

Section C – Arbitration Hearing

THE ARBITRATION HEARING

This following section of BSLPOA Policy #3A is the guide to conduct an Arbitration Hearing that satisfies the requirements of State Statute #720.305.

1. “ I will be the moderator to facilitate this Arbitration Hearing, 2) My name is _____, 2) I am the President of the Board, **or** I am a Board Member, **and** 3) I will also be actively involved with all Board decisions that occur during the Hearing.”

A. IF there is not a quorum of the BOD or the Hearing Committee, say: “THERE IS NOT A QUORUM OF THE (Hearing Committee or BOD)_____. THIS ARBITRATION MEETING IS NOW CLOSED.”

B. If there is a quorum of the Board and the Hearing Committee, say:

1. “Florida Statute #720.305, Obligations of Members, Remedies at Law or in Equity: Levy of fines and Suspension of Use Rights, became effective July 1, 2010”.

2. “Burnt Store Lakes Property Owners’ Association Inc. satisfies all requirements of this statute an may levy fines for deed restriction violations plus restrict the use of our park facilities as assured by our Attorney-Client Privileged Correspondence, “Guidelines Necessary for Burnt Store Lakes Property Owners’ Association Inc. to Levy Fines.

3. “BSLPOA has defined the Deed Restrictions and the schedule for levying of fines in October of 2010.”

4. “Recovery of fines is defined in BSLPOA #3A, Recovery of Expenditures for Deed Restriction Enforcement, July 13, 2010.”

5. “This Arbitration Hearing is gathered at the request of the following Home Owner(s) or his/her designated representative including tenant(s) and the owner(s) of a Multiple Family Dwelling. (For simplification, the term Home Owner(s) will include the owner(s) of a “Multiple Family Dwelling.”) The Arbitration Hearings will be heard in the following order:

(1st) _____ (2nd) _____

(3rd) _____ (4th) _____

(5th) _____ (6th) _____

5. continued These Home Owner(s) or his/her designated representative including tenant(s) were sent a notice of a Deed Restriction Violation and a subsequent Notice of Hearing. The Manager has satisfied the requirements to make all Burnt Store Property Owners' aware of this meeting."

6a. The following Home Owner(s) or his/her designated representative including tenant(s) has/have notified the Manager that he/she will not be attending the Arbitration Hearing but will pay the fine(s) on the due date.

6b.. The following Home Owner(s) or his/her designated representative including tenant(s) failed to appear for this scheduled Arbitration Hearing and have (1) forfeited the right for the Hearing Committee decision, and (2) will be assessed the fine(s) as documented in the Deed Restriction Report.

7. "Welcome all visitors. Any Property Owner that is represented by counsel will please introduce him or her."

8. No member of the Hearing committee is related to any member of the BOD or the Manager nor a spouse to any member of the Hearing Committee, or the BOD, or the Manager.

9. "Burnt Store Lakes is a Deed Restricted community. Deed restrictions are enforced by members of the Board of Directors and The Board relies on administrative assistance from the Office Manager. Fines may be levied against the home owner, his guests, his invitees, and the tenant(s). "The Board of Directors agreed upon the following policy:"

a. "Every home owner will not require an Arbitration Hearing for a first time deed restriction violation nor will the home owner r be fined. This is valid for every category listed in the BSLPOA document "Deed restrictions: Levying of Fines, Changes in State Law," Schedule A – Arbitration Committed Guidelines, Effective October 1, 2010."

10. "Will the members of the Hearing Committee please stand and identify themselves starting first with the Chairperson."

12. "The Hearing for (# __) _____ will begin."

13. Reading form the new Deed Restriction Violation Report, say: “This Deed Restriction Violation Report is for:

- a. Read aloud the house number, street, and home owner’s name or his/her designated representative including tenant(s).
- b. Read aloud the Director’s name that issued the new Deed Restriction Violation Report.
- c. Read aloud all reported Violation Categories, the prior number of violations for each Violation Category, and the appropriate fine and the fine due date.
- d. Pass the Deed Restriction Violation Report to the Manager and request the Manager validate the Deed Restriction Violation Report as follows:

- 1) Verbally validate that the inspecting Director has properly input all requirements for which the inspecting Director is responsible, and
- 2) Give the Deed Restriction Violation Report to the Manager and ask “Does this Report have all input which the Manager is responsible for?”

14. Say to the 1st Home Owner(s) or his/her designated representative including tenant(s): “Here is your Deed Restriction Violation Report (give it to him/her). Would you care to question the Director making the inspection if he/she is present, any other director, me, or the Manager regarding the document?”

15. Say: “Would you like to present your case regarding the violation(s)?”

16. Say: After resolution to #15 above, say “This portion of the Hearing is closed.”

“The Deed Restriction Violation Report shows the specific violation(s) and the specific fine due date(s). The Hearing Committee members are requested by the Board of Directors to levy the fine(s) and accept the due date(s). The process that must be used to do this will be by any member of the Hearing Committee making a motion, using the procedures of **Robert’s Rules**, to levy the fine amount and fine due date for each violation shown on the Manager’s input portion of the Deed Restriction Violation Report. Robert’s Rules allow discussion between voting members before making any motion.”

“Are there any questions? (If yes, resolve them with input from the Board or Manager).

“The Hearing Committee will please leave the room and process the Deed Restriction Violation Report and return when it is processed. If you have any questions during the processing of this report, all members of the Hearing Committee may return to this room for resolution. I will use the Board of Directors and/or the Manager to resolve any issue(s).”

17.

a. “Will the Hearing Committee Chairperson please take this Deed Restriction Violation Report from me?”

b. When the Deed Restriction Violation Report is processed, please return to this room.

18. When the Hearing Committee returns, the Moderator will ask the Chairperson:

19. “What are the results of the request to levy fines and the fine(s) due date?”

The outcome of the Arbitration Hearing for one Arbitration Hearing follows:

Option A. If the Hearing Committee **approved** the motion to levy the fine(s) and the fine due date, the **MODERATOR** will state:

1. “The Hearing Committee has approved the motion to levy the fine(s) amount of:

#1) \$_____ #2) \$_____ #3) \$_____. The fine(s) due date is:

Day _____ Month _____ Year _____

2. “This Arbitration Meeting is now closed,”

Option B. If the Hearing Committee **rejects** the motion to levy any fine(s) the **MODERATOR** will state: **“This Arbitration Meeting is now closed.”**

Two or More Arbitration Hearings:

C. If the Hearing Committee **rejects** the motion to levy a fine for a home owner, the Moderator will state to the home owner: "You are excused from this Arbitration Hearing and you may exit the building or be seated in this room. The **Moderator** will conduct the next and all following Arbitration Hearings starting from step #12 above and will continue until all remaining Arbitration Hearings are processed. After all Arbitration Hearings are processed the Moderator will state: **"This Arbitration Meeting is now closed."**

If the Hearing Committee again rejects the motion to levy a fine in any following Arbitration Hearing , the moderator will continue from Step #12 above until all Home Owners have had a Arbitration Hearing. At the conclusion of the final Arbitration Hearing, the **Moderator** will state: **"This Arbitration Meeting is now closed."**

Adopted November 11, 2011