

Holley By The Sea Violations Appeal Committee Policies and Procedures

Preamble

In order to comply with Florida Statute 720.305 (Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights), the Board of Directors of the Holley By The Sea Improvement Association (BOD) requires the formation of an independent Violations Appeal Committee (VAC) to consider non-compliance by the Association, any director or officer of the Association, member or guest, with any rule or regulation of the covenants of Holley by The Sea Improvement Association (HBTSIA).

Section 2 of Florida Statute 720.305 states that an association may suspend, for a reasonable period of time, the rights of a member or a member's tenants, guests, or invitees, or both, to use common areas and facilities and may levy reasonable fines, not to exceed \$100 per violation, against any member or tenant, guest, or invitee. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed \$1000 in the aggregate unless otherwise provided in the governing documents. A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three 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. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. Suspension of common area use rights shall not impair the right of an owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. If the governing documents so provide, an association may suspend the voting rights of a member for the nonpayment of regular annual assessments that are delinquent in excess of 90 days.

The Committee

- 1) A committee of three to five association members in good standing shall be recommended by the association general manager (GM) and appointed by the BOD. Once appointed, a committee appointee shall continue indefinitely until resigned or removed by a vote of all seated BOD members. If a vacancy exists on the committee, the GM shall find a replacement committee member to be approved by the BOD within 30 days.
- 2) The committee shall appoint a chairperson and secretary at its first meeting.
- 3) The secretary shall provide the GM a copy of the minutes of each meeting within 7 days of the meeting for publication by the Association.
- 4) The members of the VAC will excuse themselves from any hearing in which family, friends or associates are involved.

Procedures

- 1) If a fine or suspension of privileges has been declared by the BOD, the board president shall send a written notice to the accused member(s) along with a copy of the current VAC Policy and Procedures notifying them of the details of the infractions, the article(s) of the covenants or architectural guidelines which they are in violation and the effective date of the fine or suspension. A copy shall also be sent to the chairperson of the VAC. The notice shall apprise the member(s) of their rights under F.S. 720.305(2) for a hearing before the VAC and the date, time and place of such a meeting. Generally the VAC meeting date shall be between 20 and 30 days after the date of the BOD's letter.

- 2) A member of the BOD or their representative shall convey to each member of the VAC written documentation regarding the accused member(s) and the alleged violation(s) at least five (5) days prior to the VAC hearing date, and the accused member is encouraged to send a written rebuttal to the accusations of violations to the members of the VAC within the same time period.

- 3) The agenda for the hearing will be as follows:
 - a) The chairperson of the VAC shall call the meeting to order.
 - b) The representative(s) of the BOD shall present a summary of the violation(s) and the reasons for the BOD's decision in the case. The members of the VAC shall then have the opportunity to question the BOD representatives after which the BOD representatives shall be excused.
 - c) The accused member, if present, shall then be asked to appear before the committee to state their case. The member may be questioned by the VAC, and then the member shall be excused.
 - d) After all presentations have been made, the chairperson shall declare the VAC in executive session to review the evidence. All discussions of the committee shall then be in private. No one, except for committee members shall be present during these deliberations. After the discussions and reviews have ceased, the chairperson shall call for a vote. If the committee by majority vote concurs with the BOD's decision of a fine or suspension of privileges, the decision of the BOD shall stand. However, if by majority vote the committee decides that neither suspension nor levy of a fine is justified, no further action on the complaint will be taken. The decision of the committee shall be final and shall not be modified by the BOD. It shall be sent to the president of the BOD and the accused member(s) in writing within three (3) days of the hearing.