

CC&R ENFORCEMENT PROCEDURES

Pursuant to Article 5.6 of the CC&Rs

Urgent Reports: To expedite the correction of urgent matters regarding unlawful conduct or health and safety issues, or an association, management, maintenance or subcontractor performance problem, residents should immediately call the Association Manager. After hours, Security must be called.

Resident CC&R Violation Reports: Residents may report non-compliance with the Association's CC&Rs by calling or writing to the Association Manager along with the address or location of the alleged violation.

Some violations (i.e., alleged noise nuisance violations, parking violations, etc.) may require detailed, written, information from the accuser prior to the issuing of a 1st Violation Notice to the accused.

By law, the accused is entitled to know who their accuser is in the event that a hearing is scheduled.

Scope of Enforcement: Violations of the Association's governing documents, Rules & Regulations, and Architectural & Landscape Guidelines, will subject the violator to the CC&R Violation enforcement procedures contained in Article 5.6 (iv).

1. First Step: When the Manager or Board receives information concerning a possible CC&R violation, an attempt will be made to resolve the matter by telephone or Courtesy Non-Violation Letter. If not corrected within 15 days;

2. Second Step: A First Violation Notice will be sent to the owner (courtesy copy to the resident if the home is tenant occupied) requesting correction of the violation within 30 days. First Notice will include the details of the violation and the possible assessment of monetary fines or any other penalties.

3. Third Step: Failure to comply as requested in the First Violation Notice will result in a Second Violation Notice requesting the violator appear before the Board of Directors for a CC&R enforcement hearing or correct the violation prior to the scheduled hearing and inform the Board, in writing, of the correction.

The Notice will be mailed to the owner via 1st Class Mail and sent Return Receipt U.S. Mail. The Notice shall include the date, time, and location of the Hearing; the specifics of the violation or complaint; the range of possible penalties if not corrected; and the assessment of any fines.

4. Fourth Step: The Board of Directors shall hear the charges according to the provisions of CC&R Article 5.6. Following the hearing, the Board, in Executive Session or Open Session, as appropriate, shall take all facts into consideration and determine whether the owner has violated the CC&Rs; the deadline for correcting the violation; and the penalty for failure to comply (i.e., adding of monetary assessments to the owners account, etc.). The owner shall be notified, in writing, of the Board's decision within seven working days following the date of the hearing.

Rescheduled Hearing: If the owner can show acceptable good cause as to why he/she cannot attend the scheduled hearing, he/she must notify the Board at least 48 hours prior to the originally scheduled hearing. If the Board accepts cause, it will reschedule the hearing and deliver notice of the new date ten (10) days prior to the rescheduled hearing.

Hearing Default: If an owner, called for any hearing, fails to appear or to request a postponement of a hearing as prescribed in “Rescheduled Hearing” above, the Board shall proceed with the hearing in Absentia. The owner shall be notified, in writing, of the Board’s decision within seven working days following the date of the hearing.

Alternative Dispute Resolution And Further Enforcement On Owners Failing to Respond To CC&R Enforcement Proceedings: If an owner fails to respond to the above CC&R violation proceedings, the Board may serve Alternative Dispute Resolution papers on the owner in violation. Please refer to the Alternative Dispute Resolution guidelines distributed annually with the Budget Packet.

The Board may also, in compliance with the approved Fining Procedures, continue to assess fines to the owners account in a reasonable manner.

Outstanding violations and/or liens shall also be disclosed to possible purchasers of an owner’s home if the owner decides to sell or refinance.

PLEASE ALSO REFER TO THE FINE SCHEDULE RESOLUTION

ARCHITECTURAL APPEAL HEARING PROCESS: Community Board Resolution #92-02

Right of Appeal: If a Project Board or Architectural Committee (PAC), or affected Owner is dissatisfied with a decision of a Community Standing Committee (e.g., an architectural applicant to the Community Architectural Committee), the affected Party may appeal the decision to the Community Board of Directors by submitting a written request for a hearing with the Board within 10 days of receiving written notice of the Committee’s decision. The Community Board President and the appropriate Village Representative shall determine within seven days whether the appeal shall be heard by the Community Board or the appropriate Project Board, or whether the decision should be referred to the Standing Committee for reconsideration of its decision.

Appeal to the Community Board: If an architectural applicant, Project Board or PAC, or affected owner is dissatisfied with the subsequent ruling of a Project Board or a Community Standing Committee, the dissatisfied Party may appeal the action to the Community Board of Directors by submitting a written request for a hearing with the Board within 10 days of the date of the contested action.

Final Decision of the Community Board: If the Community Board grants a request for an appeal hearing, the Board may uphold, reverse or modify the decision of the Project Association Board or Community Standing Committee.

IN REGARDS TO THE APPEAL PROCESS, PLEASE REVIEW THE COMMUNITY OF HARBOR BAY ISLE OWNERS’ ASSOCIATION RULES AND STANDARDS.