)

Appeal Board:

Date of Original Hearing: _____

Date of Continued Hearing: _____

Date of 2nd Continued Hearing: _____

If this is one of two initial requests for continuances, you will be granted this continuance, and you will be advised of the new hearing date by first-class mail, postage prepaid, to the mailing address shown on the Request within 10 days (which will be within 60 days of the original hearing date).