

SF 1750 WEBINAR SERIES



HOA
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NETWORK

By Board Leaders. For Board Leaders.



SJJ LAW

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SF 1750:

PART ONE | COVENANT ENFORCEMENT



Moderator Mark Foster
HOA Leadership Network



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Webinar Format

- ← One Hour Presentation
- ← Slides will be available on HOALN Resource Hub
- ← Questions will be taken via chat
- ← Please keep your microphone on MUTE

SF 1750 History

- ⚡ Negative News Stories → HOA Working Group → SF 1750
- ⚡ 2 Year Legislative Cycle
 - 2025—Passed Senate, stalled in House
 - 2026—Passed House, Senate consents, Walz signs
- ⚡ Operative Dates
 - ⚡ January 1, 2027
 - Other than definitions

General Categories of Changes

4

TODAY PART I: COVENANT ENFORCEMENT

- Rules
- Fines
- Due Process
- Collections
- Parking
- Architectural Approval
- Grievance Rights
- Legal Fee Notice
- Retaliation

AUGUST 26 @ 9 A.M. PART II: ASSOC. GOVERNANCE

- Board Meetings
 - *Agendas / Documents*
 - *Homeowner Forum*
- Working Sessions
- Conflicts of Interest
- Safe at Home
- Disclosure
 - *Resale*
 - *Annual Packet*

SEPTEMBER 30 @ 9 A.M. PART III: CONTRACTS/CHECK LIST

- Contracts
 - *Three bids*
 - *Management Contracts*
- Miscellaneous
 - *Local Government*
 - *Termination*
 - *Definitions*
- Check List for Readiness

Today: Covenant Enforcement



Covenant Enforcement: Rules

- Minn. Stat. § 515B.3-102(a)(1)
- Reasonable
- Notice and comment period

interest community. Rules and regulations adopted must be reasonable. An association must give unit owners no less than 21 days' notice before the association votes to adopt, amend, or revoke a rule or regulation to review and comment on the proposed change. Notice may be provided in any reasonable manner. An association may adopt a temporary rule without notice in exigent circumstances, provided the board acts as soon as practicable to give the requisite notice to unit owners before adopting the rule permanently. Nothing in this chapter prevents the unit owners from asking the board to adopt, amend, or revoke a rule or regulation.

Covenant Enforcement: Fines

- Minn. Stat. § 515B.3-102(a)(11)
- \$100 maximum
 - Exceptions (some nonsensical)

unit; unless, at a board meeting, a greater amount is approved by owners of units to which a majority of the votes in the association are allocated, impose a fine not to exceed \$100 for a single violation of the declaration, bylaws, and rules and regulations, except the association may impose a fine greater than \$100 for a subsequent violation for the same conduct, or if the violation:

(i) has a serious and immediate impact on the health or safety of a resident, occupant, or guest;

(ii) causes physical damage to another unit or a common element; or

(iii) involves using the property for financial enrichment, including renting or offering for rent a unit in violation of the declaration, bylaws, or a rule or regulation prohibiting short-term or long-term rentals.

Covenant Enforcement: Fine Schedule and Remedies

- Minn. Stat. § 515B.3-102(a)(11)
- Create list of fines for common violations
- Create description of remedies

If the association's governing documents authorize the association to impose fines for violations of the governing documents, an association must provide a list of fines for common violations of the governing documents and a description of the remedies available to the association to every unit owner in any reasonable manner, including but not limited to electronic mailing or posting on the association's website, including when the schedule is amended by the association;

Covenant Enforcement: Due Process

- Minn. Stat. § 515B.3-102(a)(11)
- Right to appeal
 - New timing guardrails
 - Violation vs. fine?
 - If fine is upheld, explanation must be provided in resolution

A unit owner pursuant to section 515B.3-115(g) or 515B.3-1151(g), after receiving notice of a violation or a notice of an assessment, has the opportunity to be heard before the board or a committee appointed by it to contest the fine or assessment. A unit owner, within 30 days after receipt of the notice, must request a hearing, unless the declaration provides for a different period. The unit owner has the right to be advised by an attorney or a designated representative at the hearing. If a hearing is requested by a unit owner, attorney fees and costs must not be charged or collected from a unit owner unless the hearing is held and the board or committee adopts a final resolution upholding the fine or assessment against the unit owner or owner's unit. The association must provide, in any reasonable manner, a copy of the final resolution within 30 days of its adoption. The resolution must contain an explanation for upholding the fine or assessment to the unit owner.

QUESTIONS



Collections: Collection Policy

- Minn. Stat. § 515B.3-115(K) & 3-1151(k)
- Formal policy required

(k) An association must adopt a collection policy and provide a copy to all unit owners.

Collections: Interest and Late Fees

- Minn. Stat. § 515B.3-102(a)(17-28)

- Maximum of 8% interest

- Maximum late fee:
 - \$20 or 5%

(17) impose interest only on delinquent assessments for common expenses or special assessments not to exceed eight percent; and

(18) impose a fee for late payment of common expenses and special assessments not to exceed the greater of \$20 or five percent of the amount owed.

Collections: Accept Payment

- Minn. Stat. § 515B.3-102(g)
- Association must accept partial payments
- Exception if foreclosure has “commenced”

(g) An association may not refuse to accept payment from an owner of any amount for any assessment, fine, or fee, except if the association has commenced a foreclosure under chapter 580 or 581. Acceptance of a payment does not constitute a waiver of any claim or defense the association may assert. Nothing in this paragraph affects the unit owner's right to reinstate under section 580.30.

Collections: Application of Payments

- Minn. Stat. § 515B.3-102(h)
- Payments applied to “common expenses” and special assessments
 - Likely means annual assessments
- Exceptions very narrow

(h) A payment by a unit owner must be applied to assessments for common expenses and special assessments first before it is applied to fines, fees, or other assessments, except that the payment can be applied:

(1) in a different manner upon the agreement of the unit owner and the association; or

(2) by the association to fines that remain unpaid for more than 120 days if the fine is for a violation that:

(i) has a serious and immediate impact on the health or safety of a resident, occupant, or guest;

(ii) causes physical damage to another unit or a common element; or

(iii) involves using the property for financial enrichment, including renting or offering for rent a unit in violation of the declaration, bylaws, or a rule or regulation prohibiting short-term or long-term rentals, as provided under subsection (a)(11).

Collections: Payment Plans

- Minn. Stat. § 515B.3-102(h)

An association must consider offering a reasonable payment plan for a delinquency.

- “Consider”
- “Reasonable”
- Documentation

Collections: Foreclosures

- Minn. Stat. § 515B.3-116(h)
- Minn. Stat. §§ 515B.3-115(K)/3-1151(k)
- No foreclosure unless 3 months delinquent
- 3 notifications prior to attorney (one certified)
- Law firm's pre-foreclosure notice sent certified

(h) The association's lien may be foreclosed as provided in this subsection, provided that an association may not commence foreclosure unless common expenses and special assessments and fines that meet the conditions for exception to the limit specified in section 515B.3-102(a)(11), are delinquent for more than three months.

(1) three separate notifications to a unit owner before the account is referred to a law firm or collection agency for collections, including at least one notification sent by certified mail to the unit owner's registered address; and

(2) a law firm, engaged by the board to foreclose an association's lien for assessments, to send the notice required pursuant to section 580.021 by United States mail and certified mail to the unit owner.

QUESTIONS



Covenant Enforcement: Parking

- Minn. Stat. § 515B.3-107(e)
- Personal vehicle
- Work vehicle
- HOA may not prohibit parking in certain areas

(f) An association has no authority to regulate the parking of a unit owner or a guest, tenant, or invitee of the unit owner within an improved public right of way that a unit of government maintains and repairs, except that the association may, in its declaration or by rule or regulation, require compliance with all applicable statutes, laws, and ordinances. Absent legislative authorization, a unit of government does not have the authority to delegate its police powers to a private entity. If an association is an authorized delegatee, the delegation is valid for a period not to exceed five years, at which time it may be renewed upon application by the association and agreement of the unit of government. As used in this subsection, "personal vehicle" means an automobile with a gross vehicle weight of less than 26,001 pounds that is used for personal pleasure, travel, or commuting to and from a place of work, including but not limited to a van, pickup truck, small truck, ambulance, law enforcement vehicle, emergency response vehicle, or utility company vehicle. A personal vehicle does not include a motor home, a self-propelled recreational vehicle, or a commercial vehicle used primarily for commercial business unless otherwise stated in this section. A unit owner or resident must be permitted to park a personal or work vehicle on the portion of the unit owner's property or the portion of the limited common element allocated to the unit that was originally designed or subsequently modified for the parking of vehicles, provided the vehicle, when parked, does not encroach on another unit owner's property, fully or partially block access to a pedestrian walkway, or interfere with the association's ability to maintain roads, driveways, parking spaces, common elements, or limited common elements.

Covenant Enforcement: Architectural Review

- Minn. Stat. § 515B.3-107(f)
- Procedures required
- Timing requirements

(e) An association with authority under the declaration to approve or disapprove a request by a unit owner who has a right granted under this chapter, or the declaration, to make alterations to the owner's unit must establish, by rule or regulation, a fair, reasonable, and expeditious procedure for making any decision on the proposed alteration. The association must provide the procedure to a unit owner who requests an alteration. Unless the declaration, bylaws, or rules and regulations provide for a different period, the board or a committee appointed by the board must make a decision within 90 days after submission of an application that contains all the information required or any additional information or changes to the proposal requested by the association's board. A decision must be in writing, must be made in accordance with the standards of conduct for directors set forth in the statute under which the association is organized, and must be reasonable.

Covenant Enforcement: Grievances

- Minn. Stat. § 515B.3-102(i)
- Grievances
 - Good faith effort
 - Ombudsperson referral

(i) A board must allow a unit owner to present, orally or in writing, a grievance to the board or a committee appointed by the board on a matter other than a fine governed under subsection (a)(11), or an application to alter a unit under section 515B.3-107(e). The board must make a good faith effort to resolve the grievance or, if resolution is not achieved, refer the unit owner to the common interest community ombudsperson. An association may not impose any fees or charges on the unit owner for making the presentation.

Covenant Enforcement: Inquiries

- Minn. Stat. § 515B.3-125
- Inquiry (?)
- Referral to attorney
 - Notification
 - Exceptions

(a) If an association elects to refer a unit owner's inquiry to the association's legal counsel, the association must notify the unit owner in advance that the association:

(1) intends to refer the inquiry to the association's legal counsel; and

(2) may incur legal fees which may result in an assessment to the unit owner.

(b) The board must provide the notification under subsection (a) at no cost to the unit owner.

(c) Notice under this section is not required to be given before referring a matter to the association's legal counsel if:

(1) the matter involves pending or threatened litigation;

(2) the unit owner has retained legal counsel and the association is responding to the owner's attorney; or

(3) immediate legal action is necessary to preserve the legal rights of the association or to prevent immediate harm to persons or property.

Covenant Enforcement: Retaliation

- Minn. Stat. § 515B.4-116(e)
- Retaliation prohibited

(e) An association may not retaliate against a unit owner for asserting any right the unit owner has under this chapter or other law. For the purposes of this section, "retaliation" means to restrict any right or privilege a unit owner has, or impose any fine, penalty, or other charge on a unit owner, not authorized under the declaration, bylaws, or rules or regulations. Retaliation does not include commencing a foreclosure action for a fine that remains unpaid after the time allowed for payment, after the board has adopted a resolution upholding a fine under section 515B.3-102(a)(11).

QUESTIONS



UPCOMING WEBINARS

20

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PART II COMING
August 26 | 9 a.m.
Association Governance



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