

BCOPOA
Deed Restriction Enforcement Procedure
October 7, 2013

Paragraph 19 of the Deed Restrictions anticipates the "Committee" (since incorporation, the Board of Directors, or simply "the Board") acting "as an arbitration committee to resolve dispute or disagreement as to the meaning or validity of one or more restrictions contained herein or violation thereof...". Presenting such disputes or disagreements to the Board is required before resorting to a lawsuit. The Board's "decision may only be appealed to a court of appropriate jurisdiction."

The Board has resolved to operate in accordance with this provision. The purpose of this document is to establish a clear policy for future enforcement proceedings.

- 1) When a property owner believes that another owner has violated one or more of the deed restrictions, the aggrieved party is obliged to contact the accused violator personally. A face to face meeting is encouraged for an initial contact. Complainants who contact the Board or Board members without first contacting the offending owner will be referred to these written procedures. If, the Complainant is concerned about a face to face informal meeting and in the President of the Board's opinion, the complaint affects the subdivision as a whole as opposed to just the Complainant's property, the President may appoint a member of the Board to act as mediator at the informal meeting but such person may not discuss the mediation with the other members of the Board or participate in a subsequent Board adjudication.
- 2) If the matter is not resolved satisfactorily, the aggrieved party is allowed to bring to the Board a complaint including written evidence. Such written evidence must detail at a minimum the alleged violation, referring to and quoting specifically the relevant language of the deed restrictions, and describing the specific conditions existing on the accused property which the aggrieved believes are in conflict with the quoted text. Evidence of receipt of the written evidence by the owner of the offending property must be included.
- 3) Upon receipt of a complaint, the Board will offer the owner of the accused property an opportunity to respond in writing to the complaint, and schedule a time for an adjudication hearing to be attended by both property owners. The Board will attempt to persuade both parties to agree in writing, before the hearing commences, to abide by the decision of the Board, but failure to secure this agreement will not delay the hearing or influence the outcome.
- 4) If the owner of the accused property refuses to appear, the hearing will proceed based on the written evidence and testimony of the aggrieved owner. Should the aggrieved owner refuse to appear, the proceeding will be terminated, and cannot be reinstated for a period of two years.
- 5) If either party is dissatisfied with the decision of the Board, they may appeal the decision, as provided by Paragraph 19 of the Deed Restrictions, to the appropriate Hays County, Texas court.

The Board must decide whether to sponsor or participate in a lawsuit to compel compliance with the Board's decision. The Board will not expend BCOPOA funds on lawsuits except for serious and continuing infractions that can adversely affect all the property owners.

6. Nothing herein shall prevent the Board from issuing a cease and desist order to any property owner for a material violation of the Deed restrictions or from enforcing the Deed restrictions through fines and liens or instituting suit to enforce the deed restrictions for serious violations materially and adversely affecting the subdivision as a whole.