



**NORTHEAST COALITION
OF NEIGHBORHOODS**

March 8, 2016

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Ms. O'Hartigan:

On January 25, 2016, NECN received your appeal regarding your November 24, 2015 grievance against King Neighborhood Association (KNA).

You were present at the March 3, 2016 NECN subcommittee meeting that developed a recommendation regarding this appeal for the Executive Committee, to assist the Executive Committee in its review and hearing of your appeal. You were present at the beginning of the subcommittee meeting and made a statement. You indicated that you did not intend to answer any questions about the appeal and chose to leave the meeting shortly thereafter.

NECN's Executive Committee reviewed and heard your appeal at its March 7, 2016 public meeting. You were present at the March 7, 2016 meeting and had an opportunity to present your appeal and to answer any questions from the Executive Committee.

NECN decides your January 25, 2016 appeal as follows:

- 1. You alleged that KNA failed to hold a public meeting on your September 2, 2015; September 15, 2015; September 16, 2015; and November 24, 2015 grievances.**

Decision:

(a) Timeliness: You timely grieved the alleged failure to hold a public meeting on the three September grievances. You did not grieve the alleged failure to hold a public meeting on your November 24 grievance, but NECN will nevertheless address it. You filed your appeal within 14 days after the expiration of the 60-day period from the filing of your November 24 grievance, and NECN will deem it timely.

(b) Alleged Violation of KNA Bylaws or ONI Standards: You contend that the failure to hold a public meeting on your September 2, September 15, September 16, and November 24 grievances violates KNA Bylaws Art. X, § C, and ONI Standards § VII(B), § VII(C)(3)(c), § VII(C)(3)(d), § VIII(A), and § VIII(D)(3).

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(c) Personal Harm: You sufficiently allege personal harm, because you allege a violation of an asserted right to present comment and be heard regarding your November 24 grievance.

(d) Merits:

KNA Bylaws Art. X, § C requires that eligible grievances be reviewed by a Grievance Committee and the committee shall hold a public hearing. It appears that a KNA Grievance Committee reviewed your September grievances, but did not hold a public hearing. Based on its written decisions, KNA does not appear to have found that the grievances were ineligible in that they failed to meet the requirements of Bylaws Art. X, § B. *NECN concludes that KNA's failure to have the September grievances reviewed by a Grievance Committee at a public hearing violated KNA Bylaws Art. X, § C. NECN is unable to determine whether KNA deemed the November 24 grievance eligible and therefore concludes that you have not shown that KNA violated this provision with respect to that grievance.*

ONI Standards § VII(C)(3)(c) provides that a grievance must be “reviewed and responded to by the appropriate Neighborhood Association procedures.” As discussed above, NECN concludes that KNA did not respond to the September grievances by the procedures set forth in the KNA Bylaws. Accordingly, *NECN concludes that KNA violated this provision.*

ONI Standards § VII(B) provide that a grievance requires a written response from the neighborhood leadership. This provision itself does not require that the written response be generated during a public meeting. *NECN concludes that failing to hold a public meeting on these grievances would not violate this provision.*

ONI Standards § VII(C)(3)(d) provides that “the Neighborhood Association’s consideration of the grievance shall be open to the public.” In addition, ONI Standards § VIII(A) provides that, with certain exceptions, neighborhood associations shall conduct their affairs in meetings open to the public. Finally, ONI Standards § VIII(D)(3) provides that voting to render a decision “must be done in a meeting open to public attendance.” *There is no evidence that KNA violated these provisions by considering or deciding your November 24 grievance outside of a public meeting, because there is no evidence that KNA has considered or decided your November 24 grievance at all.* However, it appears that KNA issued decisions on your September grievances without deciding them at a Board meeting. Therefore, *NECN concludes that KNA violated these provisions by deciding your September grievances outside of a public meeting.*

- 2. In your November 24, 2015 grievance, you alleged that for your September 2, September 15, and September 16 grievances, KNA did not appoint a grievance committee in an open meeting, that the grievance committee met outside an open**

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meeting, and that the KNA Board did not decide your grievances in an open meeting.

Decision:

(a) Timeliness: The November 24 grievance was timely, and you filed your appeal within 14 days after the expiration of the 60-day period from the filing of your November 24 grievance.

(b) Alleged Violation of KNA Bylaws or ONI Standards: You contend that the failure to hold these open meetings violated ONI Standards § VIII(A), § VIII(C), and § VIII(D).

(c) Personal Harm: You sufficiently allege personal harm, because you allege a violation of an asserted right to present comment and be heard by the grievance committee regarding your September grievances and to observe KNA make its decision on those grievances.

(d) Merits:

ONI Standards § VIII(A) provides that, with certain exceptions, neighborhood associations shall conduct their affairs in meetings open to the public. In addition, ONI Standards § VIII(C) requires board members or committee members, with certain exceptions, to make all decisions and conduct all deliberations at a public meeting. ONI Standards § VIII(D) requires, with certain exceptions, that meetings be open to the public. However, ONI Standards § VIII(B)(5) provides that “[s]ubcommittees without executive authority are not subject to these quorum requirements or to these open meeting standards.” All KNA committees are without executive authority. KNA Bylaws Art. VIII, § A. Because a KNA grievance committee does not have executive authority, these provisions of the ONI Standards does not require the Grievance Committee to hold open meetings (though KNA’s own bylaws require it to do so for eligible grievances). Thus, the Grievance Committee’s failure to hold public meetings does not violate these provisions of the ONI Standards. However, NECN concludes that KNA violated these provisions by appointing grievance committee members and deciding your September grievances outside a public Board meeting.

3. You alleged that KNA failed to notify you of any decision on your November 24, 2015 grievance within 60 days of the grievance.

Decision:

(a) Timeliness: This issue was not grieved to KNA, but NECN will nevertheless address it. You filed your appeal within 14 days after the expiration of the 60-day period from the filing of your November 24 grievance, and NECN will deem it timely.

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(b) Alleged Violation of KNA Bylaws or ONI Standards: You contend that KNA violated KNA Bylaws Art. X, § D and ONI Standards § VII(B), § VII(C)(3)(c).

(c) Personal Harm: You sufficiently allege personal harm, because you allege a violation of an asserted right to receive a timely decision from KNA regarding your grievance.

(d) Merits:

KNA Bylaws Art. X, § D requires KNA to render a final decision on a grievance and notify the grievant within 60 days. For grievances that KNA deems not “eligible” (because they do not meet the requirements of KNA Bylaws Art. X., § B), KNA bylaws do not require KNA to appoint a Grievance Committee that holds a public hearing on the ineligible grievance. *See* Art. X, § C. The bylaws are not perfectly clear, but it appears that Art. X., § D requires some written decision from KNA on every grievance received, without regard to whether the grievance is “eligible” or not. *NECN concludes that KNA violated KNA Bylaws Art. X, § D by not notifying you of a decision on your November 24 grievance within 60 days.*

ONI Standards § VII(B) and § VII(C)(3)(c) provide that a grievance “requires a written response from the neighborhood leadership” within 60 days. A grievance may be disposed of by the neighborhood association on the ground that it does not meet one or more of the requirements to constitute a grievance, but it appears that such a decision must be expressed in writing to the grievant within 60 days. *NECN concludes that KNA has violated ONI Standards § VII(B) and § VII(C)(3)(c) by not notifying you of a decision on your November 24 grievance within 60 days.*

RECOMMENDATIONS:

NECN recommend that when KNA receives a grievance, the KNA Board should determine at its next public meeting whether the grievance is eligible (i.e., it meets the requirements of KNA Bylaws, Art. X, § B). If so, the grievance should be assigned to a Grievance Committee. If there is no standing Grievance Committee appointed by the Board, the Board should create the committee and appoint its members at the Board meeting. If the Board determines that the grievance is not eligible, it should notify the grievant in writing of that determination within 60 days.

NECN recommends that when the KNA Grievance Committee is assigned an eligible grievance by the Board, the Grievance Committee should hold a public hearing and allow the grievance and others to speak. Then, the Grievance Committee should make a recommendation to the Board. The Board should decide the grievance at a Board meeting open to the public.

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NECN recommends that, in the future, the KNA Board notify the grievant of a written decision within 60 days, even if KNA concludes that the grievance does not meet the requirements of the KNA Bylaws or the ONI Standards. NECN recognizes that it can be extremely difficult to schedule the meetings necessary to fully process a grievance within 60 days. If KNA is unable to finalize a decision on a grievance within 60 days, NECN recommends that KNA notify the grievant that it is still considering the grievance and provide an estimated date by which KNA will issue its final decision.

NECN also draws KNA's attention to the fact that neither the ONI Standards nor the KNA Bylaws appear to require the KNA Board to hear comments from the public (including a grievant) while the Board is deciding whether a grievance is eligible, unless the grievant is also a member of the Board. Determining whether a grievance is eligible may be more efficient for the KNA Board if the Board does not allow public comment on the grievance during that process. KNA should be mindful, however, that the grievant is entitled to attend any Board meeting, even if the Board declines to hear comments from the public at that Board meeting. *See* ONI Standards § VIII(H).

This letter constitutes NECN's decision of your January 25, 2016 appeal.

Regards,



Alan Silver
NECN Executive Committee Chair

cc via email: Nick LaRue, KNA Chair

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