

BILTMORE SWIM & RACQUET CLUB PATIO ASSOCIATION, INC.

COVENANT ENFORCEMENT AND FINING POLICY

WHEREAS, pursuant the Declaration of Restrictions, Conditions and Covenants [for] Biltmore Swim & Racquet Club, Phase One (the "Declaration") and the Bylaws of Biltmore Swim & Racquet Club Patio Association, Inc. (the "Bylaws"), the Board of Directors of the Association finds there is a need to establish orderly procedures for the enforcement of the restrictive covenants contained in the Declaration, the Bylaws, any Rules and Regulations and any building guidelines or architectural standards (hereinafter collectively referred to as the "governing documents") and /or the levying of fines against violating Owners.

NOW, THEREFORE, IT IS RESOLVED that the following procedures and practices are established for the enforcement of the covenants, restrictions and rules contained in the Association's governing documents and for the elimination of violations of such provisions found to exist in, on and about the Patio Lots within Biltmore Swim & Racquet Club and the same are to be known as the "Covenant Enforcement and Fining Policy" (referred to herein as the "Enforcement Policy") of the Association.

1. Establishment of Violation. Any condition, use or activity or improvement which does not comply with the provisions of the Association's governing Documents shall constitute a "Violation" under this Enforcement Policy for all purposes.

2. Report of Violation. The existence of a Violation will be verified by a field observation conducted by the Board or its delegate. For the purpose of this Enforcement Policy, the delegate of the Board may include, but not be limited to, management, an officer or member of the Board, a member of the Architectural Committee ("AC") or a member of any other committee established by the Board for this purpose. A timely written report shall be prepared by the field observer for a Violation which will include the following information:

- a. Identification of the nature and description of the Violation(s).
- b. Identification by street address and legal description, if available, of the Patio Lot on which the Violation(s) exists.
- c. Identification of the authority establishing that the subject improvements, modifications, conduct, conditions, etc., constitute a Violation(s).
- d. Date of the verification observation and the name of the person making the observation.

At the same time that the field observation report is prepared, the Board, or its delegate, will forward to the Owner of the Patio Lot in question a written notice, via first-class mail, of the discovery of a Violation(s). The Owner will have fifteen (15) days from the receipt of the letter to correct or eliminate the Violation(s).

3. Notice of Violation. If the Violation(s) is not corrected or eliminated within the initial fifteen (15) day period, the Association will forward to the Owner of the Patio Lot in question written notice of the Violation(s) by first-class mail or personal delivery and certified mail, return receipt requested (the "Notice of Violation"). A Notice of Violation is not required if the alleged violator received a Notice of Violation relating to the same Violation within six (6) months of the occurrence of the current Violation and was given a reasonable opportunity to cure the prior Violation. In such event, the Board may impose sanctions as authorized by the Declaration and/or this Enforcement Policy without notice to the Owner, other than the Final Notice of Violation described in Paragraph 4 below. The Notice of Violation, if required, will state the following:

a. The nature, description and location of the Violation, including any property damage caused by the Owner.

b. The authority for establishing the Violation, including the authority for recovering property damages caused by the Owner.

c. The proposed sanction to be imposed, including the amount of any fine or the amount claimed to be due from the Owner for property damage.

d. If the Violation is corrected or eliminated within a reasonable time after the Owner's receipt of the Notice of Violation that a fine will not be assessed and that no further action will be taken.

e. The recipient may, on or before fifteenth (15) days from the receipt of the Notice of Violation, deliver to the Association a written request for a hearing.

f. If the Violation is not corrected or eliminated within the time period specified in the Notice of Violation, or if a written request for a hearing is not submitted on or before fifteen (15) days from the receipt of the Notice of Violation, that the sanctions delineated in the Notice of Violation may be imposed and that any attorney's fees and costs will be charged to the Owner.

g. If a hearing is timely requested and is held before the AC, that the Owner may appeal the decision to the Board.

4. Final Notice of Violation. A formal notice of the Violation and the sanction to be imposed, including the amount of any fine or the amount of any property damage (the "Final Notice of Violation") will be sent by the Association to the Owner by first-class mail and certified mail, return receipt requested, under any of the following situations:

a. Where, within the time period specified in the Notice of Violation, the Violation has not been corrected or eliminated;

b. Where, within fifteen (15) days from the date of receipt by the Owner of the Notice of Violation, the Association has not received a written request for a hearing; or

c. Where the Owner was previously notified of, and was given a reasonable opportunity to cure, a similar Violation within the preceding six (6) months.

5. Request for a Hearing. If the Owner challenges the proposed action by timely requesting a hearing, the hearing shall be held in executive session of the Board affording the alleged violator a reasonable opportunity to be heard. Such hearing shall be held no later than the thirtieth (30th) day after the date the Board receives the Owner's request for a hearing. Prior to the effectiveness of any sanction hereunder, proof of proper notice of the hearing shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, agent or delegate who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The notice of the hearing shall be sent no later than the tenth (10th) day before the date of the hearing. The Board or the Owner may request a postponement and, if requested, a postponement shall be granted for a period of not more than ten (10) days. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed by the Board. The Board shall notify the Owner, in writing, of its action within ten (10) days after the hearing. The Board may, but shall not be obligated to, suspend any proposed sanction if the Violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Owner.

6. Appeal. Following a hearing before a delegate of the Board or the Covenants Committee, the Owner shall have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the manager, president or secretary of the Association within ten (10) days after the date of the Association's written notice to the Owner of the results of the hearing. Any hearing before the Board shall be held in the same manner as provided in Paragraph 5 for hearings before a delegate of the Board.

7. Correction of Violation. Where the Owner corrects or eliminates the Violation(s) prior to the imposition of any sanction, no further action will be taken (except for collection of any monies for which the Patio Lot Owner may become liable under this Enforcement Policy and/or the governing documents. Written notice of correction or elimination of the Violation may be obtained from the Board upon request for such notice by the Owner and upon payment of a fee for same, the amount of which is set by the Board.

8 Corrective Action. Notwithstanding any other provision contained herein to the contrary, where a Violation is determined or deemed determined to exist, the Board may undertake to cause the Violation to be corrected, removed or otherwise abated if the Board, in its reasonable judgment, determines the Violation may be readily corrected, removed or abated without undue expense and without breach of the peace. Where the Board decides to initiate any such action, the following will apply:

a. The Board must give the Owner and any third party that is known to the Association to be directly affected by the proposed action prior written notice of undertaking of the action.

b. Costs incurred in correcting or eliminating the Violation will be referred to the Association to be recovered from the Owner.

c. The Association and its agents and contractors will not be liable to the Owner or any third party for trespass or any damages or costs alleged to arise by virtue of action taken under this Paragraph 8.

9. Referral to Legal Counsel. Where a Violation is determined or deemed determined to exist and where the Board deems it to be in the best interests of the Association to refer the Violation to legal counsel for appropriate action, the Board may do so at any time. Such legal action may include, without limitation, sending demand letters to the violating Owner and/or seeking injunctive relief against the Owner to correct or otherwise abate the Violation. Attorney's fees and all costs incurred by the Association in enforcing the governing documents and administering this Enforcement Policy shall become the personal obligation of the Owner.

10. Fines. Subject to the provisions of this Enforcement Policy and/or the governing documents, the imposition of fines will be on the following basis:

a. Fines will be based on a per violation charge in the amount of \$50.00 for the first violation, \$150.00 for the second violation, \$200.00 for the third violation, and will continue to increase in \$50.00 increments for all subsequent violations of the same offense.

b. Imposition of fines will be in addition to and not exclusive of any other rights and remedies of the Association as created by the governing documents or this Enforcement Policy.

c. Fines are imposed against the Patio Lots and become the obligation of the Owners of such Patio Lots.

11. Notices. Unless otherwise provided in this Enforcement Policy, all notices required by this Enforcement Policy shall be in writing and shall be deemed to have been duly given if delivered personally and/or if sent by United States Mail, certified, return receipt requested, to the Owner at the address which the Owner has designated in writing and filed with the Secretary of the Association or, if no such address has been designated, to the last known residence of the Owner.

a. Where the notice is directed by personal delivery, notice shall be deemed to have been given, sent, delivered or received upon actual receipt by any person accepting delivery thereof at the address of the recipient as set forth in such notice, or if no person is there, by leaving the notice taped to the front door of the residence.

b. Where the notice is placed into the care and custody of the United States Postal Service, notice shall be deemed to have been given, sent, delivered or received as of the third (3rd) calendar day following the date of postmark of such notice bearing postage prepaid and the appropriate name and address as required herein.

c. Where a day required for an action to be taken or a notice to be given, sent, delivered or received, as the case may be, falls on a Saturday, Sunday or United States Postal Service holiday, the required date for the action or notice will be extended to the first day following which is neither a Saturday, Sunday or United States Postal Service holiday.

d. Where the Board has actual knowledge that such situation exists, any action to be taken pursuant to this Enforcement Policy which would directly affect the property of a third party or would be the responsibility of a party other than the Owner (e.g., tenants' parking, tenants'

maintaining property), notices required under this Enforcement Policy may be given, if possible, to such third party in addition to the Owner. Notwithstanding any notice sent to a third party, the Owner remains the party responsible for compliance with the requirements of the Governing Documents. The Board shall accept a response from any such third party only upon the written direction of the Owner of the Patio Lot upon which the Violation exists.

e. Where the interests of an Owner in a Patio Lot have been handled by a representative or agent of such Owner or where an Owner has otherwise acted so as to put the Association on notice or communication from the Association pursuant to this Enforcement Policy will be deemed full and effective for all purposes if given to such representative or agent.

f. Where an Owner transfers record title to a Patio Lot at any time during the pendency of any procedure prescribed by this Enforcement Policy, such Owner shall remain personally liable for all costs and fines under this Enforcement Policy. As soon as practical after receipt by the Association of a notice of a change in the record title to a Patio Lot which is the subject of enforcement proceedings under this Enforcement Policy, the Board may begin enforcement proceedings against the new Owner in accordance with this Enforcement Policy. The new Owner shall be personally liable for all costs and fines under this Enforcement Policy which are the result of the new Owner's failure and/or refusal to correct or eliminate the Violation in the time and manner specified under this Enforcement Policy.

12. Cure of Violation During Enforcement. An Owner may correct or eliminate a Violation at any time during the pendency of any procedure prescribed by this Policy. Upon verification by written report to the Board and sent, where appropriate, to the Board that the Violation has been corrected or eliminated, the Violation will be deemed no longer to exist. The Owner will remain liable for all costs and fines under this Enforcement Policy, which costs and fines, if not paid upon demand therefor by Management, will be referred to the Board of Directors for collection.

12. Definitions. The definitions contained in the Declaration are hereby incorporated herein by reference.

IT IS FURTHER RESOLVED that this Policy replaces and supersedes in all respects all prior resolutions relating to the levying of fines for violations of the Declaration, and this Enforcement Policy is effective upon adoption hereof, to remain in force and effect until revoked, modified or amended.

This is to certify that the foregoing resolution was adopted by the Board of Directors at a meeting of same held on June 29, 2016 and has been reflected in the minutes of the meeting and has not been modified, rescinded or revoked.

DATE: June 29, 2016 PRESIDENT: Elh A. Solor