

MATTERS FOR BOARD OF DIRECTORS MEETING

August 25, 2015

**RESOLUTION RELATING TO
VIOLATION ENFORCEMENT POLICY**

KINGSLAND COUNTRY PROPERTY OWNERS ASSOCIATION, INC.

Resolution No. 003-2015

RESOLUTION

THE BOARD OF DIRECTORS OF KINGSLAND COUNTRY PROPERTY OWNERS ASSOCIATION, INC, DO HEREBY DESIRE TO CREATE REASONABLE AND UNIFORM POLICIES FOR THE ENFORCEMENT OF ITS GOVERNING DOCUMENTS, AND DO ACT BY:

WHEREAS; the property within the Kingsland Country Property Owners Association, Inc. (KCPOA) is governed by certain Bylaws recorded in the Official Records of Marion County, Florida at OR Book/Page 6237/806-823, and Covenants and Restrictions recorded in the Official Records of Marion County, Florida at OR Book/Page 594/359, *et. seq.* as amended; and

WHEREAS; the Covenants and Restrictions established restrictions upon the use and enjoyment of the property in KCPOA by its members; and

WHEREAS; the Covenants and Restrictions require property owners and tenants to abide by the Bylaws and Covenants and Restrictions; and

WHEREAS; the Board of Directors of KCPOA (Board) is authorized to enforce the provisions of the Bylaws and Covenants and Restrictions; and

WHEREAS; the Board deems it desirable to adopt a policy that establishes a uniform procedure for enforcement of the provisions of the Bylaws and Covenants and Restrictions; and

WHEREAS; the above resolution is now being placed before this Board at a regularly scheduled meeting;

IT IS HEREBY STATED:

A. Pursuant to the Bylaws - Article II, Section 5 and Article XV, and the Covenants and Restrictions – Section D, the Board has the authority as provided therein, and

B. In accordance with Subsection 720.305(2), Fla. Stat.,

(2) The association may levy reasonable fines of up to \$100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws or reasonable rules of the association. A fine may be levied for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than \$1,000 may not become a lien against a parcel. In any action

to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the nonprevailing party as determined by the court.

NOW, THEREFORE, The Board of Directors adopts the following Violation Enforcement Policy, which shall govern the enforcement of the ByLaws and Covenants and Restrictions of KCPOA.

KCPOA's VIOLATION ENFORCEMENT POLICY

The Kingsland Country Property Owners Association, Inc., has established the following Enforcement Policy for Covenants and Restrictions and Bylaws violations, enforcement, and applicable monetary penalties for violations thereto. This policy will be deemed part of the Grievance Committee regulations and is subject to amendment or modification at any time by a majority vote of the Board of Directors.

Violations are addressed via a series of three written letters (warning, official covenant violation, and imposition of fine) from KCPOA to the homeowner (and tenant, if applicable.) Failure to resolve through compliance and/or hearing determination will result in a fine to the homeowner. Failure to pay the assessed fine will result in either standard collection, a lien on the property, or both. Legal fees, costs, and expenses incurred as a result of the enforcement will be assessed to the homeowner. In addition, the Board can seek injunctive relief in a court of competent jurisdiction to correct or otherwise abate the violation.

First Notice

A **Warning Letter** (no fine) will be sent to the property owner (and, if applicable, the tenant residing at such property) who is responsible for the violation. A sample copy of the Warning Letter is attached to this Policy as Attachment 1.

The Warning Letter will:

- a) Describe the violation and the date of occurrence
- b) Cite the Covenant that is currently being violated by the property owner (or tenant) and also attach a copy of it
- c) Inform the owner of the action required to cure the violation
- d) Give the timeframe for compliance
- e) Give the enforcement progression for non-compliance

Second Notice

A **Covenant Violation Letter** (no fine) will be sent if a continuing covenant violation persists after the time allowed in the Warning Letter to cure that

violation, or if a non-continuing covenant violation recurs within 24 months. A sample copy of the Covenant Violation Letter is attached to this Policy as Attachment 2.

The Covenant Violation Letter will:

- a) Describe the violation that is continuing or recurring
- b) Cite the Covenant that is currently being violated by the property owner (or tenant)
- c) Cite the Warning Letter previously sent
- d) Inform the owner of the action required to cure the violation
- e) Give the timeframe for compliance
- f) Inform the property owner that if the covenant is not timely cured, KCPOA will take further action including, but not limited to, imposition of a fine, filing suit to compel compliance, and recovery of all attorney's fees and costs.

Assessment of Monetary Penalty

An **Imposition of Fine Letter** will be sent to the property owner if the violation is not cured after the timeframe allowed in the Covenant Violation Letter. A sample copy of the Imposition of Fine Letter is attached to this Policy as Attachment 3.

The Imposition of Fine Letter will:

- a) Cite the Board of Directors authority under Chapter 720, Fla. Stat. to enforce KCPOA's Covenants and Restrictions
- b) Cite the covenant that is currently being violated by the property owner (or tenant)
- c) Inform the property owner of the amount of the fine being imposed
- d) Inform the property owner that he or she has the option of requesting a hearing concerning the violation cited
- e) Inform the property owner as to how and the applicable timeframe in which to request a hearing
- f) Inform the property owner of standard collection action, including liens, attorneys' fees and costs, expenses incurred as a result of the enforcement

Should a period of at least two years lapse between violation letters of the same offense, the next letter will be a Warning Letter again.

Exception of Notice Procedure

Violations posing a threat to the health, safety, and/or welfare of the community as a whole any one or more other property owners may require immediate action and thus create exception to the foregoing notice provisions. Examples of health, safety and welfare violations include, but are not limited to, the following: accumulation of trash and/or other materials that may attract pests; threat of flood or fire damage to neighboring properties; an escaped pet; or a collapsed structure or tree blocking the road or drivers' line of vision.

Creation of Grievance Committee

The Board appoints at least 3 members of KCPOA to serve on the Grievance Committee. The members must be 'members in good standing.' The members of the Grievance Committee may not be the following individuals: officers, directors or employees of KCPOA, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The Board reserves the right to remove a member of the Grievance Committee. Unless removed by the Board, the term of membership on the ARC will be for 1 year or until a resignation letter is submitted.

Hearings

KCPOA recognizes each property owner's right to explain the reasons why there is a violation of the Covenants and Restrictions or Bylaws, particularly if the violation results in a monetary penalty. Before any penalty is assessed, a property owner has the opportunity to request a hearing before the Grievance Committee. The property owner must provide timely written request for a hearing. Upon a request for a hearing, the Grievance Committee will schedule a hearing and notify the property owner of the date, time, and location of the hearing at least 7 days prior to the hearing. A sample copy of a Notice of Hearing is attached to this Policy as Attachment 4.

Grievance Committee Review of Fines and Disposition

At each Grievance Committee hearing, the committee will review the fine levied by the Board through the enforcement process and, by a majority vote, either approve or disapprove fine. The Grievance Committee will send a Notice of Hearing Results to the property owner. The Notice of Hearing Results will inform the property owner who is fined that they have 30 days from the date of the Notice of Hearing Results within which to pay the fine and to correct the violation. The Notice of Hearing Results will state the KCPOA will pursue all of its collection and legal remedies. A sample copy of the Notice of Hearing Results is attached to this Policy as Attachment 5.

KINGSLAND COUNTRY PROPERTY OWNERS ASSOCIATION, INC.

RESOLUTION ACTION RECORD

Resolution Type: Policy

No. 003-2015

Pertaining to: Violation Enforcement Policy

Duly adopted at a meeting of the Board of Directors held on: August 25, 2015

Motion by: Brenda Carroll

Seconded by: Jan Breuninger

	VOTE:			
	YES	NO	ABSTAIN	ABSENT
<u>Robert Byers</u> Robert Byers, President	X	___	___	___
<u>Chris Murphree</u> Chris Murphree, Vice President	X	___	___	___
<u>Barbara Cizmar</u> Barbara Cizmar, Secretary	X	___	___	___
<u>Brenda Carroll</u> Brenda Carroll, Treasurer	X	___	___	___
<u>Wayne Zimmer</u> Wayne Zimmer, Director	X	___	___	___
<u>Jan Breuninger</u> Jan Breuninger, Director	X	___	___	___
<u>Trina Sherrets</u> Trina Sherrets, Director	X	___	___	___