

Centerfield in Bay Colony Homeowners Assn., Inc.

Declaration of Covenants, Conditions and Restrictions Enforcement Policy  
(Adopted 01/05/04)

1.0 PURPOSE

To adopt a policy which addresses the uniform enforcement of deed restrictions by Centerfield in Bay Colony Homeowners Association, Inc.

2.0 SCOPE

This policy applies to all members of the Centerfield in Bay Colony Homeowners Association, Inc., and all Lots which are subject to the Declaration of Covenants, Conditions and Restrictions for Centerfield in Bay Colony Homeowners Association, a Subdivision in Galveston County, Texas and any Amendments thereto (hereinafter sometimes "Centerfield in Bay Colony Declarations").

3.0 REFERENCE(S)

The Centerfield in Bay Colony Declarations  
The Centerfield in Bay Colony Homeowners Association, Inc., Bylaws  
The Articles of Incorporation for Centerfield in Bay Colony Homeowners Association, Inc.  
And all other governing documents for Centerfield in Bay Colony Homeowners Association, Inc. including but not limited to any published rules, regulations, guidelines, and resolutions.  
Texas Property Code Chapter 204  
Texas Property Code Chapter 209 – Residential Property Owner's Protection Act

4.0 DEFINITIONS

4.1 Deed Restrictions: As used herein, the term "deed restriction" is intended to include the architectural control provisions in Article IV and the use restrictions in Article VIII of the Centerfield in Bay Colony Declarations, and the Signage Manual for Centerfield in Bay Colony Homeowners Association, Inc.

4.2 Inspector: A person officially appointed to make inspections and report to the Centerfield in Bay Colony Homeowners Association, Inc., board of directors, who includes the property manager or his designee, any member of the Centerfield in Bay Colony Homeowners Association, Inc. Board of Directors, or any member of the Architectural Control

Committee. An inspector as defined herein must verify all alleged violations.

4.3 Maintenance: To repair or replace to an operable, functional and aesthetically pleasing condition.

4.4 Management Company: That entity contracted with the Centerfield in Bay Colony Homeowners Association, Inc., to perform certain administrative, managerial, and other specified services for Centerfield in Bay Colony Homeowners Association, Inc.

## 5.0 POLICY

The policy for the enforcement of deed restrictions and signage manual by the Centerfield in Bay Colony Homeowners Association, Inc. (the "Association") is as follows:

5.1 Owner's Address: Each owner shall notify the Association in writing, at all times, of his/her current mailing address. Inspector or his/her designee has the authority to automatically order a title search at owners costs whenever mail sent by the Inspector or his/her designee to an owner is returned by the post office as undeliverable or if the Inspector or his/her designee believes or has good reason to believe that ownership has changed. Any costs incurred by the Association in determining or attempting to determine ownership of the property or locating or attempting to locate the owner, and caused by failure of the owner to advise the Association of his/her mailing address, shall become charges due against the owner's account and charges against the owner's lot. Deed restriction violation enforcement shall not cease solely because notices are returned by the post office.

5.2 Notification: Following a deed restriction inspection and violation verification, a resident in violation of the deed restrictions shall receive notification of the violation as follows:

### 5.2.1 First Letter.

5.2.1.1 Upon inspection and verification of the violation, a letter shall be sent via regular mail to notify owner and tenant (if applicable) of the violation of the deed restrictions and to request correction of the violation.

5.2.1.2 Owner and tenant (if applicable) shall be advised to notify the Management Company if extenuating circumstances exists, if additional time to correct

the violation is necessary, or if further information is needed. Owner and tenant (if applicable) will be given an opportunity to be heard at the next regular meeting of the Board of Directors.

5.2.1.3 In the unusual circumstances that an association seeks an injunction to prohibit a violation of the Centerfield in Bay Colony Declarations by an owner or tenant (if applicable) and the association needs immediate relief otherwise it will suffer irreparable harm, the association may file suit for a temporary and/or permanent injunction without any further notice to the owner or tenant (if applicable). In the event an injunction is a possible remedy, the association attorney may send the first letter to owner or tenant (if applicable).

## 5.2.2 Second Letter.

5.2.2.1 Upon inspection and verification of the continuing violation, a second letter shall be sent via regular mail to notify owner and tenant (if applicable) of the continuing violation of the deed restrictions and to request correction of the violation. The length of time between the first and second letters shall be extended if the owner or tenant (if applicable) have contacted the Management Company requesting additional time.

## 5.2.3 Third Letter.

5.2.3.1 Upon subsequent inspection and verification of the violation, a letter shall be sent, certified return receipt requested and regular mail, to notify owner and tenant (if applicable) of the failure to correct the violation and to request correction of violation.

5.2.3.2 This certified letter will contain:

5.2.3.2.1 A description of the violation;

5.2.3.2.2 A notice to the owner that they are entitled to a "reasonable" period to cure the violation and that attorney fees and costs will be charged if the violation continues

after a certain date (the date must be at least 30 days from the owner's receipt of the notice); and

- 5.2.3.2.3 A notice to the owner that he/she may request a hearing on or before the 30<sup>th</sup> day after the date the owner receives the notice.
- 5.2.3.2.4 Language to indicate that if a hearing is not requested and the violation is not cured by the 30<sup>th</sup> day, all attorney's fees, related expenses and/or cost incurred by the Association shall be charged to the owner's account.
- 5.2.3.2.5 The date, time and location of the next Board Meeting along with contact information for the managing agent.

5.2.3.3 The owner and tenant (if applicable) will be advised that a \$200.00 charge will be applied to his/her account if the violation exists after the date certain in the letter and a hearing has not been requested, and the letter will further advise that it is the intent of the association to turn the violation over to the association attorney if not corrected and all attorney's fees and costs incurred by the owner will be charged to the owner's account. In accordance with the Texas Property Code, a charge of \$200.00 is applied to the violator's account, and as required, a statement of the charge will be mailed to the property owner at the last known address reflected on the association records.

5.2.3.4 Owner and tenant (if applicable) will be advised to notify the Management Company if extenuating circumstances exist, if additional time to correct is necessary, or if further information is needed. Owner and tenant (if applicable) will be given opportunity to be heard at the next regular meeting of the Board of Directors.

#### 5.2.4 Board.

5.2.4.1 Upon subsequent inspection and verification of the violation, a photograph of the violation will be taken (annotated with the date that the photograph was taken). The Board will make a determination

as to whether or not the violation should be turned over to the association's attorney following either the hearing requested by the owner or the deadline expiration to request such a hearing. The Board has the discretion to consider special circumstances applying to owner or tenant (if applicable).

- 5.2.4.2 If a hearing has been requested, the Board must make arrangements for it to be held no later than 30 days after the date that the Board and/or the managing agent received the written request.
- 5.2.4.3 The owner must be notified of the date, time and place for the hearing no later than 10 days prior to the hearing date.
- 5.2.4.4 Either party may request a 10-day postponement and additional postponements may be made by mutual agreement.
- 5.2.4.5 The hearing may be recorded by either party and the owner does not have to be present for the hearing to be conducted.

#### 5.2.5 Demand Letter.

- 5.2.5.1 The violation is referred to the association's attorney for a demand letter. The violation will remain on the inspection list until final resolution of the violation. A photograph may be taken of the violation on any inspection thereafter, if required by the association attorney.
- 5.2.5.2 Once the Board has referred the violation to an attorney, all communications and correspondence shall be directed to the attorney. No owner or tenant (if applicable) shall communicate about the violation directly with the board of directors or the manager(s) for the association once the board of directors has referred the file to the attorney for enforcement.
- 5.2.5.3 Any and all attorney fees associated with the demand for violation correction and collection of the associated fees shall be imposed on the

owner's account and immediately become eligible for collection.

- 5.3 Recurring Violator: The Board has the discretion to impose a fine immediately upon written notice for a similar violation within six months of the original violation, so long as the owner received the third notice letter. The Recurring Violator is not entitled to an opportunity to avoid the fine by curing the violation.
- 5.4 The notice and hearing provisions stated herein do not apply if the association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action.

NOTE: Revisions from the original draft appear in red type. The numbering system used in this version differs from that used in the original draft. NK