

CALIFORNIA SUNSET HOMEOWNERS' ASSOCIATION

ENFORCEMENT POLICY AND PROCEDURES FOR ADDRESSING VIOLATIONS OF THE DOCUMENTS OR ADOPTED RULES & REGULATIONS

Section 1. Actions Prior to Initiation of Formal Special Resolution Process.

Any member or agent of the Association has the authority to request that a Member or resident cease or correct any act or omission which appears to be in violation of the governing documents or rules & regulations. Complainants are encouraged to attempt such informal request before this formal process is initiated.

Section 2. Written Complaint.

The following procedure shall be initiated upon the filing of a written complaint by any member with the Association's Managing Agent on the proper form (Exhibit 'A' attached). The complaint shall constitute a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent (violating resident or homeowner) is charged. The complaint shall specify the specific provisions of the documents or rules and regulations which the respondent is alleged to have violated but shall not consist merely of charges phrased in the language of such provisions without supporting facts. Further, the written complaint must contain as much specifics as are available as to time, date, location, person involved, etc., so that the complaint may be investigated by the Association's Managing Agent. This procedure may also be initiated by the Board or its Managing Agent should any violation come to their attention during the regular performance of their duties.

Section 3. Notice of Non-Compliance.

Upon the filing of a complaint, the Association's Managing Agent shall reasonably investigate the complaint to verify that if true, the action does constitute a violation of the documents or rules & regulations. If so, the Association's Managing Agent shall send a written "Notice of Violation" to the respondent summarizing the complaint and requesting compliance within a reasonable period of time. Such notice shall be sent by regular mail to the respondent's address of record. This notice shall be considered a courtesy notice. The Board, at its discretion, may elect to forgo this notice and instead directly generate a Notice of Hearing as described below.

Section 4. Notice of Hearing.

Should the violating homeowner continue to violate the documents or rules & regulations as set forth in the Notice of Violation, or should the Board elect to forgo said notice, the Association's Managing Agent shall serve a "Notice of Hearing" (Exhibit 'B' attached) as provided herein, on all parties at least fifteen (15) days prior to the date of the Hearing. The Notice to the respondent shall be sent via Certified Mail, return receipt requested, or shall be personally delivered, to the respondent's address of record. Said Notice of Hearing shall be accompanied by a copy of any original complaint and a "Notice of Defense" form (Exhibit 'C' attached). Copies of all of the foregoing materials shall be provided to the Board and any complainant.

If any of the parties can, within twenty-four (24) hours, show good cause as to why they cannot attend the Hearing on the set date and indicate times and dates on which they would be available, the Agent may reset the time and date of Hearing and promptly deliver notice of the new Hearing date.

Section 5. Notice of Defense.

The Notice of Defense shall state that the respondent may:

- (a) Attend the Hearing before the Board of Directors as hereinafter provided, and introduce any witnesses or evidence on his or her behalf;

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- (b) Object to the complaint upon the ground that it does not state the acts or omissions upon which the Board may proceed;
- (c) Object to the form of the complaint on the ground that it is so indefinite or uncertain that the respondent cannot identify the violating behavior or prepare his defense; or
- (d) Admit to the complaint in whole or in part.

Said Notice of Defense shall be completed and returned to the Association's Managing Agent prior to the Hearing, and copies shall be provided to the Board and any complainant.

Section 6. Constraints on the Board.

It shall be incumbent upon each member of the Board to make a determination as to whether he or she is able to function in a disinterested and objective manner in consideration of the case before the Board. Any member incapable of objective consideration of the case shall disclose such to the Board and remove himself from the proceedings, and have it so recorded in the Minutes.

In any event, the respondent may challenge any member of the Board for cause where a fair and impartial Hearing cannot be afforded at any time prior to the taking of evidence and testimony at the Hearing. In the event of such a challenge, the Board shall meet to determine the sufficiency of the challenge. If a majority of the Board sustains the challenge, that member of the Board shall be dismissed from participation in the Hearing. All decisions of the Board in this regard shall be final.

Section 7. Hearing.

- (a) Whenever the Board has commenced to hear the matter and a member of the Board is forced to withdraw prior to a final determination, the remaining members shall continue to hear the case.
- (b) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses; and to rebut the evidence against him or her. Even if respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.
- (c) The Hearing need not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant evidence shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence shall not be sufficient in itself to support a finding.
- (d) Neither the accusing party nor the allegedly defaulting party must be in attendance at the Hearing. The Hearing shall be conducted in executive session.
- (e) At the beginning of the Hearing, a member of the Board shall explain the rules and procedures by which the Hearing is to be conducted. Generally, each principal is entitled to make an opening statement, starting with the complainant. Then each party is entitled to produce evidence, witnesses, and testimony and to cross-examine the witnesses and opposing party. Then each party is entitled to make a closing statement. Any party may waive the right to exercise any part of this process, and the Board is entitled to exercise its discretion as to the specific manner in which the Hearing will be conducted.

Section 8. Decision.

After all testimony and documentary evidence has been presented to the Board, the Board shall vote upon the matter, with a majority of the entire Board controlling. The decision may be made at the conclusion of the Hearing or may be postponed. A summary of the decision shall be provided in writing to the respondent, with copies to all complainants not less than five (5) days after the Hearing. Disciplinary action, if any, shall become effective ten (10) days after it is served upon the respondent, unless otherwise ordered in writing by the Board. All decision of the Board shall be final unless the Board, at its sole discretion, agrees to re-hear the matter due to the availability of new evidence of an over-riding nature.

Section 9. Fine Structure

Should the Board determine that a fine is appropriate, the following fine schedule shall apply:

First Offense -- \$ 50.00 Fine

Second Offense -- \$100.00 Fine

Third Offense and each additional occurrence -- \$100.00 more than the previous fine imposed.

Offenses for separate rules will each start at the first offense stage.

Recurring fines are permissible on a monthly basis, until compliance is achieved, at the above rates.

- end -

COMPLAINT FORM

Date _____

Alleged Violator:

Name _____

Address _____

Vehicle License # _____

Association _____

Description of Violation (Specify Rule, Regulation, Restriction) you believe was:

Date, Time, Location of Violation: _____

Additional Facts or Comments (Description of Dog, Vehicle) _____

Complainant:

The undersigned hereby agree to testify at a Hearing before the Board or a Committee of the Board on the above complaint.

Signature _____

Name (Print) _____

Address _____

Phone # _____ day

Phone # _____ night

OFFICE USE ONLY:

[Date]

[Owner Name]

[Owner Address]

CERTIFIED MAIL

RE: CALIFORNIA SUNSET HOMEOWNERS' ASSOCIATION - NOTICE OF HEARING

Dear Owner:

In order to fairly evaluate an alleged violation of [cite CC&R or rule section allegedly violated, and a concise description of the alleged violation], a Hearing has been scheduled before the Board of Directors.

Accordingly, please be advised that the Hearing has been set as follows:

[time, date, and location of Hearing]

The purpose of the Hearing is to evaluate all facts, evidence and testimony concerning the alleged violation, to make a determination as to whether a violation exists, and if so, what if any disciplinary action will be taken. The Hearing will be conducted in accordance with the adopted Rules Enforcement Procedures of the Association. You have the right to, but need not be, represented by counsel at the Hearing. Failure to appear may result in a finding against you by default. In any event, should the Board find against you, disciplinary action may be taken including assessment of fines, or the turning over of the matter to an attorney for processing up to, and including, litigation seeking injunctive relief.

If you have any questions, please contact the undersigned at [managing agent phone number].

Sincerely,

[name, title of Association representative]

For The CALIFORNIA SUNSET HOMEOWNERS' ASSOCIATION

cc: Board
enclosure

MWV/m/hearing.not

Notice of Defense

Respondent: _____

Address: _____

Association: _____

Phone: _____ home _____ work

Nature of Complaint _____

(Check One)

_____ I object to the Complaint on the following grounds:

_____ I admit to the complaint as follows:

Please attach any supporting evidence or statement you wish to submit to the Board for its consideration at the Hearing. This Notice of Defense must be filed with the Association's Managing Agent prior to the Hearing. At the Hearing you are entitled to present and cross-examine witnesses, be represented by counsel, and review any evidence against you.

THE BOARD OF DIRECTORS

CALIFORNIA SUNSET HOMEOWNERS' ASSOCIATION

Approved by Board June 7, 1993

CALIFORNIA SUNSET HOMEOWNERS' ASSOCIATION
AMENDMENT TO ENFORCEMENT POLICY AND PROCEDURES

1. ACTIONS PRIOR TO INITIATION OF FORMAL SPECIAL RESOLUTION PROCESS:

Article 1, Section 1 is hereby amended with the addition of the following:

"Violations relating to lack of yard maintenance are subject to immediate Hearing and are exempt from a first notice of non-compliance."

a:amend.enf