

PROPOSED COVENANTS ENFORCEMENT PROCEDURES

November 19, 2021



TAHOE DONNERSM

DISCUSSION

The purpose of today's presentation is to provide an update to the board and the membership with information on the proposed revisions to the Covenants Enforcement Procedures developed by the Covenants Committee and Staff.

The proposed revisions are included in the accompanying document for reference.

Covenants Enforcement Procedures Existing and Proposed

HISTORY

Efforts to update Tahoe Donner's Covenants Enforcement Procedures began in 2018.

The committee recognized that the current procedures have not been updated in over a decade and lack process detail distinguishing between the two main types of violations.

The committee felt that the current procedures are out of date with respect to administrative matters relating to record-keeping and communications and do not address practical aspects of neighbor-to-neighbor nuisance complaints.

Three drafts in the revision process since 2018.

- 2019 Draft
- 2020 Draft provided by former legal counsel
- 2021 Draft based on review of prior drafts and recommending new revisions to the existing procedures - presented today

REVISION PROJECT TIMELINE

The 2021 Draft revisions to the Covenants Enforcement Procedures is an extensive collaboration with the Covenants Committee and staff.

- *November 2020 – January 2021*: Review the enforcement procedures documents and prior drafts.
- *January 2021 – June 2021*: Discussion item at each regular committee meeting.
- *March and April 2021*: Four dedicated committee workshops.
- *March 11 and April 8, 2021*: Discussion and review of workshop outcomes at regular scheduled Covenants Committee meetings.
- *July 8, 2021*: The committee approved, by motion, the proposed revisions to the Covenants Enforcement Procedures. (2 votes for, 1 vote against)
 - The dissenting committee member expressed two concerns with the proposed revisions.
 - Transparency and due process with non-disclosure of evidence.
 - The respondents right to request a hearing if the claim is believed to be unnecessary or unwarranted.
 - The committee disagreed and felt accommodation was made with added language in the Notice of Non-Compliance section and detailed in the corresponding letter to the respondent.

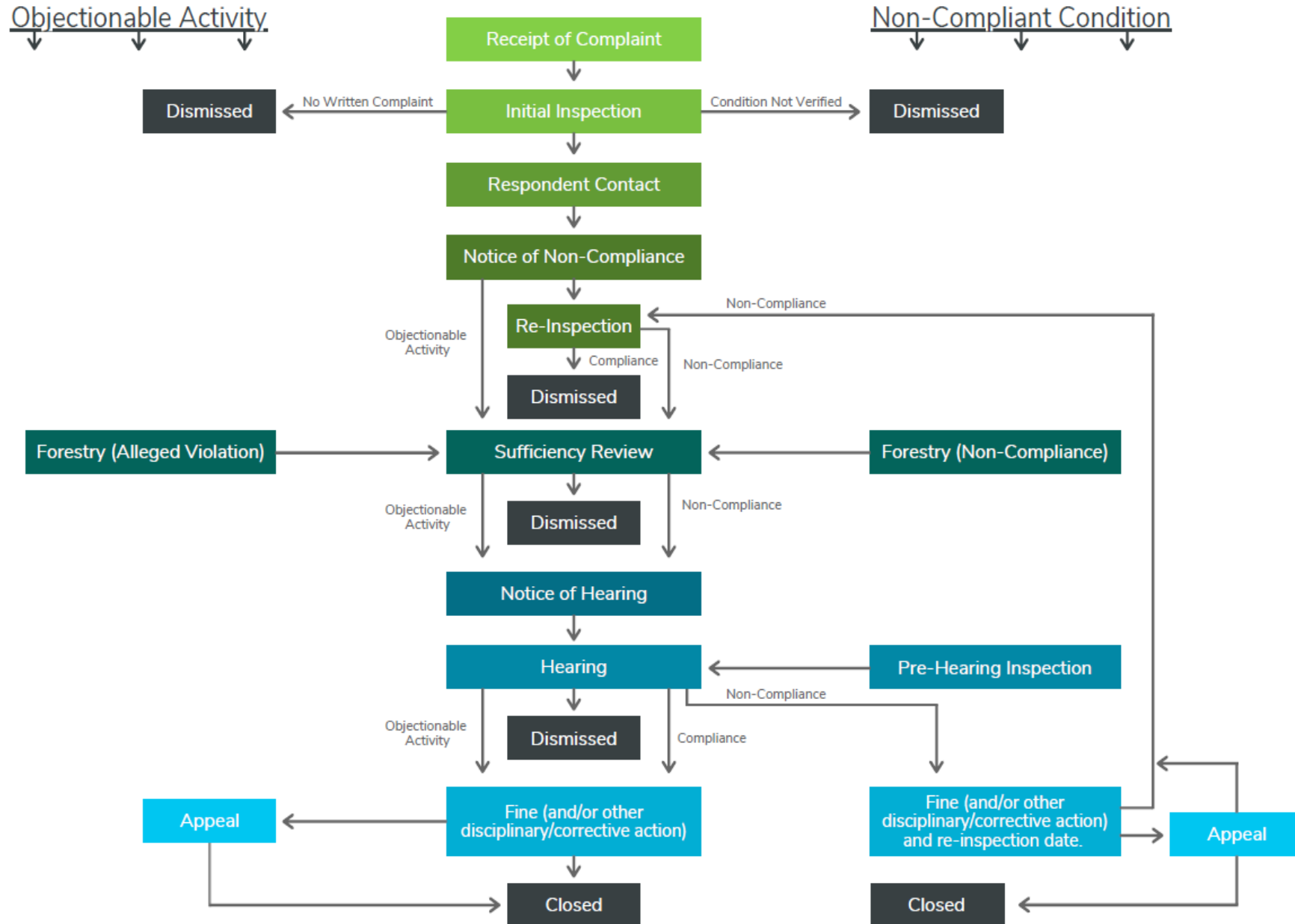
ENFORCEMENT PROCEDURES REVIEW

- The existing Covenants Enforcement Procedures and Fines were useful as the foundation for the update.
- There are several procedures that need to be updated, clarified and/or streamlined.
- The differences between "non-compliant condition" violations and "objectionable activity" violations need to be clarified and the different procedural steps need to be outlined in the procedure.
 - *Non-Compliant Condition – violations that can be observed and verified by an inspector.
(trash spill, storage violation, parking, light violation, short term rental nonregistration)*
 - *Objectionable Activity – violations that cannot be observed and verified by an inspector because evidence was not provided with the complaint, or it occurred in the past.
(noxious activity, noise complaint, short term rental occupancy violation)*
- Issuing fines for objectively verifiable violations at the Sufficiency Review level, which initially appealed to the committee in 2018, was found to have significant downsides. Consequently, this approach was abandoned.

PROPOSED REVISION GOALS

- Update the procedures to be consistent with current technology (email, website, etc.)
- To identify and distinguish between the two types of violations: “objectionable activities” and “non-compliant conditions.”
- To provide Covenants Enforcement Procedures that are easily understandable.
- To provide for the equal treatment of all member property owners.
- To encourage compliance and discourage repeat violations.
- Clarify the receipt of complaint process and communication to both respondents and complainants.
- Clarify the re-inspection process, if required, between the two violation types.
- Clarify the sufficiency review process.
- Provide due process to respondents by requiring a sufficiency review prior to a hearing and possible fines imposed.

Covenants Enforcement Procedures



BOARD OF DIRECTOR AUTHORITY

Pursuant to Tahoe Donner Covenants and Restrictions the board may consider adoption of new and amended procedures without a requirement to publish for a member notification and comment period.

Article III, Section 7

(b) Adoption and Amendment of Rules. Association Rules may be adopted or amended from time to time by majority vote of the Board in accordance with this subparagraph (b). Except in the case of: (i) rules or regulations adopted to respond to an emergency which threatens the health or safety of the residents or immediate damage to or destruction of any Common Area; and (ii) rules or regulations concerning Board or committee administrative or procedural matters, no Association Rule shall be adopted until the proposed rule or amendment thereof has been published to the Members at least 45 days prior to the date when the Board is scheduled to act on the proposal. During the 45-day comment period at least one Board or community meeting shall be held at which the proposed rule is an agenda item.

CONCLUSION:

It is the view of the Covenants Committee that the proposed revisions to the Covenants Enforcement Procedures meet the objectives set forth by the committee:

- Update, clarify and streamline the Covenants Enforcement Procedures.
- Provide due process for all Tahoe Donner members in a fair and just manner.
- Remain in accordance with the Tahoe Donner governing documents.

NEXT STEPS:

1. Make further updates to the Covenants Enforcement Procedures with feedback and recommendations received today.
2. Solicit legal review by Tahoe Donner counsel for the proposed revisions and incorporate recommended edits.
3. Bring final revised Covenants Enforcement Procedures back before the Board for approval at a future Board meeting.

QUESTIONS?

THANK YOU