

## **FINING COMMITTEE CHARTER**

SEAGROVE PROPERTY OWNERS ASSOCIATION, INC.

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### **Mission Statement and Authority**

This Committee is established pursuant to Section 720.305(2) of the Florida Homeowners Association Act. It has the statutory authority to determine whether to confirm or reject a fine or suspension that has been levied by the Board against an Association member for a violation of the Association's governing documents, those being its (i) Declaration of Covenants and Restrictions, (ii) Articles of Incorporation, (iii) Bylaws, (iv) Architectural Review Criteria, and (v) Rules and Regulations as they are in effect from time to time.

All Association members are on notice that any violations of the Association's governing documents by a tenant, guest, or invitee of such member are the responsibility of the member.

### **Membership**

1. By law, the Committee must have at least three (3) members, and no Committee member may be an officer, director, employee, spouse, parent, child, brother, or sister of any director, officer or employee of the Association.
2. The Committee members and any alternate members (in case of a potential conflict of interest) will be appointed by the Board. Committee members must be members in good standing of the Association - that is, they must be named on the deed to the property or be a named trustee if the property is held in trust, and not be 90 days or more delinquent in paying any fee, fine, or other monetary obligation to the Association - and shall each be appointed to serve a one (1) year term. Appointment to the Committee requires a majority vote of the directors. Once appointed, the Committee members shall select a Chairperson among themselves.
3. The Board may fill vacancies on the Committee by a majority vote and may remove a member from the Committee at any time, with or without cause.

### **Responsibilities**

The Committee's sole responsibility is to hold timely and properly noticed hearings to determine whether to confirm or reject a fine levied by the Board against a parcel owner or their tenant, guest, or invitee for violation of the Association's governing documents.

### **Hearing Procedures:**

1. Upon receiving written notice from the Board that it has voted to levy a fine against a parcel owner or its tenant, guest, or invitee for one or more uncured violations of the Association's governing documents, the Committee will promptly provide to the Board in writing the date, time and place for a hearing to be conducted as to such fine. The hearing date will not be sooner than fourteen (14) days nor later than thirty (30) days from the date of such notice from

the Board. Holding a hearing is not contingent on whether the parcel owner or other party sought to be fined requests a hearing or plans to appear or participate.

**It is incumbent upon the Association's Board of Directors to provide at least fourteen (14) days' written notice to the parcel owner at his or her designated mailing or email address in the Association's official records<sup>1</sup> and, if applicable, any tenant, guest, occupant, licensee, or invitee of the parcel owner sought to be fined, of the fine determination and of the such person's right to be heard before the Fining Committee at that date, place, and time. The notice must include:**

- **A description of the alleged violation, including:**
    - (i) **a statement of the provisions of the Declaration of Covenants and Restrictions, Articles of Incorporation, Bylaws, Architectural Criteria, or Rules & Regulations that have been violated and**
    - (ii) **a short and plain statement of matters asserted by the Association; and**
  - **The specific action required to cure such violation, if applicable.**
2. The Committee shall coordinate with the Association's property management company to give at least 48 hours' advance notice of the Committee's hearing to Association members, along with access to a conference dial-in number.
  3. The Chair will preside over Committee hearings. A majority of Committee members will constitute a quorum. Committee determinations require the vote of a majority of the Committee members present at a hearing at which a quorum is present. Members of the Board and of the Association may attend all Committee hearings.
  4. The parcel owner sought to be fined shall have the opportunity to respond, present evidence, and provide written and oral argument on all issues at the hearing to review, challenge, and respond to any material considered by the Association. One or more representatives of the Board shall likewise have the opportunity to respond, present evidence, and provide written and oral argument on all issues at the hearing.
  5. **The Committee may either confirm or reject the fine that was levied by the Board. It may not vary the amount of the proposed fine or attach any conditions or other requirements with respect to the fine. If the Committee rejects the fine, it may not be imposed.**
  6. The Committee will report its determinations to the Board promptly following any hearing and will keep records and minutes of its hearings.
  7. The Committee, promptly following the hearing, must notify the parcel owner in writing at his or her designated mailing or email address in the Association's official records and, if applicable, any tenant, guest, occupant, licensee, or invitee of the parcel owner, of (i) the Committee's findings related to the violation, including any applicable fines that the Committee approved or rejected, and (ii) how the parcel owner or any tenant, guest, occupant, licensee, or invitee of the parcel owner may cure the violation, if applicable. The Association must provide written notice

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<sup>1</sup> FL Statutes Chapter 720.303(4)(g) provides that a member's designated mailing address is the member's property address, unless the member has sent written notice to the Association requesting that a different mailing address be used for all required notices. *It is preferable, if mailing the required notices, that they be sent via certified mail with return receipt requested in order to definitively establish proper notice.*

of such fine by mail or hand delivery to the parcel owner and, if applicable, to any tenant, guest, occupant, licensee, or invitee of the parcel owner. Copies must also be provided to the Board and the Association's property management company.

8. If the proposed fine levied by the Board is approved by the Committee by a majority vote, the fine payment is due five (5) days after notice of the approved fine, as required in the previous paragraph, is provided to the required parties.

**General Procedures:**

1. The Committee will review this charter at least annually and recommend any proposed changes to the Board for review. The Board may amend this charter at any time by majority vote but may not amend it in such a manner as to render the Committee non-compliant with Section 720.305(2) of the Florida Homeowners Association Act.
2. No Committee member is empowered to indicate or grant to any Seagrove resident a waiver from any provision of the Association's governing documents. Any such request or inquiry should be forwarded to the Board member on call or to the full Board, as appropriate.
3. The Committee shall not send out surveys or otherwise directly communicate to residents without first receiving the Board's approval for such communication.
4. At any time that the Chair of the Committee changes, whether due to resignation, expiration of term or any other reason, the Committee will assemble and provide to the Board a "Transition Report". The Transition Report shall contain a list of pending fines to be addressed in any upcoming hearing, and any documentation or other matters related to the operations and responsibilities of the Committee as to which a new Chair should be informed, all for the goal of a smooth transition in responsibilities.
5. If at any time the provisions of this Charter conflict with the Association's governing documents or Florida law, such documents or law shall govern.

**Association members also should be aware that the Association may suspend their voting rights for the non-payment of any fee, fine, or other monetary obligation to the Association that is more than 90 days delinquent. Any such suspension will end upon full payment of all obligations currently due or overdue to the Association. Any such suspension must be approved by the Board at a regularly noticed board meeting. Upon approval, the Board must send written notice to the parcel owner by mail or hand delivery to the parcel owner's designated mailing or email address in the Association's official records.**