

MARLBANK COVE ASSOCIATION, INC.

Policy Resolution No. 20- 02

(Books and Records)

WHEREAS, in accordance with Virginia Code, MARLBANK COVE ASSOCIATION, INC. ("Association") is required to have a written process for resolving Association complaints from members and citizens. The Association's Complaint Procedure shall conform to the requirements set forth in the Code, the Common Interest Community Ombudsman Regulation ("CICB Regulations"), and the Association's Articles of Incorporation, Amended, Restated and Consolidated Declaration of Restrictive Covenants and Amended and Restated Bylaws ("Governing Instruments"), which shall not be in conflict with the Code or the Regulations.

WHEREAS, Virginia Code Section 55.1-1815 of the Virginia Property Owners' Association Act provides that charges for access to the Association's books and records may be imposed; and,

WHEREAS, Virginia Code Section 55.1-1815(D) of the Virginia Property Owners' Association Act provides that charges may be imposed only in accordance with a cost schedule adopted by the Board; and

WHEREAS, the Board of Directors desires to create a policy and procedure by which owners in good standing may request and be provided access to books and records.

NOW THEREFORE, it is hereby **RESOLVED** that the Board of Directors of MARLBANK COVE ASSOCIATION, INC. hereby adopts the following policy to be used for Members requesting access to the Association's books and records.

**A. RIGHT OF EXAMINATION.** All books and records kept by or on behalf of the Association, including, but not limited to the association's membership list, addresses and aggregate salary information of association employees, shall be available for examination and copying by an owner in Good Standing or his authorized agent so long as the request is for a proper purpose related to his membership in the association, and not for pecuniary gain or commercial solicitation. This right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five days written notice reasonably identifying the purpose for the request and the specific books and records of the association requested.

**B. RIGHT TO WITHHOLD.** Books and records kept by or on behalf of an Association may be withheld from examination or copying by owners and contract purchasers to the extent that they are drafts not yet incorporated into the association's books and records or if such books and records concern:

1. Personnel matters relating to specific identified persons or a person's medical records;
2. Contracts, leases, and other commercial transactions to purchase or provide goods or services currently in or under negotiation;
3. Pending or probable litigation. Probable litigation means these instances where there has been a specific threat of litigation from a party or the legal counsel of a party;
4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to §55.1-1819;
5. Communications with legal counsel which relates to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;
6. Disclosure of information in violation of law;
7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § 55.1-1816;
8. Documentation, correspondence or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or
9. Individual unit owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.

**C. GOOD STANDING.** Good Standing shall mean a Member is current in the payment of assessments and any other financial obligation to the Association, including fines or charges, and compliant with all other responsibilities of membership, including, but not limited to, maintenance of his or her Lot in a condition that does not violate any term or provision of the Association's Governing Documents.

**D. REQUEST FORM.** In order to exercise the Right of Examination, Members must fully complete, sign and date the attached Request Form, Exhibit A, or a substantially similar form, and file, by mail, fax, or email, with the Association to the attention of the Association's Managing Agent at the following address:

Marlbank Cove Association, Inc.  
c/o Jennifer Williams, Community Manager  
Chesapeake Bay Management, Inc.  
603 Pilot House Drive, Suite 300  
Newport News, VA 23606  
Email: jwilliams@1cbm.com  
Fax: (757) 534-7765

**D. FEE SCHEDULE.** Members may be required to pay a charge prior to the providing of copies of and Books and Records to a Member in Good Standing. The Association adopts the attached Fee Schedule, Exhibit B, for copies and hourly charges for the review and duplication of the Association's Books and Records.

**E. ESTIMATE OF COSTS.** Upon receipt of a completed Request Form and within a

reasonable period of time, the Association shall provide the Member an estimate of the costs associated with responding to the request.

**F. PAYMENT.** Prior to the Association performing any work related to the request, Members must pay the estimated charges in advance. Upon receipt of payment (or clearance of a personal check), the Association shall make arrangements for a meeting at a mutually convenient time to provide the Member with copies of the requested records within five (5) days of receipt of the payment. The Association has the right, but not the obligation, to provide requested records by electronic transmission.

**G. RECONCILIATION.** Upon completion of the services requested, the Association shall compare the estimate with the actual costs incurred by the Association and, if the amount paid is in excess of the actual costs, the association shall promptly refund the difference to the Member. If the actual costs exceed the estimate, the Association shall notify the Member and the Members shall be obligated to pay the difference. The Association may charge the Member's assessment account in the amount of any unpaid charges and may withhold additional services and/or copies until it receives payment.

**H. WAIVER.** The Association shall have the right to waive any of the above requirements, including fees and costs.

**I. EFFECTIVE DATE.** This Policy Resolution was duly adopted by the Board of Directors and shall become effective on August 20, 2020.

**MARLBANK COVE ASSOCIATION, INC.**

By:   
Board President

**Exhibit A**

**RECORD REQUEST FORM (2020)**

You may use this form to request copies of or inspect the official records of the MARLBANK COVE ASSOCIATION, INC. ("Association"). In order to properly submit a request, please complete, sign and date this form and mail, fax or email it to the Association's Managing Agent at the address below:

Marlbank Cove Association, Inc.  
c/o Jennifer Williams, Community Manager  
Chesapeake Bay Management, Inc.  
603 Pilot House Drive, Suite 300  
Newport News, VA 23606  
Email: jwilliams@1cbm.com  
Fax: (757) 534-7765

Name of Requesting Owner: \_\_\_\_\_

Lot Address: \_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

Preferred Method of Communication: \_\_\_\_\_ Writing \_\_\_\_\_ E-mail

If Email, provide your Email address: \_\_\_\_\_

**Please Describe the records you wish to copy and/or inspect:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please Describe the purpose of your request:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please check applicable box(es):**

I am requesting to receive copies of the above-referenced records [ ]

I am requesting to conduct an in-person inspection of the above-referenced records [ ]

I am requesting to inspect the records on \_\_\_\_\_ at \_\_\_\_\_.

(The Association will provide you confirmation of the appropriate time, date and location for the inspection)

Please note, not all Association records are available for review and inspection, per Virginia Code Section 55.1-1815. You will be notified if your request contains records subject to withholding. You will also be notified of the estimated cost, if any, related to your request and such charges must be paid in advance of the Association fulfilling your request.

Be advised, the Association is only obligated to respond to record requests from those members of the Association who are in "Good Standing" as defined by the Association's Books and Records Policy.

Please date, sign, and submit this completed form or a substantially similar request to the Association at the address listed above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Exhibit B**

**FEE SCHEDULE (2020)**

**Labor** - \$75 per hour (\$15.00 per 15-minute increments)

**Materials** - Copy cost of \$.15 per page for black and white; \$.75 per page for color; copies of larger documents (greater than 8.5" X 11") shall be charged the actual copying cost from a third party.