

Resolution of Board of Directors  
of  
Garden Oaks Maintenance Organization, Inc.

Deed Restriction Enforcement Procedure

WHEREAS, the Garden Oaks Maintenance Organization, Inc. (the “Association”) has the authority to enforce the deed restrictions in the subdivision; and

WHEREAS, the Association should have a standard procedure for deed restriction enforcement, it is:

RESOLVED, that the Association adopts the following Deed Restriction Enforcement Guide.

This procedure is adopted to provide general guidelines for enforcing deed restrictions within the subdivision. It is not intended to create rigid rules or to create substantive rights for homeowners, and the Association may vary its approach to deed restriction enforcement, as circumstances require.

Standard Procedure. This is the normal operating procedure for enforcing the deed restrictions. It is used in circumstances where there is no immediate urgency.

1. Attempt to informally contact homeowner, preferably in person to resolve the issue.
2. First letter to homeowner. This letter describes the violation and asks that it be remedied within a certain time period – between ten and thirty days. The letter tells the homeowner that if special circumstances exist, the homeowner should contact the Association. Sent by regular mail.
3. Second letter to homeowner. This letter provides Ch. 209 statutory language about the homeowner’s right to a hearing before the board on or before the 30<sup>th</sup> day after the date the owner receives notice and that the owner may have special rights of relief related to the enforcement action under federal law, including the Service members Civil Relief Act., if the owner is serving on active military duty. In addition, the homeowner is warned that the next step will be to send the file to the Association’s attorney. Sent by certified mail and regular mail.
4. Board authorizes litigation. The board reviews pending legal matters at its regular meetings and decides whether to file a lawsuit. A lawsuit should be filed unless the matter is minor or insignificant or the attorney advises that chances of success are very low.

*Above policy was proposed, read, discussed, and adopted by a majority of the Board of Directors at the following Board of Directors meeting:  
Resolution amended on:*

Emergency Procedure. This procedure is employed where an emergency requires immediate action. For example, a construction project has suddenly appeared which is in clear violation of the restrictions and the construction on the violation is proceeding rapidly.

1. Report violation to COH Deed Restriction enforcement group or file a 311 report.
2. Letter to homeowner. This “Cease and Desist” letter comes directly from the attorney and advises the homeowner that if the activity is not immediately cured, a lawsuit will be filed requesting a restraining order or a temporary injunction. The board should have already been polled on the violation or authority should be delegated to the president or another officer or board member to make the decision. The attorney should be authorized to file suit if the violation is not cured immediately. Sent by certified mail and by regular mail, and also by messenger at the attorney’s option.
3. Instruct attorney to immediately file a lawsuit for a temporary restraining order or temporary injunction.

Legal Protocol. Once litigation has been authorized, all contact between the homeowner and the board or officers of the Association should stop. The homeowner should be referred to the attorney for information and resolution of the violation.

Recurring Violations. If a homeowner repeatedly violates the same restriction, a letter should be sent which describes the violation and states that if the violation returns, the matter will be sent to the attorney without further notice from the Association. The attorney should send a similar letter that states that if the violation is not cured or ever returns, a lawsuit will be filed without further notice. However, a new notice will be sent to the homeowner if the violation occurs again after six months following the prior notice.

Tenants. If there appears to be a tenant on the property, the Association may send a letter to the tenant as well.