

Heritage Place 2 Fining Policy

The Heritage Place 2 Board of Directors has adopted a fining policy for non-compliance of the communities Covenants and Rules and Regulations (CRR's). The majority of homeowners who receive letters will correct the violation within 30 days. However, there is a minority of homeowners who do not correct their violations and require more severe consequences for non-compliance. Covenant Enforcement is one of the most important aspects of keeping up your home values and contributing to the overall aesthetic of the community.

Before a homeowner is fined they will have received a total of three letters asking them to correct their violation. The Board recognizes that sometimes there are extenuating circumstances that will prevent a homeowner from correcting a violation. However, it is the homeowner's responsibility to report these individual circumstances to the management company, who will then pass the information on to Compliance Review Committee (CRC) and the Board of Directors. We will always use fining as a last resort to get a homeowner to comply with the CRR's. If you disagree with a violation or need more time, or if you want to request a review of the fine, you do have the right to appeal to the Compliance Review Committee (CRC) within 14 days of the fine being levied.

BACKGROUND:

The specific authorities for the imposition of fines, suspension of membership privileges, filings of liens and foreclosure, and taking corrective actions can be found in;

- 1) The Amended and Restated Declaration of Restrictions and Protective Covenants of Heritage Place 2 (referred to hereafter as "Covenants")
- 2) Florida State Statute - Title XL: Real And Personal Property - CHAPTER 720 - HOMEOWNERS' ASSOCIATIONS
- 3) Florida State Statute - Title XXXVI: Business Organizations - CHAPTER 617 – CORPORATIONS NOT FOR PROFIT

DEFINITIONS:

Compliance Review Committee (CRC): This committee shall consist of at least three (3) community members appointed by the Board who are not officers, Directors or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director or employee. This committee shall make independent determinations, by majority vote, as to the imposition of fines against community members for violations of the Covenants. The Board of Directors must abide by the CRC's final decision and cannot appeal or overturn that decision.

FINING PROCEDURE

The Board of Directors may levy fines for any violation of the Declaration, Bylaws, Rules, Regulations, or Covenants. The amount of said fines shall be set by the Board of Directors, and may not exceed \$100 per day, per violation for up to 10 days or \$1,000 (this is demanded by Florida Statute)

The Association shall not levy a fine (a late charge shall not constitute a fine) or impose a suspension unless and until the following procedure is followed:

Written demand to cease and desist from an alleged violation shall be mailed to the alleged violator specifying:

- The alleged violation
- The action required to correct the violation (i.e. Letters sent)
- A time period, not less than fourteen (14) days, during which the violation may be corrected without further sanction.
- That the alleged violator may, within fourteen (14) days from the date of the notice, send a written appeal to the Compliance Review Committee (CRC) via certified mail.
- The mailing address to which the appeal may be sent
- That all rights to have the fine reconsidered are waived if a hearing is not requested within fourteen (14) days of the date of the notice, and that fines shall not accrue during the appeal period.

CRC HEARING RULES:

- The purpose of the CRC hearing is for the property owner to present information and evidence as to why the fine should be mitigated or not imposed.
- The property owner may represent them self or may bring an attorney. If the property owner intends to bring an attorney to the CRC hearing they must provide 10 days prior written notice to the property manager indicating such.
- The property owner may bring witnesses who have direct knowledge relating to the violation.
- The property owner has 5 minutes to present their case and an additional 5 minutes for each pertinent witness.
- The property owner may submit written documents and other evidence to the CRC for consideration.
- The property owner and witnesses must remain calm and respectful while speaking and upon conclusion of the allotted time, must yield to the CRC.
- The property owner may not knowingly provide false information to the CRC.

- The property owner may not ask questions of the CRC unless a CRC member is to be called as a witness. Any CRC member called as a witness shall not vote on the outcome of that issue. The Board of Directors may designate an alternate CRC member for purposes of voting on that issue.
- Upon conclusion of the property owner's case, the CRC may ask questions of the property owner and witnesses. The property owner and witnesses may answer, or chose not to answer CRC questions and the CRC may consider answers and refusals to answer.
- The CRC will have discussions and vote in private. Property owners will be notified in writing of the CRC decision at a later date. Members may attend CRC hearings but Board members may not attend the meeting in order to protect the independence of the CRC. A Board member may attend the hearing if called as a witness by the property owner.
- All Board meeting rules relating to the recording of meetings, enforcement of rules, and ejection from meetings apply to CRC meetings/hearings.
- CRC hearing minutes shall be kept and posted in the same manner as Board Meeting minutes. All votes shall be recorded in the minutes and none can be anonymous.
- If a property owner does not show up for a requested hearing the CRC may proceed with a vote on the matter.
- A fine may be disallowed if a majority of the CRC votes against the fine. The Board may not overrule a CRC decision not to impose a fine.
- A fine may be levied if a majority of the CRC votes to approve the fine. A fine may be levied on the basis of \$100.00 per violation per day for as long as the violation exists, except that no fine shall exceed \$1,000.00. The Board may, by majority vote, waive a fine that is levied by the CRC but may not re-impose a fine not approved by the CRC.
- The CRC shall report its findings and votes/decisions to the Board, or their designee before or at the next regular monthly meeting. The Board, or their designee, shall then review action taken by the CRC and then direct their designee to notify the property owner of the CRC's decision in a Failure to Rectify Notice, via registered mail. This letter shall again specify the section of the Covenants being violated and the amount and manner of fine that is being imposed. The letter shall specify the date the fine is to begin accruing. The letter shall further state that pursuant to the Covenants the fine is considered an assessment, and that if the fine is not paid by a specified date, the Association can file a lien against the property and a foreclosure action/lawsuit that could result in the property being sold at a foreclosure sale.
- If any fine for a non-continuing violation is not paid, or if a fine for a continuing violation reaches the \$1000.00 maximum, the Association Attorney will file a lien and ultimately may pursue foreclosure action/lawsuit and reimbursement for any and all legal costs (See Assessment Collection Policy).

- After a fine reaches \$1000.00 for a violation and the violation remains uncorrected, the Board, by majority vote, may then direct their designee to take a third digital photograph of the violation (bearing date/time stamp) for the file and provide an Intent to Rectify Notice, via registered mail, to the property owner advising of the Boards intent to enter the property to rectify the violation in accordance with Paragraph XVIII of the Covenants. The Intent to Rectify Notice will provide at least 15 days notice prior to entering the property to take corrective action except in the event of an emergency situation that may pose a threat to people or property. The Board should weigh the risks and potential liability of entering a property against the need to rectify the problem prior to making the decision. The Boards designee shall notify the community attorney of the out-of-pocket cost incurred to rectify the violation so the community attorney may include this amount in the lien or other proceedings. The Associations accounting firm will add this individual assessment to the property owner's next Association quarterly assessment.

RESPONSIBILITIES – BOARD OF DIRECTORS:

- Concur, modify or disapprove all Intent to Fine Notices and Intent to Rectify Notices presented by the Property Manager.
- Appoint a Compliance Review Committee (CRC) of at least 3 persons consisting of community members who are not officers, Directors or employees of the Association or the spouse, parent, child, brother or sister of an officer, director or employee.
- See that all policy and procedure is adhered to.
- Set the proposed fine to be levied on a Covenant violation, which will not exceed \$100 per day and \$1000 in total per violation.
- Make a determination of subsequent actions to be taken when the fines have Failed to bring about compliance with the Covenants.
- Initiate legal action when selected as the next step to bring about compliance With the Covenants.

RESPONSIBILITIES – PROPERTY MANAGER:

- Conduct property reviews, assess Covenant compliance, address and track violations, and report to the Board as directed by the Board and established in any policies and contracts.
- Oversee the procedure and see that all involved are carrying out their responsibilities in a timely manner.
- Maintain a complete file of all written material associated with a violation.
- If approved by the Board, coordinate the Intent to Fine Notice with the CRC Chairman and the member alleged to have violated the Covenants and set a date for the fine decision meeting
- Upon approval by the Board, mail the Intent to Fine Notices to the member alleged to have violated the Covenants.

- Track compliance action(s) required by Intent to Fine Notices, prepare, and mail an appropriate Failure to Rectify Notice on the required correction date if the violation is not corrected.
- Advise the Board when the maximum fine has been imposed and request direction on the next step.
- See that all interested parties receive copies of all letters, photographs, and notices associated with these procedures including, the Board, and the Associations accounting firm, and the chairperson of the CRC when applicable.

RESPONSIBILITIES – COMPLIANCE REVIEW COMMITTEE:

- Hold hearings on proposed fines when requested to do so by the alleged violator.
- Vote on each proposed fine and communicate the results in writing to the Property Manager and the President of the HOA.