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MARKUP #1 ->

ISSUE #1

OWNERS ASSOCIATION OF PATRIOT ESTATES
COVENANT ENFORCEMENT AND FINING POLICY

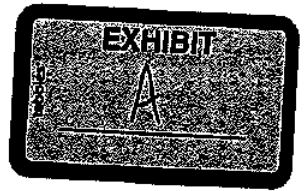
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WHEREAS, Article 8 of the Declaration of Covenants, Conditions & Restrictions for Patriot Estates, as amended from time to time (the "Declaration"), and Article 6 of the Bylaws of Patriot Estates Homeowners Association, Inc. (the "Bylaws"), provide for the enforcement of the restrictive covenants contained in the Declaration, the Bylaws, rules and regulations, guidelines and other standards (hereinafter the Declaration, Bylaws, rules and regulations, guidelines and standards are collectively referred to as the "Governing Documents"), as well as for the imposition of fines relating to violations of the Governing Documents; and

WHEREAS, Article 5 of the Declaration and Articles 5 and 6 of the Bylaws authorize the Board of Directors of Owners Association of Patriot Estates (the "Association") to make and enforce reasonable rules, and the Board finds there is a need to establish orderly procedures for the enforcement of the restrictive covenants set forth in the Governing Documents and for the levying of fines against violating owners.

NOW, THEREFORE, IT IS RESOLVED that the following procedures and practices are established for the enforcement of the Governing Documents and for the elimination of violations of the Governing Documents found to exist in, on and about the Lots and Common Area within Patriot Estates and the same are to be known as the "Covenant Enforcement and Fining Policy" (to be referred to herein as the "Enforcement Policy").

1. Establishment of Violation. Any condition, use, activity or improvement which does not comply with the provisions of the Governing Documents shall constitute a "Violation" under this Policy for all purposes.
2. Report of Violation. The existence of a Violation will be verified by a field observation conducted by the Board or its delegate. For the purpose of this Enforcement Policy, the delegate of the Board may include Management, an officer or member of the Board, or a member of any committee established by the Board for this purpose. To assist with recordkeeping, the field observer may, but is not obligated to, prepare a report which may include the following:
 - a. Identification of the nature and description of the Violation(s).
 - b. Identification by street address or legal description of the Lot on which the Violation exists.
 - c. Date of the verification observation and name of the person making such observation.



MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE BOARD & COUNSEL REVIEW

Sec. DEDICATORY INSTRUMENT (p. 4): Enforcement/fining provision omits mandatory Texas Property Code § 209.006 certified mail notice, 30-day Board hearing request window, or HB 614 recorded fine schedule requirements.

Statutory / Legal Reference: Tex. Prop. Code § 209.006, § 209.0061 & § 209.007
Statutory Comparison: Under Tex. Prop. Code § 209.006 and § 209.007, an association may not levy a fine or suspend an owner's right to use a common area unless it first gives written notice by certified mail describing the violation, providing a reasonable period to cure (if curable and not a repeat violation within 6 months), and stating that the owner may request a hearing before the Board on or before the 30th day after the notice was mailed. Further, under § 209.0061 (HB 614), the association must maintain and provide a recorded enforcement policy specifying general categories of restrictive covenants and a schedule of fines for each category.

CURRENT WORDING IN DOCUMENT:
COVENANT ENFORCEMENT AND FINING POLICY WHEREAS, Article 8 of the Declaration of Covenants, Conditions & Restrictions for Patriot Estates, as amended from time to time (the "Declaration"), and Article 6 of the Bylaws of Patriot Estates Homeowners Association, Inc.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Before the Association levies a fine, suspends an Owner's right to use a common area, or files suit other than to collect regular or special assessments or foreclose a lien, the Association shall give written notice to the Owner by certified mail in compliance with Tex. Prop. Code § 209.006. The notice must describe the violation, include a copy of or link to the Association's recorded enforcement and fine schedule policy required by Tex. Prop. Code § 209.0061 (HB 614), specify a reasonable cure period (for curable violations), and inform the Owner that they have thirty (30) days from the date notice is mailed to submit a written request for a hearing before the Board pursuant to Tex. Prop. Code § 209.007.