

**IN THE
COMMONWEALTH OF VIRGINIA
COMMON INTEREST COMMUNITY BOARD**

In Re: Summerhill at Stony Point Condominium
RHS Management Corporation

Registration No.: 0517860169

TEMPORARY CEASE AND DESIST ORDER

On September 23, 2021, the Common Interest Community Board (“the Board”) met and reviewed a memorandum from staff dated September 16, 2021, to consider issuance of a temporary cease and desist order against RHS Management Corporation, the declarant of Summerhill at Stony Point Condominium, Registration Number 0517860169.

The Board considered its applicable law: Chapter 23.3 of Title 54.1 (§ 54.1-2345 et seq.) and Chapter 19 of Title 55.1 (§ 55.1-1900 et seq.) of the Code of Virginia. After reviewing the facts and information presented in the memorandum at the Board meeting, the Board determined that the declarant has failed to file an annual report within thirty (30) days of the condominium registration anniversary date as required by § 55.1-1979 of the Code of Virginia.

The declarant’s failure to comply with § 55.1-1979 of the Code of Virginia does not assure the public that the declarant is in compliance with the Virginia Condominium Act (§ 55.1-1900 et seq.) and the Condominium Regulations, and would cause irreparable harm to the public interest.

ORDER

In the interest of protecting the public from harm, the Board hereby enters a temporary cease and desist order in accordance with § 55.1-1986(B) of the Code of Virginia. The Board orders RHS Management Corporation, the declarant of Summerhill at Stony Point Condominium, to **cease and desist** from the sale of units in the condominium until an annual report is submitted and determined to be acceptable by the Board. Further, the Board orders that RHS Management Corporation submit the required annual report to the Board within 30 days of the effective date of this order.

If the declarant of Summerhill at Stony Point Condominium fails to comply with the terms of this order, the Board may refer the matter for enforcement pursuant to § 54.1-306 of the Code of Virginia, and/or impose sanctions and take other actions permitted by Chapter 19 of Title 55.1 (§ 55.1-1900 et seq.) of the Code of Virginia.

This order remains in effect until the declarant submits acceptable documentation to the Board that it has taken the affirmative actions necessary to correct the deficiencies above or the matter is adjudicated, whichever is later.

AS PROVIDED BY § 55.1-1986(B) OF THE CODE OF VIRGINIA, UPON REQUEST A HEARING WILL BE HELD PROMPTLY TO DETERMINE WHETHER OR NOT THE TEMPORARY CEASE AND DESIST ORDER BECOMES PERMANENT.

SO ORDERED:

Entered this 23rd day of September, 2021.

Common Interest Community Board

BY:


Mary Broz-Vaughan, Secretary

MEMORANDUM

**TO: Members
Common Interest Community Board**

**FROM: Joseph C. Haughwout, Jr., Board Administrator
Common Interest Community Board**

DATE: September 16, 2021

SUBJECT: Referral for Consideration of Temporary Cease and Desist Order

Declarant Name:	RHS Management Corporation
Condominium Name	Summerhill at Stony Point Condominium
Registration No.	0517860169

On November 6, 1986, Summerhill at Stony Point Condominium ("Summerhill") became registered as a condominium in Virginia. RHS Management Corporation ("RHS") is the Declarant for Summerhill. There are 88 registered units in the condominium. (Exh. 1)

As part of the registration for Summerhill, RHS submitted an Irrevocable Standby Letter of Credit ("assessment letter of credit") issued by Bank of Virginia, in the amount of \$100,000.00, in favor of the unit owners' association for Summerhill. On January 20, 1999, the assessment letter of credit was returned to the declarant as it was no longer required. (Exh. 1)

Failure to File Required Annual Report

Section 55.1-1974 of the Code of Virginia states, in part:

Unless exempt by § 55.1-1972

1. No declarant may offer or dispose of any interest in a condominium unit located in the Commonwealth, nor offer or dispose of in the Commonwealth any interest in a condominium unit located outside of the Commonwealth prior to the time the condominium including such unit is registered in accordance with this chapter.

Section 55.1-1979 of the Code of Virginia states:

The declarant shall file a report in the form prescribed by the regulations of the Common Interest Community Board within 30 days of each anniversary date of the order registering the condominium. The report shall reflect any material changes in information contained in the original application for registration.

In addition, Board Regulation 18 VAC 48-30-540 states, in part:

A. A declarant shall file an annual report on a form provided by the board to update the material contained in the registration file at least 30 days prior to the anniversary date of the order registering the condominium.

B. The annual report shall contain, but may not be limited to, the following:

11. Whether the declarant is current in payment of assessments; and

12. Current evidence from the surety or financial institution of any bond or letters of credit, or submittal of replacement bonds or letters of credit, required pursuant to §§ 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of Virginia.

On October 15, 2019, the office of the Common Interest Community Board (“the Board”) sent an Annual Report solicitation to the Declarant for the 2019 Declarant Annual Report for Summerhill. The 2019 Declarant Annual Report for Summerhill was due to the Board prior to November 6, 2019. On December 14, 2019, the Board issued a reminder notice to the Declarant. However, no response was received from the Declarant or anyone on its behalf. (Exh. 1 and 3)

On September 30, 2020, the Board's office sent an Annual Report solicitation to the Declarant for the 2020 Declarant Annual Report for Summerhill. The 2020 Declarant Annual Report for Summerhill was due to the Board prior to November 6, 2020. On November 29, 2020, the Board issued a reminder notice to the Declarant. However, no response was received from the Declarant or anyone on its behalf. (Exh. 1 and 3)

Board Regulation 18 VAC 48-30-690 states, in part:

The following acts are prohibited and any violation may result in action by the board, including issuance of a temporary cease and desist order in accordance with § 55.1-1986 B of the Code of Virginia:

1. Violating, inducing another to violate, or cooperating with others

in violating any of the provisions of any of the regulations of the board, Chapter 23.3 (§ 54.1-2345 et seq.) of Title 54.1 of the Code of Virginia, or Chapter 19 (§ 55.1-1900 et seq.) or Chapter 20 (§ 55.1-2000 et seq.) of Title 55.1 of the Code of Virginia.

7. Failing to comply with the post-registration requirements of 18VAC48-30-460, 18VAC48-30-470, 18VAC48-30-480, 18VAC48-30-490, 18VAC48-30-500, 18VAC48-30-510, 18VAC48-30-520, 18VAC48-30-530, and 18VAC48-30-540.

Section 55.1-1986 of the Code of Virginia states, in part:

- A. The Common Interest Community Board may issue an order requiring a person to cease and desist from any of the unlawful practices enumerated in subdivisions 1 through 5 and to take such affirmative action as in the judgment of the Common Interest Community Board will carry out the purposes of this chapter if the Common Interest Community Board determines after notice and hearing that such person has:
 1. Violated any provision of this chapter;
 5. Violated any lawful order or regulation of the Common Interest Community Board.
- B. If the Common Interest Community Board makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary order to cease and desist or to take such affirmative action as may be deemed appropriate by the Common Interest Community Board. Prior to issuing the temporary order, the Common Interest Community Board shall give notice of the proposal to issue a temporary order to the person. Every temporary order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether it becomes permanent.

On July 14, 2021, staff sent a Final Notice to the Declarant, the Declarant's registered agent, and an attorney for the declarant notifying RHS that it may be in violation of the Virginia Condominium Act and the Board's regulations. The notice further specified that a proposal to issue a temporary cease and desist order would be presented to the Board on September 23, 2021. The notices sent to the Declarant and the attorney were delivered on July 15, 2021. The notice sent to the Declarant's registered agent was returned to the Board's office because delivery was refused. (Exh. 4)

Staff requests that the Board consider a proposal to issue a temporary cease and desist order in accordance with § 55.1-1986(B) of the Code of Virginia against the Declarant. Staff requests the Board to find that the Declarant's failure to comply with § 55.1-1979 of the Code of Virginia does not assure the public that the Declarant is in compliance with the Virginia Condominium Act (§ 55.1-1900 et seq.) and the Condominium Regulations, and would cause irreparable harm to the public interest. Further, staff requests the Board require Declarant to submit the required annual report in accordance with the Code of Virginia and the Board's regulations within 30 days of the order's effective date.

This memorandum and attached supporting documentation contain information that is being presented to you for your consideration and determination as to whether the issuance of a temporary cease and desist order is appropriate.

**EXHIBIT
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Description of Exhibit

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|---|---------------------------------------------------------------------------------|
| 1 | Registration information for Summerhill at Stony Point
Condominium |
| 2 | State Corporation Commission record for RHS
Management Corporation |
| 3 | Board letters to Declarant requesting 2019 and 2020
Declarant Annual Reports |
| 4 | Temporary Cease and Desist Notification, dated July 14,
2021 |