

RIVERLAKE COMMUNITY ASSOCIATION RIVERLAKE LAKE ASSOCIATION

Rules Enforcement Procedures and Schedule of Monetary Penalties

COMPLIANCE PROCEDURE

The Board of Directors (the "Board") of the Riverlake Community Association (the "Association") is primarily responsible for enforcing all of the rules and regulations which apply to the Riverlake planned development as found in the Master Declaration of Covenants, Conditions and Restrictions for Riverlake (the "Declaration") and the rules adopted by the Board (collectively, the "Rules").

In order to fulfill this responsibility in a fair, efficient manner, the Board has adopted the following Rules Enforcement Procedures and Schedule of Monetary Penalties for addressing violations of the Rules. These procedures are designed to provide notice of a violation followed by an opportunity for voluntary correction. In the rare event that voluntary correction is not obtained, the following procedures ensure that notice and opportunity for a hearing are provided to the owners alleged to be in violation of the Rules as required by the Declaration, the Association's Bylaws and California law. The ultimate goal is to ensure that all owners comply with the Rules in order to protect and enhance the value and appearance of the property, and the quality of life, within Riverlake.

1. Reports of Violations. Violations may be brought to the Association's attention in a variety of ways, including by the observation of Association staff or members of the Board. The Association may also be made aware of violations through reports from owners. All such owner reports must be received in writing before they will be acted upon. Any owner reporting a violation of the Rules consents to the open use of his or her report and agrees to cooperate in the Association's investigations and enforcement actions, including any related hearings. No requests for confidentiality in this regard will be granted. Basic fairness to the owner accused of violating the Rules, and the Association's need to ensure that adequate evidence of a violation exists, require nothing less.

2. Initial Determination of Credibility. When the Association becomes aware of a possible violation of the Rules, the Association's general manager will make an initial determination of whether there is credible evidence that a violation of the Rules has in fact occurred.

3. Provision of a Courtesy Notice. If the general manager concludes that there is credible evidence that a violation has occurred, a letter describing the nature of the violation, including a reference to the specific Rule in question, will be sent by first-class mail or personally delivered to the owner. The letter will also grant the owner at least ten days to bring the owner's lot into compliance with the Rules where the violation involves architectural issues, property use restrictions or other similar matters where affirmative corrective action by the owner is required to come into compliance with the Rules. In the case of violations that are not ongoing, the letter will indicate that future violations of the same Rule will result in formal Association disciplinary action. The Association may, but shall not be obligated to, provide a copy of the letter to the resident of the lot if the owner is not in residence. The form of the letter will be in the discretion of the general manager, subject to oversight by the Board, and may be altered from time to time. If compliance is obtained within the time frame indicated, no further action will be taken. The purpose of this letter is to gain the owner's voluntary compliance in a friendly, non-punitive and non-confrontational manner.

4. Scheduling and Notice of a Disciplinary Hearing. If the violation is not corrected within the time frame specified in Paragraph 3 above, or if the violation reoccurs, the Association shall schedule a disciplinary hearing. The owner shall be provided with a written notification of the hearing (the "Hearing Notice"). The Hearing Notice shall be personally delivered to the owner or mailed by first class mail to the owner's address as shown on the Association's records at least ten days prior to the date of the hearing. The Hearing Notice shall contain at least the following information: (i) the date, time and place of the hearing, (ii) the nature of the alleged

violation for which the owner may be disciplined, (iii) the nature of the discipline which may be imposed, (iv) a statement that the owner has a right to attend and may address the Board at the hearing, and (v) a statement that the owner may submit a written statement to the Board regarding the violation.

5. Conduct of the Disciplinary Hearing. The disciplinary hearing shall be held in executive session. Only the following parties may be present at the hearing: (i) the owner, (ii) legal counsel for the owner, (iii) the Board, (iv) members of the Association's staff, (v) the Association's legal counsel, (vi) members of the other Board of directors of the Association not conducting the hearing, (vii) witnesses who will provide testimony, and (viii) such other persons as the Board deems helpful to the conduct of the hearing and the determination of the facts, subject to the Board's right, but not obligation, to exclude witnesses during the times they are not providing testimony. The owner may present witnesses, photographs or other evidence at the hearing. The owner may also choose to appear at the hearing solely in writing. **A hearing will be held whether or not the owner chooses to appear or submit evidence.** The hearing shall be conducted under the direction of the Board which shall determine the procedure to be followed including without limitation the sequence in which evidence and witnesses shall be presented.

6. Decision of the Board of Directors. After reviewing the evidence presented at the hearing, the Board shall deliberate and reach a decision regarding whether or not a violation of the Rules has occurred and, if the Board determines that a violation has occurred, the nature of the discipline to be imposed. However, in its sole discretion, the Board may also take the matter under submission and set a continued hearing at which its final determination will be made. The Board may also request that additional evidence be provided for its consideration at the continued hearing. The Board shall provide the owner with notice of such continued hearing in conformance with Paragraph 4 and shall conduct the hearing in accordance with Paragraph 5, except that the Board may limit the presentation of evidence and testimony at the continued hearing to evidence and testimony not previously presented. The decision of the Board shall be final and conclusive.

7. Forms of Discipline. If the Board determines that a violation has occurred, it may impose a fine not to exceed \$25.00, suspend rights and take any other action it deems appropriate including, without limitation, the commencement of legal proceedings to gain compliance. A fine may be imposed for a continuing violation on a periodic basis, not to exceed a \$25.00 per day, until compliance is obtained. In its discretion, the Board may condition or suspend its imposition of discipline based on the owner fulfilling specific requirements designed to result in compliance with the Rules. The disciplinary action imposed by the Board shall not take effect any earlier than the later of (i) five days following the date of the hearing at which the discipline is imposed, (ii) three days following the date the written notice required by Paragraph 8 is sent if given by first-class mail, or (iii) one day following the date the written notice required by Paragraph 8 is delivered if given by personal service.

8. Written Notice of Disciplinary Action. If the Board imposes discipline on the owner, the Board shall provide written notification of the disciplinary action to the owner, either by personal delivery or first-class mail, within 15 days following the hearing at which the discipline is imposed.

9. Immediate Corrective Action / Injunctive Relief. The procedures set forth above shall not limit or prevent the Association from (i) taking immediate corrective action in the event of an emergency or a threat to the safety and well being of the residents of Riverlake or the Association's staff, or (ii) from obtaining injunctive relief to preserve the status quo, preserve the Association's rights or otherwise prevent damage or injury to the Association or any owner, or the property of either. If action is taken by the Association pursuant to this paragraph, the Board may act on its own initiative to schedule a disciplinary hearing. If the Board has not scheduled a disciplinary hearing and the owner involved desires a hearing, the owner must make a written request for a hearing which must be received by the Association not later than ten days following the date when the owner is informed of the Association's action. The hearing shall be held within thirty days following the receipt by the Board of the Member's request for a hearing.

10. Collection of Amounts due the Association. Except to the extent that discipline is imposed based upon an owner's nonpayment of such amounts, the collection of assessments and other amounts due to the Association shall not be subject to the above procedures, but shall be governed by a separate collection policy adopted by the Board.

The foregoing Rules Enforcement Procedures and Schedule of Monetary Penalties were adopted by the Board of Directors on February 27, 2002.

E. Alternative Dispute Resolution Procedure

1. Summary of the Internal Dispute Resolution Process set forth in California Civil Code Sections 1363.810-1363.850

California Civil Code Section 1363.810 – 1363.850 require an Association to provide a fair reasonable and expeditious procedure for resolving certain disputes between the Association and a member. The following procedure, which may be invoked by either party to a dispute, shall apply:

1. The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be made in writing.
2. A member of an Association may refuse a request to meet and confer. The Association may not refuse a request to meet and confer.
3. The Association's Board of directors shall designate a member of the Board to meet and confer with the other party to the dispute.
4. The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute.
5. A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the Board designee on behalf of the Association.

An agreement reached under this section binds the parties and is judicially enforceable if both of the following conditions are satisfied:

- (1) The agreement is not in conflict with law or the governing documents of the common interest development or Association.
- (2) The agreement is either consistent with the authority granted by the Board of directors to its designee or the agreement is ratified by the Board of directors.

A member of the Association may not be charged a fee to participate in the process.

If the parties to the dispute are unable to resolve the matter using this internal dispute resolution procedure, the Association or the members may then serve a Request for Resolution pursuant to California Civil Code Section 1369.530, if applicable.

2. Summary of California Civil Code Sections 1369.510 – 1369.590 concerning Alternative Dispute Resolution.

Alternative Dispute Resolution (ADR) means mediation, arbitration, conciliation, or other non-judicial procedure that involves a neutral party in the decision-making process. The form of ADR chosen pursuant to this article may be binding or non-binding, with the voluntary consent of the parties. (Civil code 1369.510)

California Civil Code Section 1369.510 – 1369.590 addresses your rights to sue the Association or another member of the Association regarding the enforcement of the governing documents. The following is a summary of the provisions of the Civil Code Sections 1369.510 – 1369.590:

In general, Civil Code Section 1369.510 – 1369.590 encourages parties to certain disputes involving enforcement of an Association governing documents to submit the dispute to a form of alternative dispute resolution (ADR) such as mediation or arbitration prior to filing a lawsuit. The form of ADR may be binding or non-binding, and the costs of the ADR shall be borne by the parties.

1369.520. Pre-filing Requirements

An Association or an owner or a member of a common interest development may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to ADR. This section applies only to an enforcement action that is solely for declaratory, injunctive, or for that relief in conjunction with a claim for monetary damages not in excess of the jurisdictional limits stated in Sections 116.220 and 116.221 of the Code of Civil Procedure.

This section does not apply to small claims actions or assessment dispute.

1369.530. Initiating Process

Any party to a dispute may initiate the process of ADR by serving a Request for Resolution on all other parties to the dispute. A Request of Resolution must contain: (1) a brief description of the dispute between parties, (2) a request for ADR, (3) a notice that the party receiving the Request of Resolution is required to respond within 30 days of receipt or the Request will be deemed rejected, and (4) if sent to the owner of a separate interest, a copy of Civil Code Section 1369.510 – 1369.590.

Service of the Request for Resolution shall be by personal delivery, first-class mail, express mail, facsimile transmission, or other means reasonably calculated to provide the party on whom the request is served actual notice of the request.

A party on whom a Request for Resolution is served has 30 days following service to accept or reject the request. If a party does not accept the request within that period, the request is deemed rejected by the party.

1369.540 Completion, Conduct and Cost

- (a) If the party on whom a Request for Resolution is served accepts the request, the parties shall complete the alternative dispute resolution within 90 days after the party initiating the request received the acceptance, unless this period is extended by written stipulation signed by both parties.
- (b) Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code applies to any form of alternative dispute resolution initiated by a Request for Resolution under this article, other than arbitration.
- (c) The costs of the alternative dispute resolution shall be borne by the parties.

1369.590

"FAILURE OF A MEMBER OF THE ASSOCIATION TO COMPLY WITH THE ALTERNATIVE DISPUTE RESOLUTION REQUIREMENTS OF SECTION 1369.520 OF THE CIVIL CODE MAY RESULT IN THE LOSS OF YOUR RIGHT TO SUE THE ASSOCIATION OR ANOTHER MEMBER OF THE ASSOCIATION REGARDING ENFORCEMENT OF THE GOVERNING DOCUMENTS OR THE APPLICABLE LAW."

The law requires the party filing a lawsuit for enforcement of the Association's governing documents to file a certificate with the court stating the (1) ADR had been completed prior to the filing of the suit, or (2) ADR was not undertaken because one of the other parties to the dispute did not accept the terms offered for the ADR, or (3) ADR will not be undertaken because preliminary or temporary injunctive relief is necessary. Failure to file this certificate can be grounds for dismissing the lawsuit.

Furthermore, while the prevailing party in any lawsuit to enforce the governing documents shall be awarded attorney's fees and costs, under Civil Code 1369.580 the court may consider whether a party's refusal to participate in ADR was reasonable when it determines the amount of the award.