

**Hawaiian. Shores Community Association**  
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## **Revision**

### **HSCA ADMINISTRATIVE PROCEDURES FOR COVENANTS CONDITIONS & RESTRICTIONS FINING**

The Covenants Conditions & Restrictions (CC&Rs) for the Hawaiian Shores Community Association (HSCA) were modified in 2017 to permit the assessment of fines for violations of the CC&Rs. The Board stressed fining should only be used when other less restrictive measures failed to remedy the issue or concern. These measures include verbal and written communication to the member to ensure they understand the nature of the concern and all of their questions are answered and that noncompliance could result in the assessment of a fine.

Two noncompliance notices will be sent to the member by certified and first class mail for violation(s) of the CC&Rs. The content of said notices shall state the violation(s), the CC&Rs the member is not in compliance with, the fine amount(s), the response time to correct the violation(s), and any additional support documentation such as but not limited to photographs to validate HSCA's contention of noncompliance. Time lines to address an issue that could carry a potential fine will vary based on the nature of the activity. Issues such as contractor noise will need to be resolved quickly while other violations may require more time to resolve due to a language translation for example. Time line determinations shall be made by HSCA's general manager or HSCA's president.

These procedures outlined below require that the member be given a hearing prior to imposing a fine unless the violation is of a nature to cause potential harm to a member, a member's property or to HSCA's property/infrastructure whereby time is of the essence. In HSCA's judgement, immediate action may be required.

#### **STEP ONE - FINE HEARING**

Should the less restrictive measures fail to remedy the issue or concern, a third and final notice will advise the member of the date, time and location of the next Board of Directors or Enforcement Review Committee (ERC) meeting whereupon the fine amount will be determined and subsequently levied. All ERC meetings shall be posted on HSCA's website. ERC meetings shall also be posted on HSCA Community Center's (Stables) marque located in front of the building. Should the member or the designated agent not attend this ERC hearing, the Committee is within its authority to levy fine(s) without the member's/agent's presence. The ERC shall work from the Board of Director's approved fine schedule which is published on HSCA's website and advise staff to mail the fine notice by certified and first class mail. (The fine schedule was mailed by first class mail to all HSCA members in 2018.)

#### **STEP TWO - FINE NOTIFICATION**

Once a decision at the hearing has been made, the member is notified by first class and certified mail within fifteen (15) days of the hearing. The member shall have 30 days to pay the fine. The fine notification will describe the CCR the member is in noncompliance with, fine amount, due date of the fine and a copy of prior correspondence from HSCA seeking compliance.

## **HSCA ADMINISTRATIVE PROCEDURES FOR CC&R FINING (continued)**

### STEP THREE - ENFORCEMENT REVIEW HEARING

Should the member fail to pay the fine within 30 days, the Board of Directors will be notified by the ERC and will consider whether to submit the matter to Small Claims Court, Collections or Mediation.

### FINE SCHEDULE AMENDMENTS

The ERC can recommend to the Board of Directors as it deems appropriate any changes to the fine schedule. Any changes recommended by the ERC must be approved by the Board of Directors prior to implementation.

### APPEALS

A member can file a request for an appeal with HSCA's Board of Directors. The appeal request must be in writing and explain the reason(s) the fine should be appealed. Also, requests for an appeal to ERC's decisions can be filed through HSCA's Board of Directors. All requests for appeals must be made within thirty (30) days of the date of the fine notice or date of the ERC decision in question. A request to hear the member's appeal does not halt revolving fines being assessed.

A hearing shall be held on said appeal within a reasonable period of time, not to exceed thirty (30) days of receipt of the appeal request by HSCA. An appeal shall be heard before the Board of Directors in open session with notice served to parties involved. A member shall have an opportunity to present witnesses, evidence and argument as to why the fine or decision is inappropriate and why HSCA should not pursue legal options to collect the fine through Small Claims Court or collections. Likewise, the Board of Directors is entitled to present witnesses, evidence and argument as to why the fine or decision is appropriate. The Board of Directors shall provide the member with a written decision on the appeal within ten (10) days of the date of the hearing. In the event the Board of Directors upholds the decision to impose a fine, the member shall have fifteen (15) days from receipt of the Board's decision to pay the fine amount(s).

### SMALL CLAIMS COURT

In the event HSCA is unsuccessful in collecting the fine amount, HSCA can exercise its right to file for collection of the fine plus HSCA's court costs and legal fees in Small Claims Court. The cap currently set by Hawaii's Small Claims Court is \$5,000.00. Should the court side with HSCA, it will seek full reimbursement of its legal and court administrative fees from the non-compliant member.

9/30/18