

Resolution – Amending the Procedure for Violation Notices and Appeal Process of the Rules & Regulations

Don Lucas, Chairman - Governance Committee
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Background

Recommendation

The Governance Committee recommends amending the fine schedule as it relates to progressive fines. The Committee wishes to disconnect unrelated non-compliance issues in order to be more reasonable in the application of fines. There are situations where some linkage seems unreasonable. For example, for the sake of determining a successive violation and a progressive fine, violations of Motor Vehicle Violations would be unrelated to Property Maintenance violations. In order to achieve a more appropriate linkage protocol, the Governance Committee recommends a restructuring by moving Home Business/Garage Yard-sale rules from Activity Rules to Property Rules, and then to create linkage between Access Rules and Property Rules (Entry, Maintenance and non-safety related) as one subset, and Activity Rules and Motor Vehicle Violations (Safety to persons and Property) as a second sub-set.

Proposed Resolution

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

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

NOW, THEREFORE, BE IT RESOLVED, on motion duly made and seconded, that Section III. Property Rules, will add paragraph 16. Home Business and Garage/Yard Sales, Section IV. Activity Rules, paragraph 17 will be deleted, Article VIII, Procedure for Violation Notices and Appeal Process, shall be amended on this date, May 17, 2018 and will take effect on June 18, 2018 as shown below:

Current language states:

A. Violation Notices

If the General Manager determines that a violation has occurred, contact with the Property Owner or Contractor against whom the complaint was made shall be made within ten (10) business days. Contact may be a phone call, email or face-to-face meeting. A Courtesy Letter shall be sent via U.S. Mail to the address on record with the IRCOA, advising the Property Owner of the violation and the action necessary by the Property Owner to cure the violation. The letter shall provide for a period of up to thirty (30) calendar days for the Property Owner

to cure the violation. If the violation is not cured within the prescribed time, a Notice of Violation letter will be sent and a fine may be imposed on the Property Owner. In addition, the letter shall state that the Property Owner may appeal the decision of the General Manager and shall include the appeal procedure.

- B. A second or third alleged violation of any of the IRCOA Rules within 90 days of a Notice of Violation, or alleged violations of the same Rule within 24 months will be issued a Notice of Violation and progressive fine. A fourth or subsequent alleged Rule violation by the same Owner or Contractor within 24 months may result in suspended IRCOA privileges and mandatory hearing before the Governance Committee. The Governance Committee will recommend the appropriate fines and disciplinary measures to the IRCOA Board of Directors.
- C. Failure to correct the violation and pay any fines, costs or fees (including attorney fees incurred in any enforcement efforts) will result in suspension of voting and use rights, including applications for architectural improvements to the Architectural Review Board. Applications for ARB approval will be deemed incomplete and denied, pending payment of the aforementioned costs.

New language:

Violation Notices

If the General Manager determines that a violation of any Access Rules or Property Rules has occurred, a meeting with the Property Owner or Contractor against whom the complaint was made shall be scheduled within ten (10) business days. The General Manager shall attempt an amicable disposition of the matter satisfactory to the Community and the Property Owner or Contractor. If the parties cannot resolve the matter amicably, the General Manager shall send a Courtesy Letter via U.S. mail and email addresses on file with the IRCOA, advising the Property Owner or Contractor of the violation and the action necessary by the Property Owner or Contractor to cure the violation. The letter shall provide for a period of up to thirty (30) calendar days for the Property Owner or Contractor to cure the violation. If the violation is not cured within the prescribed time, a Notice of Violation and Fine letter shall be sent by certified/return receipt mail and email to the mailing address and email address on file with the IRCOA. A fine may be imposed on the Property Owner or the Contractor will be prohibited from entering Indigo Run. In addition, the letter shall state that the Property Owner may appeal the decision of the General Manager and shall include the appeal procedure. Failure of the Property Owner to appeal will result in the assessment of a fine. If the violation is not cured and the fine is unpaid after thirty (30) days, it will be considered a subsequent violation.

If the General Manager determines that a violation of any Activity Rules or Motor Vehicle Violations has occurred, the General Manager will issue an immediate Notice of Violation and Fine letter which shall be sent by certified/return receipt mail and email to the mailing address and email address on file with the IRCOA.

Alleged Subsequent Violations

Access Rules and Property Rules:

A second or third alleged violation of any of the these Rules within ninety (90) days of a notice of violation, or alleged violations of the same Rule within twenty four (24) months will be issued a notice of violation and progressive fine, and for a Contractor, immediate prohibition from entry into Indigo Run.

Activity Rules and Motor Vehicle Violations:

Alleged Activity Rule or Motor Vehicle Violations will result in an immediate issuance of a Notice of Violation and Fine, and any second or third alleged violation within twenty-four (24) months will result in a Notice of Violation and progressive fine.

A fourth or subsequent alleged Rule violation by the same Owner within twenty four (24) months will result in a mandatory hearing before the Governance Committee and may result in suspended IRCOA privileges. The Governance Committee will recommend the appropriate fines and disciplinary measures to the IRCOA Board of Directors.

Failure to correct the violation and pay any fines, costs or fees (including attorney fees incurred in any enforcement efforts) will result in suspension of voting and use rights, including applications for architectural improvements to the Architectural Review Board. Applications for ARB approval will be deemed incomplete and denied, pending payment of the aforementioned costs.