



STAFF REPORT

DATE February 16, 2021

TITLE:

Proposed 45-day member notice and comment period to update Resolution 97-5: Procedures for Member Appeals from Covenants and Architectural Standards Committee Decisions.

RECOMMENDATION:

By Motion:

Approve proposed Resolution 21-X: Procedures for Member Appeals from Covenants and Architectural Standards Committee Decisions to publish for 45-day member 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 in 1997. 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 Addressed in Update:

- 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





At the December 2020 board meeting, the board of directors directed 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.

Proposed modifications were prepared and reviewed by each committee chairperson in which they provided comments and support of the updated resolution. Following this work, the draft resolution was sent to general counsel for review. The proposed resolution included as Exhibit A includes these reviews and takes into consideration the board's comments from their review at the January board meeting.

Management is recommending the board consider approving the draft resolution policy to go out for 45-day member notice and comment period. As the appeal procedures are part of the Association Rules, before the update can be approved, they must go out to the members for 45-day notice and comment period (TDA C&Rs Article III, Section 7). Publication of the 45-day notice and member notification will be published in the March 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.

OUTREACH:

Board of Directors December 18, 2020 meeting agenda item posting. Email to members for December 18, 2020 board meeting included topic. Board of Directors January 22 and February 26, 2021 meeting agendas item posting. Email to members for the board meetings included topic.

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

FISCAL IMPACT

None resulting from this agenda item.

ALTERNATIVE:

The board of directors has several alternatives,

1. Provide direction on additional modifications to the proposed resolution policy and then approve for publication; and/or
2. Provide other direction to staff on the matter.





ATTACHMENTS:

Proposed 21-X Resolution

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: January 22, 2021

General Manager Approval to Place on the Agenda: _____

