

Violations, Violation Process & Fines

The violation process has become one of the most requested procedures among those living in a Homeowners Association and yet is still the most intimidating. Violations are intimidating for both the Governing Body (the Board of Directors), for the Association and the managing agent. No one wants to be the bad guy and tell the neighbors how to live. However these procedures are in place to create a sense of harmony and community and to protect the property values. The violation process and fines are often perceived as a method to limit an owner's freedoms with his/her single largest investment. In actuality the governing documents were written before the first lot was platted and the first home was built. All of the owner's in the Association agree to abide by the governing documents for the Association when buying the home/lot. Please remember that it is the governing documents, the Covenants, Conditions and Restrictions that spell out the limitations and delineate the Rules and Regulations of the Community. These restrictions were set in place to protect the property values and to enhance the quality of life for the majority of the homeowners. The restrictions may not be convenient for every homeowner but are in place to protect the interest of the majority.

Associations are now required to offer an appeals process for all violations and infractions. This is legislated by House Bill 1541 that was adopted into the Planned Community Act of North Carolina on 01/01/06. An owner now has the right to sit with a judiciary panel or the Board of Directors to discuss the first notification of the infraction described in the letter that states a fine may be imposed. The Management Firm does request that all reported infractions be submitted in writing. This will ensure that all complaints are documented and legitimate and will enable the panel or the Board to address disagreements in a formal manner leaving little room for interpretation. Once the issue is presented at the formal hearing, the panel/Board can formulate a plan of action on the fairest and best way to achieve compliance. Another reason to have the complaints documented in writing is so there is documented evidence to maintain equitable governance in the community. These procedures are very tough to deal with and can be prevented through education and compliance from all living in the community. Calling

the management office and directing your anger at the staff does not correct the issue or move the process along. The management company does not set policy and procedure, but is contracted to follow the Association's request. The owner will need to place the request for the hearing in writing and/or notify the manager that there could be a mistake in the reporting of the infraction. The rule of thumb here is that a paper trail has begun and must be followed by both parties. Not all will agree on every Restriction or Rule but should agree as to the necessity in the current living conditions to maintain a sense of peace and harmony for the majority of the community.

The violation process starts with a notification of the infraction against the governing documents. The managing agent should point out how the infraction was discovered, how it is not in compliance and how to comply with the request of the Association. From this point, the owners have the ability to request a hearing with the judiciary panel or Board of Directors to discuss the issue. If the owners do not exercise this right, then the governing body over the meeting can only determine two things: that the infraction is legitimate and that the owner is aware of the situation. If the behavior does continue, then the Association is only granted the ability to apply fines to gain compliance. This is by no means a pleasant process for either side and can create hard feelings for those living in the community. This process can be completely prevented through education, understanding and cooperation of the individuals living in a community that has a set of guidelines and restrictions.

The judiciary committee and/or the Board of Directors are volunteering their time and talents to the Association. This means that no one is receiving monetary compensation for the meetings, the hearings, and any research work to prepare for the meetings and/or hearings. These individuals care enough about the community to put in time and effort to create a harmonious situation for all. If all of the owners would simply adhere to the documents that govern the Association, then this process would not be needed and the Board could move on to other items of interest. Such as financial, budgetary and proactive maintenance for the Association. Please remember that your community is a neighborhood made up of neighbors.

Violations, the violation process and fines can be one of the most needed and most dreaded in a Homeowners Association. The Restrictions and Rules are in place to enable very diverse individuals to successfully live in very close proximity. Through education and respect, the entire violation/fine process can be avoided. Not all owners will agree with all of the restrictions in a community but will agree that restrictions are needed to create a sense of harmony and community and to protect the property values. In a time where the real estate market is suffering and has become potentially a “buyer’s market”, a beautiful maintained community may make the difference on how a house will sell. Please look around and remember that your home may be your single largest investment and it may be the largest investment with your neighbors also. It is the responsibility of every owner to get involved and make a difference in Their Community.

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