

The West Bluff Hills News

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This month's topic: Violations and Fines Policy

We switch gears this month to discuss the Violations and Fines Policy. Adopted by the board on Jan 8, 2019, it was one of those documents you received in the mail and likely tossed without reading. But the details are worth a look.

There are lots of things you or your tenant cannot do, more than we will list here. The important part is that if you are dinged for something, there are ways to keep from being fined.

The document lists three types of violations:

Architectural (mostly not getting [approval](#) before doing repairs or renovations), **Visible** (hanging a towel on your balcony, having a plant touching the exterior of a building or fence, or not closing your garage door in a timely manner) and **Nuisance** (noise, odor, pet behavior, or doing your laundry at 2 am).

It is important to note that if a fine is levied, it is the owner who is responsible for paying, not the tenant.

Verification: Any owner can report a violation by filing a written complaint and sending it to property management. There is [a form for this](#) and it must be signed and dated. There is an important note here: For violations that are unable to be verified by the board or management, then **one other affected member must file and sign a written complaint**. This is an extremely important clause as it helps to insure that bogus claims are not filed against you. If you or your tenant are called out on something that can't be verified, inquire about this.

Enforcement

Ok, let's say that you or your tenant got reported. Let's pick something innocuous like hanging your dripping wet suit on your balcony after an awesome surf session.

Someone sees it and takes a picture (verifiable evidence). They file a report. What happens next?

First, you (and your tenant) receive a First Notice. It is somewhat of a friendly letter letting you know of the violation and requiring a reply. If you fix the problem (example: Move the wetsuit inside or hang it in your closed garage), you are off the hook.

But wait! There is single sentence under I. C that states "At the discretion of the board, any Member may be called directly to hearing if their violation(s) impact several members and/or the Association." This would bypass the first notice.

Let's assume the board members like surfers and proceed with the first notice even though a number of members saw your wetsuit hanging there.

Thirty days later, if the violation is not fixed or continues, then the owner gets a **hearing notice**. If you and or your tenant have a case to present as to why the problem persists, now it your chance. Tenants can accompany the owner to this hearing and it is held at the executive session preceding the general board meeting once a month. Unaccompanied tenants cannot attend this hearing.

Again, if the problem is fixed by the hearing date, then you are off the hook (but there is a catch, see below *)

The hearing is held even if you do not show up. With no defense, it is likely that fines will be assessed against you. (see the fines policy below)

Then you get a "post hearing notice" that says what the board decided to do. You are required to get this within 15 days of their decision.

Now, just to make sure that the board has your attention, within 30 days of the post hearing notice management will check to make sure the violation was corrected. If it was not corrected then you get more fines (the structure of which should be stated in the post hearing notice)

*In the document, there is one notable section, IV, E, 3. It simply says "If the violation is recurring, the violation will not be deemed a new violation."

The surfer spaces out and hangs his wetsuit on the balcony a second time. Homeowner A takes a picture again and files another complaint. If the owner was already fined once for the wetsuit then it will trigger an immediate secondary and perhaps a larger fine? We aren't quite sure how this is handled.

The document then goes on to state that if the violation continues, the Board may impose a daily fine. Our poor surfer now gets dinged for \$300 every day that his wetsuit hangs out to dry on the balcony. Hey, it's cheaper to buy a new wetsuit! Of course, we are being facetious here. No reasonable board would consider doing this, but they could.

Fines

Hazardous actions (which may cause risk or harm) are in a special category, as they should be. The fine can be as great as \$1000.

For non-hazardous violations, the amount of the fine is specified in Section V, A. **First offense**, it states .."not less than \$50 nor more than \$250". Think you might get away with a \$50 fine? Highly unlikely. In the July meeting, the board set the first offense amount at \$150. We believe it is good to have a set amount to avoid favoritism (or unfairness as may be the case). Regardless, all members will be made aware of this with a "Notice of proposed change" **before** it is implemented. You should receive some correspondence from management regarding this. If you are opposed to it (example you believe \$150 is too high or maybe too low), you have 28 days following receipt of the notice to express your opinion. Following this 28 day period, the board will either choose to adopt the change or not.

Subsequent Offenses of the same rule may be fined at twice the amount of the first authorized fine. That means \$300 on the second and subsequent violations if the first fine is \$150. The word "may" offers some hope here. Make friends with your board members!

Do you have to pay the fines? We are not legal experts yet were able to find this on the Davis-Sterling website. Unlike failure to pay HOA assessments, violation fines are in a different category. "Boards have two options. The first is to take the person to small claims court for a judgment in the amount of the fine. This approach is not always successful--small claims judges are a bit unpredictable. The second option is to hold a hearing and find the person 'not in good standing' and suspend their privileges and voting rights until the fines are paid" (quoted from the Davis-Sterling website). Again, we are not in the legal field so it would be a good thing to seek legal advice if you choose not to pay.

See the entire Violations and Fines document [here](#).

Amid some confusion, the scheduled board meeting for August 27 was rescheduled for September 5th. There were four homeowners in attendance. Here is a summary of what happened.

- Parking was discussed in detail with the HOA attorney, management, board members and owners who were present. Hangtags were discussed for homeowners however management reminded the board that this would take time and money to distribute, purchase and update every year. It was mentioned that parking is really not a problem at WBH and the attorney stated if there was not a parking problem, why are we discussing it. Duh! The conversation was lengthy and the favored idea was to require all autos have their license plate registered. Unregistered cars (non residents) would have 72 hours to register or be towed. No proposal was made or passed but the attorney was directed to develop a parking policy for follow up.

- The laundry room renovation (6921 building) is still in progress but moving along slowly. There is no specific completion date available at this time.
- The pool gate on the South side should be working again in about two weeks (mid September) and new locks will be installed on both gates. We believe the new locks will be push button with a numerical code. Owners should be able to receive the code by contacting management or going to the TownSq website.
- [Architectural applications](#) are available on the TownSq website and on our site with the link above. If you are planning on having any external or internal work done on your condo, you may need approval first. Contact management to see if you do.
- The board approved 2 new signs for WBH stating penal codes, trespassing, no soliciting, no loitering
- A discussion was held on developing a booklet/handout for new owners and tenants to clarify general WBH rules and regulations. In the meantime, there is [a document from 2011](#) available.
- Finally, the Annual meeting (elections) will be held November 19th. Consider putting your name on the ballot!

The next board meeting will be held on September 24th at The Prescott Companies – 5950 La Place Court, Suite 200 Carlsbad, CA 92008 Executive Session scheduled to begin at 5:30 p.m. / General Session will follow at 6:00 p.m.

Our property manager is Margaret Rios and if you are a WBH owner and need to contact management, call 760-634-4700, or email: customerservice@prescottmgt.com Prescott is a big company so be sure to state that you are a West Bluff Hills homeowner and Margaret is your manager.

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We'll keep you informed.

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