

**DRAFT**

**45-Day Notice**

**Proposed Changes to Member Appeals Procedures**

Pursuant to Tahoe Donner Covenants and Restrictions Article III, Section 7, modifications to rules must go out for 45-day member notification and comment period prior to board of director consideration and approval. The Member Appeal Procedures are considered part of the Association Rules, therefore any modifications or updates to the appeal procedures require a 45-day notice prior to board adoption (C&R Article III Section 7).

The Board of Directors is expected to take action to adopt the proposed changes of the Member Appeals Procedures as they are presented here or with some modification, at the May board of directors meeting, to be scheduled for early May 28, 2021. The board welcomes any input you may wish to offer regarding this process.

**BACKGROUND**

Davis-Stirling, the governing law in California for HOAs and Civil Code have updated several times since the adoption of the resolution in 1997. Upon reviewing Resolution 97-5 alongside state law and the C&Rs and the Architectural Standards and Covenants rules, we are now aware of several areas that need updating to conform between documents. Additionally, there are areas that clarification of procedures would help members understand the appeals process, and the board and staff administer appeals.

Areas Addressed in Update:

- Appeals procedures are part of the Association Rules, therefore any modification to the resolution requires 45-day notice and comment period
- Hearing procedures clarifications including but not limited to,
  - What comprises the 30 minutes of an appeal hearing
  - Strengthen basis of member appeal language
- Conform with state law and C&Rs including but not limited to,
  - Scheduling of appeals and reasons to deny hearing of appeal
  - What and when appeals can be held in executive session versus open session
  - Board appeal decisions when committee decision is reversed or modified
  - There is a conflict between the resolution and Architectural Standards Rules and Procedures for Land Use (AS Rules) when naming who is an eligible appellant. That resolution states an owner of the property affected by the committee decision is eligible for appeals. The AS Rules state that neighbors who provide neighbor comment during a project application submittal also have appeal rights.
- Typographical errors

At the December 2020 board meeting, the board of directors directed staff to prepare proposed update to Resolution 97-5: Procedures for Member Appeals from Covenants and Architectural Standards Committee Decisions with goal of presenting an updated resolution for the board of directors to approve for 45-day notification and member comment.

The Board of Directors discussed the proposed updates at the January 22 and February 26, 2021 board meetings. Following these discussions, the board approved the proposed changes to go out to 45-day notice and member comment.

**Purpose:** The purpose of the proposed changes are:

- Conform to state law and Tahoe Donner Covenants and Restrictions
- Clarify procedures for appeal hearings
- Update resolution to include requirement that appeals procedures are Association Rules, therefore must go through a 45-day notice process before changed

**Effect:** The effect of these proposed changes on homeowners is:

- Provide updated appeal procedures for Architectural Standards and Covenants Committee decisions
- Improved member expectations on appeal procedures

**Key Dates:**

- April 1, 2021: 45-Day Member Notification and comment period begins.
- April 23, 2021: board of directors meeting; hears additional member comment, discussion item only.
- May 28, 2021: Board of Directors meeting to consider acting on proposed rules with or without modifications.

**Member Comments:**

Please submit your written comments via at [45-day Notice webpage MachForm](#), or US Mail: Tahoe Donner Association Attn: Robin Bennett, 11509 Northwoods Blvd., Truckee, CA. 96161. To ensure the board of directors has time to review all member comments, written comments must be submitted by 12:00 p.m. May 21, 2021.

**Commented [AR1]:** Are we going to get rid of this and do a Mach Form? To be available under 45-Day Notice webpage under the notice?

**Commented [AR2R1]:** To create a MachForm through vanity URL

### Proposed Changes to Member Appeals Procedures

The proposed changes are indicated deletions are shown by ~~strike through~~ and additions **red** colored text.

{INSERT PROPOSED CHANGES DOCUMENT HERE}

**Commented [AR3]:** Note: draft proposed changes before the board distinguish blue for staff and committee chair recommendations and red for general counsel. For publishing, all additions will be in red.