

**RESOLUTION 05-09**  
**LITTLE WHALE COVE HOMEOWNERS ASSOCIATION**  
**PROCEDURE FOR**  
**APPEALS FROM AN ARCHITECTURAL COMMITTEE DECISION**

Little Whale Cove Homeowners Association CC&Rs Section 4.4.3 provides that among other powers and obligations, the Association shall have “Any additional or different powers and obligations necessary or desirable for the purposes of carrying out the functions of the Homeowners’ Association pursuant to this Declaration or otherwise promoting the general benefit of owners of property within Little Whale Cove.” CC&R Article 4.2 provides that “...the affairs of the Association shall be conducted by the Board of Directors consisting of five (5) members.” In accordance with the above-cited CC&Rs, and the Board of Directors having been advised by Association Counsel that a revision of the Architectural Committee Appeals procedure is in the best interests of the Association, the Board of Directors hereby revises said procedure as follows:

RESOLVED:

- 1) Pursuant to CC&R Section 3.4.8 any two (2) Members of the Architectural Committee (Committee) constitutes a quorum and have the power to act on behalf of the Committee. The Committee may render a decision only by written instrument setting forth the action taken by the members consenting thereto.
- 2) An Owner, or a member of the Architectural Committee who participated in rendering the decision, may appeal a Committee decision to the Board of Directors. Additionally, the Board of Directors on its own motion by a majority of the Board may appeal a Committee decision and subject it to Board review. The appeal must be in writing and filed in the Association office within ten (10) days of the time the Committee rendered its decision. The decision must also be in writing and bear the stamp of the Committee and the signature of each Member voting for the decision.
- 3) No Committee decision shall become final until the appeal period has expired. Only days upon which the Association Office is regularly scheduled to be open for business shall be counted toward the appeal period.
- 4) If no appeal is filed within the ten-day (10-day) period, the Committee decision shall become final.
- 5) An application for an appeal shall include the specific reasons for the appeal which must be stated with sufficient clarity to allow the Board of Directors and Committee to respond to or resolve each issue.
- 6) When an appeal is filed, the Committee shall submit a copy of all of the written records of the Meeting wherein the decision was rendered, as well as a copy of the application acted upon and the decision.

- 7) The Board of Directors shall give notice by mail of the appeal hearing to the appellant, the Chair of the Committee, and property owners adjacent to the appellant at least ten (10) days before the hearing. Weekends and holidays shall not be counted in computing the notice period.
- 8) Notice of the hearing shall be posted at least three days prior to the hearing in the same manner as any Board of Directors meeting.
- 9) If an appellant fails to appear at the hearing, either physically or via teleconference the Committee's decision shall become final.
- 10) The appeal shall be heard by at least three (3) Directors which constitutes a quorum.
- 11) The purpose of the appeal hearing is for the Board to determine if an Architectural Committee decision was a reasonable application of the CC&Rs of Little Whale Cove.
- 12) The conduct of the hearing shall be as follows:
  - a. All testimony is strictly limited to the issues raised in the appellant's letter of appeal and the Architectural Committee's letter of decision.
  - b. The appellant will speak first, directing all comments to the Board.
  - c. The Architectural Committee representative will speak next, directing all comments to the board.
  - d. Rebuttal or clarifying comments may then be directed to the Board by any interested party.
  - e. If necessary, the Board will ask further questions before deliberating.
  - f. The Board will publicly deliberate and reach a consensus finding that either the AC decision was a reasonable application of the Little Whale Cove CC&Rs or it was not.
  - g. If the Board finds that the AC decision was not reasonable, it will direct the AC to reconsider its decision.
  - h. If the Board finds that the AC decision was reasonable, then that decision is final.
- 13) The Board of Directors' decision shall be rendered in writing within fourteen (14) business days of the hearing.
- 14) This Resolution shall become effective on the date of adoption thereof, and a copy of the Resolution shall be sent to all homeowners.

Adopted: 05-18-02

Revised: R05-09 02-19-05

Revised: R05-09 12-20-08

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Robert L. Anderson Jr., Chair

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Carrie Philpott, Recording Secretary