

BORDEAUX VILLAGE CONDOMINIUM NO. 3, INC.

POLICIES AND PROCEDURES

COMPLIANCE

COMPLIANCE PROCESS POLICY AND PROCEDURE

SEPTEMBER 18, 2018

REVISED OCTOBER 4, 2018

POLICY

Per 718.303(3) of the Florida Statutes: The Association may levy reasonable fines of up to \$100 per violation against any member's tenant, guest, or invitee for the failure of the unit owner or its occupant, licensee, or invitee to comply with any provision of the declaration (Covenants), 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. A fine may not become a lien against the unit. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the non prevailing party as determined by the courts.

The property manager acts as the board's agent to observe/note violations and to receive violation complaints from owners, board members. The property manager is also empowered to communicate compliance letters to owners, short of sending a fine letter.

We employ a 4 letter process to effectively communicate the compliance steps with the parcel owner.

#1 letter—Nice Reminder Letter

#2 letter---Warning Letter

#3 letter---Fine, and Invite to Attend Compliance Committee Meeting Letter, with copy of Covenant Section

#4 letter---Compliance Committee Outcome Letter

It is the association's desire to treat owners with respect by first utilizing the #1 Nice Reminder Letters to gain continued compliance with our covenants/declarations, bylaws and other reasonable rules.

The Board will maintain a Compliance Committee made up of at least 3 unit owners who are not board members or related to board members. The committee will act as an independent board to entertain appeals by unit owner of fines set by the board of directors. State Statutes call for at least 2 committee members to be in attendance to conduct committee business.

## PROCEDURE

- 1) The property manager observes or an owner reports a covenant violation to the property manager. There are also circumstances where the condo board determines covenants/rules (ie., Architectural Review Board) were violated and makes motion for the property manager to act.
- 2) The property manager sends 1<sup>st</sup> (“nice reminder letter”—sample letter #1) letter to unit owner and tenant/occupant, if applicable, asking for compliance (and setting deadline for same). Sent by regular mail. Major violations may cause actions to advance directly to letter #3, “Invite to Attend the Compliance Committee Meeting”
- 3) The property manager electronically sends the board members and the compliance committee members a copy of 1<sup>st</sup> letter.
- 4) If the time period stated in the 1<sup>st</sup> letter for the compliance remedy expires, the property manager sends a 2<sup>nd</sup> (“warning letter”—sample letter #2) letter by regular mail to the unit owner asking for immediate compliance if it is a safety issue, or asking for between 7-30 days for other infractions (depending on the type of issue). If this involves an occupant/tenant situation the letter is to be sent to both the unit owner’s address of record as well as to the property address. This 2<sup>nd</sup> letter will include a copy of the 1<sup>st</sup> letter and inform the unit owner and the occupant/tenant, if applicable, of a possible fine of up to \$100/day, not to exceed \$1000 in the aggregate if the infraction is unresolved within the stated time period.
- 5) The property manager electronically sends the board members and the compliance committee members a copy of the 2<sup>nd</sup> letter.
- 6) If the time period for the compliance remedy expires, as was stated in the 2<sup>nd</sup> letter, the property manager will notify the board of directors and at the next board meeting the board will address the violation and make motion to fine the unit owner \$100/day, up to a maximum of \$1000 in the aggregate.
- 7) The Board President sends the 3<sup>rd</sup> letter (“Fine Levied, Invite to Attend the Compliance Committee Meeting”) by regular mail and certified mail to the unit owner’s address of record as well as to the occupant/tenant, if applicable, giving them at least 14 days notice of the date/time/place of a Compliance Committee Meeting at which time the unit owner can appeal their case to the committee about the amount of the fine and any mitigating factors. The Resident will also be sent a copy of the Covenants/Declarations section(s) that has/have been violated.
- 8) The property manager electronically sends the board members and the compliance committee members a copy of the 3<sup>rd</sup> letter.

- 9) The compliance committee members are to bring the provided copies of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> letters, a copy of the Covenant section(s) in question and any other relevant information forwarded by the property manager (letters/emails from the unit owner regarding their violation) to the compliance committee meeting. The compliance committee chair is to work with the unit owner to find an acceptable time and place to hold the meeting.
- 10) The compliance committee meets with the unit owner and the tenant/occupant, if applicable, cites the reason for the compliance letters and stated fine and allows the resident to present information supporting their contention they are not out of compliance and/or mitigating reasons why they should be found not guilty and therefore the fine absolved (HAS TO BE EITHER UPHOLD IN FULL OR ABSOLVED). (Compliance Committee members should take care to not embarrass the owner or debate them. Friendly, civil exchanges are the key. Even if the owner is attacking the property management company, the committee members, the board or others, the compliance committee is asked to not to react negatively.) The owner now remains silent and the committee discusses the circumstances, facts and the appeal and makes a motion and votes to recommend to the Board of Directors to (a) affirm the fine, or (c) eliminate the fine.  
**NOTE:** The compliance committee finds guilty with fine or not guilty, but it does NOT have the authority to increase the fine.  
**NOTE:** The condo board has the right, after notice of a guilty verdict by the compliance committee, to review the fine and either decrease it or remove it to achieve compliance. It cannot, however, increase the fine after the fact.
- 11) The Compliance Committee Chairperson immediately sends written a copy of the Compliance Committee minutes to the President and to the Treasurer of the Board that shows the recommendation decision of the Compliance Committee. The President, in turn, informs the rest of the board of the outcome and pools the board of any last minute second thoughts.
- 12) The Condo Board President immediately sends letter #4 (“Compliance Committee Outcome Letter”) in behalf of the association, by both regular and certified mail, to the unit owner, and the occupant/tenant, if applicable, regarding whether they were found guilty with fine or not guilty by the Compliance Committee. This notice will inform the unit owner, and the occupant/tenant if applicable, they will be receiving a fine notice from the property management company and then have 10 days from the date of the fine notice from the property management company to pay the outstanding fine and to correct the violation (if applicable). It will also note the association will pursue further fining for any different type of violation or if new facts come forward regarding the owner’s actions that would compel the board to seek correction of a violation of the same covenant/declaration or rule.
- 13) The property management company will post the fine and send a fine invoice to the unit owner, and the occupant/tenant, if applicable, advising that the fine must be paid within 10 days of such notice. If the fine is not paid in 10 days the property management company is to begin applying late fees to the outstanding balance beginning the beginning of the next month.