

**CANYON GRANADA
OWNERS ASSOCIATION
A California Nonprofit Mutual Benefit
Corporation**

ENFORCEMENT PROCEDURE

OCTOBER 2014*

* adopted October ____, 2014

IF THIS DOCUMENT CONTAINS ANY RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, GENDER, GENDER IDENTITY, GENDER EXPRESSION, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, GENETIC INFORMATION, NATIONAL ORIGIN, SOURCE OF INCOME AS DEFINED IN SUBDIVISION (p) OF SECTION 12955, OR ANCESTRY, THAT RESTRICTION VIOLATES STATE AND FEDERAL FAIR HOUSING LAWS AND IS VOID, AND MAY BE REMOVED PURSUANT TO SECTION 12956.2 OF THE GOVERNMENT CODE. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED ON FAMILIAL STATUS.

CANYON GRANADA OWNERS ASSOCIATION ENFORCEMENT PROCEDURE

This document is the Canyon Granada Owners Association's (hereafter referred to "Association") enforcement process ("Enforcement Procedure"). The entities engaged in enforcing the Association's First Amended and Restated Declaration of Covenants, Conditions and Restrictions (CC&Rs), Bylaws, Articles of Incorporation, and Rules and Regulations, Architectural Guidelines and Enforcement Procedure (collectively, "Rules") (hereafter, all collectively, *Governing Documents*) are:

Board of Directors — The Board of Directors is charged with overseeing the enforcement of the Association's Governing Documents and working with the Architectural Control Committee, if such committee has been created and delegated powers regarding architectural modifications. The Board of Directors has the authority to conduct violation hearings, impose Special Assessments and Individual Assessments, including but not limited to fines, cause violations to be remedied, suspend voting rights, common area privileges, use of the recreational facilities and/or any other privilege of any Member or Person deriving rights from any Member ("Membership Privileges"), and promulgate Rules. The Board of Directors, in its sole discretion, may review any committee decision and thereafter modify any ruling in the Board's discretion regardless of an appeal from a Member, provided, however, that it gives notice to the Member and committee within ten (10) business days of the committee's date of its Ruling Notice.

Architectural Control Committee — The Architectural Control Committee, if so created and delegated to, is charged with primarily reviewing and approving proposed architectural modifications.

For the purposes of this Enforcement Procedure, the following definitions shall apply:

- The term *violation* shall mean and include any failure to follow and/or observe the Association's Governing Documents.
- The term *recurring violation* shall mean any violation of the Association's Governing Documents which has a definite commencement and cessation, but has occurred more than once. Examples of recurring violations are: (1) violation of leash rules regarding pets on more than one occasion or (2) speeding or other motor vehicle violations on more than one occasion.
- The term *continuous violation* shall mean any violation of the Association's Governing Documents which is ongoing and has not ceased for a period of time in excess of twenty-four (24) consecutive hours. Examples of continuous violations are: (1) a poorly-maintained Unit, or (2) retaining an unapproved improvement on the Owner's Unit in violation of the Governing Documents. Upon the Owner's curing the violation, the Board of Directors may, but is not obligated to, waive any portion or all of the monetary fine imposed for a continuous violation.

A violation hearing may be suspended if an Owner cures his/her violation (as determined by the Association) before said hearing; however, the Board of Directors may, but is not obligated to, waive any portion or all of the monetary fine imposed for a continuous violation.

The Enforcement Procedure related to any disciplinary action shall be as indicated below. For enforcement of the Governing Documents related to parking violations unrelated to disciplinary action against the Owner, such as towing, the enforcement procedure may begin at Step 5.

STEP 1. INITIATION.

If a **Violation Report** is completed by a homeowner, a Board member, Association Manager, Architectural Control Committee member, or another designated representative of the Association, the Violation Report will be verified as set forth in Step 2.

STEP 2. VERIFICATION

Verification of a Violation Report for non-architectural violations is accomplished by a review of the Association's Governing Documents and/or inspection by the Association Manager, Board of Directors, appropriate committee or other designated Association representative. Verification of a Violation Report for architectural violations is accomplished by a review of the Association's Governing Documents and/or inspection by the Architectural Committee. *Violation* shall be defined as an act in direct conflict with the Association's Governing Documents, and/or local, county or state requirements.

STEP 3. DOCUMENTATION

A. FOR NON-ARCHITECTURAL VIOLATIONS

1. The Board has the following three options for enforcing non-architectural violations:
 - A **Warning Notice** is completed by the Association Manager or his/her designated representative and forwarded to the violating homeowner (hereinafter *Violator*). At the discretion of the Board or Association Manager, this step may be skipped if, based on the seriousness of the violation, more immediate action is warranted; or
 - If the violation persists after the Warning Notice has been issued OR if the Board or Association Manager determines to proceed directly to a **Violation Notice**, said Violation Notice is sent to the Violator, stating a deadline by which to cure the violation; or
 - If the violation warrants immediate action, an **Expedited Hearing Notice** is sent to the Violator, stating a date, time and place where the Violator may be heard before the Board of Directors.
2. If a **Violation Notice** is sent and the Violator fails to take the necessary action by the deadline given, a **Hearing Notice** will be sent to the Violator, setting forth the date, place and time upon which the Violator may be heard before the Board of Directors.
3. Failure to appear at any hearing, could result in immediate discipline including, but not limited to, imposition of a Special or Individual Assessment, and/or suspension of Membership Privileges. Association must give at least ten (10) days written notice of the hearing to the Violator before any action is taken, pursuant to the Association's Governing Documents.

B. FOR ARCHITECTURAL VIOLATIONS

1. Examples of architectural violations are:
 - a. Owner of the property has not submitted the requisite application, related documents and plans and/or the requisite fees to the Architectural Control Committee or the Board of Directors, if appropriate, or secured requisite written approval from the Association.

b. Owner of the property has obtained prior approval but has not complied with the approved final plans and specifications of the proposed work.

c. Owner has failed to maintain his/her/its Unit which Owner is responsible to maintain.

2. The Board has the following three options for enforcing architectural violations:

- A **Warning Notice** is completed by the Association Manager and forwarded to the violating homeowner (hereinafter *Violator*). At the discretion of the Board or Association Manager, this step may be skipped, and the Association may proceed directly to a **Violation Notice** or an **Expedited Hearing Notice**; or

- If the violation persists after the Warning Notice has been issued OR if the Board or Association Manager determines to proceed directly to a **Violation Notice**, said Violation Notice is sent to the Violator, stating a deadline by which to cure the violation; or

- If the violation warrants immediate action, an **Expedited Hearing Notice** is sent to the Violator, stating a date, time and place where the Violator may be heard before the Board of Directors.

3. If a **Violation Notice** is sent and the Violator fails to take the necessary action by the deadline given, a **Hearing Notice** will be sent to the violating homeowner, setting forth the date, time, and place where the Violator may be heard before the Board of Directors.

4. Failure to: (1) appear at any hearing; and/or (2) comply with a written **Violation Notice** could result in immediate discipline including, but not limited to, imposition of an Enforcement Assessment/ Reimbursement Assessment and/or suspension of Membership Privileges. Association must give at least ten (10) days written notice of the hearing to the Violator before any action is taken, pursuant to the Association's Governing Documents.

STEP 4. HOMEOWNER HEARING PROCEDURE

A. **Findings of Fact and Recommended Action:** The Board of Directors must make specific findings as it relates to the violation of the Governing Documents, noting them on the **Homeowner Hearing Procedure form** and **Ruling Notice form** with the facts which support its decision. The decision of the Association and action recommended/taken should also be noted on the **Homeowner Hearing Procedure form**. **NOTE:** If no violation is found, then no remedy is required, and the Association would then issue a Ruling Notice pursuant to Step 4.C below.

B. **Remedies of the Board of Directors.** If it is determined a violation has taken place, the Board of Directors may take any or all the following actions:

1. **Special / Individual Assessment** — Even if the violation is not of a continuing nature and does not lend itself to a self-help remedy, the Board of Directors still has the authority to impose a Special Assessment or an Individual Assessment for failure to comply with the provisions of the Governing Documents. The Board of Directors may only impose an assessment after providing notice and hearing to a Violator, pursuant to the minimum requirements set forth herein. The following assessment structure is based upon a reasonable determination of the costs (*i.e.* attorneys' fees, property management fees, etc.) expended by the Association in performing its functions in enforcing the Governing Documents, as well as the imposition of appropriate sanctions for violation of said Governing Documents.

The Enforcement/Reimbursement Assessment structure is detailed in Paragraph 4.D below.

2. Right and Authority to suspend Membership Privileges for each violation of the Governing Documents and/or for any period during which the Member is delinquent in the payment of any assessment, fine or monetary penalty, or as otherwise provided in the Governing Documents.

3. **Self-Help Remedy for Continuing Non-Architectural Violations** — If the violation of the Governing Documents continues and can be cured through a self-help remedy, the Board has the right to demand correction of the continuing violation and a date certain upon which a homeowner must comply (a reasonable period of time shall be given to the homeowner) *via* the Notice of Ruling. The Notice should further indicate that if the homeowner fails to comply within the time provided by the Association, the Association would bring the homeowner into compliance and charge the cost of same to the homeowner as a Special / Individual Assessment.

4. **Self-Help Remedy for Continuing Architectural Violations** — If it is determined a violation has taken place, the Board of Directors shall make findings of fact and request corrective action (removal, replacement, repair and/or modification) by the Violator. If corrective action is not taken by the Member and the violation can be cured through a self-help remedy, the Ruling Notice shall further indicate that if the Member fails to comply within the time provided, the Board of Directors shall bring the Member into compliance and charge the cost of same to the Member as a Special Assessment or Individual Assessment. **However, any demand letter which requires the Association to go onto a Members' property to rectify the violation should be reviewed and sent by Association's counsel.**

5. **Other Potential Remedies / Sanctions** — Notwithstanding anything set forth herein, the Board of Directors in its discretion shall have the power to require any other applicable remedy and/or sanction for as long as it deems necessary, provided, however, that said remedy / sanction is in accord with the Association's Governing Documents and law. If the violation is of such a serious nature that potential legal action is contemplated, the Association's general counsel should be consulted for determination whether Internal Dispute Resolution ("IDR") and/or Alternative Dispute Resolution ("ADR") should be offered to the Violator (as well as consideration of other potential remedies).

C. **Ruling Notice.** Regardless what remedy the Board chooses to take, even if no violation is found, the Association must mail to the Violator a **Ruling Notice** within fifteen (15) days after the date of hearing. If it is ruled that an Enforcement Assessment or a Reimbursement Assessment shall be imposed against the Violator, then the Board must give notice of the ruling to the Violator and request payment of such assessment within thirty (30) days after the Ruling Notice is mailed. This is to be recorded in the Executive Session minutes or regular minutes, whichever is applicable.

D. **Special / Individual Assessment Structure.** If any Member's failure to comply with the provisions of the Governing Documents results in the Association's expenditures of monies or incurs costs related to the action or non-action of a Member, the Association may levy a Special Assessment or Individual Assessment against such Member. Additionally, the Association may levy fines consistent with Tables 1, 2 and 3 below. The amount of the assessments may be amended from time to time by the Board of Directors. The present structure of the Association for Special / Individual Assessments for violations of the Governing Documents shall be as follows:

| Table 1: Special / Individual Assessments for Violation of the Governing Documents | |
|---|--|
| First Violation | Costs incurred by the Association, if any, as well as a monetary fine up to \$200.00 |
| Recurring Violation for a Second Time | Costs incurred by the Association, if any, as well as a monetary fine up to \$400.00 |
| Continuous Violation | Costs incurred by the Association as well as a monetary fine up to \$200.00 per day from the date of the first notice of violation until violation is cured. |

In addition to the Special / Individual Assessments described in Table 1 above, the Board of Directors may levy the following assessments for architectural application violations, which may be added to any other Special / Individual Assessments.

| Table 2: Special / Individual Assessments for Architectural Application Violations | |
|--|--|
| Assessments for commencing Architectural Improvement without <ul style="list-style-type: none"> • Architectural Committee Approval and/or • Submitting Application (even if Improvement is within the Governing Documents) | Up to \$200.00 plus any other costs incurred by the Association plus legal costs and any other remedies available to the Association |
| Assessments for failure to follow submitted plans and specifications and/or make corrections upon notice | Up to \$200.00 plus any other costs incurred by the Association plus legal costs and any other remedies available to the Association |

In addition to the Special / Individual Assessments described in Tables 1 and 2 above, the Board of Directors may levy the following assessments for violation of the Governing Documents relative to tenancy requirements and advertisement of short term rentals, and which may be added to any other Special / Individual Assessments.

| Table 3: Special Assessments for Violation of the Minimum Rental Period Requirements (i.e. leasing and/or advertising) | |
|---|--|
| First Violation | \$200.00 monetary penalty plus Costs incurred by the Association, if any, as well as determination that it is a Continuous Violation (see below) |
| Recurring Violation for a Second Time | \$400.00 monetary penalty plus Costs incurred by the Association, if any, as well as determination that it is a Continuous Violation (see below) |
| Continuous Violation | The applicable Table 3 fines PLUS an amount up to \$200.00 per day from the date of the first notice of violation until the violation is cured PLUS possible suspension of common area privileges. |

E. **Collection of Special / Individual Assessments.** Pursuant to the Association's collection policy and the CC&Rs, if a Special / Individual Assessment was levied for failure to comply with the Governing Documents or for costs incurred by the Association in repair of damage to the Common Areas and is not paid within thirty (30) days after mailing the Ruling Notice, then the Board may suspend the Owner's Membership Privileges after notice and hearing as set forth in the Association's governing documents.

STEP 5. TOWING OF IMPROPERLY PARKED VEHICLES

The towing of improperly parked vehicles relates to enforcement of the Governing Documents, unrelated to disciplinary action against an Owner. Accordingly, the Association has the right to tow vehicles without proceeding through Steps 1 through 4 above and, pursuant to California *Vehicle Code §22658*, the Association may have any improperly parked vehicles removed and towed to the nearest public garage. Prior to any towing, the Association shall place a written notice on the violating vehicle, enumerating that the vehicle will be towed to a public garage unless the vehicle is moved within four (4) hours. (Prior notice is not required if the violating vehicle is parked in a marked fire lane, within fifteen feet of a fire hydrant, in a parking space designated for handicapped without proper authority, or in a manner which interferes with any entrance to or exit from ingress or egress in and to the subdivision or any Residential Lot/ Residential Unit). In such an event, the Association shall not be liable for any damages incurred by the vehicle owner because of the removal of a vehicle or for any damage to the vehicle caused by the removal, including without limitation the charge for towing and storage of the vehicle by the towing company, the cost of which shall be the responsibility of the owner of the vehicle.

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