

FOREST COVE SECTION II HOMEOWNERS ASSOC.'S
DEED RESTRICTION ENFORCEMENT AND FINE POLICY

THE STATE OF TEXAS *
 * KNOW ALL PERSONS BY THESE PRESENTS:
 COUNTY OF GALVESTON *

WHEREAS, Forest Cove Section II Homeowners Assoc. (the "Association"), a Texas non-profit corporation, which is governed by its Board of Directors (the "Board") is charged with administering and enforcing those certain covenants, conditions and restrictions contained in the recorded Declaration of Covenants, Conditions and Restrictions for Forest Cove Section II, filed of record in Galveston County, Texas on February 6, 2004, under Clerk's File No. GAC2004007813 and the Refiled Declaration of Covenants, Conditions and Restrictions for Forest Cove Section II, filed of record in Galveston County, Texas on July 5, 2005, under Clerk's File No. GAC2005044545 (hereafter collectively referred to as the "Deed Restrictions"); and

WHEREAS, the Board is duly authorized to enact this Deed Restriction Enforcement and Fine Policy for Forest Cove Section II Homeowners Assoc.; and

WHEREAS, pursuant to the Deed Restrictions, the Board of Directors (the "Board") of the Association hereby adopts this Policy in an effort to provide Owners with a better understanding of the process of deed restriction enforcement and fines; and

WHEREAS, reference is hereby made to the Deed Restrictions for all purposes, and any and all capitalized terms used herein shall have the meanings set forth in the Deed Restrictions, unless otherwise specified in this Policy; and

WHEREAS, in the event of a conflict between the terms of this Policy and any previously adopted regulations and/or policies addressing the enforcement of deed restrictions and fines as set forth herein, this Policy shall control.

NOW, THEREFORE, IT IS RESOLVED, that the following Policy is hereby adopted by the Board.

DEED RESTRICTION ENFORCEMENT: Owner(s) will be given a reasonable time to cure violations, unless otherwise specified in the Deed Restrictions. The time period given may vary in relation to the difficulty, planning and expense associated with rectifying the violation which shall be determined by the sole discretion of the Board. Additionally, the Board may, at its own discretion, take into consideration the specific circumstances and the overall effect of the violation to the community when determining the time period to cure such violation, but in no event shall the Association be responsible or required to consider such factors. If an Owner is unable to correct the violation within the time specified, a written request for an extension must be submitted to the Board, which the Board may approve in their sole discretion.

COURTESY LETTER: Upon verification of a violation, a Courtesy Letter may be sent to the Owner stating a description of the Deed Restriction violation and requesting that the Owner cure the violation within a stated time period.

DEMAND LETTER: Upon initial verification of a violation, or after the expiration of the time period stated in the Courtesy Letter, if one is sent, a Texas Property Code, Section 209 Demand Letter may be sent to the Owner. This letter will be sent postage prepaid, via U.S. regular mail and certified mail, return receipt requested. Depending on the severity of the violation and/or the history of previous violations on the Owner's property, this may be the first letter sent (rather than a Courtesy Letter) as determined at the sole discretion of the Board. The Demand Letter will state:

- (1) **Violation:** A description of the deed restriction violation(s), the action required to correct the violations(s), the proposed charge or fine and any amount due the Association;
- (2) **Right to Request Hearing:** In accordance with Section 209.007 of the Texas Property Code, Owner may request a hearing before the Board or designated committee, such request to be made in writing on or before the 30th day after the date of the notice, and if the hearing is held before a designated committee, there will be a right to appeal the decision of that committee to the Board upon written notice to the Board;
- (3) **Timing and Notice of Hearing:** If requested, a hearing shall be held not later than the 30th day after the date the Board receives the Owner's written request for a hearing. Notification of the date, time and place of the hearing will be sent not later than the 10th day before the hearing. If a postponement of the hearing is requested by either the Board or the Owner, it must be granted for a period of not more than ten (10) days. Any additional postponements may be granted by agreement of the parties;
- (4) **Hearing not Requested – Timeframe to Cure Violation(s):** If Owner chooses not to request a hearing, the violation(s) must be cured within the timeframe set forth in the Texas Property Code, Section 209 Demand Letter. Fines and other remedies available to the Association may be implemented after the expiration of the 30-day timeframe provided to the Owner to request a hearing;
- (5) **Active Military Duty:** Owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if the Owner is serving on active military duty;
- (6) **Association Remedies:** Owner shall be liable for, and the Association may collect reimbursement of reasonable attorney's fees and other reasonable costs incurred by the Association after the conclusion of a hearing, or, should a hearing not be

requested, after the date by which the Owner must request a hearing. Said attorney's fees and costs shall be charged to Owner(s) as a Special/Violation Assessment. In addition to charging fines, the Association reserves its right under any Dedicatory Instrument and under Texas law, to file a lawsuit for damages and injunctive relief, and pursuant to Section 202.004(c) of the Texas Property Code, a court in such a lawsuit may assess civil penalties of up to \$200.00 per day for each violation of a restrictive covenant; and

- (7) **Certificate of Non-Compliance:** A Certificate of Non-Compliance may be recorded in the Galveston County Real Property Records should the violation not be cured within the specified time frame.

SUBSEQUENT SIMILAR VIOLATIONS: If an Owner has a violation within six (6) months after being sent a Texas Property Code, Section 209 Demand Letter for a previous, similar violation, the Board may implement fines for the subsequent violation without sending another Texas Property Code, Section 209 Demand Letter to Owner.

CASE-BY-CASE BASIS: Nothing contained herein, not otherwise required by the Deed Restrictions, shall require the Board to take any of the specific actions contained herein. The Board shall have the right, but not the obligation, to evaluate each deed restriction violation on a case-by-case basis as it, in its best judgment, deems reasonable.

FINES: After a Texas Property Code, Section 209 Demand Letter (if required) has been sent to the Owner pursuant to the terms set forth above, the Association, acting through the Board, is authorized to impose fines according to the schedule for violations of any provisions of the Dedicatory Instrument governing Forest Cove Section II, as set forth below. If the violation is a similar subsequent violation of one that has occurred within the previous six (6) months, the fine may accrue as of the first (1st) date of the subsequent violation.

(1) **Fines for Violations of the Dedicatory Instruments Not Affecting the Use and Enjoyment of Other Owners:**

(a) First Violation	\$ 50.00
(b) Second Violation	\$100.00
(c) Subsequent Violations	\$150.00

(2) **Fines for Violations of the Dedicatory Instruments Affecting the Use and Enjoyment of Other Owners:**

- (a) For violations of the Dedicatory Instrument affecting the use and enjoyment of Other Owners, the Board may set the amount of the fine as it reasonably relates to the violation of the Dedicatory Instruments and the number of Other Owners affected by the violation.

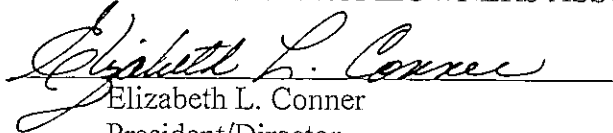
- (b) Each day that such violation continues may be considered to be a new violation.
- (c) The Association, acting through its Board is hereby authorized to impose lesser fines or no fine at all for violation of the Dedicatory Instruments of the Association as determined by the Board in its sole discretion.
- (d) Fines against an Owner will be assessed against the Owner's Lot. The Owner will be responsible for the actions of all residents, guests and invitees of the Owner and any fines against such residents, guest and invitees will also be assessed against the Owner's Lot.

The foregoing Deed Restriction Enforcement and Fine Policy was approved by a majority vote of the Board of Directors at which a quorum was present, and now appears in the books and records of the Association. This Policy is effective upon recordation in the Public Records of Galveston County, Texas and supersedes any policy regarding Deed Restriction Enforcement and Fines which may have previously been in effect.

TO CERTIFY which witness my hand this 28th day of August, 2014.

FOREST COVE SECTION II HOMEOWNERS ASSOC.

BY:

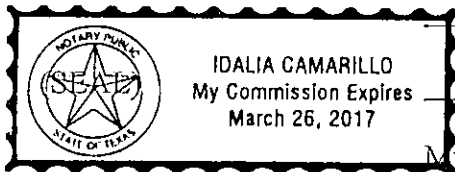


Elizabeth L. Conner
President/Director
Forest Cove Section II Homeowners Assoc.

THE STATE OF TEXAS *
*
COUNTY OF GALVESTON *

BEFORE ME, the undersigned authority, on this day, personally appeared ELIZABETH L. CONNER, President and a Director for Forest Cove Section II Homeowners Assoc. known to me to be the person whose name is subscribed to the foregoing document and being by me first duly sworn, declared that she is the person who signed the foregoing document in her capacity as President and a Director, and that the statements contained therein are true and correct to the best of her knowledge and belief.

GIVEN under my hand and seal of office this 28th day of August, 2014.



Idalia Camarillo
Notary Public, State of Texas
Idalia Camarillo
Notary's Printed Name
My commission expires on March 26, 2017

After Recording, return to:

Forest Cove Section II Homeowners Assoc.
P.O. Box 237
Dickinson, Texas 77539

FILED AND RECORDED

Instrument Number: 2014048940

FILED FOR RECORD

Recording Fee: 42.00

Number Of Pages: 6

Filing and Recording Date: 08/28/2014 12:44PM

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Galveston County, Texas.



Dwight D. Sullivan

Dwight D. Sullivan, County Clerk
Galveston County, Texas

NOTICE: It is a crime to intentionally or knowingly file a fraudulent court record or instrument with the clerk.

DO NOT DESTROY - *Warning, this document is part of the Official Public Record.*