

***Belcastle Court Cluster Association  
Resolution R42B-2014-05-06  
Landscape on Common Area Request Form***

Resolution Type: Policy

Effective: January 21, 2013 (revised May 6, 2014)

WHEREAS in 2012 the Code of Virginia, Title 55, Chapter 26, Section 55-513 (Virginia Property Owners' Act) grants the Board of Directors the power to establish, adopt, and enforce rules and regulations with respect to the use of common areas and with respect to such other areas of responsibility assigned to the Property Owners' Association (e.g., Belcastle Court Cluster Association, hereafter referred to as the Association) by the declaration, except where expressly reserved by the declaration to the members;

WHEREAS, Section 55-515, the Virginia Property Owners' Association Act, charges all lot owners with compliance with the Deed of Amendment to the Deed of Declaration of Reston Association (hereafter referred to as the Declaration), Association Bylaws, Rules and Regulations (the "Governing Documents") of the Association as amended;

WHEREAS, Section 55-513 B. of the Act, Article 9, Section 9.1 (b) (3), and Article 12, Section 12.1 (h) of the Declaration, provide the Association, through its Board of Directors (hereafter referred to as the Board) with the power to assess charges against lot owners for violations of the Governing Documents, for which the lot owner or his family members, tenants, guests or other invitees are responsible;

WHEREAS, Section 55-513 B. of the Act and Article 12, Section 12.1 (i) of the Declaration further provide that certain procedures must be followed before such charges may be assessed including a hearing after proper notice;

WHEREAS, Article VII, Section VII.1.d.2 of the Declaration provides that the Association Board shall have all powers needed to carry out the purpose of the Association which are enabled by law or that are not specifically reserved to the members, including the power to assess the costs of attorneys fees and court costs, of collecting delinquent assessments and charges of enforcing association rules;

WHEREAS, Article VIII, Section VIII.3 of the Declaration provides the Association shall have the right to enforce all provisions of the deed by any proceeding at law or in equity and to record violations of the provision of the deed as appropriate;

WHEREAS, Section 4 of the Articles of Incorporation and Article II, Section 1.B and Article IV, Section 1 of the Association Bylaws grant the Board the power to adopt, amend and publish rules and regulations governing the use of the property and the conduct of the Association members and their guests therein;

WHEREAS, Article IV, Section 10 of the Association Bylaws provides that the Board shall have, in addition to the powers set forth in the Bylaws, all those powers and rights specifically set forth in Article VII, Section VII.1.d.2 of the Association's Declaration (recorded in Deed Book 6072 at page 69 among the land records of Fairfax County), which shall take precedence over any of the rights set forth in the Association Bylaws;

NOW THEREFORE be it resolved, that the Board hereby adopts the following resolution for Association members to formally submit to the Board a request to landscape on Association common area(s) based on the Association's Rules and Regulations. (See attached form.)

Resolution R42B-2014-05-06

**ATTEST:**

Resolution was adopted at a regular meeting of the Board of Directors on May 6, 2014.

  
\_\_\_\_\_  
James Scheeler, President

May 6, 2014  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Beej Jasper, Secretary

May 6, 2014  
\_\_\_\_\_  
Date

Filed:

Book of Resolutions

Posted to Website

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**Notice: Any landscaping change/addition/modification/improvement on Association Common Areas done without appropriate Board approval may result in the removal and disposal of such landscaping materials at the sole expense of the responsible owner. Failure of the responsible owner to maintain the approved plantings for the specified period of time to ensure proper establishment of the plantings survival may result in the removal and disposal, without replacement, of such plantings at the sole discretion of the Board and at the sole expense of the responsible owner.**

Owner/Applicant \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone # \_\_\_\_\_ FAX # \_\_\_\_\_

Check here if you wish to be notified of the Board’s decision by email

Email Address \_\_\_\_\_

**PLEASE CHECK APPROPRIATE ITEM:**

Initial Submission                       Resubmission

**Description of Request:** Please type a detailed description of the request on a separate document and attach to this form for submission to the Board for consideration.

*Please read and be knowledgeable of the BCCA bylaws, and other pertinent governance documents, including the Rules and Regulations, prior to submitting this request form. No request will be processed or approved without complete information and/or plans provided. Any false information will invalidate and void this application, even if the discovery occurs after the Board’s approval.*

Acknowledgement: I confirm that I have read the BCCA Rules and Regulations and other pertinent governance documents that may affect my application, including guidelines concerning compatibility of materials and design, and hereby agree to comply with said guidelines. I confirm that I have read and acknowledge all of the rules, regulations and instructions appearing on this form that govern the procedures necessary for undertaking any change/addition/modification/improvement, etc. of the landscaping on Association common areas. **I further agree that I am responsible for the care of any plantings the Board has approved for me to make at my own expense, including adequate watering, feeding, insect and pest control, as needed to ensure proper establishment of the plantings survival, for no less than 18 months after planting is completed. If I fail to maintain the approved plantings for the specified period of time, the Board may at its sole discretion determine to remove the plantings at my expense and not replace them.** In addition, the information provided in this application is accurate to the best of my knowledge.

\_\_\_\_\_  
Owner’s Signature

\_\_\_\_\_  
Date

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Acknowledgement of Affected Property Owners: All affected property owners that are adjacent to and/or have a view of the proposed landscaping change/addition/modification/improvement, etc. to the Association's common areas must sign this form. Signature does not constitute approval or disapproval, but merely indicates an awareness of the applicant's intent. If any OBJECTIONS to this request arise, please contact the Board immediately. Notice to all Association members will be provided via the Agenda for a regularly scheduled Board meeting so members may voice their opinions and concerns regarding the application. (Add a separate page if additional signatures of affected property owners are required.)

Name/Address: \_\_\_\_\_

Date: \_\_\_\_\_

Name/Address: \_\_\_\_\_

Date: \_\_\_\_\_

Name/Address: \_\_\_\_\_

Date: \_\_\_\_\_

Name/Address: \_\_\_\_\_

Date: \_\_\_\_\_

**Please return completed form to:** BCCA Board Secretary  
P.O. Box 3402  
Reston, VA 20194

**The form may be sent to each member of the Board via email in compliance with the submission deadline noted herein.**

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***Submission deadline is 6 p.m. no later than 5 business days prior to a regularly scheduled Board meeting.***

Receipt of Request by the Board:

\_\_\_\_\_  
President Date

\_\_\_\_\_  
Secretary Date

+++++

Ruling:     Approved     Denied (explain)     Contingent Approval     Deferred (explain)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**INSTRUCTIONS**

**Review Process**

- (1) Submission deadline is 6 p.m. no later than 5 business days prior to a regularly scheduled Board meeting.
- (2) Landscape Committee recommendations; if any, to the resident(s) and the Board based on the guidelines of the common area master plan shall be incorporated into the permanent, official files of the Association. Therefore, the resident(s) shall seek input from the Landscape Committee prior to submission of the request forms and required information.
- (3) A copy of this application will be returned to you after the review process is completed and rendered rulings noted on the application.
- (4) All supporting documentation submitted with the application shall become incorporated into the permanent, official files of the Association.
- (5) No changes in grade or other conditions affecting drainage will be approved as adjoining or nearby properties may be adversely affected by changes in drainage.

Copies of all BCCA governance documents, including bylaws, rules and regulations, and resolutions are available via the Association website or in hard copy upon written request in advance of the submission of this application. In addition to this application, you need to submit the following:

- (1) Full details of the purpose and/or reason for the request for landscaping change/addition/modification/improvement, etc. to the Association's common areas. Discuss the timeline for work to begin and end including any phases of work.
- (2) A site (plat) plan with location of improvement drawn to scale, to the extent practical. Note distance from property lines. Show the relationship of the landscaping change/addition/modification/improvement, etc. to neighboring homes and/or other common areas such as parking spaces, dock, and pathways. Include any recommendations from the Landscape Committee based on the guidelines of the common area master plan and discuss any deviations from the recommendations.
- (3) Drawings and/or illustrations showing design and dimensions (number, size, species, color, hardiness, special care required, etc.) of proposed landscaping change/addition/modification/improvement, etc. on Association common areas. Provide literature from online research, the landscaper/nursery/grower to the extent practical.
- (4) Your property landscaping plan and show the relationship to the proposed landscaping on Association common areas and explain the impact to neighboring homes and the benefit to Association members.

**Notes**

- (1) I/we understand that an aggrieved party has ten (10) business days from the date of the Board's decision on an application to file an appeal with the Board.
- (2) I/we understand that any landscaping undertaken on Association common areas during the appeal period is at the applicant's own risk. I/we further understand that an appeal ruling by the Board shall be final and shall supersede all former rulings on any application. Failure to file an appeal within ten (10) business days of the Board's decision makes this decision final and cannot be appealed.
- (3) I/we understand that any landscaping undertaken on Association common areas prior to the Board's approval is not allowed and that if the change/addition/modification/improvement, etc. is made, I/we may be required to return the property to its former condition at my/our expenses if this application is disapproved wholly or in part, and that I/we may be required to pay all legal expenses incurred.

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- (4) I/we understand that members of the Board are permitted to enter my/our property to make reasonable inspections of proposed location and the proximity to my/our home.
- (5) It is understood that I/we am/are aware of the Association's guidelines and the covenants and restrictions in regard to the review process established by the Board.
- (6) The change/addition/modification/improvement, etc. granted by this application will be revoked automatically of the change/addition/modification/improvement, etc. requested has not commenced within 60 days of the approval date of this application and/or has not been substantially completed within 3 months, weather and other conditions approved by the Board permitting. The Board may grant an extension to the timeline if the homeowner provides detailed information as to the cause of the delay; the decision is solely at the discretion of the Board.
- (7) I/we understand that all landscaping change/addition/modification/improvement, etc., if approved, will be completed in a workman-like manner.
- (8) I/we understand that if I/we disagree with the ruling, an appeals procedure is provided for in the Association's governing documents and as outlined herein.

Owner(s) Signature: \_\_\_\_\_

Printed Name(s): \_\_\_\_\_

Date: \_\_\_\_\_

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**Appeal to Board's Decision on Homeowner's Request to Landscape on Common Area**

**(For office use only)**

Application # \_\_\_\_\_

Application Request \_\_\_\_\_

Board Ruling \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_

+++++

Appealing Party \_\_\_\_\_

Street Address \_\_\_\_\_

Phone (H) \_\_\_\_\_ (W) \_\_\_\_\_

Email Address: \_\_\_\_\_

**Basis for Appeal:** \_\_\_\_\_

\_\_\_\_\_

Type of Hearing Requested:  In Person       Written Appeal

I, the appealing party, understand that the Appeal Request Form must be filed with the Board within ten (10) business days from the date of the Board ruling report noted above in order not to relinquish my right of final appeal. I further understand that a decision of the Board on this issue is considered final.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

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**Schedule for Hearing Appeals to the Board's Decision**

- |   |            |
|---|------------|
| 1. Background by President, BCCA Board  | 5 Minutes  |
| 2. Opening Statement by Aggrieved Party | 5 Minutes  |
| 3. Opening Statement by Applicant       | 5 Minutes  |
| 4. Board Comments                       | 5 Minutes  |
| 5. Questions from Board                 | 10 Minutes |
| 6. Closing Statement by Aggrieved Party | 2 Minutes  |
| 7. Closing Statement by Applicant       | 2 Minutes  |
| 8. Board Discussion and Vote            | 5 Minutes  |

**If the applicant is the aggrieved party, the indicated minutes for statements by the applicant will be omitted.**