

CRYSTAL LAKES ROAD AND RECREATION ASSOCIATION
HEARING PROCEDURE POLICY
April 22, 2017

1. SCOPE

This policy applies to the CLRRA Board of Directors and all CLRRA members and it supersedes the CLRRA Fine, Notice, and Hearing Procedure Policy dated April 19, 2014 in its entirety. This policy is also known as the CLRRA Compliance Policy (reference the CLRRA Alternative Dispute Resolution Policy, paragraph 1.3.3).

2. PURPOSE

The purpose of this policy is to adopt a procedure for members to appeal a fine, a penalty or an Architectural Control Committee ruling. The Association's ability to levy fines or penalties comes from the Governing Documents.

3. NOTICE OF VIOLATION ("NOTICE")

- 3.1. The Board of Directors, the staff, or any member of the Association may report a violation to the Manager for action. The report must be in writing or sent over email and it should include a summary of the facts along with some photographs, if possible. The Manager will protect the privacy and anonymity of the reporting member.
- 3.2. The Board of Directors authorizes the Manager to verify the violation and issue a written Notice to the Owner. The Notice will describe the nature of the violation, the time frame for correcting the violation (if possible) and state that the Association may seek to remedy the violation and otherwise protect its rights as specified in the Association's Governing Documents and as provided by law.
- 3.3. The Notice, together with a copy of this Policy, will be hand delivered/emailed, or mailed first class to the Owner. The Notice will be considered effective immediately if hand delivered or three days after it is deposited in the mail or emailed.
- 3.4. The Owner receiving the Notice then has the amount of time specified in the Notice to correct the violation (if possible). The time frame shall be expressed as a certain number of days after the effective date of the Notice. If the violation is not corrected within the specified time, a fine shall be levied starting on the first day after the time period for correcting the violation expires, subject to the Request for Hearing provisions below.
- 3.5. In cases where the violation cannot be readily corrected as determined by the Manager, a fine shall be levied immediately, subject to the Request for Hearing provisions below.

4. REQUEST FOR HEARING

- 4.1. Any Owner receiving a violation Notice has the right to request a hearing before the Hearing Panel. To request a hearing, the Owner must contact the Association in writing within fourteen (14) calendar days after the effective date of the Notice. The Manager will then set a date, time and location for the hearing, usually the third Sunday of each month. If the hearing, for whatever reason, cannot be held prior to the date when the

fine is otherwise scheduled to commence, the date the fine begins shall be extended to the day following the hearing.

- 4.2. The purpose of the hearing is to determine if the Owner receiving the Notice should be held responsible for the alleged violation, identify any mitigating circumstances and make a written recommendation to the Board of Directors based on the facts presented during the hearing.
- 4.3. The hearing process will not and cannot be used to determine if a particular provision of the Governing Documents is desirable.
- 4.4. The Hearing Panel shall be comprised of at least three property owners who are appointed by the Board of Directors to serve alternating three-year terms. The Board of Directors will appoint one of the property owners to serve as the Chairperson as well as alternate members, as needed.
- 4.5. If the appealing Owner is also a member of the Hearing Panel then they must recuse themselves for that particular hearing. All other conflicts of interests will be decided by the Board of Directors with input from the Manager.

5. HEARING PROCEDURE

- 5.1. The Hearing Panel Chairperson shall call the hearing to order and indicate, for the purpose of the record, those parties who are in attendance and will participate in the hearing.
- 5.2. The Manager shall be charged with the responsibility of presenting a short, factual presentation of the history of the violation and fines or penalties assessed. Such presentation shall include any pertinent documents related to the situation under review.
- 5.3. Hearing Panel members may choose to ask clarifying questions of the Manager relating to the history or documents presented.
- 5.4. The appealing Owner will then be provided the opportunity to make a short presentation, outlining the reasons why the fine or penalty should not be assessed. Such presentation shall include any pertinent documents related to the situation at hand.
- 5.5. Hearing Panel members may choose to ask clarifying questions of the appealing Owner relating to the facts or circumstances behind the appeal.
- 5.6. Both the Manager and appealing Owner shall be given an opportunity to respond to the issues brought up during the hearing.
- 5.7. Following the hearing, the Hearing Panel shall then conduct such discussion, in private session, as necessary to clarify the issues to be able to make a written recommendation to the Board of Directors, which does not have to be unanimous. The written recommendation must be presented to the Board of Directors within seven (7) calendar days and it must include supporting rationale as identified in paragraph 4.2 above.

6. NOTIFICATION OF HEARING PANEL RESULTS

- 6.1. The Manager will include the Hearing Panel's written recommendation to the Board of Directors in the Board packet for the next available Board meeting.
- 6.2. The Board of Directors will then decide at an open Board meeting to affirm, reduce, or eliminate the original fine or penalty or in the cases of ACC rulings, to affirm or overturn the ruling.

6.3. The Manager will notify the appealing Owner of the Board's decision.

7. WITNESSES

- 7.1. Use of witnesses by either presenter is discouraged as the Hearing Panel is not designed to be a trial.
- 7.2. Testimony required to support either presentation should be accomplished through affidavit, which shall be notarized, with such affidavits becoming part of the hearing record. Names of reporting parties are not open to discovery. However, each presenter may be allowed a maximum of two live witnesses.

8. REPRESENTATION

- 8.1. The Hearing Panel process is designed to be informal. Appealing Owners shall be encouraged to represent themselves.
- 8.2. Should the appealing Owner choose to be represented by counsel, such Owner shall notify the Board at least one week in advance and the Manager may choose to be represented by counsel.
- 8.3. The appealing Owner and the Association shall bear its own costs of the hearing, including attorneys' fees, if applicable.

9. FINES

- 9.1. If the Board of Directors affirms or reduces the fine or penalty it shall go into effect immediately upon the Board's decision.
- 9.2. If the Owner fails to pay the fine or penalty within 30 days the Board of Directors will charge interest from and after this date at the rate of eighteen percent (18%) per annum (1.5% per month) per the Association's Collection Policy.
- 9.3. If the Owner fails to correct the violation, the Board of Directors may assess a one-time fine in the amount of \$100 to \$5,000 as the Board deems reasonable and necessary to promote correction of the violation. Additionally, the Board may assess daily fines for any continuing or persistent violation in the amount of \$15 to \$25 per day until the Owner has corrected the violation.
- 9.4. The Owner shall be responsible for notifying the Association in writing if and when the violation has been corrected.

10. COLLECTION OF FINES

- 10.1. Assessed fines shall be billed to the Owner by U.S. Mail, and are legally collectable as Assessments in accordance with the Association Documents and Colorado law.
- 10.2. The fines are the personal obligation of the violating Owner and, in addition, constitute a lien against such Owner's property.
- 10.3. The violating Owner shall be responsible for all costs and reasonable attorney fees incurred by the Association as a result of the violation.

10.4. Fines levied under this Policy are not the Association’s exclusive remedy for addressing a violation. Nothing in this Policy precludes the Association from pursuing any other remedy provided under the Association Documents or under Colorado law for correcting the violation.

11. REPEAT VIOLATIONS

- 11.1. A “repeat violation” is a violation committed by an Owner which is the same as the original violation committed by that Owner. A repeat violation is considered a continuation of the original violation, and thus an Owner committing a repeat violation is not entitled to the same hearing procedures set forth above. However, the Association shall provide Notice of the repeat violation to the Owner in accordance with Section 3 above.
- 11.2. If the repeat violation has not been corrected within the time period specified in the Notice for correction of the violation, then the fine (which will be determined by the Board and may be up to double the amount of the fine assessed for the original violation) will commence upon the expiration of the correction period.
- 11.3. An Owner committing a repeat violation shall have no right to request a hearing on such repeat violation before the Board.

12. CERTIFICATION

The undersigned, the Secretary of the Association, hereby signs to confirm that the above policy was adopted by the Board of Directors on April 22, 2017.

//Signed// _____
Signature

Casey Meadows
Printed Name