

## Market House Condominium Association

### House Rule Banning Smoking in the Condominium

The Board of Directors hereby adopts a House Rule that smoking is not allowed within the Condominium since it has been found to be a nuisance, per the Board ruling on 10/05/06. This rule will be in effect beginning on December 15, 2006 at 12:01 am.

The fine for smoking within the Condominium shall be \$500.00 upon the first instance. This violation will be communicated to the owner of the unit by U.S. Mail following the procedures detailed below.

#### **REPORTING OF VIOLATIONS**

Owners and other residents should make every reasonable effort to resolve differences between them, even if the basis of the differences is a violation of the Rules and Regulations. However, an owner or other resident of Market House Condominium (the “Condominium”) may deliver to a member of the Board or to the manager of the Association (the “Manager”) a written complaint explaining the violation of the Rules and Regulations, stating the date and time of the violation, and providing the name or a description of the person who allegedly caused the violation. The violation will then be investigated by the Board or the Manager.

#### **FINES FOR VIOLATIONS**

Under the Bylaws and Minnesota Statutes Chapter 515B, known as the Minnesota Common Interest Ownership Act (the “Act”), the Board has the authority to impose reasonable fines for violations of the Rules and Regulations. Since smoking has been defined as a nuisance within the Condominium and that it poses a risk to the health, safety, and welfare of the residents of the Condominium, the Board has decided that more stringent action is required in violation of this House Rule. In addition, the Board reserves the right to pursue any other actions or remedies that are authorized by the Declaration of the Condominium, as amended and/or supplemented (collectively the “Declaration”), the Bylaws, and any relevant Minnesota laws.

The following guidelines will be followed by the Board or the Manager in the event of a violation of the Rules and Regulations:

a. **First violation:** A written notice of the violation is sent to the owner of the unit (the “Owner”) in which the violator (who may or may not be the owner) is residing or visiting (the “Violation Letter”). At that time a fine of \$500.00 will be levied against the unit.

b. **Second or subsequent violation of the same Rule and Regulation set forth in the Violation Letter, within 12 months from the date of the Violation Letter:** \$25.00 fine for each such additional violation (in addition to the fines set forth in item a, above).

All fines shall be due and payable to the Association on the first day of the month following the date that the fines are imposed. At the Board's discretion, the amount of the fines set forth above may be changed for one or more than one particular violation, given the circumstances surrounding the violation, whether the violator has a history of violations, or other relevant information.

**CONTINUING VIOLATION**

In the case of a continuing violation of the Smoking Ban House Rule beyond the date when the first fine is imposed under the Fines For Violations Section above, a fine of \$25.00 may, at the Board's discretion, be imposed for each day the violation continues.

**NOTICE OF A VIOLATION AND THE OPPORTUNITY TO BE HEARD**

In the case of the imposition of any fines for violations of the Rules and Regulations, the Board shall, upon written request of the Owner, grant to the Owner a hearing on the violation. The procedures for informing the Owner of a right to a hearing, the Owner's request for a hearing, and of the hearing itself, shall be as follows:

- a. The Owner shall be given written notice of the nature of the violation and the right to a hearing, and at least 10 days within which to request a hearing in writing. The hearing shall be before the Board or, at the discretion of the Board, a committee appointed by the Board and that is made up of at least three disinterested owners (some or all of the members of the committee may, at the Board's discretion, be members of the Board). The written request shall be mailed or hand delivered by the Owner to the office of the Manager (for purposes of these procedures, the receipt by the office of the Manager of the written request shall be deemed to be received by the Board).
- b. The hearing shall be scheduled by the Board and held within 30 days of receipt by the Board of the Owner's written hearing request, and with at least 10 days prior written notice to the Owner.
- c. If the Owner fails to request, or to appear at, the hearing, then the right to a hearing shall be deemed waived by the Owner and the Board may impose the applicable fines and take all other action as it deems appropriate.
- d. Hearings shall be conducted in a fair and equitable manner. The decision of the Board/committee, and the rules for the conduct of hearings established by the Board/committee, shall be final and binding on all parties. The decision of the Board/committee shall be delivered in writing to the Owner within 10 days following the hearing, if not delivered to the Owner at the hearing.
- e. Attendance at the hearing will be limited to the following persons: members of the Board/committee, agents of the Association, the complainant (if any), the Owner, and any other persons who may have relevant evidence or

testimony to offer. A person attending the hearing may elect to be represented by legal counsel. A Board member who has direct involvement in the alleged violation shall excuse himself or herself from the hearing process.

f. Any fines to be imposed by the Association may, at the discretion of the Board/committee, be retroactive to the date of the violation. No notice to the Owner of a right to a hearing need be given before the imposition of fines for a continuing violation.

g. The time frames set forth above may be extended or reduced upon mutual agreement between the Owner and the Board/committee. If the violation has created an emergency situation, a shorter notice period may be used.

**PERSONAL LIABILITY FOR FINES / LEVY OF FINES AS ASSESSMENTS**

Pursuant to the Act, each fine imposed by the Association against the Owner shall be the Owner's personal obligation and shall be a lien against the Owner's unit. The lien shall attach to the unit as of the date the fine is imposed, but shall not be final until (i) the fine is affirmed in writing following the hearing referred to above (if applicable) or (ii) after the expiration of the time period within which the Owner could request a hearing but failed to do so (if applicable).

**ATTORNEY'S FEES AND COSTS**

Pursuant to the Act, the attorney's fees and costs incurred by the Association in connection with the enforcement of the Rules and Regulations against the Owner may be assessed against the Owner's unit. In addition, those attorney's fees and costs are the personal liability of the Owner. A lien against a unit for fines and related charges, fees, and costs may be foreclosed in the same manner as a lien against a unit for other unpaid assessments, as provided by Minnesota law.