

Fine Penalty Levy Enforcement Procedure

The Trustees have adopted a formal Fine Penalty Levy Enforcement Procedure and will levy fine penalties as contemplated by the Constitution and rules against transgressing members by complying with the following Community Schemes Ombud Service procedure as adopted by resolution of Trustees dated 7 September 2017:

PROCEDURE:

1. Issue written notice of transgression and instruct member to rectify within specified timeframe of 7days or fine stipulated in notice will be levied and member asked to agree or object against fine levy.
2. If member agrees to the fine in writing, then fine is levied immediately on levy account.
3. If member fails to comply or raises objection or fails to accept the fine, then written notice to member issued to appear before Trustees on certain date for hearing of reasons for objection and refusal to pay the fine.
4. Member attends hearing and gives reasons and leaves and Trustees deliberate merit and to either levy fine or not to levy fine and inform member in writing thereafter of outcome.
5. If member did not show at hearing and/or Trustees decided to levy the fine, written notice is given to member that must include date for payment and that if not paid it will be levied on the contribution levy account thereafter.
6. Members who refuse to pay the fine levied by HOA will be deemed in arrears with levies and normal levy collection procedure will be followed and handed over to Attorneys for collection of the levies outstanding in Magistrates Court where the member can defend the summons if so inclined.

Explanatory notes on procedure per step:

1. The Trustees will give the Member written notice as follows:
 - 1.1. The notice must specify the conduct which constitutes a nuisance or danger and the Rule or the provision of the Constitution allegedly contravened; and
 - 1.2. The notice must warn that recipient that if he/she persists in such conduct or contravention after 7 (seven) days of receipt thereof, a penalty or penalties will be imposed on the Member.

- 1.3. For purpose of this section written notice will be delivered and deemed to be received by Members as follows:
 - 1.3.1. Email, subject to acknowledgment of receipt. Emails shall be deemed to be received by the Member should the Trustee receive an automated read receipt;
 - 1.3.2. Delivered by hand to the premises. This shall be subject to the notice being handed over to occupant older than 14 (fourteen) years old at the premises or if the notice is fastened to the premises' gate. This notice shall be deemed to be received immediately;
 - 1.3.3. Sent by registered post. This notice shall be deemed to be received 7 (seven) days after postage.
2. The manner of agreement to fine will be that the member sends a written email to the HOA that he accepts the fine so levied and that it may be added to his levy account.
3. If the Member nevertheless persists in the conduct complained of in para 1 after the initial 7 (seven) days, the Trustees may convene a meeting of Trustees to discuss and deal with the matter as set follows:
 - 3.1 A written notice, in which the relevant Member is informed of the purpose of the meeting and invited to attend, must be sent to the Member at least 7 (seven) days before the meeting is held.
 - 3.2 At the meeting, the Member must be given the opportunity to present their case, but except as may be permitted by the chairperson, they may not participate in the decision making or voting at the meeting.
4. After the Member has been given the opportunity to present their case, the Trustees may, by way of a special resolution (75% of the Trustees present at the meeting with a minimum of 3 Trustees), impose an "initial penalty" for the first offence and a "subsequent penalty" for every identical offence thereafter, without derogating the rights in law of the Trustees to take further action.
5. Any fine imposed in terms of para 4 that is not paid within 14 (fourteen) days after the Member has been notified thereof, may be added to the contribution levy which the Member is obliged to pay.
6. The HOA is authorised per Constitution to collect arrear levies from the members in arrears by handing the member in arrears over to Attorneys for collection by means of issue of summons for payment in the Magistrates Court Bellville. Any member in arrear can decide to oppose such summons and enter his plea regarding defending the collection by means of normal civil court pleadings procedure and be represented by Attorney in defending the payment demand by summons from the OWMHOA.

OUDE WESTHOF MASTERS HOMEOWNERS ASSOCIATION

RESOLUTION

At the Trustees Meeting of the Oude Westhof Masters Homeowners on 7TH September 2017 it was resolved that the "the Formal Procedures For Fines document " levied via members levy or building account and constituted in terms of the rules as laid down by the Community Schemes Ombud Service Act, be adopted on completion and put into practise with immediate effect thereafter.

Werner Greeff _____

Frans Oeschger _____

Lara-Jan Pretorius _____

Morne Viljoen _____

Ignatius Hagglund _____

Emile Terblanche _____

Signed 7th September 2017