

HOA Rules and Enforcement



The Management Group, Inc.'s
February 24, 2007
Director's Workshop

Eric Tenbrook
Barker Martin, P.S.

719 – 2nd Avenue, Suite 1200, Seattle, WA 98104
319 SW Washington Street, Suite 810, Portland, OR 97204

www.barkermartin.com

Due Process

- Notice
- Hearing
- Uniform application of rule enforcement
- Reasonable sanction (fine/access restriction)
- Opportunity for appeal



Oregon Statutory Authority



- Association may adopt rules for the operation and use of the common property
 - Bylaws set process
 - Must provide for notice and opportunity to be heard if the rules will terminate access/use of common property or impose fines for violations [ORS 94.630(1)(m)-(n)]
 - Must adopt and mail any fine schedule to each owner prior to imposing fines

Oregon Statutory Authority

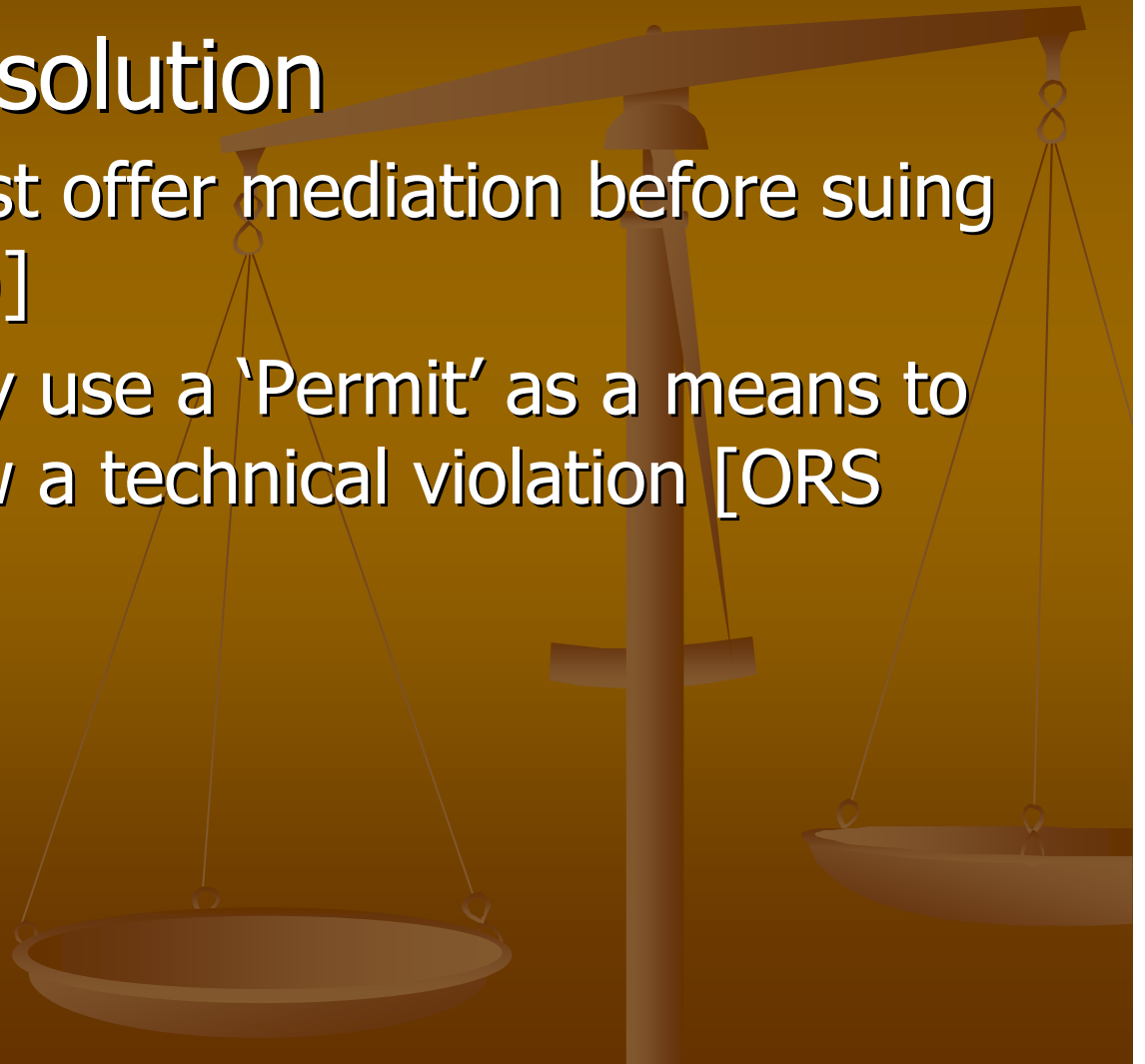


- Failures to comply may be enforced by:
 - Fines
 - Termination of Access/Use of Common Property
- Generally fines will be treated as unpaid assessments
 - Allows for lien claim against owner property [ORS 94.709]
 - Can pursue as ordinary action for money judgment w/o waiving lien rights

Oregon Statutory Authority

■ Alternative Resolution

- Association must offer mediation before suing [ORS 94.630(4)]
- Association may use a 'Permit' as a means to selectively allow a technical violation [ORS 94.630(3)]



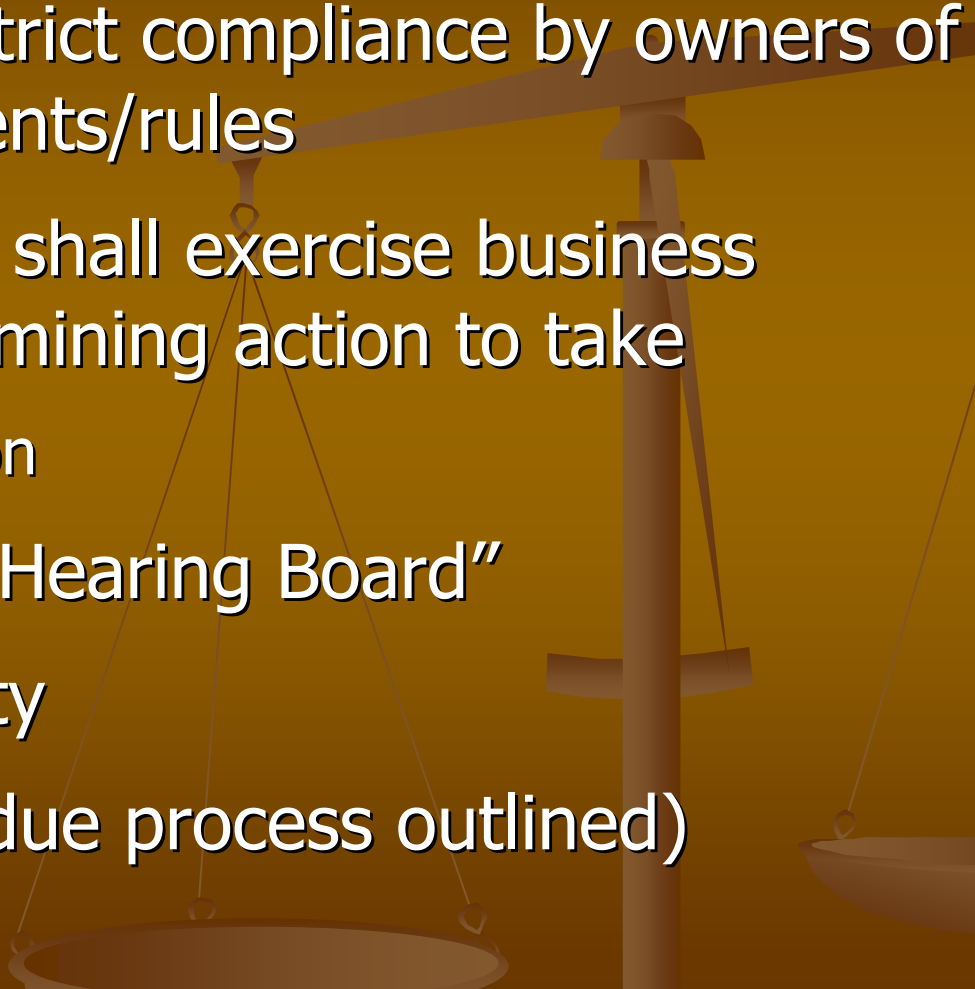
Wash Statute

- RCW 64.34.304: Unit Owners' Association – Powers

(j) Impose and collect any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in RCW [64.34.204](#) (2) and (4), and for services provided to unit owners;

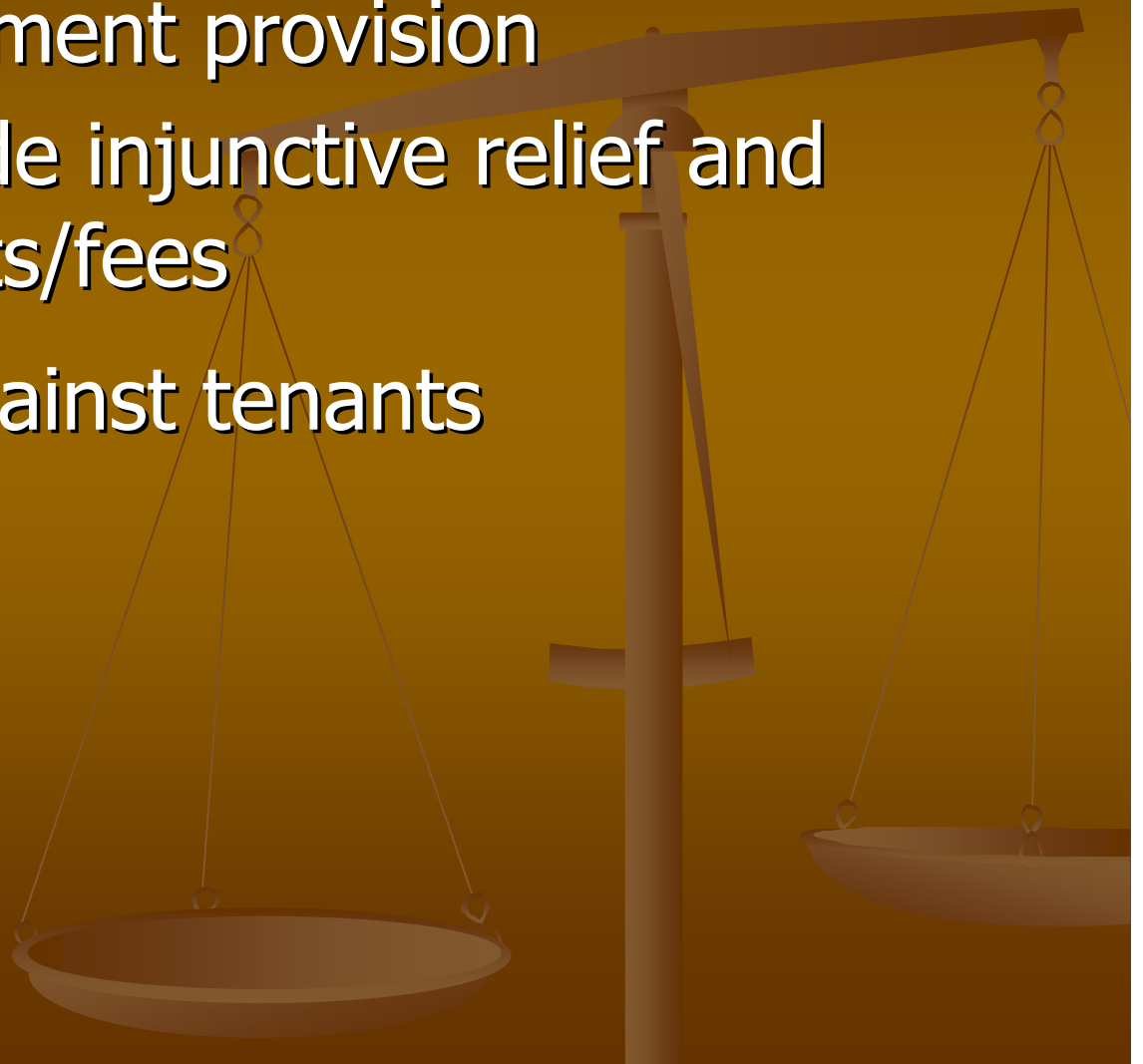
(k) Impose and collect charges for late payment of assessments pursuant to RCW [64.34.364](#)(13) and, after notice and an opportunity to be heard by the board of directors or by such representative designated by the board of directors and in accordance with such procedures as provided in the declaration or bylaws or rules and regulations adopted by the board of directors, levy reasonable fines in accordance with a previously established schedule thereof adopted by the board of directors and furnished to the owners for violations of the declaration, bylaws, and rules and regulations of the association;

Proprietary Enforcement Procedures

- Requirement for strict compliance by owners of governing documents/rules
 - Board or Manager shall exercise business judgment in determining action to take
 - No waiver provision
 - Establishment of “Hearing Board”
 - Full Board authority
 - Hearing process (due process outlined)
 - Appeal process
- 

Proprietary Enforcement Procedures (cont'd)

- Judicial enforcement provision
- Remedies include injunctive relief and recovery of costs/fees
- Enforcement against tenants



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