

ESTABLISHING A FINING COMMITTEE FOR HOAs

(Section 720.305 Florida Statutes)

The Florida Homeowners Association Act provides the following mandates for establishing a fining committee to review owner covenant violations:

- The Board of Directors (“Board”) may appoint a “fining committee” of at least 3 people to review any fine recommendation from the Board related to any alleged covenant violation of a property owner. Committee members cannot be officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee.
- Any violation notice provided to an owner must specifically state, 1) the violation, 2) the specific provision within the Declaration or applicable rule or regulation that has been violated, 3) the way in which the violation may be cured, and 4) the date by which the violation must be cured.
- The Board will then consider the violation at a duly noticed meeting and make a recommendation as to the fine amount. If a fine is recommended, the owner must be provided with 14-days notice prior to the fine being levied and the owner must be given an opportunity to appear before a fining committee should the owner contest the fine recommendation. If the owner does not elect to appeal the recommendation to the fining committee, the fine is levied once the 14-days expire.
- If the owner elects to appeal the recommendation to the fining committee, the owner is allowed to present testimony and/or evidence to the fining committee at the hearing.
- The Board should also post notice of the fining committee meeting at least 48-hours before the meeting, similar to the required posting for regular board meetings.
- The fining committee is only authorized to either approve or disapprove of the fine recommendation. If the fining committee does not approve of the fine, the fine cannot be imposed and the matter ends.
- The calculation of “violation days” can begin on the date the first violation is noted. The Association should photograph the continuing existence of the violation or otherwise document the continuing nature of the violation to support the fine amount.
- If the fining committee approves the recommended fine, the fine payment is due 5 days after the date of the committee meeting at which the fine is approved. The association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any tenant, licensee, or invitee of the parcel owner.
- Any fine imposed cannot exceed \$100 per violation and may continue for each day the violation continues up to a maximum fine of \$1,000.00 per violation, **unless the Association’s governing documents provide otherwise.**
- A fine of \$1,000.00 or more may become a lien against the property.
- The Board may also recommend the suspension of an owner’s right to use any common area and/or common amenity. The suspension of use rights is subject to the same notice and hearing requirements as the imposition of a fine.

Before establishing a "fining committee", we recommend that the association provide notice to all Owners advising them that the board will be appointing a fining committee. This will not only help with transparency and keeping the membership advised of what the Board is doing, it will also give members an opportunity to become involved and volunteer for the committee positions. This will also, at a minimum, put the residents on notice that the Association and its Board of Directors will start to take covenant violations seriously and will begin fining for same.

The information provided herein should not be acted upon or relied upon without professional legal advice. The opinions and information provided herein are as of the date stated herein and this law firm and this law firm undertakes no obligation to advise of subsequent changes in the law.