

Resolution 19.001 – Enforcement Policy and Right to be Heard

SUBJECT: Adoption of Policy and Procedure for enforcement of covenants, rules, and regulations with the “right to be heard”. The policies and procedures outlined will remain in effect until such time as they may be duly changed, modified, or amended by the Board.

AUTHORITY: Colorado Law, the Articles of Incorporation, “Amended and Restated Protective Covenants” recorded as Reception No. 776995 On October 29, 2009, and Colorado Common Interest Ownership Act (“CCIOA”) in compliance with C.R.S. §§ 38-33.3-209.5(1)(b)(IV) and 209.5(2).

General: To establish a clear procedure for the enforcement of covenants, rules, and regulations, including a “right to be heard.”

Effective Date: April 8, 2019

POLICY:

1. Complaint Procedure:

Owners observing a violation of the Governing Documents are encouraged to talk to their neighbor before making a complaint to the BOD. If after the discussion with the neighbor a decision to follow through with the complaint to the BOD is necessary, the BOD would prefer the complaint be in writing. All complaints will be addressed on a case-by-case basis. The Board has the reasonable discretion to determine the time and manner of any enforcement action.

2. Violation of the Governing Documents which include the Covenants, By-Laws, Rules, Regulations and Policies:

A notice of the Alleged Violation of any provision of the Governing Documents will be provided to the Owner. The Board has the option to provide a copy of the Notice to any non-owner violator (“Related User”). The Notice will describe the nature of the violation and will further state that the Board may seek to protect its rights as they are specified in the Governing Documents.

3. Service of the Notice to the Owner or the Association:

- a. If to an Owner and/or Related User it can be by personal delivery to the Owner and/or Related User; by U.S. Mail, certified mail, return receipt requested, addressed to the last registered address of the Owner and/or Related User as contained in the Association's records; or by e-mail, if the Owner and/or Related User has supplied a valid e-mail address to the Association.
- b. If to the Association it can be by personal delivery or U.S. Mail, postage prepaid, addressed to the Association in care of its registered agent and office, as maintained with the Colorado Secretary of State, or such other address as the parties may be advised of in writing.
- c. Any notice personally delivered will be deemed received on the date of delivery and any notice mailed will be deemed received on the fifth day following the date of mailing.

4. Request for Hearing/Right to be Heard:

Any Owner has an option of a Hearing/Right to be Heard to challenge or contest an

alleged violation. The Owner must request such hearing, in writing, within thirty (30) days from receipt of the Notice of Alleged Violation. The request for the hearing will describe the grounds and basis for challenging the alleged violation. If the hearing is not requested within the 30-day period, the Board will determine if there was a violation, and if so, may assess a reasonable fine in accordance with this Policy. If a fine is imposed, the Association will give notice of the fine assessment to the Owner and the fine assessment is due and payable immediately upon receipt of the notice of the fine assessment.

Note: The Board may also seek voluntary compliance by an Owner through informal communication at any time.

5. The Board to Conduct Hearing/Right to be Heard:

The Board Members will act as the "impartial decision maker" and will hear and decide cases set for hearing pursuant to this Policy and Procedure unless it is determined to have "a direct personal or financial interest in the outcome." The Board at that time may appoint an officer or other Owner to act as the Presiding Officer at any of the hearings. Any Board Member who is incapable of objective and disinterested consideration on any hearing before the Association, will disclose such to the President of the Board prior to the hearing on the case, if possible, or, if advance notice is not possible, then such disclosure will be made at the hearing, and the Board member will be disqualified from all proceedings with regard to the hearing. If disqualification of any Board member(s) results in an even number of remaining Board members eligible to hear a case, the Presiding Officer may appoint an Owner, in good standing, to serve as a voting member of the hearing Board.

6. Hearing for Right to be Heard:

The Board will inform the Owner of the scheduled time, place and date of the hearing, provided that the Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer will explain the rules, procedures and guidelines by which the hearing will be conducted and will introduce the case before the Board by reading the Notice of Alleged Violation. Each party may make opening statements, may present evidence and testimony, may present witnesses, and may make closing statements. Neither the complaining parties nor the Owner will have to be in attendance at the hearing. However, the decision of the Board at each hearing will be based on the matters set forth in the Notice of Alleged Violation, Request for Hearing/Right to be Heard, and such evidence as may be presented at the hearing. Unless otherwise determined by the Board, all hearings will be open to attendance by all members of the Association.

7. Decision:

After all testimony and other evidence has been presented to the Board at a hearing, the Board will render its written findings and decision. A decision, either a finding for or against the Owner, will be made by a majority of the members of the hearing Board present at the hearing and at that time impose a reasonable fine, if applicable. The Board may also issue and present for recording with the County Clerk and Recorder, a Notice of Finding of Violation. Upon satisfactory compliance with the Association's governing documents, the Notice of Finding of Violation may be released by the Association issuing and recording a Release of Notice of Finding of Violation.

8. Fines:

The Association is authorized to impose fines pursuant to C.R.S. § 38-33.3-302(1)(k)(l). Unless otherwise provided in the Rules and Regulations, any violation of the Governing Documents will subject the Owner to a reasonable fine assessment imposed by the Board on behalf of the Association. The Board may determine and adopt a fine schedule or fines will be determined by the Board for each finding of a violation based on the type, severity, repetition and circumstances of each violation. In the event of a continuing violation, a daily fine may be levied. Notwithstanding, any provision of this Policy, the Association may use any legal means available at any time to enforce the terms of the Governing Documents.

9. Lien and Foreclosure:

Any fine assessed against any Owner that remains unpaid after sixty (60) days will become a lien on the Owner's Home and will be recorded in the same manner as any lien for non-payment of HOA dues. The Board may take such other legal action that it deems necessary to collect such fines. In the event legal action is necessary, the prevailing party will be entitled to receive reasonable attorneys' fees and court costs from the losing party.

10. Failure to Appear:

If the accused Owner fails to appear at any of these proceedings, the action of the Board will stand.

11. Informal Enforcement:

Nothing herein shall preclude the Board from seeking voluntary compliance by an Owner via informal communication.

12. Supplement to Law:

The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the Covenants and the law of the State of Colorado governing the common interest community and non-profit corporations.

13. Deviations:

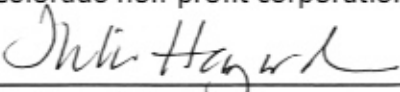
The Board may deviate from the procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances and in compliance with Colorado law. Fines may be modified by a vote of the Board.

CERTIFICATION:

The undersigned, being the President of the Kings Row Homeowners Association, Inc., a Colorado non-profit corporation, certifies that the foregoing policy and procedure was adopted by the Executive Board of the Association, at a duly called and held meeting of the Board on April 3 2019, and in witness thereof, the undersigned has subscribed his/her name.

KINGS ROW HOMEOWNERS ASSOCIATION, INC.,
a Colorado non-profit corporation

By:



Julie Hazard, President