

Chapter 8

Compliance and Enforcement

The covenants, standards, and rules set forth in the Governing Documents are for the benefit of all Owners and occupants of the Community. However, if they are to have any real meaning, there must be a commitment by the stakeholders in the Community to comply with them and there must be a mechanism in place to enforce that compliance in the event that someone fails or refuses to do so. This chapter sets forth the obligation to comply and the remedies available to the Association for noncompliance.

8.1. Compliance

 All Owners and occupants of Units, as well as their tenants, guests, and other visitors, must abide by the Governing Documents. If any of them fails or refuses to comply with the Governing Documents, he or she may be subject to various penalties, including but not limited to: fines, the loss of voting privileges, and the loss of the right to use the Common Areas.

Every Owner, occupant, and visitor to a Unit must comply with the Governing Documents and shall be subject to sanctions for violations as described in this chapter. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants, tenants, guests, or in their Units, and for any damage to the Area of Common Responsibility that such Persons may cause.

8.2. Remedies for Non-Compliance

The Association, the Joint Committee, and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents, subject to the limitations of and in accordance with Chapter 19. In addition, the Board may impose sanctions for violation of the Governing Documents, including those sanctions

listed below and any others described elsewhere in the Governing Documents. Any Owner who is in violation and is serving Board imposed sanctions pursuant to this Section 8.2. shall not be considered a member in good standing.

To the extent permitted by applicable law, all fines and sanctions imposed for the violation of the Governing Documents shall continue to accrue during the time period of any challenge, appeal, arbitration, or mediation of the alleged violation. The amount of sanction, fine, or penalty accrued shall remain due and payable unless the body hearing any such challenge, appeal, arbitration, or mediation finds that the imposition of such a sanction, fine, or penalty was arbitrary and capricious.

(a) Sanctions Requiring Prior Notice and Hearing. After written notice and an opportunity for a hearing in accordance with the By-Laws, the Board may impose the followings sanctions if an Owner fails or refuses to comply with the Governing Documents, including but not limited to nonpayment of assessments, nonpayment of imposed fines, covenant violations, violations of rules and regulations, and/or noncompliance with architectural guidelines:

(i) impose reasonable monetary fines, which shall constitute a lien upon the violator's Unit. In the event that any occupant, tenant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; ~~provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);~~

(ii) suspend an Owner's right to vote (except that no hearing is required if the Owner

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 8.2 (p. 39): HOA clause permits placing a lien on a parcel for unpaid fines without the statutory \$1,000 minimum threshold.

Statutory / Legal Reference: Fla. Stat. § 720.305(2)

Statutory Comparison: Under Fla. Stat. § 720.305(2), a fine of less than \$1,000 may not become a lien against a parcel.

CURRENT WORDING IN DOCUMENT:

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SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Fla. Stat. § 720.305(2), a fine of less than \$1,000 may not become a lien against a parcel.