

# **Stone Lake HOA**

## **Deed Restriction Non-Compliance**

### **Notification Process**

**February 2013**

**When the Board is made aware of Deed Restriction concerns, we wait and observe the concern for a period time to make sure it is not a temporary situation. If it remains out of compliance after that grace period, the following steps will be taken:**

- 1. Letter #1 – a letter stating the item in question, Deed Restriction Reference, 30 day deadline for compliance, process for hearing if desired, Section 10.05.1.**
- 2. Letter #2 – Certified mail - A second letter reiterating non-compliance, 10 day deadline for compliance, Section 10.05.02.**
- 3. Letter #3 – Letter sighting continued non-compliance and notification of immediate fine assessment not to exceed \$25.00 per violation per day, 10.05.06.**
- 4. Letter #4 – Letter stating that situation has been deferred to the Stone Lake HOA Lawyer and that if response to the lawyer is not made within 10 days of receipt, a lien will be filed on the property, Section 10.06**
- 5. Hearing before the Board process, please see section 10.05.2 of the Stone Lake HOA Deed Restrictions, page 49.**

**All steps outlined above are prescribed in the Stone Lake Deed Restrictions and covenants as reproduced below, page 49-50, Section 10.05:**

SECTION 10.05

Notice and Opportunity to be Heard. Whenever this Declaration or

other Governing Documents require notice and opportunity to be heard, the procedures set forth in this Section must be observed.

10.05.1 Notice of Violation. The party proposing to take the action (such as the Board, a committee, the Managing Agent, etc.) must give written notice of violation to the Owners and, if applicable, to the Owner's tenants according to the records of the Association (the "Affected Parties"). The notice must include (i) a general description of the matters complained of, (ii) all curative action requested and a time period within which curative action must be completed, and (iii) a statement advising that the Affected Parties are entitled to a hearing upon delivery of a written request in accordance with Section 10.05.2 of this Declaration.

10.05.2 Time to Cure: Response. A notice of violation must allow at least ten days from the date of the notice within which to complete the curative action thereby required and to request a hearing. The ten-day period to cure may be shortened in the case of an Emergency. The Affected Parties may request a hearing only in writing and only by also stating in the request each claim or other matter which is disputed or contested and a general description of the basis for the dispute or contest. If no hearing is requested in writing as aforesaid it is presumed the Affected Parties do not dispute any matters set forth in the notice of violation.

10.05.3 Hearing. If a hearing is requested in writing as above set forth, all Affected Parties so requesting the hearing must be given written notice of the date, time and place for the hearing. At the hearing, the Affected Parties have the right, personally or by a representative, to give testimony orally, in writing or both, and to present such other relevant evidence as they may choose, subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. The hearing will be held in closed executive session, but the minutes of the meeting (or other written record) shall reflect the results of the hearing. The Affected Parties must be notified of decisions made in consequence of the hearing in the same manner in which notice of the hearing was given.

10.05.4 Appeal. Any decision made pursuant to Section 10.05.3 by a party other than the Board may be appealed to the Board by filing a written notice of appeal with the Board within ten days after the Affected Parties are given notice of the decision. The Board shall then conduct a hearing within a reasonable time after the Board receives the notice of appeal, giving the same notice and observing the same procedures as were required for the initial hearing.

10.05.5 Limited Abatement of Enforcement. Except in the case of an Emergency or other exigent circumstances as determined in the sole opinion of the Board, enforcement proceedings are abated until after expiration of the curative period stated in the notice of violation, or if a hearing

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is requested or an appeal properly made until ten days after notice of decisions made in consequence of the hearing or appeal is given.

10.05.6 Fines. After notice and opportunity to be heard fines may be imposed as specific assessments by the Board or ACC for any violation of this Declaration or other Governing Documents except non-payment of assessments. Except as otherwise provided by applicable Rules and Regulations, the Board or ACC shall fix the amount of a fine for each violation on a case by case basis not to exceed twenty-five dollars (\$25.00) per violation per day. Before any fine is imposed the Affected Parties must be given written notice allowing not less than ten days to cure the violation(s); provided, any fine may be imposed at the time of giving notice if written notice has been Given to any of the Affected Parties of a similar violation within the preceding twelve month period.

SECTION 10.06                      Filing of Notices of Non-Compliance. At any time the Board

determines there exists any noncompliance with any provisions of this Declaration or other Governing Documents, the Board may at its option direct that a Notice of Noncompliance be filed in the Official Public Records of Real Property of Harris County, Texas covering the affected Building Site or Building Sites and the Owner(s) thereof at the sole cost and expense of such Owner(s). All such costs and expenses are due and payable upon demand, are deemed a specific assessment applicable to the affected Building Site(s) and are secured by the Association's continuing assessment lien.

**The board is always open to communication and should you receive a letter that you feel is not supported by the existing Deed Restrictions and Covenants for Stone Lake, we will be happy to meet with you, research your position and consider any correction needed.**