

**WILLOWBROOK AT OAKLEAF PLANTATION
HOMEOWNERS' ASSOCIATION, INC.**

COVENANT ENFORCEMENT POLICY

- **Initial Documentation of Violation:** The Community Association Manager, or other authorized representative of the Association, observes the violation and documents it. The CAM or authorized representative may take date stamped pictures of the violation.
- **FIRST NOTIFICATION (from Association):** A letter is sent to the Owner from the Association advising that the Owner is in violation of the Declaration. The Owner will need to remedy or otherwise cure the violation within the time frame stated in the First Notification letter.
- **Matter Forward to Association Attorney:** In the event the violation is not fixed within the time period allotted in the First Notification, the matter will be forwarded to the Association's attorney.
- **SECOND NOTIFICATION (from Attorney):** The Owner is advised that he or she must remedy the violation within 20 days or be subject to litigation. The Owner is also advised that he or she has the right to participate in pre-suit mediation. The expense of any litigation to enforce the Declaration may be charged against the Owner if the Court ultimately finds in the Association's favor. (*Declaration Section 11.2 and 13.17*).
- **Right to Fine:** In the event of a violation, the Association shall have the right to levy reasonable fines or suspend the privileges of the owner or tenant. (*Declaration Section 11.2*)
 - Fines are issued pursuant to the following fining schedule:
 - 1st Violation: \$100
 - 2nd Violation: \$500
 - 3rd Violation: \$1000
 - (*Declaration Section 3.25(d)*).
 - In the event the Association elects to fine or suspend use right, the Association shall comply with all statutory requirements regarding establishing a fining/appeal committee pursuant to Section 720.305, *Florida Statutes*, as amended or renumbered from time to time. An explanation of said statutory process is attached hereto.

DATE: 3-7-17


On Behalf of the Board of Directors for
Willowbrook at Oakleaf Plantation
Homeowners' Association, Inc.

ESTABLISHING A FINING COMMITTEE

**Homeowners Associations
(Section 720.305 (2016), *Florida Statutes*)**



The Florida Homeowners Association Act provides the following mandates for establishing a fining committee to review owner covenant violations:

- The Board of Directors ("Board") may appoint a "fining committee" of at least 3 people to review any fine recommendation from the Board related to any alleged covenant violation of a property owner. Committee members cannot be officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee.
- Any violation notice provided to an owner must specifically state, 1) the violation, 2) the specific provision within the Declaration or applicable rule or regulation that has been violated, 3) the way in which the violation may be cured, and 4) the date by which the violation must be cured.
- The Board will then consider the violation at a duly noticed meeting and make a recommendation as to the fine amount. If a fine is recommended, the owner must be provided with 14-days notice prior to the fine being levied and the owner must be given an opportunity to appear before the fining committee should the owner contest the fine recommendation. If the owner does not elect to appeal the recommendation to the fining committee, the fine is levied once the 14-days expire.
- If the owner elects to appeal the recommendation to the fining committee, the owner is allowed to present testimony and/or evidence to the fining committee at the hearing.
- The Board should also post notice of the fining committee meeting at least 48-hours before the meeting, similar to the required posting for regular board meetings.
- The fining committee is only authorized to either approve or disapprove of the fine recommendation. If the fining committee does not approve of the fine, the fine cannot be imposed and the matter ends.
- The calculation of "violation days" can begin on the date the first violation is noted. The Association should photograph the continuing existence of the violation or otherwise document the continuing nature of the violation to support the fine amount, if any, subsequently recommended by the Board.
- If the fining committee approves the recommended fine, said fine is imposed and may be levied against the owner.
- After approval of the fine, the Board or Community Manager should provide the owner with notice of the imposition of the fine via hand delivery or U.S. mail.
- Any fine imposed cannot exceed \$100 per violation and may continue for each day the violation continues up to a maximum fine of \$1,000.00 per violation, unless the Association's governing documents provide otherwise.
- A fine of \$1,000.00 or more may become a lien against the property.
- The Board may also recommend the suspension of an owner's right to use any common area and/or common amenity. The suspension of use rights is subject to the same notice and hearing requirements as the imposition of a fine.

Before establishing a "fining committee", we recommend that the association provide notice to all Owners advising them that the board will be appointing a fining committee. This will not only help with transparency and keeping the membership advised of what the Board is doing, it will also give members an opportunity to become involved and volunteer for the committee positions. This will also, at a minimum, put the residents on notice that the Association and its Board of Directors will start to take covenant violations seriously and will begin fining for same.

The information provided herein should not be acted upon or relied upon without professional legal advice. The opinions and information provided herein are as of the date stated herein and this law firm and this law firm undertakes no obligation to advise of subsequent changes in the law.