

Lake Royale Board of Directors Policy and Procedure For Review of Board of Adjustment Out of Compliance and/or Fining Decisions

The Lake Royale Board of Directors (henceforth BOD) shall hear appeals from property owners who have been found to be out of compliance and/or been fined by the Board of Adjustment (henceforth BOA). The BOD shall hear the evidence brought by the Covenants, Conditions and Restrictions (henceforth CC&R) Inspector or General Manager (henceforth GM). It shall also hear testimony from the property owners. The members of the BOD shall study and understand the BOA procedures, documents and the BOA rationale for each decision. After reviewing all the evidence, the BOD may vote to uphold the findings/rulings of the BOA or may overturn the BOA decision(s). A two-thirds vote of the members present shall be necessary to grant appeals.

Hearing Procedure

1. In advance of the BOD hearing, the members shall review all materials regarding the appeal. The GM or CC&R Inspector shall provide these materials at least five (5) days in advance of the hearing.
2. The president or designee will open the meeting for the hearing.
3. Every person presenting evidence about the case shall be placed under oath.
4. The GM or CC&R Inspector shall present the facts related to the appeal and the decision of the BOA.
5. The property owner or designee shall present the facts and arguments in support of the appeal.
6. The president or designee shall ask if any property owner would like to speak on behalf or against the appeal.
7. The BOD shall review the following information:
 - a. The BOA's decision
 - b. The rationale for the decision.
 - c. The procedures and documents followed by the BOA in making their decision.
 - d. Any new evidence not previously known by the Property Owners Association (henceforth POA) or BOA.
8. Based on all the information before them the BOD will discuss and weigh the evidence presented.
9. The members present will make a decision on the SPECIFIC appeal ('Out of Compliance' and/or 'Fining' appeal) brought by the property owner. The members shall choose one or both of the following processes that are applicable to the appeal. If the BOD determines that the BOA has not followed their proper procedures and documents or has not reached a logical conclusion or there is new information that would change the BOA decision, the BOD shall have the authority to overturn the BOA's decision with a two thirds (2/3) BOD vote.

Process for an Out of Compliance Appeal

1. The BOD members shall complete the 'Out of Compliance Checklist' form.
 2. The BOD secretary shall tabulate the votes and the president or designee shall announce the results. A two thirds (2/3) vote is required to grant the appeal.
 3. Appeal Granted: If the property owner's appeal is granted, the GM shall notify the property owner in writing within five (5) business days and all related BOA fines on this specific appeal shall be forgiven and will no longer be applicable.
 4. Appeal Denied: If the property owner's appeal is denied, the BOD shall proceed to the 'Process for a Fining Appeal' that follows.
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Process for a Fining Appeal

1. The BOD members shall decide whether to grant the fining appeal of the property owner by completing the 'Fining Appeal Checklist' form. A two-thirds vote is required to grant the appeal. The BOD secretary shall tabulate the vote, and the president shall announce the results.
2. Appeal Denied: If the BOD denies the appeal of the property owner, the property owner shall be responsible for paying the fines that were originally determined by the BOA and this would conclude the hearing. The GM will then inform the property owner in writing within five (5) business days of the results of the BOD decision.
3. Appeal Granted: If the property owner's appeal regarding his fines is granted, the BOD members shall complete the 'Fining Decision Form' to determine if any initial and/or recurring fine shall be given and the amount of the fines.
 - a. The BOD secretary will tabulate the results. If a two thirds (2/3) of the members have voted to assess fine(s), the amount of each fine shall be the average of the amounts specified by each individual member (Valid Votes). The fining amounts will be rounded down to the nearest dollar.
 - b. The property owner will be responsible for paying any fines that have been determined by the BOD.
 - c. The GM will inform the property owner in writing within five (5) business days of the results of the BOD decision.

Lake Royale Board of Directors Out of Compliance Appeal Checklist

Date: _____

Application Number: _____

Appeal Requested: _____

1. Has the BOA followed the proper procedures and documents? _____ _____	Yes	No
2. Is there new information that would change the BOA decision? a) If yes, in what way? _____ b) If yes, is it verified? _____	No	Yes
3. Has the BOA reached a logical conclusion on making their decision based on the following conditions: a) Is the BOA decision in keeping with evidence presented? b) Will the granting of the appeal be in harmony with the general intent and purpose of the restrictive covenants? _____ _____	Yes No	No Yes

DECISION: Circle One

- a) Approve the out of compliance appeal
- b) Deny the out of compliance appeal

Rationale for Decision: _____

Lake Royale Board of Directors Fining Appeal Checklist

Date: _____

Application Number: _____

Appeal Requested: _____

1. Has the BOA followed the proper procedures and documents? _____ _____	Yes	No
2. Is there new information that would change the BOA decision? a) If yes, in what way? _____ b) If yes, is it verified? _____	No	Yes
3. Has the BOA reached a logical conclusion on making their decision based on the following conditions: a) Is the BOA decision in keeping with evidence presented? b) Will the granting of the appeal be in harmony with the general intent and purpose of the restrictive covenants? _____ _____	Yes No	No Yes

DECISION: Circle One

- a) Approve the fining appeal
- b) Deny the fining appeal

Rationale for Decision: _____

Note: If the BOD secretary determines that two thirds (2/3) of the voting members have voted to approve the fining appeal, the members will complete the 'Fining Decision Form'

Lake Royale Board of Directors Fining Decision Form

To be filled in by members if the fining appeal is approved.

Note: *If two thirds (2/3) of the voting members have voted to assess fine(s), the amount of each fine shall be the average of the amounts specified by each individual member. The fining amounts will be rounded down to the nearest dollar.*

1. Initial Fine (One-Time Fine)

- a) Should there be an Initial Fine? Yes No
- b) Should the amount of the BOA Initial Fine of \$_____ be changed? No Yes

If yes, indicate the new amount: _____
(Shall be between \$50 to \$100, as approved by
BOD Fining Standards)

2. Recurring Fine (Daily)

- a) Should there be a Recurring Fine? Yes No
- b) Should the amount of the BOA Recurring Fine of \$_____ be changed? No Yes

If yes, indicate the new amount: _____
(Shall be between \$5 to \$50 per day, as approved by
BOD Fining Standards)

*****Secretary Use Only*****

Initial Fine

Recurring Fine

Average
