

HUCKLEBERRY FIELDS HOMEOWNERS ASSOCIATION, INC.

ASSOCIATION ENFORCEMENT RIGHTS AND PROCEDURES

First Revision: August 12, 2019

All members and occupants have a responsibility and duty to comply with the Governing Documents which comprise of those recorded in the public record for The Waterford Lakes Community Association, Inc. and for Huckleberry Fields Homeowner Association, Inc. The term "Governing Documents" may also include rules and regulations for both Associations that may or may not be recorded in the public record.

If a member or occupant is failing to abide by the provisions of the Governing Documents, the Association will adhere to the following steps to compel members to fulfill their obligations under the provisions of the Governing Documents,

**Step 1)** The Association will notify a member of the violation(s). This "violation letter" is sent by the Association to a member by mail. At this point, there is **NO COST** to a member who has received one of these letters.

A. Second Offense for Identical or Similar Violation: Proceed from Step 1 to Step 3

**Step 2)** After a 30 day reasonable time period for the violation(s) to be corrected a second letter will be sent by the Association to the member if the violation(s) have not been corrected. The second letter will set a 60 day deadline to correct the violation(s) which the member had been notified about in the first letter. At this point, there is **NO COST** to a member who has received one of these letters.

**Step 3)** A final demand letter will be sent by the Association to the member if the violation(s) have not been corrected by the deadline as stated in the second letter. The final demand letter will set a deadline to correct the violation(s) which the member had been notified about in the second letter. **THIS LETTER WILL BE THE ONLY AND FINAL NOTICE PRIOR TO LEGAL ACTION BY THE ASSOCIATION.** Up to this point, there is **NO COST** to a member who has received one of these letters. A member will be invited to the next board meeting to discuss compliance with the stated violation(s) during which time the Board of Directors will try to resolve the matter. If a mutually agreed upon solution cannot be achieved then the Board of Directors will be compelled to consider legal action of which the Association will seek to recover the expense of legal fees and costs if the matter goes to litigation.

A. Third Offense for Identical or Similar Violation: Proceed to Step 3

**Step 1, 2, 3 - It is imperative that a member communicate with the Association through the management company if there is confusion about the violation(s) or a dispute to the validity of the violation(s).** You will be invited to attend the board meeting at which your dispute will be discussed. This will ensure that your concerns can be heard before the Board of Directors makes a decision on whether or not to elevate the matter to Step 4.

**LEGAL ACTION (Legal fees and costs to the Member and the Members of the Huckleberry Fields Homeowners Association)**

**Step 4) Pre-suit Mediation Required.** Before the Association can commence legal action against a member, the Association must first send a demand for mediation. The demand for mediation must state the specific nature of the dispute and the authority supporting the finding of a violation. The process of mediation involves a supervised negotiation process in which a trained, neutral third-party mediator meets with both parties and assists them in exploring possible opportunities for resolving part of or the entire dispute. The mediator has no authority to make any decisions on the matter or to determine who is right or wrong. He/she merely acts as a facilitator to ensure each party understands the position of the other party and that all options for a reasonable settlement are fully explored.

**Cost of Mediation:** Unless otherwise agreed by the parties, Section 720.311(2)(b), Florida Statutes, requires that the **Member and the Membership** share the costs of pre-suit mediation equally, including the fee charged by the mediator. An average mediation may require 3 or 4 hours of the mediator's time, including some preparation time.

- 1) **Responding to Demand for Mediation.** Once the Association has sent the mediation demand, a member has twenty days to respond with their agreement in writing that they will participate in mediation, and then the mediation must be scheduled within 90 days.

**Cost of Mediation**

- 2) **Failure to Agree to or Participate in Enter Pre-suit Mediation Process:** If a member fails to respond to a demand for mediation, fails to agree to a mediator, fails to make payment of fees and costs within the time established by the mediator, or fails to appear for a scheduled mediation session, this will constitute a failure or refusal to participate in the mediation process. A failure to participate entitles the Association to proceed in court to seek an award of the costs and fees associated with mediation. Even more importantly, a member who fails or refuses to participate in the entire mediation process may not recover attorney's fees and costs in subsequent litigation relating to the dispute.

**Step 5) Litigation:** If the above described mediation is unsuccessful, or if the member fails or refuses to participate in the mediation, then the Association is free to file a lawsuit in the appropriate court. The Association would typically file a lawsuit for injunctive relief, which requests that the Court enter an order requiring the owner to comply with the Governing Documents

**Cost of Litigation:** The prevailing party in the litigation is entitled to recover its attorneys' fees and costs. If a homeowner fails to comply with the Court Order, then the Association would file a Motion for Contempt of Court.

Approved: Board of Directors Meeting, August 12, 2019

President: Reginald Shribbs

Secretary: Christopher Wallace

