

RESOLUTION OF THE BOARD OF DIRECTORS OF THE CANOPY NEIGHBORHOOD ASSOCIATION

Policy Resolution 18-2: Due Process

WHEREAS, portions of Article 12.14 of the Declaration of Covenants, Conditions and Restrictions (DCC&R) for Canopy provide a system for the enforcement of Canopy's governing documents; and

WHEREAS, Section 720.305 (Obligations of members; remedies at law or equity; levy of fines and suspensions of use rights) of Title XL of the Florida Statutes also provides a system for the enforcement of an association's governing documents; and

WHEREAS, there is a substantial conflict between the two referenced documents the State Statute, however, being the superior authority.

THEREFORE, BE IT RESOLVED, that the Board of Directors (Board) rightly abandons the conflicting portions of Canopy's DCC&R and establishes the following policy regarding its enforcement of Canopy's governing documents pertaining to the levying of fines.

1. Alleged violations of Canopy's governing documents (DCC&R, Rules & Regulations, and any architectural restrictions) may be forwarded to the Board either by the Architectural Review Committee (ARC), members of the community, or may be self-generated by members of the Board.

2. Upon receipt of an alleged violation, the Board shall take the following actions.

a. Investigate the matter independently or in conjunction with the ARC.

b. If an alleged violation is verified, inform the owner either in person, by e-mail, or by US mail of the violation as well as the date, time, and place of the Board's meeting (regular or special) during which the cited violation and the possible imposition of a range of sanctions, including a monetary fine, will be discussed and decided. The owner's presence at such a meeting is both welcomed and encouraged; moreover, the owner will have the opportunity to be heard by the Board and present a defense including matters in extenuation and mitigation.

c. The Board has a range of options available to it among which is the assessment of fines as provided in law. In the event a fine is assessed, the Board shall cause a [not less than] 14-day notice to be sent to the owner informing said owner of his/her right to be heard in front of a Hearing Committee. Notice shall contain the date, time, place of the hearing, and the specific violation being considered.

d. Curing cited violation(s).

(1) Prior to the Board's meeting to consider a violation(s): dismissal of the matter.

(2) Prior to the Hearing Committee's meeting to consider a violation(s): Shall have no effect on the Committee's decision making process unless the Board has been previously advised and has had the opportunity to modify its imposition of a particular fine.

(3) Owner's submission of a plan to cure a violation(s) over a period of time: This matter is solely within the purview of the Board.

3. The Board shall appoint a minimum of three (3) association members to the Hearing Committee consistent with law (the Board may employ a standing Hearing Committee). The ARC is tasked with the presentation of the case to the Hearing Committee and the defense of the Association's position. The sole decision to be made by the Hearing Committee, by a majority vote, will be the approval or disapproval of the fine assessed by the Board. This decision will be immediately communicated to the owner and forwarded to the Board as soon as possible. The decision of the Hearing Committee is final; however, the Board may subsequently reduce the fine due to exigent circumstances.
4. The Board will make every effort to collect approved fines and to file suit as necessary to both collect fines due and to force compliance with Canopy's governing documents.
5. This policy is not applicable to emergency violations detailed in the governing documents and any resolutions pertaining to vehicular parking and operation within Canopy.
6. All communications with the Board regarding violations must be in writing. Any communication with the Hearing Committee or its members is both inappropriate and expressly prohibited.

Approved at a Meeting of the Board of Directors on March 9, 2018 .