



VIRGINIA DEPARTMENT OF HISTORIC RESOURCES

Historic Preservation Easement Program

POLICY #7

Violations

An easement represents a permanent commitment and partnership between the Grantor and the Grantee. The Board of Historic Resources takes seriously its obligation to uphold and enforce the terms of its easements and to ensure that the resources it has been entrusted to protect are not lost through deterioration, neglect, irresponsible management, or inappropriate changes.

A violation is defined as any action or event or lack of maintenance that has caused or has the potential to cause harm to the conservation values and features of the property that are protected by the easement.

A violation that results in irreversible damage to the features of the property that are protected by the easement is classified as a Major Violation. Minor Violations result from inappropriate work or lack of proper maintenance where no permanent damage to the historic fabric or feature have been noted, with the understanding that level of violation will be elevated if the issue is not resolved. A Technical Violation results when a property owner has made alterations that are consistent with the historic character of the property but did not follow the appropriate notification and approval procedure.

In cases of a potential or known violation of the terms of an easement, or where issues of maintenance and/or repair constitute an imminent or serious threat to the integrity of the resource, the DHR will implement the procedures summarized below. If the property is subject to a co-held easement, the DHR will consult with its fellow easement holders in investigating any potential violations and enforcing the terms of the easement, or otherwise as stipulated in the easement.

When notified of a potential violation by a third party, the easement staff will make every attempt to contact the property owner by telephone immediately to discuss the situation. Based on the owner contact and the nature of the potential violation, staff will arrange for a site visit, if needed, to assist in determining the action necessary to correct the violation. Easement staff or regional office staff shall make a site visit to the property within seven (7) business days if it has been determined that a major violation has occurred. The response to minor or technical violations will be determined on a case-by-case basis.

If the DHR learns of a violation during the course of a site visit or other form of visual inspection, the staff member will document the violation in a report. Reports on minor and technical violations will be directed to the Incentives Programs Manager and major violations will be reported to the Director of the Agency. When a violation has occurred, a letter outlining the nature of violation and recommendations to correct the violation will be sent to the property owner by certified mail (requesting return receipt).

The exact nature of the recommendation made by the Department will vary depending on the nature and severity of the violation, the willingness of the property owner to address the situation in an appropriate manner, and other factors.

When a minor violation has occurred, the staff will work with the property owner to remedy the situation. In the case of a technical violation, the staff will also work closely with the property owner to ensure that future work be done only after proper notification of the department.

If, after consultation, a violation is not corrected within a reasonable time frame specified by DHR or if no response is received from the property owner, the violation will be brought to the attention of the Chairman of the Board of Historic Resources and the Office of the Attorney General. Major violations will be reported to the Board and to the Office of the Attorney General immediately. DHR, through the Office of the Attorney General, will seek all available legal remedies to correct the situation, including, but not limited to liens on the property and legal remedies.