
Herons Glen Homeowners Association, Inc.

Policy for Non-Compliance of the Governing Documents

RESOLUTION 2017-01

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF HERONS GLEN HOMEOWNERS' ASSOCIATION, INC:

WHEREAS, the Board of Directors ("Board") of the Herons Glen Homeowners' Association, Inc. ("Association"), is authorized to adopt this Resolution under the authority granted in the Restated Declaration of Covenants, Conditions and Restrictions for Herons Glen Country Club (the "Covenants" or the "Declaration") and the Bylaws of the Association and in accord with other applicable provisions of Florida law; and

WHEREAS, Article X, Section 3 of the Covenants, gives the Association authority to adopt and enforce Rules and Regulations and, further, gives the Association authority to adopt sanctions, pursuant to the Bylaws, expressly including reasonable monetary fines, for violations of such Rules and Regulations; and

WHEREAS, on the date written below, at a duly called meeting of the Board of Directors of the Association the Board considered and approved changes to its Policies and Procedures pertaining to Enforcement of the Governing Documents by the imposition of fines (and/or User Assessments, etc.) all as set forth herein.

NOW, THEREFORE, the Board of Directors of the Herons Glen Homeowners' Association, Inc., at a duly called and noticed meeting, does hereby declare:

1. The Association's Policy and Procedures with regards to the imposition of fines and/or User Assessments for violations of the Governing Documents shall be as set forth in the attached Exhibit "A." The "Governing Documents" are set forth on Exhibit "B".
2. The Association, Management and all Committees of the Association shall follow and defer to the policies and procedures on Exhibit "A" when applicable.
3. This Resolution replaces Resolution 2010-01 Assessing Fines for Non-Compliance and Policy Adopted January 13, 2010 Policy for Handling Non-Compliance Issues which are hereby withdrawn.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Herons Glen Homeowners' Association, Inc. this day of February 15th, 2017

EXHIBIT "A"

Purpose:

Without limiting any other remedies available under the Governing Documents and Florida law, to provide for Fines and/or User Assessments as a means of enforcement of Governing documents, specifically including the Rules and Regulations, and providing Procedures for the imposition of such fines and/or User Assessments.

Committee and Security Duties as regards Non-compliance Issues

Four unique bodies monitor compliance to our legal documents as a part of their duties.

- The ARC monitors compliance to those provisions listed in its section of the Bylaws.
- The Grounds Committee monitors compliance to those provisions listed in its section of the Bylaws.
- The contracted Security Company monitors compliance to the Security Policies and Procedures.
- The Grievance Committee investigates concerns of residents on issues relating to the Board Policy for the Code of Ethics and Rules of Conduct.

After determining that a resident is in non-compliance any one of these bodies will ~~ean~~ then refer the non-compliance issue to management.

The Compliance Committee conducts hearings when requested by residents who wish to contest the imposition of a fine.

Procedures:

A. Fines and/or Suspensions

1. The Board may levy fines, not to exceed \$100.00 per violation, per day, against any Owner, Member, occupant, guest or invitee for each violation of the Rules and Regulations, the Bylaws and the Covenants.
2. A fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for a hearing, except that no such fine shall exceed \$5000.00 in aggregate as provided in the governing documents.
3. A fine or Suspension may not be imposed without notice of at least 14 days to the person sought to be fined and an opportunity for a hearing before the Compliance Committee.
4. The Compliance Committee shall consist of at least three members, appointed by the Board who are not officers, directors or employees of the association, and not the spouse, parent, child, brother, or sister of an officer, director or employee of the association or the person on whom the proposed fine is to be levied. If timely requested, the hearing will be scheduled and conducted expeditiously and a prompt decision made.
5. If a hearing is conducted, a fine and/or suspension may not be imposed unless the Compliance Committee approves it by at least a majority vote.
6. This Policy and these Procedures do not apply to monetary amounts or suspensions levied by the Association because of a failure of a Member to pay assessments or other charges when due.
7. In any action to recover a fine the prevailing party is entitled to collect its reasonable attorney's fees and costs from the non-prevailing party as determined by the Court.

B. User Assessments

1. If non-compliance is not promptly corrected by an Owner following initial notice, the Board may direct management to implement action to bring an Owner's Lot into compliance with the provisions of the Governing Documents and to levy a User Assessment against the Owner and his Lot to reimburse the Association for its costs. (See Article XI, Section 4 of the Declaration of Covenants for details on User Assessments).

Hérons Glen Homeowners Association, Inc.

C. Management Duties as regards Non-compliance Issues

Management may attempt personal contact in order to resolve the issue. If management is unable to resolve the issue by personal contact, it will within 14 days of originally being presented with the issue cause a formal notice to be sent to the non-compliant resident asking them to correct the issue within a specified time frame and advising that the potential consequences of continuing non-compliance include a fine of up to \$100 per day and/or direct action by the Association to correct the violation assessing the owner to reimburse the Association for its cost.

Management has the latitude to adjust the initial time frames as may be appropriate to the specific situation, considering such things as the seriousness of the violation, the Owner's history of non-compliance, the reasonableness of the time required to bring the issue into compliance, etc.

If the non-compliance issue is not corrected within the time frame specified within said notice, the Board may, in addition to any other enforcement remedies provided under the Governing Documents or Florida law, act to:

1. impose a fine of \$100 per day and its proposed start date;
2. or, direct management to take timely action to correct the violation, assessing the owner for its cost;
3. or, impose a fine specifying an additional time frame for the owner to effect compliance, to be followed by direct action and assessment if the owner still fails to timely correct the violation.

Management will then cause another notice to be sent informing the non-compliant resident of the details of the decision of the Board, and, if a fine has been imposed, the date that the fine will be instituted and, that the resident has 14 days to request a hearing before the Compliance Committee to contest imposition of a fine in accordance with Section A. above.

Management has the authority to initiate non-compliance procedures ~~it notes~~ without having the issue referred from one of the above bodies.

All personal contacts will be documented. Formal notices shall be sent by both regular mail and certified mail with return receipt.

In the event that the enforcement of non-compliance leads to court action by any of the involved parties, the alternative dispute resolution procedures defined in FL 720-311 are applicable to all parties.

EXHIBIT "B"

The Governing Documents include:

- Declaration of Covenants, Conditions and Restrictions for Herons Glen as recorded at Official Records Instrument Number 2007000311298, Public Records of Lee County, Florida, and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto.
- The Articles of Incorporation of the Herons Glen Homeowners Association, Inc. and any duly adopted amendments thereto.
- Bylaws of the Herons Glen Homeowners Association, Inc. and any duly adopted amendments thereto.
- The Rules and Regulations of the Association, which include all duly adopted and published Policies, Design & Development Guidelines, Standards, Guidelines, Community Wide Standards, Guides and Procedures.