

1.0 PURPOSE

This document defines the policy and procedures which apply when a deed restriction complaint is received by the Pecan Grove Plantation Property Owners' Association.

2.0 SCOPE

This policy and procedure applies to complaints involving properties within the jurisdiction of the PGPOA as defined below.

3.0 DEFINITIONS

Pecan Grove Plantation Property Owners' Association (the Association or the PGPOA) - A legal entity responsible for such activities as assessment of fees, deed restriction enforcement, architectural control evaluation, and maintenance of the common areas for the mutual benefit of all residents, and authorized to take action on specific issues.

Board of Trustees (the Board) -The group of elected property owners with the legal authority and responsibility to conduct business on behalf of the PGPOA.

Deed Restrictions -Any or all of the Declarations of Reservations, Restrictions and Covenants of the Sections within the jurisdiction of the PGPOA.

Deed Restriction Committee (the Committee) -a subset of the Board of Trustees, specifically assigned the responsibility and authority to take action on deed restriction matters.

Architectural Control Committee (the ACC) -a subset of the board of Trustees, specifically assigned the responsibility and authority to take action on architectural control matters.

Subdivision -That area within the general Pecan Grove area which is under the jurisdiction of the PGPOA.

Section – A specific subset of the Subdivision for which a shared set of Deed Restrictions exists.

Block -A specific subset of a Section. The Section consists of a number of adjacent blocks, and the deed restrictions of the Section apply to all blocks within the Section.

Lot - A property within the Subdivision generally identified by its Section, Block, and Lot numbers.

A block consists of a number of adjacent lots. Lots may either be improved or unimproved.

Improved Lot -A lot that has a finished house or garage constructed upon it.

Unimproved Lot -A lot that does not have a finished house or garage constructed upon it.

4.0 REFERENCES

Deed Restrictions of all Sections of Pecan Grove Plantation Property Owners' Association and the Texas Residential Property Owners Protection Act.

5.0 POLICY

The Deed Restrictions will be applied uniformly, equally and fairly.

6.0 GENERAL PROCEDURES

Set Forth below are the procedures for dealing with Deed Restriction complaints and violations.

6.1 RECEIVE COMPLAINT

- a. A complaint may be either oral or written. If a complaint is oral, in person or by telephone, the receiving Board member or office manager will submit it in writing.
- b. Enter the written complaint in the Deed Restriction logs and assign a control number.
- c. Two Deed Restriction logs will be kept: (1) a working log where the original complaint with all information on it will be available to the Board and (2) a public log with a photo copy of the original complaint where the name, address, telephone number, fax id number, email address, and all other identifiers are REDACTED on those complaints that request anonymity. All non anonymous complaints will simply be photocopied and entered as is. The current status of the complaint will be noted.
- d. In the case of an alleged ACC violation, check the file for ACC approval.
- e. The office manager will send an e-mail to the appropriate board member in charge of the address of the alleged owner.

6.2 INVESTIGATE COMPLAINT

- a. Board Member should verify whether the activity or property modification is indeed a valid violation.
- b. If there is no violation found, notify the complainant, make a notation in the logs with a short explanation, and take no further action. Anonymous complaints receive no notification.

- c. Appropriate board member begins documentation of all actions.
- d. If there is a violation, the board member assigned to the area will make the first of three friendly personal contacts, in the form of a personal visit, phone call or handwritten note left at the home, and notify the homeowner that there has been a deed restriction complaint. The owner will be allowed to read the public copy of the complaint and invited to meet with the Committee or the Board at its next scheduled meeting.
- e. The first contact will be made within a reasonable time after receipt of the complaint. No less than three (3) personal contacts will be made within thirty (30) days of receipt of the complaint, with each contact no less than seven (7) days apart. More time will be allowed if the Deed Restriction Committee agrees it is in the best interest of the Board to allow more time in order to resolve the problem in a friendly and timely manner.
- f. If insufficient progress is made by the end of the 3rd visit, the owner should be told the matter will be referred to the Deed Restriction Committee to begin an enforcement action; it is now out of the assigned board member's ability to resolve the complaint one on one, and the Committee will guide all future actions.
- g. If at any time the owner is uncooperative or belligerent in any way, the matter should be referred to the Committee and the remaining personal visits can be bypassed.
- h. If at any time the problem is corrected, all actions will cease and the office manager and committee chair will be notified.

6.3 OPEN A FILE, SEND A POSTCARD NOTICE

- a. After the 3rd meeting with the owner, send a postcard with a 14 day deadline (from the date of mailing) for remedy of the violation. The Deed Restriction Committee should send a postcard notice with a 14 day deadline when the investigation can no longer obtain any positive results by meeting with the homeowner.
- b. Open a file.

6.4 FIRST NOTICE, REGULAR MAIL

- a. If the violation is not corrected within 14 days of the date of postcard notice, the Deed Restriction Committee will send a letter via first class mail notifying the owner of the continuing violation and give him/her 14 days from date of the letter to remedy the violation.

6.5 SEND A SECOND NOTICE VIA CERTIFIED MAIL

- a. If the violation is not corrected within 14 days of the date of the first notice, the Deed Restriction Chairman, after consulting with the Board, shall direct that a Second Notice of continuing violation be sent by Certified Mail, Return Receipt Requested and by regular mail. This notice must:
1. describe the violation that is the basis for the action, charge or fine and state any amount due the Association from the owner; and
 2. inform the owner that the owner:
 - A. is entitled to a reasonable period to cure the violation and avoid the fine or charge unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months;
 - B. may, on or before the 30th day after the date the owner receives the notice, submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before the Deed Restriction Committee. The owner must also be notified that he/she has the right to appeal the Deed Restriction Committee's decision to the Board by written notice to the Board; and
 - C. will be charged for reasonable attorney's fees and reasonable costs associated with this violation of the deed restrictions if the violation continues after a certain date.

6.6 WRITTEN REQUEST FOR HEARING

- a. If the owner submits to the Board a written request for a hearing, the Board shall hold a hearing no later than the 30th day after the date the Board receives the owner's request.
- b. The Board shall notify the owner of the date, time and place of the hearing not later than the 10th day before the date of the hearing.
- c. The owner or the Board may request a postponement, and, if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties.
- d. The owner or the Board may make an audio recording of the meeting.
- e. The notice and opportunity for hearing do not apply if the Board is seeking a temporary restraining order or temporary injunctive relief.

6.7 NOTIFICATION FROM ATTORNEY

- a. When the Deed Restriction Committee deems it necessary and appropriate, it shall refer the matter to the Board and request that the attorney write to the property owner.
- b. If the Board decides to refer the matter to an attorney, send copies of notices and, if possible, a sample of evidence, to the attorney.

- c. Request that the attorney write a demand letter to the property owner requesting compliance with the Deed Restrictions. Instruct the attorney to state that a suit may be filed without further warning if the violation is not remedied within an appropriate interval as determined by the Board.
- d. Check periodically during the stated interval to see if the violation has been corrected.
- e. If the violation is corrected within the allotted interval, notify the attorney promptly and verify for one month. Bill the property owner for attorney's fees plus administrative costs of \$25.00 or actual costs, whichever is greater.
- f. If the violation is not corrected within the specified interval, the Board will discuss further action with the Attorney.

6.8 MULTIPLE VIOLATIONS

- a. Each verified complaint is a separate violation. Each offense is entered into the log. When a property owner establishes a pattern of committing the same identical violation, the Board may vote to skip to section 6.5 Second Notice. A multiple offense violation is defined as: 3 identical violations being committed within a 6 month period.
- b. Example: Within a 6 month time period: a Motor Home is parked in Driveway for extended period, complaint resolved. 2 weeks later Motor Home is back for extended period, complaint resolved. 4 days later, Motor Home is back for extended period, complaint resolved. The procedure for the next complaint will begin with Section 6.5. Another Example: Motor Home is parked in driveway for extended period, complaint resolved. 1 month later, Motor Home is parked in Driveway for extended period, complaint resolved. 10 months later Motor Home is parked in Driveway for extended period. This is not within the 6 month period. It simply begins the "3 strike" Multiple Violation Clock again.

6.9 CLOSED

- a. If a violation is corrected and it is verified that it remains corrected for one month, the case is closed.

6.10 RECORD RETENTION

- a. Unless litigation or other legal proceeding is threatened or pending, files are to be kept for year from the date of the resolution of the last violation. Files will be destroyed after said 1 year period or upon the sale of the house to new owners.

7.0 RESPONSIBILITIES

- a. The Association's Deed Restriction Committee and Board will carry out these procedures, utilizing a minimum three-person committee.
- b. Decisions are subject to review and approval by the Board.

REVISION HISTORY

- Rev. A 05/06/96 Capture standard operating procedure in writing.
- Rev. B 10/19/97 Re-format using universal format.
- Rev. C 06/16/98 Add details throughout PROCEDURES section.
- Rev. D 07/07/99 Subjective Violation, Postcard Notification.
- Rev. E 05/02/01 Revised second notice procedure and added provision for third notice.
- Rev. F 07/23/02 Substantially revised to comply with the Texas Residential Property Owners Protection Act and to make other revisions.