Section 1: [2019 Declaration, Section 4.11] Fencing and Security Measures Prohibition in Front Yards

No fence, wall, gate, or security barrier of any kind shall be erected closer to the front street property line than the front building setback line of the residence, nor shall exterior security cameras with floodlights or driveway gates be installed on any Lot without the unanimous approval of the Architectural Review Committee.

ISSUE #1

Section 2: [2019 Declaration, Section 6.3] Violation Fines and Hearing Procedure

Upon determining that a violation of the Declaration or Rules has occurred, the Board may assess a fine of $100.00 for a first offense and $250.00 for subsequent offenses. If the Owner disputes the fine and requests a hearing before the Board, the Owner shall bear the burden of proving that no violation occurred, and the Board does not provide internal inspection photos prior to the hearing.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE — BOARD & COUNSEL REVIEW

Sec. 2 (p. 1): Enforcement/fining provision omits mandatory Texas Property Code § 209.006 certified mail notice, 30-day Board hearing request window, or HB 614 recorded fine schedule requirements.

Statutory / Legal Reference: Tex. Prop. Code § 209.006, § 209.0061 & § 209.007

Statutory Comparison: Under Tex. Prop. Code § 209.006 and § 209.007, an association may not levy a fine or suspend an owner's right to use a common area unless it first gives written notice by certified mail describing the violation, providing a reasonable period to cure (if curable and not a repeat violation within 6 months), and stating that the owner may request a hearing before the Board on or before the 30th day after the notice was mailed. Further, under § 209.0061 (HB 614), the association must maintain and provide a recorded enforcement policy specifying general categories of restrictive covenants and a schedule of fines for each category.

CURRENT WORDING IN DOCUMENT:

[2019 Declaration, Section 6.3] Violation Fines and Hearing Procedure Upon determining that a violation of the Declaration or Rules has occurred, the Board may assess a fine of $100.00 for a first offense and $250.00 for subsequent offenses. If the Owner disputes the fine and requests a hearing before the Board, the Owner shall bear the burden of proving that no violation occurred, and the Board does not provide internal inspection photos prior to the hearing.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Before the Association levies a fine, suspends an Owner's right to use a common area, or files suit other than to collect regular or special assessments or foreclose a lien, the Association shall give written notice to the Owner by certified mail in compliance with Tex. Prop. Code § 209.006. The notice must describe the violation, include a copy of or link to the Association's recorded enforcement and fine schedule policy required by Tex. Prop. Code § 209.0061 (HB 614), specify a reasonable cure period (for curable violations), and inform the Owner that they have thirty (30) days from the date notice is mailed to submit a written request for a hearing before the Board pursuant to Tex. Prop. Code § 209.007.