

# Beginners Guide to Association Fining Procedures

(Taken in part from IM Funding Website: [Beginners Guide to Association Fining Procedures - LM Funding](#))

JAN 12, 2021

If you're on the board for a condo association or homeowner's association, one of the things that may frustrate you the most is how frequently members are violating the rules. Every violation must be addressed to set a precedent for all unit owners and preserve the integrity of the association and sometimes violations can also be costly. COA or HOA fines help to cover that cost. **If you're not going to enforce a violation, consider getting rid of the rule.**

As unfortunate as it is, violations are inevitable. It's important to have a clear fining procedure in place ahead of time. Here's what you need to know about creating and enforcing a fining procedure.

## Your Rights as a Condo or Homeowner's Association

As outlined in Florida Statute 718.3030 (3), it's an association's right to fine a unit owner that fails to follow the rules of the association that are found in the governing documents. **There's no law requiring associations to notify unit owners of their violation since they should know the rules and regulations found in their HOA or COA's governing documents.** However, the board cannot fine anyone unless they have given written notice that there will be a fine or other consequence like suspended voting rights. This must happen at least two weeks before the consequence takes effect.

## Creating a Fining Procedure: The Fining Committee

So how do you actually start this process of creating a formal fining procedure that you can actually implement for your association? **It begins with the board of directors forming a committee that includes at least three owners.** This is known as the fining committee. It's always a good idea to have an odd number of members to avoid ties on important decisions.

The members of the committee cannot be just anyone. They cannot pull double-duty as directors or officers of the association. It's also vital that the committee members do not have a conflict of interest. They should not be family members or partners of the directors, officers, or employees. At a board of directors meeting, each member of the committee must be identified and approved before they can begin fulfilling their obligations.

## Fining Policy

Next, you need an official policy on HOA or COA fines. When drawing up this policy, you'll need to include the following:

- A description of what a violation looks like
- The authority from the governing documents that makes the issue a violation
- How long the owner has to correct the violation

There is no specific law governing how long violators should be given to correct their delinquent fee. As long as the length of time is clearly in writing in the governing documents, you can make it whatever the board members feel is appropriate for the association's needs.

## Committee Hearing

As soon as the board of directors knows there has been a violation, they can inform management and the committee. This task can also be delegated to management. It's important for the committee to remain impartial about violations. Thus, **they are not the ones who are supposed to monitor in search of violations. They must be informed of them.**

**The violator should have two weeks' time to present their case to the fining committee if they have an issue with their fine. During this time, they cannot be fined.**

If the unit owner would like to contest the fine, the committee will need to schedule a hearing and complete the violation record. It's important to document the scheduling process. Write down who initiated the process, when, and any noteworthy points in the exchange. Documenting these events matters because some violators may say they were never properly notified. Documentation helps prove otherwise.

At the actual hearing, the member who's made the violation can present any facts they believe are relevant to their defense. A decision doesn't have to be made at the actual hearing. The committee will ultimately make the decision to confirm or reject the fine.

If the violator doesn't show up to the scheduled hearing or they opt to not have one, the committee can move forward with the fine. If a hearing does happen, the final decision needs to be sent in writing to the unit owner.

## The Fine

If the decision is to fine the violator, then the amount must be added to the account ledger. Notice of the fine should be sent via mail or an in-person delivery. The violator must know the amount of the fine and when it's due. The due date should be five days after the committee meeting when the fine was approved.

The board of directors is responsible for imposing the fine if the committee confirms it. The fine itself cannot be unreasonable. "Unreasonable" would be anything more than \$100 a day for a single violation or more than \$1000 in the aggregate.

## Unpaid COA or HOA Fines

If the violator is still not paying and showing no signs that they care, you may also want to talk to your lawyer just to make sure you are doing everything by the book. Should non-payment persist, it should be forwarded to a collection department or an attorney.

If after 90 days the HOA or COA fine remains delinquent and it has grown to over \$1000, the violator should have their voting rights suspended. Before this can happen, it must be approved at a board meeting. The board must also send a notice of this suspension to the owner and tenants. They should also lose the ability to use communal areas and amenities.

If the violator has still not paid after 30 days, it's time to send them a legal letter of non-payment and pursue a small claims lawsuit. This entire process from the hearing to the outcome of the hearing should be included in your fining policy.

## **Protect Your Association with LM Funding**

By following all of these guidelines, you should hopefully have a fining procedure in place that's easy to follow and effective. If you're used to members of the association violating the rules of your association, there's a good chance that you are also used to dealing with delinquent association dues. While this may seem like another inevitable part of being an HOA or COA, there is a solution. LM Funding helps associations by providing cash for delinquent fees. Our service protects your bottom line.