

MEMORANDUM

TO: Diamond Head Beach Hotel Owner
FROM: Board of Directors' – Diamond Head Beach Hotel
DATE: July 20, 2007
RE: FINE POLICY/INSURANCE MATTERS/ANNUAL MEETING MINUTES

Enclosed you will find several items which have been approved by the Board of Directors.

1. Fines Enforcement Policy-Revised March 23, 2007 (Effective upon receipt.)
2. Insurance Matters–June 1, 2007 (Effective upon receipt.)
3. Minutes of the 2006 Annual Meeting–March 21, 2007 (For your information.)

Please review and keep on file for your records. Thank you.

Diamond Head Beach Hotel

FINES ENFORCEMENT POLICY

(Revised March 23, 2007)

WHEREAS, the Board of Directors of the Association of Apartment Owners of Diamond Head Beach Hotel ("Association") is empowered to administer the affairs of the Association pursuant to its governing documents; and

WHEREAS, there is a need to promote harmonious living conditions, peaceful and orderly use of the common elements, and to protect all occupants from annoyances and nuisances caused by improper conduct; and

WHEREAS, Article X, Section 1 of the Bylaws authorizes the Board to amend the Rules and Regulations as the Board may deem necessary for the operation and use of the common elements, including, without limitation, such aspects of the operation and use of the apartments as may affect the operation and use of the common elements, including the enforcement of said Rules and Regulations,

NOW, THEREFORE, BE IT RESOLVED that the Board adopts the following fines enforcement policy to be added to the Rules and Regulations as new paragraph 3 to Article XIII (Violations of these Rules):

"XIII. VIOLATIONS OF THESE RULES

* * *

3. Fines Enforcement Policy

- a. The Board of Directors has adopted this enforcement policy that gives the Association the right, in addition to any other rights or remedies, to issue violation notices and to levy fines against the responsible owner, whether or not the violator is the owner, tenant or guest of the owner's apartment. Fines duly imposed by the Board or its agent but unpaid will constitute a lien on the apartment that may be foreclosed upon in like manner as a lien for unpaid common expenses.
- b. The Board of Directors has adopted the following schedule of fines (Noted in "Attachment A") for any violation of the Association's Declaration, By-Laws or Rules and Regulations (collectively "Governing Documents"):

Initial violations. A written notice of any initial violation shall be distributed to said violator(s). A copy of the violation notice shall also be sent to the unit owner if the violator is not the unit owner. A copy of the violation notice shall also be sent to the management company for processing of any associated fines. If the unit is a unit managed through the designated Hotel Operator who holds the front desk lease, and if the violation is against a hotel guest, the notice of violation will be given to the hotel employee on duty to deliver to the hotel guest. It will be the hotel operator's duty to collect the fine or reflect the amount in the bill at checkout and submit fine payment to the AOA.

Fines for initial violations shall be assessed according to the violation type with amounts as noted in Attachment A.

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It shall be expected that the violator/owner shall not engage in further violations of the same nature. However, in the event a second violation occurs at a future date by the same violator, the fine assessment shall be for a Repeat Offense and not an Initial Offense with amounts as specified in Attachment A.

Continued Violations. If the violation continues after the time period for compliance stated in Exhibit A, a per day fine may be imposed against the violator with notice of the same sent to the apartment owner if the violator is not the apartment owner.

Payment of Fines.

Violator/owner shall have 10 days to pay any associated fines. If the fine remains unpaid after 10 days from the date of the notice, it will be assessed against the apartment owner unless appealed. If the violation ceases and/or is corrected within the time allowed, it shall be expected that the violator/owner shall not engage in further violations of the same nature.

Repeat violations. If recurring violations of the same provision of the Governing Documents occur or if the violation continues after the time period for compliance stated, the matter may be referred by the Board to the Association's legal counsel for appropriate action. Any legal fees and costs incurred by the Association after the matter has been referred to legal counsel shall be assessed against the apartment owner.

- c. The Managing Agent and his/her staff, or any duly authorized agent of the Association such as the resident manager or property manager, as the agent for the Board of Directors, are authorized to issue violation notices and levy fines.
- d. In the event of a violation of the Governing Documents that poses a threat to persons or property, as determined by the Board, the procedures set forth hereinabove and below, may be suspended and referred directly to legal counsel for appropriate action.
- e. An apartment owner, for his/her self or for the violator, if the violator is not the owner, may appeal a notice of violation or fine as follows:

Note: This fining policy is intended as a guideline only. It is the responsibility and obligation of the Association to interpret any activities that constitute a breach of safety or inappropriate conduct and implement fines as it deems reasonable and necessary.

Notice of Appeal. By delivering to the Resident Manager or mailed to the Board of Directors in care of the Managing Agent for the Association, postage prepaid, certified mail, return receipt requested, no later than 20 days from the date of the notice of violation or fine, a written notice of his/her appeal and the reasons therefore. Such written notice shall constitute a Notice of Appeal. The date of mailing as certified by the post office or the date of hand delivery to the Manager shall constitute the date of the appeal.

Contents of Notice of Appeal. In the Notice of Appeal, the apartment owner shall indicate whether he/she wants a hearing before the Board or, alternatively, wants the Board to decide the matter without a hearing. Failure to request a hearing in the Notice of Appeal shall be deemed a request for the Board to decide the matter without a hearing. Any hearing shall be held within 30 days of the receipt

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of the Notice of Appeal. If the apartment owner does not request a hearing, he/she should enclose with the Notice of Appeal a statement of facts, affidavits or declarations of witnesses, and other written materials the owner wants the Board to consider in deciding the appeal.

Disposition of Appeal. The Board shall deliver or mail a written decision to the apartment owner within 30 days of the hearing, or if there is no hearing, within 45 days of receipt of the Notice of Appeal.

- f. **REMEDY NOT EXCLUSIVE.** In addition to the imposition of fines, the Board of Directors is empowered to take all such other action as permitted by the Declaration, Bylaws, and these Rules and Regulations to enforce the provisions of the Association's governing documents. This includes the retention of legal counsel, initiating legal action or arbitration proceedings, and/or any other form of remedy available to the Association by and through its Board. All remedies shall be cumulative and not be exclusive of the other."

FURTHER RESOLVED, that the Board shall give notice to all apartment owners of the above fines enforcement policy.

BOARD OF DIRECTORS
DIAMOND HEAD BEACH HOTEL

By 
its

June 1, 2007

Apartment Owners of
Diamond Head Beach Hotel

Re: Important Insurance Matters

Dear Apartment Owners:

Required Insurance

This is to advise that the requisite number of owners have authorized your Board of Directors to adopt a policy requiring all apartment owners to obtain reasonable types and levels of insurance in accordance with Section 514B-143(g), Hawaii Revised Statutes, the newly re-codified condominium law. Under the new law, if an owner fails to obtain such insurance, the Association or Board may force place such insurance and back charge the owner the reasonable premium cost for the coverage.

For those of you with a current condominium owners' policy (commonly referred to as an HO-6 policy), we ask that you check with your insurance agent to insure that your policy has coverage for damage to your apartment interior, contents and improvements, especially upgrades such as wood flooring, wall covering, custom cabinetry and countertops, and loss assessment coverage of at least \$5,000 (the current amount of the deductible under the Association's master policy). Keep in mind that in the event of a loss, any coverage that may be available under the Association's master policy for an apartment may only cover items included in the apartment as originally built (e.g. carpet, appliances, cabinets, etc. of comparable quality to what came with the apartment when originally sold) and not upgrades.

For those of you who do not presently carry an HO-6 policy for your apartment, we urge you to immediately contact your insurance agent to ensure that you have such insurance in place for your apartment. Please also keep in mind that in no event is the Association or Board liable to any person either with regard to the failure for an owner to purchase insurance or a decision by the Board not to purchase the insurance for the owner, or with regard to the timing of its purchase of the insurance or the amounts or types of coverage obtained.

Insurance Deductible Policy

Finally, in accordance with Section 514B-143(d), Hawaii Revised Statutes, the Board has adopted a policy regarding the handling of the insurance deductible in the case a claim is made under the Association's master policy for damage to an apartment or the common elements.

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Your Board is happy to report that Diamond Head Beach Hotel is now among the growing number of condominium buildings in Hawaii to avail itself of the new insurance tools made available by State law. Hopefully, these new tools will assist the Association and all members in addressing in a fair and equitable manner claims arising from the loss or damage to both the common elements and the apartments.

Very truly yours,

BOARD OF DIRECTORS
DIAMOND HEAD BEACH HOTEL

By: 

Its Board President