



August 23, 2013

Dear Bird Key Members and Neighbors:

Bird Key is a wonderful place to own a home and reside. In 2008, a majority of the lot owners successfully voted to revive the 1959 original deed restrictions and have them apply to the lots and residents. By revitalizing the deed restrictions, the members took a necessary step forward to protect property values and improve our quality of life. In 2013, the members again came together as a community and successfully voted to substantially amend the governing documents. These amendments were necessary to bring the documents up-to-date and resolve many long-standing community issues. The new governing documents have been recorded and are available for downloading on the Association's website at www.bkha.org or you may obtain a hardcopy from the Association's office.

The Association's Board of Directors desires to act reasonably and consistently when enforcing the rules and restrictions as to all Bird Key lots. Without reasonable and consistent enforcement, the new governing documents will be meaningless. The Board of Directors is, therefore, resolved to uphold and reasonably enforce the rules and restrictions contained in the governing documents.

Due to past practices of non-enforcement, inconsistent enforcement or less than adequate enforcement, as well as the substantial passage of time in many instances, we could not expect to succeed in compelling members to correct certain pre-existing violations of the governing documents. However, our attorneys have advised us that the law does allow the Association to grandfather existing violations of the governing documents and then start enforcing the rules and restrictions on an ongoing basis against **new violations**, after a notice such as this letter is mailed to all homeowners. This, therefore, is what our attorneys call a "**clean slate**" letter to the homeowners and residents.

Specifically, any violations pertaining to or associated with the following that occurred prior to the date of this letter (August 23, 2013) will be deemed to be grandfathered and will not be enforced:

1. Location and Height of Boat Lifts, Docks, Pilings and Moorings;
2. Setback incursions involving Pool Cages;
3. Gazebos and Pergolas;
4. Setback incursions involving Mechanical Equipment (including sound barrier violations);
5. Miscellaneous Lot Setback incursions;
6. Height of landscaping between houses located within the side setbacks; and
7. Roofs.

The above list does NOT include a failure or refusal to properly maintain and repair your home, property or the improvements located on your lot. These types of violations are not grandfathered under the terms of the clean slate letter. Violations that threaten the safety of other properties or persons, in the sole opinion of the HOA's Board of Directors, are not grandfathered.

Please be advised that any new violation of the above rules and restrictions which occurs and comes to the attention of the Association after the date of this letter will result in all necessary enforcement action by the Association's Board of Directors.

As to a related but slightly different topic, **prospective enforcement of the new rules and restrictions as to existing legal situations** will comply with the language contained in Article 3.13 of the Declaration of Restrictions, which states as follows:

3.13 Grandfathering. *The Association shall permit existing physical situations that were legal and in full compliance with Bird Key's governing documents at the time they were installed to continue, including without limitation, asphalt and metal roofs, asphalt driveways, chain link fences and stone yard, etc. For example, if these amendments require all building roofs to be tile, existing asphalt roofs that were permitted when originally constructed will not have to be changed in any way and may be replaced, when needed, with another asphalt roof. However, if the house is torn down, the owner would have to comply with the new roofing restrictions. This analysis also applies to other physical situations, such as driveways, fences, stone yards, etc. New rules and regulations not pertaining to physical situations (for example, leasing restrictions) would apply as soon as the new documents are approved by the membership and recorded in the public records.*

Please be certain to comply with all of the Association's rules and restrictions. If you have any doubt or question about the applicability or meaning of a particular rule or restriction, please contact the Association's office at (941) 366-0848 or email the Association at bkhaoffice@verizon.net and the manager will assist you or direct you to the appropriate person for assistance.

Lot owners are also encouraged to promptly review their lot, home and improvements for compliance with the new governing documents. If you believe you have a valid pre-existing grandfathered situation, you may notify the Association and request a property inspection to document the grandfathered situation. It is not mandatory that you do so and your lot will not be inspected unless you first request it.

Additionally, the Association, its various committees and its management are stepping up their efforts to educate members and their contractors concerning the requirements of the rules and regulations. When new violations are discovered, the Association will first bring the violation to the attention of the member and work with the member to resolve the violation.

Please place this letter with your other Association governing documents and provide it to your purchaser when you sell your Bird Key home.

The Association's Board of Directors, its officers, management and your neighbors appreciate your cooperation and support in the Association's efforts to fairly and equally enforce the rules and restrictions, for the purpose of protecting and preserving Bird Key as a quality community in which to live and own. Thank you for doing your part.

Sincerely,

Robert B. Sirgant, President
On Behalf of the Board of Directors