

VIOLATION ENFORCEMENT PROCEDURE

Letter #1

Typically mailed within 1-2 [business] days of when the violation was observed. This letter serves as a reminder of the obligations each Owner agreed to when accepting title to property within the community and request that Owner give the matter his/her *prompt attention*.

Letter #2

If the violation in question either persists and is observed as of the next tour date, or perhaps is corrected after the first violation letter, but reappears within the following four to six months of the date of the previous letter addressing the violation, a second violation letter is mailed which indicates that previous correspondence has addressed this violation and further requests that corrective action be taken immediately. It is a somewhat more forceful letter than Letter #1, stating: *It has become necessary that you take immediate action. Another inspection will be made. If correction and compliance are not achieved, the Association may elect to pursue its other remedies and any costs incurred in doing so will be charged to you.*

Letter #3 FINAL NOTICE

If the violation in question either persists beyond the corrective period provided for in the previous letter, or perhaps is corrected but reappears within the following four to six months of the date of the previous letter addressing this violation, this third and final notice is sent. This *Final Notice* again speaks to the violation at hand and also states that two prior notices have already been sent in connection with this violation, and finishes by indicating that if Owner has not taken permanent corrective action within fourteen (14) days of the date of the notice the Board has reserved it's right to refer the issue to an attorney for legal action, with the costs associated therewith to be borne by the non-compliant Owner. Included with this notice is a page outlining for the Owner what those projected legal costs may be.

The last paragraph of this letter includes: *To contest this notice that you are in violation of your Association's governing documents, state law requires that you provide the Association with a written response by sending the response by certified mail within ten business days after the date of this notice to the address contained in the header above.* This language is included to satisfy the requirements of A.R.S. § 33-1803 [Planned Communities] and A.R.S. § 33-1242 [Condominiums].

Legal Letter [from Association's Attorney]

If the violation in question either persists beyond the corrective period provided for in the previous *Final Notice* letter, or perhaps is corrected but reappears within the following four to six months of the date of the previous letter addressing this matter, then as forewarned in the *Final Notice*, the file is sent to the Association's legal counsel for action. In response, the attorney drafts a letter which mostly reiterates the Association's position and authority with regard to the matter at hand and demands immediate and permanent compliance. At this point legal and administrative fees have accrued and will be attached to the non-compliant Owners account.

Additional legal steps

Should any violation remain outstanding after the *Legal Letter*, a *draft complaint* and letter will be prepared and sent to the Owner. [Generally, after an Owner receives the *Legal Letter*, although the letter is not specific as to the meaning of *immediate* compliance, another week or two are given before proceeding to this next legal step.] The letter explains the very serious consequences to continued non-compliance, and that a continuing failure to remedy the violation will result in the *draft complaint* being filed as an actual *Complaint* in Superior Court with the Association seeking a judgment and injunctive relief. Once a judgment is entered in the Association's favor, any further infractions of that judgment may constitute contempt and subject the non-compliant Owner to various court imposed sanctions, which may include fines and/or incarceration.

Note

The preceding represents the customary and usual violation process. There are opportunities, given unique circumstances, to accelerate the process. For example, again depending on the exact circumstance, the Board may choose to send a *first and final* notice, which is exactly that, a situation where Letters #1 and #2 are bypassed in favor of the sterner warning as contained in Letter #3.

Unapproved alteration

In the event a tour reveals, or credible report is made, as by a Board member, that a Owner has embarked on a construction project or other *alteration* of the Lot without architectural committee approval, a *Cease and Desist* letter is sent as soon as practicable, both certified and regular mail, along with an architectural submittal form.