

# CASAS ADOBES TERRACE



## HOMEOWNERS ASSOCIATION

### **Violation Policy**

The Board of Directors of the CASAS ADOBES TERRACE HOMEOWNERS ASSOCIATION pursuant to Arizona Revised Statutes §33-1803, which provides that the Association's Board of Directors is entitled to impose fines for violation(s) of the Declaration of Covenants, Conditions and Restrictions (CC&Rs); the Architectural and Landscaping Standards and Guidelines; or any Rules adopts this policy for imposing fines and/or penalties for such violation(s) as set forth in the procedure below:

**1. Friendly Reminder** – In most cases, and when appropriate, the first notification to an Owner and their tenant, if any, of their being in non-compliance of the CC&Rs or a rule will be by means of a “Friendly Reminder” letter sent via regular mail. The Board has the authority based on factors such as but not limited to those in Section 5 of this policy and/or the manager’s recommendation, to begin the process with the “Notice of Violation” (Section 2 below), bypassing this “Friendly Reminder”. Also, all violations of proceeding with an Architectural or Landscaping project without the required prior ACC approval will automatically bypass this step **and** step 2 below, beginning this process with step 3 below.

**2. Notice of Violation** – If compliance is not gained within 14 calendar days of the date the “Friendly Reminder” was mailed, a written "Notice of Violation(s)" together with a request to cease and desist from an alleged violation(s) shall be sent to the Owner of the Lot via regular mail and shall specify (The Board has the authority based on factors such as but not limited to those in Section 5 of this policy and/or the manager’s recommendation, to begin the process with the “Final Notice of Violation / Hearing Opportunity” (Section 3 below) bypassing this “Notice of Violation”.):

- (a) The alleged violation(s);
- (b) The action required to correct the violation(s)
- (c) A time period for compliance of not less than fourteen (14) calendar days from the date this notice was mailed.
- (d) A statement that unless the violation(s) is corrected in the allotted time, sanctions may be imposed after final notice of violation along with an opportunity to be heard.
- (e) In the event that the Owner is leasing his/her home, the Association may provide a copy of the Notice of Violation(s) to the Owner’s tenant.

**3. Final Notice of Violation / Hearing Opportunity** – If the violation(s) continues past the period allowed in the "Notice of Violation" (or allowed in this notice if step 2 above was bypassed); or, if the same rule or provision of the Governing Documents is subsequently violated, a written “Final Notice of Violation / Hearing Opportunity” shall be sent to the owner by regular mail and shall specify:

- (a) The nature of the alleged violation(s);
- (b) An invitation to the homeowner to submit a written request for a Hearing with the Board of Directors at which he or she may produce any statement, evidence, and witnesses on his or her behalf to discuss the alleged violations and why any penalties should not be imposed.
- (c) A time period of not less than seven (7) calendar days from the date this notice was mailed for submittal of such Hearing request;
- (d) The sanction(s) that may be imposed unless the violation(s) are corrected in the allotted time, which may include the imposition of a fine and the payment of any attorney fees incurred by the Association, in the event that the Association prevails in the suit, as allowed by the governing documents and law.

**4. Hearing**

(a) If a request for Hearing is submitted per section 3 above, the Owner shall be notified via regular mail of the location, time and date of the Hearing and the Owner shall be afforded a reasonable opportunity to be heard. If no request for Hearing is submitted within the time allotted, an initial fine may be imposed per Section 5.

(b) Prior to any sanction becoming effective, the Association shall submit proof of the notice and the invitation to be heard which shall be attached to the minutes of the Board meeting.

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(c) Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered into the minutes by the officer or director who delivered such notice.

(d) The notice requirement is satisfied if the Owner appears at the meeting or submits a written response.

(e) The minutes of the meeting shall contain a written statement of the results of the hearing and the sanctions, if any, to be recommended by the Board.

**5. Imposition of fine and any other sanctions** – After the hearing, the Board shall determine the sanction(s) to be imposed including the amount of the fine, if any, based on the Association's separately published fine schedule. The Board shall have the authority to deviate from this fine schedule based on application of the factors below:

- The seriousness of the violation(s),
- Whether this is a first violation or a continuing or a repeat violation(s)
- Whether the type of offense poses a danger to property or any person
- Any other extenuating circumstances and whether the Owner agrees in good faith to correct the violation(s) within the time specified by the Board.

After the Board of Directors makes its determination, a written notice shall be sent to the Owner via regular mail of the amount of the fine and its due date and/or any other sanction(s). The Board of Directors is empowered to impose a fine for each day that the violation(s) continues. If a corrected violation reoccurs within six months, the fine will immediately resume at the next level. **It is the obligation of the Owner to advise the Association in writing that any open violation has been corrected.**

**6. Request for Reconsideration to the Board of Directors**

(a) The Owner may request reconsideration by the Board of Directors.

(b) In order to schedule an appearance before the Board, the Owner must submit a written request to the Association Manager within seven (7) days from the date the notice of the sanctions was mailed.

(c) The meeting shall be scheduled and the Owner notified of the date, time and location via regular mail.

(d) The meeting will be held pursuant to the Notice of Hearing and the Owner shall be afforded a reasonable opportunity to be heard.

(e) After the meeting, the Board shall issue a ruling on whether the sanction stands, is modified or is rescinded.

(f) A written notice of the Board's ruling shall be sent to the Owner via regular mail.

(g) The ruling of the Board will be final.

**7. Payment of the fine and/or Penalties** – The Board shall advise the Owner that any fine, which is not paid within fifteen (15) days of its due date, is delinquent and subject to late fees and interest consistent with the governing documents and applicable Arizona law.

**8. Collection** – Collection of any fines and penalties may be enforced against any Owner in the manner consistent with the governing documents and applicable Arizona law.

**9. Effective Date** – As amended, approved, adopted by the Casas Adobes Terrace Homeowners Association Board of Directors at its December 20, 2012 meeting and made effective January 8, 2013, this replaces all previous versions by the same title and the previous version entitled Violation Protocol Summary including its Attachment A – Fines Guidelines both dated January 25, 2005.