

SCPOA HOA RULES to LIVE BY

By Roger Stenbock SCPOA President

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What follows is my personal opinion. The purpose of SCPOA's rules and regulations is to protect its members, protect their property values and provide a better quality of life for everyone. The board uses them to interpret, clarify, and assist in the administration of the Bylaws and CC&Rs. But rules and regs can't be any more restrictive than the CC&Rs or Bylaws. But the specifics are ultimately decided by the members of the Association. The members elect the board. It is the board's legal duty to enforce the rules. There is a core framework for these rules and the means to enforce them. SCOPA's Bylaws and CC&R's and Rules are found on SCPOA.INFO. Without a practical means to enforce rules there are no rules.

In the past

When I started on the board two and half years ago, I realized our bylaws and CC&Rs were antiquated and the board was pretty much powerless in enforcement of our rules. At the time I raised the idea that the bylaws could be restated and by doing so strengthening the Association. The board agreed and the process began. Now, after more than two years, the hard work of the ad hoc bylaw committee and legal expense, the key provision is not part of the re-statement. The board is left with the questions whether or not to include a fine option for HOA rules violators in the bylaws.

Where we are now

In spite of the previous boards accomplishments, such as employing professional management and the current board's remarkable achievements to clean up our rules, improve our communications and common areas, bolstering the reserves, all while lowering our dues, the enforcement capability continues to be inadequate.

The consequences for rule breakers are few. They are limited to neighborly peer pressure, a "talking to" by a board member, a letter from management, or, the nuclear option of an expensive and protracted law suit. These measures seldom work and are ineffective. Most members know this. As a result, our rules are routinely ignored by those who believe they don't apply to them - making life difficult for the rest of us. Among the myriad examples of rule violations routinely ignored are improper fences, common area abuse, abandoned vehicles, animal violations, etc. While it is this board's duty to enforce SCPOA rules and its diligent effort to do so, enforcement has been at best, frustrating or at worst, very expensive and in a few

cases unfair. This leads to the board selectively enforcing the rules only on members who they believe will comply. Rule abiding members, who pay their dues, feel ignored and throw up their hands and some eventually ignore the rules themselves.

Recent examples

The board just passed a new common area use rule. I am afraid unless the Association has a practical means to enforce it, it is a hollow rule. Recently, after another member complained and after exhausting all options to seek compliance, the board took legal action to protect its common area. After protracted and numerous hearings, declarations, and legal filing lasting the better part of a year, the association eventually won. But it was a Pyrrhic victory over an aging member and his bushes. Although the member never contested the violation in court, it still cost the association a lot of money in legal fees and an enormous amount of the board's time. I am not interested going down this path again for the remainder of my term. I believe it is best for the Association to include the fine option in our bylaws.

What to do?

The "fines" option may be perceived as bad, or not in the spirit of the Swansboro community. Incorporating such option in our bylaws, may make them more difficult to pass. But not including that option now and relying on restating the DC&R, will make any future fine option nearly impossible. I believe including the option benefits the Associations. Although many of our members may not admit it, a strong Association policy that is enforced fairly across the board within the Association leads to a better quality of life for everyone in the development.

Collecting fines

Monetary fines give teeth to the rules and regulations of an Association. They are a very efficient tool in getting people to comply. Although a fine should be a part of the compliance process, it should not be the first step in the process. Before imposing a fine on someone for breaking the rules, an effective technique is to start with a simple warning letter. If we escalate in this way, we can continue to escalate the fine structure in a similar way to make sure that people understand that the cost of non-compliance will be harsher as time goes on. We may also want to consider a higher scale of fines for repeat offenders. But all these questions need to be hashed out in committee sometime in the future.

Roger Stenbock