

## **Rules Compliance and Financial Impact of Rules Violations**

### **Homeowner Agreement/Commitment**

By deciding to live in an Homeowner Association (HOA) in Texas, each Owner legally consents to be governed by the rules (both the Legislature-generated Texas Property Code plus HOA-specific governing documents).

Please note that HOA rules and regulations, per the authority given by the above documents, may be instituted or changed by Board action without homeowner notice; documentation must only be filed in Fort Bend County to become enforceable. (The process as presented in the "Guideline for Board Actions Concerning Amenities Changes" has routinely been followed by this Board for rules changes however.)

Any cost for correcting violations is borne by the rules violator (the specific homeowner) and not the Association as a whole.

### **General Rules – Compliance Identification/Management**

The Board desires that all rules violations be solved in an amicable fashion through "friendly communications" and therefore enforcement actions are routinely begun through that procedure. It is recognized that back-and-forth communications are sometimes useful to clearly address issues. If, however, the communications prove unresponsive, the Association will exercise its authority to implement additional enforcement actions.

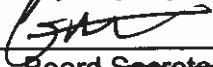
Compliance inspections are conducted through regular drive-arounds by utilizing a "windshield audit" procedure. Since this "from the street" process is utilized, and also in an effort to provide back yard privacy, the Association is likely unaware of every existing rules violation issue. Because of routinely being unaware of back yard situations (and using an illegally located back yard planting bed as a rules violation example):

- The argument that the planting bed has *always been there* – "it was put there by the previous owner" (and therefore the current homeowner has no liability) – is not a beneficial defense because:
  - (1) homeowners have significant freedom for back yard landscape design and that design is not typically seen by landscape compliance individuals; plus
  - (2) homeowner-required rules and regulations information is fully available to all homeowners and therefore full compliance is reasonable.
- The argument that *other* homeowners have similar illegal beds and the Board hasn't addressed *those* (in other words, this action is believed "selective prosecution") is also not a beneficial defense due to the item (1) point above.
- A successful argument that the issue being addressed is "grandfathered" must conform with the following reality: The Board has four (4) years to take corrective action on a rules violation before that violation becomes "grandfathered" from required correction, and the four-year clock only starts when the Board becomes aware of the violation (not when the violation initially came into existence).
  - A grandfathered rules violation example: Solar screen installation rules require that the screen have the same grid pattern that exists on the window being covered. For solar screens that were installed without the grid bars (= the rules violation) over front-facing windows (= the Association reasonably could have seen the violation) over four years ago, these specific screen installations are now grandfathered and can't now be acted upon. (Replacement screens over the same windows would be expected to comply with the solar screen rules however.)

Note: Fence-protecting spacing requirements are specified in the Architectural & Landscaping Rules & Regulations (ALR&R) Article 5. Back Yards. Section 3. Planting Beds.

A homeowner may appeal assessed fines to the Board if done so in writing; this appeal must be received by the Association within 30 days of receipt of the debit communication.

This guideline was ratified by majority Board vote on 2/13/23.

  
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Gary Patton, Vice President  
Board Secretary v. PRES.