

Standardized Letters
Standardized Time frames
Standardized File Keeping
Standardized Flowchart up through resolution.

This is a work still in progress and there are several approaches that have been identified.

A little background.

First, there is nothing in Highlands Ridge HOA Covenants that establishes a Covenants Conformance Committee. Normally, the Declarant is actively involved with the HOA and he enforces the Covenants through fines and Liens up to the point where the Covenants are eventually transferred to the HOA.

At Highlands Ridge we do not have that benefit. In reality, it appears that Covenant Conformance responsibilities for enforcement still reside with the Declarant. The State of Florida Statute 720, assumes that a normal Declarant / HOA relationship exist to address these issues. When a sound relationship does not exist the statutes only provide mediation services for the HOA and Declarant to work out any unresolved issues.

Over a year ago the HOA Board of Directors realized the problem of not having Lien rights and sought these powers from the Declarant. After several communications and after the HOA responded to several Declarant questions the subject ended on the Declarant's desk. At present the Declarant holds enforcement rights, but is not involved.

With that as a background, Dave Smith and I embarked on revisiting this issue and trying to determine what other avenues could be pursued to enforce the Covenants.

Here is the report on our current discovery so far.

We developed a flowchart and discussed shared several avenues to pursue.

They were then reviewed by Attorney, Lon Crow IV.

At present there are several directions that we can pursue outside of securing normal Lien rights.

Option 1

- A) Establish a committee of at least 3 members
- B) Not an officer, director, employee of HOA or the spouse, parent, child, brother, or sister of an officer, director, or employee of the HOA.
- C) Committees only function is to affirm or reject the proposed fine and/or suspension approved by the Board of Directors.
- D) If rejected, fine and/or suspension cannot be imposed.
- E) If accepted, fine and/or suspension are due within 5 days after the committee meeting.

The Cons

The only suspension that the HOA can grant is withholding the right to vote.

The courts normally restrict fines to \$25 first time, \$50 second time, \$ 100 third time, Never to have accumulated amount exceed \$1000.

The HOA has no power to enforce collection or to get house up to standards should the resident refuse unless when the house is eventually sold years later and only then if a local title company notifies the HOA treasurer. Notifications do not always occur in this manner because normally they are looking for Liens at the courthouse. This case could be held open for many years with violations still existing. This does not always occur for many reasons.

This option appears to be trading one problem for two or more problems and never solving the first problem.

Option 2

- A) No requirement to form a Committee
- B) Follow flowchart of notifying the resident two times over a short period.
- C) Turn case over to the HOA Attorney.
- D) HOA Attorney files legal action in the form of a request for an injunction.
- E) HOA is entitled per Covenants to recover Attorney fees should it prevail.

Pros

Quick and Simple

Option 3

- A) Notify Declarant of Covenants violations in Community.
 - B) Share photographs.
 - C) Request that since he has Conformance responsibilities that he act to resolve.
 - D) Request assignment of Lien rights to HOA as previously proposed.
- (This step is necessary if HOA would ever consider Option 4)

Option 4

Formally engage Declarant in State of Florida Statute 720 Mediation process to secure Lien rights for HOA. This step would bring HOA in parallel with the spirit and letter of the law as it applies to HOA's in Florida.

OK so where are we?

Where do we go from here?

As I said initially, this is a work in progress.

I know these topics need further discussion but first I want to propose three resolutions.

First Resolution

Establish a working committee to review our four (4) Covenants Conformance options and to recommend a course forward.

Second Resolution

As in Option 3, engage the Declarant in resolving Covenant violations.

Reopening previous Lien Covenant change discussions.

Third Resolution

Identify and engage the services of a Law Firm versed in State of Florida Statute 720, HOA Mediation proceedings.

Open for discussion