CHNNA Bylaws and Deed Restrictions Bullets

What are our governing documents?

* Our governing documents consist of two separate documents:
* 1) CHNNA Bylaws – Bylaws define how the association is run and managed and contain the rules that govern meetings, voting, elections, the Board of Directors, various committees, and keeping of records.
* 2) Deed Restrictions - Declaration of Covenants, Conditions, and Restrictions also known as "Deed Restrictions," "Restrictive Covenants," or "CC&Rs” is the main document that defines the rights, responsibilities, and legal obligations of the homeowner/renter in the HOA. This document outlines rules related to property use, upkeep and appearance, violations, fines and fees, and enforcement procedures.

Do we have to pay our yearly dues?

* In Texas, assessments refer to what many people call "dues."
* Each homeowner is contractually obligated to pay dues when buying a home in the HOA.
* Failure to pay assessments can result in fines and legal penalties such as liens and foreclosure.

What are the procedural due process requirements for enforcement of restrictive covenants?

* The Association must give written notice to the Owner that details the following:
  + Describe the violation or property damage that is the basis for the suspension

action, charge, or fine (CHNNA HOA does not currently have the authority) and state any amount due to the Association from the Lot Owner.

* + Inform the Owner that they:
    - May request a hearing before the Board on or before the 30th day after the date the Notice was mailed to the Owner.
    - May have special rights or relief related to the enforcement action under

federal law,

* + If the violation is of a “curable nature” and does not pose a threat to public health or safety, then the Notice must also:
    - Inform the Owner that he or she is entitled to a reasonable period to cure the violation and avoid the fine (not applicable to Chimney

Hills North currently), or suspension.

* + - Specify the date by which the Lot Owner must cure the violation is

order to avoid the fine

* If the violation is not rectified, the Association has the authority to, under the guidance of an attorney, sue a property owner for any for monetary damages or for injunctive relief to compel the offending property owner to cure the violation.

Does CHNNA HOA have the authority to fine?

* **There is no authority under the Declaration to levy fines for violations. Nor is there any such authority to levy fines under the Association’s Bylaws or Articles of Incorporation.**
* **The Association’s current Fine Policy is not enforceable for the above-mentioned**

**reasons.**

* **In order to have an enforceable Fine Policy the Association would need to amend the Declaration to provide the Board with the authority to levy fines for violations of the Declaration.**

What does the HOA need to do to enforce fines?

* An amendment to our deed restrictions giving the HOA authority to levy and enforce fines would need to be affirmatively approved via cast votes of sixty-seven (67%) or 110 of Lot Owners within the Association.
* The Declaration states that seventy-five percent (75%) is required to amend the Declaration, however Texas statute provides that a Declaration may be amended by a vote of 67% of the total votes allocated to property owners entitled to vote on the amendment of the Declaration.
* Because State law supersedes contract law, 67% of affirmative votes would succeed in adopting an amendment to authorize the Board of Directors to levy fines for violations of the Declaration.
* HOAs must adopt an enforcement policy that details the restrictive covenants, fines for each violation and hearing procedures.
  + HOAs must post a copy of the policy on their publicly accessible website and send it to each homeowner annually via mail or email.

What does the HOA need to do to update our Governing Documents?

* HOA needs homeowners to serve on a committee to amend the Bylaws and Deed Restrictions to reflect current state law and to add/change/clarify current Deed Restrictions.
* This committee will bring their findings to a general HOA meeting for a vote for the changes.
* Once Bylaws and Deed Restrictions are approved at the HOA meeting it will need to be sent to homeowners to vote for adoption.
* HOA needs homeowners to assist with approaching homeowners/neighbors to vote for adoption.
* 110 Homeowners votes are needed for adoption.