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Franklin County Water District Lessees

Re: Administrative Penalty

The District has adopted a policy that will deal with an ongoing problem that has continued to worsen. Lessees' get construction permits then make changes without modifying the permit and getting the District's approval for the changes, the construction project is then completed and it is not what was originally permitted by the District. There is then an expectation for the District to bend its rules and approve the construction anyway.

Over 40% of the permits submitted for final approval in the last year have required that the District make some sort of variance to the Rules and Regulations to approve the construction. This is an unacceptable situation.

Lessees' are the responsible party for construction on District property, not the contractor, the surveyor, or any other agent. If there is a problem with a construction project on District property, it is the lessee and only the lessee that the District is going to deal with regarding that problem. It is the lessees' responsibility to make sure that anyone they have hired is following District requirements. To address this problem, the Board of Directors of the District has adopted the attached policy. This policy requires that a monetary fine be assessed against the lessee for any violation of a construction permit issued under Article 14 of the District's Rules and Regulations.

This is not as egregious as it sounds; no one has to pay this fine. All they need to do is build what they requested and got approval for on the permit. If they discover that they want to make a change to the construction project, they just need to amend the permit, prior to the final inspection, at no charge and make the change. The end result is that what is shown on the required as-built survey must match what was permitted.

It is not fair to the public the District represents or to fellow homeowners for people to be able to build whatever they want and expect it to be approved. The Rules and Regulations are what has made Lake Cypress Springs what it is and has protected the substantial investment of the homeowners.

I suggest that lessees' get a survey before construction to make absolutely sure of the location of setbacks and property lines. You should then use the same surveyor to do the as-built survey. You need to make sure that your contractor has detailed plans and that he follows them. It is easy because of distance and time constraints to just let the contractor handle the job; however, ultimately it will be you, the lessee, who will be charged the administrative fine if there is a violation of the permit. It is in your best interest to make sure that your contractor is doing what you hired them to do and following the Rules and the permit requirements.

Regards,

David I. Weidman

BOARD OF DIRECTORS:

Tim Philhower, President - Billy M. Jordan, Vice-President - Rodney Newsom, Secretary - Dwayne Bolin, Director - Gary Cunningham, Director

FRANKLIN COUNTY WATER DISTRICT
POLICY FOR ASSESSING ADMINISTRATIVE PENALTIES

The following policy shall become immediately effective upon the adoption by the Board of Directors of the Franklin County Water District:

The District may assess an administrative penalty against a Lessee who causes (directly or indirectly) or allows any violation of (i) the duly adopted Rules and Regulations, or (ii) the terms of a permit issued for construction on such Lessee's Leased Property. Any such administrative penalty shall be imposed in accordance with the following guidelines:

1. The General Manager or his designee shall make a determination and deliver written notice thereof to the Lessee of the Leased Property upon which a violation has occurred (the "**Defaulting Lessee**"), which notice shall set forth in reasonable detail (i) the nature of the violation, (ii) the actions required to cure such violation, and (iii) the deadline by which such cure must be completed

2. If the Defaulting Lessee has failed to cure the violation by the deadline specified in the General Manager's written determination, the General Manager may issue an order assessing an administrative penalty against such Defaulting Lessee and the Leased Property in an amount ranging from \$1,000 to \$25,000 for the initial violation and \$0 to \$5,000 for each additional day that the violation remains uncured.

3. In assessing the administrative penalty, the General Manager may consider (i) the nature and scope of the violation; (ii) the effect of the violation on the Lake, other District Property and other Lessees; and (iii) the estimated net savings or net income or net gain (collectively, the "**Economic Benefit**") realized by the Defaulting Lessee as a result of violations. In determining Economic Benefit, the cost of returning to compliance and/or remediation shall be considered. Economic Benefit may not be less than zero.

4. The penalty amount for any single violation, or each group of violations which are treated as a single violation, shall not exceed a total of \$50,000. The final penalty amount for any continuing violation shall not exceed \$100,000.

5. An administrative penalty shall be paid within (60) sixty days from the date of issuance of the order assessing the penalty.

6. Any Defaulting Lessee subject to an administrative penalty in an amount exceeding \$10,000 may appeal to the Board by submitting a written request to the General Manager by the agenda submission deadline prior to the next regularly scheduled Board meeting, but in no event later than 30 days after the imposition of such administrative penalty. Any appeal will stay the due date of such administrative penalty until the appeal is resolved.

7. Any Defaulting Lessee who fails to pay an administrative penalty by the final due date shall be subject to termination of such Defaulting Lessee's lease.