

Resolution

Amending the Rules and Regulations

Charles Gobrecht, Chair of the Governance Committee

April 18, 2019

Background

The Governance Committee is the body assigned under the governing documents to conduct appeal hearings upon a request by Owner's that are issued a Notice of Violation and Fine. Once an Owner/Resident requests a hearing, cases are placed in abeyance pending the outcome of the hearing. Most of the time, scheduling hearings can be accomplished quickly which results in the relatively quick resolution of a case. However, there are times when scheduling a hearing to the mutual convenience of the appellant and the committee can cause the hearing date to become delayed – in some cases by months. This can result in unresolved maintenance issues. Some communities add draconian fines daily for non-compliance. We approach enforcement from a more reasonable position seeking compliance without resorting to imposing onerous financial penalties unless absolutely necessary.

Under South Carolina law, the only legal requirement is for associations to grant the opportunity for a hearing. The changes proposed are primarily to provide that opportunity according to the committee schedule and to avoid unnecessary delays. This amendment also adds clarity to the enforcement process overall and clears up inconsistent use of defined terms of art. These changes will:

- Add a new definition for “Non-Resident”
- Provide dates certain for hearings (per the GOVCOM schedule)
- No longer will there be “negotiating” hearing dates
- Owners can provide written statements to be considered at the hearing if they cannot attend
- Failure to request a hearing results in the case being upheld
- As a result of the hearing, if the case is upheld, the Owner may appeal to the BOD under certain conditions
- Rather than the BOD getting overburdened with cases for which they are not privy, the BOD can remand the cases back to the GOVCOM for further consideration, or they can choose to hear the case in Executive Session as determined by the Board president
- Results of cases remanded to the GOVCOM are then presented to the BOD for final review and decision

Proposed Resolution

WHEREAS, Article 12.01 of the Declaration of Covenants, Conditions, and Restrictions of the Indigo Run Community Owners Association, Inc. states:

“12.01 Rules and Regulations. Subject to the provisions hereof, the Board of Directors may establish the Rules and Regulations concerning the use of Lots, Dwellings, and the Common Areas and facilities located thereon.”

AND, WHEREAS, Article 12.04 of the Declaration of Covenants, Conditions, and Restrictions of the Indigo Run Community Owners Association, Inc. provides an enforcement process which in part, provides the opportunity for a hearing,

AND, WHEREAS, the Rules and Regulations of the Indigo Run Community Owners Association Inc. provide a Procedure for Violation Notices and Appeal Process which outline steps to provide the opportunity for a hearing which are somewhat vague,

AND, WHEREAS, the Board of Directors intends to add more specific language regarding the Procedure for Violation Notices and Appeal Process,

NOW, THEREFORE, BE IT RESOLVED, on motion duly made and seconded, and approved on this date, April 18, 2019 that the Rules and Regulations of the Indigo Run Community Owners Association Inc. as established and promulgated, shall be amended as recommended by the Governance Committee and provided herein, and shall take effect on May 20, 2019.