

Contesting an HOA Fine

Utah law dictates the procedure to contest a fine issued by an HOA.¹ The procedure is currently the same under both the Community Association Act and the Condominium Ownership Act; every Utah HOA is subject to one of these acts. The procedure supersedes anything to the contrary that may exist in an HOA's governing documents (i.e., its declaration (CC&Rs), plat, articles of incorporation, bylaws, and any resolutions and rules).

Before a fine can be assessed for a violation of the governing documents, a written warning (e.g., a notice of violation) must first be issued.² A fine may be assessed for another violation of the same rule or provision identified in the written warning that occurs within a year of notice of a prior violation or, for a continuing violation, not less than 48 hours after notice of the prior violation.³ This notice may be the original written warning or, if permitted by an HOA's governing documents, a subsequent notice of fine.⁴

Once a fine has been assessed, Utah law specifies the procedure that may be used by an owner to contest the fine. Utah law does not provide a procedure for contesting a written warning. Following is a summary of the procedure.

1. The owner who is assessed a fine may request an informal hearing before the board to dispute the fine within 30 days after the day on which the owner receives notice that the fine is assessed.⁵
2. At a hearing, the board shall provide the owner a reasonable opportunity to present the owner's position to the board.⁶
3. If an owner timely requests an informal hearing, no interest or late fees will accrue until after the board conducts the hearing and the owner receives a final decision.⁷
4. An owner may appeal a fine by initiating a civil action within 180 days after:
 - a. if the owner timely requests an informal hearing, the day on which the owner receives a final decision from the board; or
 - b. if the owner does not timely request an informal hearing, the day on which the time to request an informal hearing expires.
5. A board may delegate administration of the procedure to a managing agent, but may not delegate its responsibility to conduct the informal hearing.⁸

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¹ See the Utah Condominium Ownership Act, 57-8-37 Fines, and the Utah Community Association Act, 57-8a-208 Fines.

² 57-8-37(2) and 57-8a-208(2)

³ 57-8-37(2)(b) and 57-8a-208(2)(b)

⁴ 57-8-37(2)(c) and 57-8a-208(2)(c)

⁵ 57-8-37(4)(a) and 57-8a-208(4)(a)

⁶ 57-8-37(4)(b)(i) and 57-8a-208(4)(b)(i)

⁷ 57-8-37(4)(c) and 57-8a-208(4)(c)

⁸ 57-8-37(6) and 57-8a-208(6)