



COVENANTS ENFORCEMENT PROCEDURES EXISTING AND PROPOSED

## Receipt of Complaint

### **Existing: Receipt of Complaints**

Complaints may be received from property owners or the Association General Manager and his or her staff, orally at the Architectural Standards Office in person, or via telephone, fax, e-mail, or mail. Identification of the complainant is not mandatory and should not be included unless the complainant so requests.

Complaints will be transcribed to a TDA Covenants complaint form and date stamped with the date of receipt. Date stamped complaints shall be forwarded to the Compliance Inspector.

### **Proposed: Receipt of Complaint**

Complaints may be received orally or in writing from property owners or the Association General Manager and staff. TDA Complaint forms are available on the TDA website to submit digitally or can be obtained via [compliance@tahoedonner.com](mailto:compliance@tahoedonner.com). The identity of the complainant will be treated by TDA staff and Covenants Committee members as confidential information. All complaints will be logged into the Association database and forwarded to the Community Relations Inspector.

### **Redline Version: Receipt of ~~Complaints~~ Complaint**

Complaints may be received orally or in writing from property owners or the Association General Manager and ~~his or her staff, orally at staff.~~ TDA Complaint forms are available on the Architectural Standards Office in person, or TDA website to submit digitally or can be obtained via telephone, fax, e-mail, or mail. Identification compliance@tahoedonner.com. The identity of the complainant ~~is not mandatory and should not be included unless the complainant so requests.~~

~~Complaints~~ will be ~~transcribed to a~~ treated by TDA staff and Covenants ~~complaint form and date stamped with the date of receipt.~~ Committee members as confidential information. All complaints ~~shall be~~ will be logged into the Association database and forwarded to the ~~Compliance~~ Community Relations Inspector.

### **Intent of the change summary:**

- Modernize the communication path, update to reference website location and [compliance@tahoedonner.com](mailto:compliance@tahoedonner.com) email locations for submittal of complaint.
- Opening up the complaint process to the organizational structure instead of identifying a specific staff member.
- Introduction of the complaint form to formalize a complaint vs. staff making courtesy phone calls for objectionable activity.

## Record Keeping and Communications

### Existing: Record Keeping

Open Complaints and all associated documents, shall be maintained by the Compliance Inspector with references to such documentation in the appropriate Architectural Standards Office computer database. When complaints are closed, the file will be transferred to the Architectural Standards Office individual unit and lot file cabinets.

### Communications with Complainant and Respondent.

All written and verbal communications with the complainant and respondent shall be noted and included in the file. Within ten working days of the original complaint, a complaint status will be provided to the complainant if contact information is available. If the initial inspection failed to confirm the complaint, the complainant shall be so notified.

In cases where the complaint cannot be photographed or verified by Staff, such as, but not limited to, “Noxious Activities” (excessive noise, etc.) the complainant will be encouraged to personally attend the hearing. However, if the complainant chooses not to attend, a signed, written statement will be considered.

### Proposed: Record Keeping and Communications

Open complaints and all associated information, photos and documents shall be maintained by the Community Relations Inspector with references to such documentation in the appropriate TDA database. All written and verbal communications with the complainant and respondent (Owner of Record) shall be noted and included in the case file.

### Redline Version: Record Keeping and Communications

Open ~~Complaints~~complaints and all associated information, photos and documents, shall be maintained by the ~~Compliance~~Community Relations Inspector with references to such documentation in the appropriate ~~Architectural Standards Office computer database. When complaints are closed, the file will be transferred to the Architectural Standards Office individual unit and lot file cabinets.~~

### ~~Communications with Complainant and Respondent.~~

~~-TDA database. All written and verbal communications with the complainant and respondent (Owner of Record) shall be noted and included in the file. Within ten working days of the original complaint, a complaint status will be provided to the complainant if contact information is available. If the initial inspection failed to confirm the complaint, the complainant shall be so notified. In cases where the complaint cannot be photographed or verified by Staff, such as, but not limited to, "Noxious Activities" (excessive noise, etc.) the complainant will be encouraged to personally attend the hearing. However, if the complainant chooses not to attend, a signed, written statement will be considered case file.~~

### **Intent of the change summary:**

- Removed language to streamline the complaint receipt procedure.
- Provide modernization of language to reference digital storage of documents and information.

## Initial Inspection

### **Existing: Initial Inspection**

Within two working days of receipt, every complaint will receive an initial inspection. The Compliance Inspector, or other assigned employee, will perform the initial inspection. He/she will note the date, time and conditions observed. A photograph shall be taken of the conditions existing at the property. The complaint form and photo will be logged for enforcement. If a condition cannot be verified, it shall be so noted in the file and closed.

### **Proposed: Initial Inspection**

Within two business days of receipt, every complaint will receive an initial inspection. The Community Relations Inspector, or other assigned staff, will perform the initial inspection. Staff will note the date, time and conditions observed. A photo shall be taken of the conditions existing at the property at the time of the inspection. If a non-compliant condition or other violation cannot be verified, it shall be so noted in the file, the complainant so notified, and the case closed.

Complaints forwarded to Sufficiency Review/Hearing must be in writing; either a completed TDA complaint form or a signed, written statement from the complainant or a Notice of Non-Compliance from either the Community Relations or Forestry Inspector. In cases where the complaint cannot be verified by objective means by TDA staff (such as, but not limited to, "Noxious Activity"), the complainant will be notified that a written complaint is required in order for the complaint to proceed to a hearing. If the complainant chooses not to submit a written complaint, it will be so noted in the file and the case closed.

### **Redline Version: Initial Inspection**

Within two ~~working~~business days of receipt, every complaint will receive an initial inspection. The ~~Compliance~~Community Relations Inspector, or other assigned ~~employee~~staff, will perform the initial inspection. ~~He/she~~Staff will note the date, time and conditions observed. A ~~photograph~~photo shall be taken of the conditions existing at the property. ~~The complaint form and photo will be logged for enforcement.~~ at the time of the inspection. If a ~~non-compliant~~ condition ~~or other violation~~ cannot be verified, it shall be so noted in the file ~~and, the complainant so notified, and the case~~ closed.

#### **Initial Contact**

~~Prior~~

~~Complaints forwarded to the sending of any~~Sufficiency Review/Hearing must be in writing; either a completed TDA complaint form or a signed, written statement from the complainant or a Notice of Non-Compliance, ~~reasonable~~ from either the Community Relations or Forestry Inspector. In cases where the complaint cannot be verified by objective means by TDA staff (such as, but not limited to, "Noxious Activity"), the complainant will be notified that a written

complaint is required in order for the complaint to proceed to a hearing. If the complainant chooses not to submit a written complaint, it will be so noted in the file and the case closed.

### **Intent of the change summary:**

- Introduction of the complaint form to be submitted for the objectionable activity.
- Update to current language and nomenclature of staff positions.
- Clarification of inspection process.
- Clarify the timeline for response using business day references.

## Initial Respondent Contact

### Existing: Initial Contact

Prior to the sending of any Notice of Non-Compliance, reasonable attempts will be made to contact the respondent via telephone to seek voluntary compliance. Appropriate database shall be checked for respondent's telephone contact numbers. In cases where there is no listing of telephone number for the respondent, reasonable attempts will be made to obtain the number by calling directory assistance in the respondent's city of residence. If contact is made during these initial contact calls, the respondent will be advised of the following:

1. Nature of the complaint made.
2. That the Association is seeking voluntary compliance.
3. That a Notice of Non-Compliance will be sent as a matter of policy.

### Proposed: Initial Respondent Contact

Reasonable attempts will be made to contact the respondent via telephone or email to notify the respondent of the complaint. If contact is made during these initial attempts, the respondent will be advised of the following:

- The nature of the complaint.
- The Association is seeking voluntary compliance.

A Notice of Non-Compliance will be sent as a matter policy.

### Redline Version: Initial ~~Respondant~~ Contact

~~Reasonable~~ attempts will be made to contact the respondent via telephone ~~to seek voluntary compliance. Appropriate database shall be checked for respondent's telephone contact numbers. In cases where there is no listing of telephone number for~~ or email to notify the respondent, ~~reasonable attempts will be made to obtain the number by calling directory assistance in the respondent's city of residence.~~ of the complaint. If contact is made during these initial ~~contact calls~~ attempts, the respondent will be advised of the following:

- ~~1. Nature~~ The nature of the complaint ~~made.~~
- ~~2. That the~~ The Association is seeking voluntary compliance.
- ~~3. That a~~ A Notice of Non-Compliance will be sent as a matter ~~of~~ policy.

### Intent of the change summary:

- Clarify procedure and update to current communication process inclusive of digital options and email.

## **Notice of Non-Compliance**

### **Existing: Notice of Non-Compliance**

Within 5 days of receipt of a verified complaint, a notice of non-compliance will be sent to the respondent at the respondent's address of record and will state a re-inspection date of not less than fourteen days (four days mailing time, 10 days to correct the violation). Staff has the authority to extend a re-inspection date by one week without referring to the Committee.

The notice shall state the verbatim wording of the rule alleged to have been violated and the specific conditions in violation of the rule. The notice shall state that if the violation is corrected prior to the re-inspection date, the case will be closed. However, if the same violation occurs within 1 year of the re-inspection date, the respondent will be scheduled for a hearing before the Covenants Committee.

The notice of non-compliance shall contain a summary of the covenant's enforcement procedures, listing actions that the Association may take to correct violations, including fines, interest and late fees, suspension of membership rights (voting, amenity access, ability to hold office, ability to purchase season passes), alternative corrective actions that may be taken at the expense of the owner.

### **Proposed: Notice of Non-Compliance**

Within five business days of receipt of a verified complaint, a Notice of Non-Compliance shall be sent to the respondent at the respondent's address of record. The notice shall state the verbatim wording of the rule alleged to have been violated and the specific conditions and/or activities in violation of the rule.

- When the violation includes an inspector verified condition of non-compliance, the notice shall state a re-inspection date of not less than fourteen days (four days mailing time, ten days to correct the violation). The Community Relations Inspector has the authority to extend the re-inspection date by one week without referring to the Committee. The notice shall state the following:
  - a) If the non-compliant condition is not corrected prior to the re-inspection date, the case shall be referred to a Sufficiency Review to determine if a Hearing is warranted; and, in contrast,
  - b) If the non-compliant condition is corrected prior to the re-inspection date, the case will be closed.
- When the violation is an objectionable activity violation (such as, but not limited to "Noxious Activities"), the notice shall state that the case is being referred to a Sufficiency Review to determine if a Hearing is warranted.



The Notice of Non-Compliance shall contain a summary of the covenant's enforcement procedures, listing actions that the Association may take to correct violations, including fines, abridgment of membership rights and corrective actions at the expense of the owner. The notice shall state that the respondent has the right to a hearing on the matter before such actions are initiated.

## **Redline Version: Notice of Non-Compliance**

Within ~~5~~five business days of receipt of a verified complaint, a ~~notice~~Notice of ~~non-compliance~~Non-Compliance shall be sent to the respondent at the ~~respondent's~~respondent's address of record ~~and will state a re-inspection date of not less than fourteen days (four days mailing time, 10 days to correct the violation). Staff has the authority to extend a re-inspection date by one week without referring to the Committee.~~

~~The notice shall state the verbatim wording of the rule alleged to have been violated and the specific conditions in violation of the rule. The notice shall state that if the violation is corrected prior to the re-inspection date, the case will be closed. However, if the same violation occurs within 1 year of the re-inspection date, the respondent will be scheduled for a hearing before the Covenants Committee and/or activities in violation of the rule.~~

~~The notice~~When the violation includes an inspector verified condition of non-compliance, the notice shall state a re-inspection date of not less than fourteen days (four days mailing time, ten days to correct the violation). The Community Relations Inspector has the authority to extend the re-inspection date by one week without referring to the Committee. The notice shall state the following:

- ~~a) If the non-compliant condition is not corrected prior to the re-inspection date, the case shall be referred to a Sufficiency Review to determine if a Hearing is warranted; and, in contrast,~~
- ~~b) If the non-compliant condition is corrected prior to the re-inspection date, the case will be closed.~~

~~When the violation is an objectionable activity violation (such as, but not limited to "Noxious Activities"), the notice shall state that the case is being referred to a Sufficiency Review to determine if a Hearing is warranted.~~

~~The Notice of Non-Compliance shall contain a summary of the covenant's~~covenant's enforcement procedures, listing actions that the Association may take to correct violations, including fines, ~~interest and late fees, suspension~~abridgment of membership rights (~~voting, amenity access, ability to hold office, ability to purchase season passes~~), ~~alternative~~and corrective actions ~~that may be taken~~ at the expense of the owner. The notice shall state that the respondent has the right to a hearing on the matter before such actions are initiated.

## **Intent of the change summary:**

- Introduction of the “verifiable condition” versus the “objectionable activity” to current inspection needs and practices.

## Re-Inspection

### Existing: Re-inspection

Within three days after the listed re-inspection date, the alleged violation shall be re-inspected. The Inspector shall note the date, time, conditions observed, and a photo shall be taken, where appropriate.

If the condition has not been corrected as of the re-inspection date, the matter shall be referred to a sufficiency review, as described below:

If the condition has been corrected prior to the re-inspection date, the file will be closed. If the same offense occurs at the property within 1 year of the re-inspection date, staff will request a sufficiency review.

### Proposed: Re-Inspection

Within three business days after the listed re-inspection date, the non-compliant condition violation shall be re-inspected. The inspector shall note the date, time, condition observed and take a photograph.

If the non-compliant condition has not been corrected as of the re-inspection date, it shall be so noted in the file, the Complainant so notified, and the case shall be sent to a Sufficiency Review to determine if a Hearing is warranted.

If the non-compliant condition has been corrected prior to the re-inspection date, it shall be so noted in the file, the Complainant so notified, and the case closed.

### Redline Version: Re-Inspection

Within three business days after the listed re-inspection date, the alleged non-compliant condition violation shall be re-inspected. The ~~Inspector~~inspector shall note the date, time, ~~conditions~~condition observed, and take a photo shall be taken, where appropriate~~photograph~~.

If the non-compliant condition has not been corrected as of the re-inspection date, ~~the matter shall be referred to a sufficiency review, as described below:~~it shall be so noted in the file, the Complainant so notified and the case shall be sent to a Sufficiency Review to determine if a Hearing is warranted.

If the non-compliant condition has been corrected prior to the re-inspection date, it shall be so noted in the file ~~will be,~~ the Complainant so notified and the case closed. ~~If the same offense~~

~~occurs at the property within 1 year of the re-inspection date, staff will request a sufficiency review.~~

### **Intent of the change summary:**

- No material changes to this procedure, more update to language to reference when an inspection can occur.
- Clarification language for timing of notification of re-inspection with reference to business days.
- Clarification of violation status with addition of “non-compliant condition” language.

## **Sufficiency Review**

### **Existing: Sufficiency Review**

Sufficiency Reviews will be conducted within two days of a staff review request. At the Sufficiency Review, a member or alternate member of the Covenants Committee will review the complaint, inspection reports and photos. The Reviewer may visit the property location, record his or her observations, and deliver the information back to the Compliance Inspector. The Reviewer shall then direct staff to:

1. Issue a Notice of Hearing
2. Conduct further investigation
3. Dismiss the complaint due to compliance or lack of jurisdiction.

Dismissed complaints will be filed in the Architectural Standards Office individual unit and lot file cabinets. A status

acknowledgment will be provided to the respondent and to the complainant.

The Compliance Inspector, for scheduling, will retain complaints requiring further investigation. They shall be reviewed jointly by the Compliance Inspector and the Reviewer involved. Should the Inspector and Reviewer fail to agree as to how to proceed on such a complaint, the matter will be reviewed by a member of the Committee, not involved in the matter, whose opinion shall control.

### **Proposed: Sufficiency Review**

Sufficiency Reviews shall be conducted within three business days of a staff review request. At the Sufficiency Review, the Reviewer (a member of the Covenants Committee, not including alternate members) and the Community Relations Inspector shall review the complaint, inspection report, photographs and any other relevant information and documentation. If the Reviewer and the Community Relations Inspector fail to agree on how to proceed with the complaint, the matter shall be reviewed by a second Reviewer, not involved in the matter, whose opinion shall settle the disagreement.

After reviewing the relevant information and coming to an agreement, the Community Relations Inspector will either:

- Issue a Notice of Hearing, or
- Dismiss the complaint and close the case.

Complaints may be dismissed due to compliance, insufficient evidence of a violation or lack of jurisdiction. The results of the Sufficiency Review shall be noted in the file. If the complaint is dismissed, both the respondent and the complainant, if applicable, shall be so notified.

## **Redline Version: Sufficiency Review**

Sufficiency Reviews ~~will~~shall be conducted within ~~two~~three business days of a staff review request. At the Sufficiency Review, the Reviewer (a member ~~or alternate member~~ of the Covenants Committee ~~will, not including alternate members~~) and the Community Relations Inspector shall review the complaint, inspection ~~reports and photos~~. ~~The Reviewer may visit the property location, record his or her observations, and deliver the report, photographs and any other relevant information back to the Compliance~~ and documentation. If the Reviewer and the Community Relations Inspector ~~The Reviewer shall then direct staff fail to~~ agree on how to proceed with the complaint, the matter shall be reviewed by a second Reviewer, not involved in the matter, whose opinion shall settle the disagreement.

~~1.~~

After reviewing the relevant information and coming to an agreement, the Community Relations Inspector will either:

Issue a Notice of Hearing, or

~~2. Conduct further investigation~~

~~3. Dismiss the complaint and close the case.~~

Complaints may be dismissed due to compliance, insufficient evidence of a violation or lack of jurisdiction. The results of the Sufficiency Review shall be noted in the file. If the complaint is dismissed, both the respondent and the complainant, if applicable, shall be so notified.

## **Intent of the change summary:**

- To expand sufficiency review timeline by one more day to accommodate more time for the reviewer.
- To streamline approval process to full committee members and remove the authority from alternate committee members to improve consistency with experience.
- Clarifying the notification of sufficiency review outcome and complainant/respondent notification process from staff.

## Notice of Hearing

### Existing: Notice of Hearing

When the Sufficiency Reviewer and the Covenants Inspector deem it appropriate, a Notice of Hearing shall be prepared and sent both by first class, and via certified mail, return receipt requested, to the respondent at the respondent's address of record. The mailings shall include all appropriate information pertaining to the violation. Notices of Hearings shall be sent no less than 19 days prior to the scheduled hearing date (four days for mailing, 15 days prior notice required). The respondent shall be advised of the date and time that a hearing has been scheduled, and the possible actions that the Hearing Panel can take, including fines, abridgement of membership rights, corrective action at the expense of the owner.

### Proposed: Notice of Hearing

When the results of the Sufficiency Review deem it appropriate, a Notice of Hearing shall be prepared and sent both by first class and via certified mail, return receipt requested, to the respondent at the respondent's address of record.

- The Notice of Hearing shall include all appropriate information pertaining to the violation. The Notice shall also include the date and time of the hearing and the possible actions that the Hearing Panel can take, including fines, abridgment of membership rights and corrective action at the expense of the owner.
- Notice of Hearings shall be sent no less than 19 days prior to the scheduled hearing date (four days for mailing and 15 days required prior notice).

When the complainants contact information is available, the complainant shall be notified of the hearing date and time and shall be encouraged to attend the Hearing either in person, by telephone or via video-conference to provide testimony to the Hearing Panel regarding the complaint.

### Redline Version: Notice of Hearing

When the ~~results of the~~ Sufficiency ~~Reviewer and the Covenants Inspector~~Review deem it appropriate, a Notice of Hearing shall be prepared and sent both by first class, and via certified mail, return receipt requested, to the respondent at the ~~respondent's~~respondent's address of record.

The ~~mailings~~Notice of Hearing shall include all appropriate information pertaining to the violation. ~~Notices of Hearings shall be sent no less than 19 days prior to the scheduled hearing date (four days for mailing, 15 days prior notice required). The respondent shall be advised of~~The Notice shall also include the date and time ~~that a of the~~ hearing ~~has been scheduled,~~ and the possible actions that the Hearing Panel can take, including fines, ~~abridgement~~abridgment of membership rights, ~~and~~ and corrective action at the expense of the owner.

## Hearing

Notice of Hearings shall be sent no less than 19 days prior to the scheduled hearing date (four days for mailing and 15 days required prior notice).

When the complainants contact information is available, the complainant shall be notified of the hearing date and time and shall be encouraged to attend the Hearing either in person, by telephone or via video-conference to provide testimony to the Hearing Panel regarding the complaint.

### **Intent of the change summary:**

- No material procedure change, more clarifying language edits.
- For “objectionable activity “ complaints, clarifying language adding the complainant in the notification process should they want the opportunity to provide information or testimony at the hearing.

## Hearing

### Existing: Hearing

The content and results of hearings shall be recorded in the hearing minutes. A minimum of three Covenants Committee members, and/or alternates, are required to hold a hearing. A majority of the panel must agree on any action taken. No committee member or alternate member, who filed the complaint in the current matter, may be a member of the hearing panel. If a fine is imposed, it may be determined from the date of re-inspection to the date of the hearing. The Hearing Panel will consider any unusual circumstances. Staff shall inspect the property on the day of the hearing, recording the current condition, and take a photo. If an inspection reveals that the respondent has complied, that fact will be presented at the hearing. If it is determined at the hearing that the violation did exist but has since been corrected, the Hearing Panel will determine the appropriate fine for the violation. Said fine may be suspended for a period of one year from the last hearing date unless the same violation is found, at a properly noticed hearing, to have been repeated within that period. In such cases, the fine previously suspended may be imposed for the prior violation, along with any penalties found appropriate with regard to the subsequent violation.

If a quorum is not met on the day of the hearing, the following procedures will be followed:

1. If the respondent did not attend the hearing, the hearing will be rescheduled.
2. If the respondent was present for the hearing, the case will be closed with no action taken.

If, as of the day prior to the hearing date, the violation has not been corrected, the Hearing Panel shall schedule a re-inspection date. If at the re-inspection, the violation has not been corrected a new hearing date will be set where the Hearing Panel may determine alternative action be taken to resolve the issue.

Staff will notify the respondent and the complainant of the results of the hearing.

### Proposed: Hearing

The content and results of hearings shall be recorded in the hearing minutes. A minimum of three Covenants Committee members and/or alternate members are required to hold a hearing. A majority of the panel must agree on any action taken. No committee member or alternate member who filed the complaint in the current matter may be a member of the hearing panel. If the hearing is cancelled, it will be rescheduled, and the staff will notify the respondent and the complainant of the cancelation and rescheduled hearing date.

In making their decision, the hearing panel will consider the testimony and relevant evidence presented by the complainant, the respondent, and the staff. When the alleged violation includes a non-compliant condition, staff will re-inspect the property within one business day



prior to the hearing, record the current condition, take a photo and present their findings at the hearing. The Hearing Panel shall consider these findings and any unusual circumstances that are relevant to the case. After due consideration of the presented testimony, evidence and circumstances, the Hearing Panel will either:

- Dismiss the complaint and close the case, or
- Uphold the violation and determine the appropriate fine or other disciplinary/corrective action.

## **Redline Version: Hearing**

The content and results of hearings shall be recorded in the hearing minutes. A minimum of three Covenants Committee members, and/or ~~alternates, alternate members~~ are required to hold a hearing. A majority of the panel must agree on any action taken. No committee member or alternate member, ~~who filed the complaint in the current matter, may be a member of the hearing panel. If a fine is imposed, it may be determined from the date of re-inspection to the date of the hearing. The Hearing Panel will consider any unusual circumstances. Staff shall inspect the property on the day of the hearing, recording the current condition, and take a photo. If an inspection reveals that the respondent has complied, that fact will be presented at the hearing. If it is determined at the hearing that the violation did exist but has since been corrected, the Hearing Panel will determine the appropriate fine for the violation. Said fine may be suspended for a period of one year from the last hearing date unless the same violation is found, at a properly noticed hearing, to have been repeated within that period. In such cases, the fine previously suspended may be imposed for the prior violation, along with any penalties found appropriate with regard to the subsequent violation~~ who filed the complaint in the current matter may be a member of the hearing panel. If the hearing is cancelled, it will be rescheduled, and the staff will notify the respondent and the complainant of the cancellation and rescheduled hearing date.

~~If a quorum is not met on the day of the hearing, the following procedures will be followed:~~

- ~~1. If the respondent did not attend the hearing, the hearing will be rescheduled.~~
- ~~2. If the respondent was present for the hearing, the case will be closed with no action taken.~~

~~If, as of the day prior to the hearing date, the violation has not been corrected, the Hearing Panel shall schedule a re-inspection date. If at the re-inspection, the violation has not been corrected a new hearing date will be set where the Hearing Panel may determine alternative action be taken to resolve the issue.~~

~~Staff will notify the respondent and the complainant of the results of the hearing.~~

In making their decision, the hearing panel will consider the testimony and relevant evidence presented by the complainant, the respondent, and the staff. When the alleged violation includes a non-compliant condition, staff will re-inspect the property within one business day prior to the hearing, record the current condition, take a photo and present their findings at the

hearing. The Hearing Panel shall consider these findings and any unusual circumstances that are relevant to the case. After due consideration of the presented testimony, evidence and circumstances, the Hearing Panel will either:

- Dismiss the complaint and close the case, or
- Uphold the violation and determine the appropriate fine or other disciplinary/corrective action.

### **Intent of the change summary:**

- Removal of language “if a quorum is not met” so the violation is no longer dismissed and triggers a scheduled re-inspection and subsequent rescheduled hearing. (most important for non-dismissal for defensible space hearings)
- Clarifying language of procedures for cancellation and reschedule of hearing date.

## **Fines and Closure** **(New Section)**

**Existing:** None

**Proposed:** Fines and Closure

Fines will be applied in accordance with the fine schedule.

Fines for a non-compliant condition violation may be determined from the date of re-inspection to the date of the hearing.

- If it is determined at the Hearing that the non-compliant condition has not been corrected, the Hearing Panel will determine the appropriate fine for the violation. The hearing decision notice shall specify a re-inspection date and state that if the non-compliant condition violation is not corrected by the re-inspection date, the case will be referred to a sufficiency review to schedule a second hearing to address the remaining non-compliant condition violation.
- If it is determined at the Hearing that the non-compliant condition did exist, but has since been corrected, the Hearing Panel will determine the appropriate fine for the violation. Said fine may be waived in part or in full.

Fines for an objectionable activity violation may be imposed for each day that the violating activity is determined to have occurred.

- If it is determined at the Hearing that the objectionable activity did occur, the Hearing Panel will determine the appropriate fine. Said fine may be waived in part or in full.

In all of the above cases where the alleged violation is upheld, the case will be closed when the conditions of non-compliance have been corrected, imposed fines invoiced and requested appeals have been concluded.

**Redline Version:** Fines and Closure

Fines will be applied in accordance with the fine schedule.

Fines for a non-compliant condition violation may be determined from the date of re-inspection to the date of the hearing.

- If it is determined at the Hearing that the non-compliant condition has not been corrected, the Hearing Panel will determine the appropriate fine for the violation. The hearing decision notice shall specify a re-inspection date and state that if the non-compliant condition violation is not corrected by the re-inspection date, the case will be

referred to a sufficiency review to schedule a second hearing to address the remaining non-compliant condition violation.

- If it is determined at the Hearing that the non-compliant condition did exist, but has since been corrected, the Hearing Panel will determine the appropriate fine for the violation. Said fine may be waived in part or in full.

Fines for an objectionable activity violation may be imposed for each day that the violating activity is determined to have occurred.

- If it is determined at the Hearing that the objectionable activity did occur, the Hearing Panel will determine the appropriate fine. Said fine may be waived in part or in full.

In all of the above cases where the alleged violation is upheld, the case will be closed when the conditions of non-compliance have been corrected, imposed fines invoiced and requested appeals have been concluded.

Intent of the change summary:

- Clarifying section added to reference “in accordance with the fine schedule” and to provide a framework to assist with finding a resolution to each hearing.

## **Notice of Hearing Decision**

### **Existing: Notice of Hearing Decision**

Within ten working days of the hearing, a Notice of Hearing Decision shall be prepared and sent both by first class mail, and via certified mail, return receipt requested, to the respondent at the respondent's address of record. If the decision is adverse to the respondent, notice of the respondent's appeal rights shall be included. The notice shall state any fines levied against the respondent, and if appropriate, if those fines were suspended. The notice shall contain a summary of the covenant's enforcement procedures, listing actions that the Association may take to correct violations, including fines, interest and late fees, suspension of membership rights (voting, amenity access, ability to hold office, ability to purchase season passes), alternative corrective actions that may be taken at the expense of the owner. The notice will include information on the property owner's appeal rights and that the owner may appeal all Hearing Panel decisions to the Board of Directors Appeal Board.

### **Proposed: Notice of Hearing Decision**

Within ten business days of the hearing, a Notice of Hearing Decision shall be prepared and sent by first class mail and email (if available) to the respondent at the respondent's address of record. The notice shall state any fines levied against the respondent, and if applicable, if those fines are waived. If there is a remaining non-compliant condition violation that needs to be corrected in order to close the case, the notice will also include a re-inspection date and state that if the non-compliant condition violation is not corrected by the re-inspection date, the case will be referred to a sufficiency review to schedule a second hearing to address the remaining non-compliant condition violation.

The notice shall contain a summary of the covenant's enforcement procedures, listing actions that the Association may take to correct violations, including fines, abridgment of membership rights and corrective actions at the expense of the owner. The notice will include information on the property owner's appeal rights and that the owner may appeal all Hearing Panel decisions to the Board of Directors Appeal Board.

The complainant may request the results of the hearing after the Notice of Hearing Decision has been sent to the respondent. When so requested, the complainant shall be notified that either the complaint was dismissed or the violation was upheld, as appropriate.

## **Redline Version: Notice of Hearing Decision**

Within ten ~~working~~business days of the hearing, a Notice of Hearing Decision shall be prepared and sent ~~both~~ by first class mail, and ~~via certified mail, return receipt requested, email (if available)~~ to the respondent at the ~~respondent's~~respondent's address of record. ~~If the decision is adverse to the respondent, notice of the respondent's appeal rights shall be included.~~ The notice shall state any fines levied against the respondent, and if ~~appropriate~~applicable, if those fines ~~were suspended.~~are waived. If there is a remaining non-compliant condition violation that needs to be corrected in order to close the case, the notice will also include a re-inspection date and state that if the non-compliant condition violation is not corrected by the re-inspection date, the case will be referred to a sufficiency review to schedule a second hearing to address the remaining non-compliant condition violation.

The notice shall contain a summary of the covenant's enforcement procedures, listing actions that the Association may take to correct violations, including fines, ~~interest and late fees, suspension~~abridgment of membership rights (~~voting, amenity access, ability to hold office, ability to purchase season passes~~), ~~alternative and~~ corrective actions ~~that may be taken~~ at the expense of the owner. The notice will include information on the property ~~owner's~~owner's appeal rights and that the owner may appeal all Hearing Panel decisions to the Board of Directors Appeal Board.

The complainant may request the results of the hearing after the Notice of Hearing Decision has been sent to the respondent. When so requested, the complainant shall be notified that either the complaint was dismissed or the violation was upheld, as appropriate.

### **Intent of the change summary:**

- Removing the reference to certified return receipt requested for hearing minutes. Not cost effective and have historically not done this.
- Clarifying language to streamline administrative processing procedures.
- Added information for the respondent for next steps if the items are not addressed.

## Appeals Authority

### **Existing: Appeals Authority**

The Board of Directors is the appeals authority for all decisions of the Covenants Committee. All such decisions may be appealed within 15 days following receipt of the Covenants Committee's decision by the offending Owner. A request for an appeal hearing by the Board of Directors must be in writing on a form provided to the offending Owner. This form will be provided to the Owner with the notice of the Covenants Committee's decision. C&Rs Art. XIII, Sec. 7(c).

### **Proposed: Appeals Authority**

The Board of Directors is the appeals authority for all decisions of the Covenants Committee. All such decisions may be appealed within 15 days following receipt of the Covenants Committee's decision by the respondent. A request for an appeal hearing by the Board of Directors must be in writing on a form provided to the respondent upon request, as noted within the Notice of Hearing Decision. C&Rs Art. XIII, Sec. 7(c).

### **Redline Version: Appeals Authority**

The Board of Directors is the appeals authority for all decisions of the Covenants Committee. All such decisions may be appealed within 15 days following receipt of the Covenants ~~Committee's~~ Committee's decision by the ~~offending Owner~~ respondent. A request for an appeal hearing by the Board of Directors must be in writing on a form provided to the ~~offending Owner. This form will be provided to the Owner with the notice of the Covenants Committee's decision.~~ respondent upon request, as noted within the Notice of Hearing Decision. C&Rs Art. XIII, Sec. 7(c).

### **Intent of the change summary:**

- No Material Changes to the procedures, more language corrections.

## Definitions

### **Existing: Definitions**

Where terms included in these Covenants Rules are defined in either the C&Rs or Bylaws, they are intended to be given the same meaning.

### **Proposed: Definitions**

Where terms included in these Covenants Rules are defined in either the C&Rs or Bylaws, they are intended to be given the same meaning.

### **Intent of the change summary:**

- No changes.