

BELL CANYON ASSOCIATION
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RULES ENFORCEMENT PROCEDURES

Effective November 1, 2006

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Summary of Procedure

1. Introduction- The Association incurs significant costs in monitoring compliance with and enforcing the "governing documents." ("Governing documents" means the CC&Rs and any other documents, including but not limited to, the Articles of Incorporation, By-laws, Architectural Handbook, and rules and procedures adopted by the Association, including these Rules Enforcement Procedures.) The Association has determined that an enforcement system based solely upon voluntary compliance has not been effective and that procedures for imposing sanctions against those members responsible for a failure to comply with the governing documents are warranted.

2. Initial Enforcement Level- The Board of Directors shall have authority to impose sanctions under these Rules Enforcement Procedures. The Board has authorized certain committees to impose monetary penalties ("Fines"). For example, the Architectural Committee derives powers from the CC&Rs and, in addition, the Board has authorized the Architectural Committee to perform inspections with respect to matters indicated on the Fine Schedule attached to these Rules Enforcement Procedures. The Board has authorized the Maintenance Committee and the General Manager, to impose Fines. The Board may authorize other committees to perform similar functions as well. Ordinarily, unless the Board determines that circumstances require that the Board take immediate action, enforcement shall be conducted initially by the committee authorized to impose Fines for the alleged violation.

3. Responsibility for Compliance with Governing Documents - All members must comply with the governing documents and sanctions and/or Fines may be imposed upon a member for a failure to do so. In addition, each member is responsible for the acts of his or her family members, residents, and such guests, contractors, workmen and domestic help, as he/she shall authorize to enter and/or perform work on his or her behalf within the community. The Board is authorized to impose Fines and impose other sanctions and certain Committees and/or the General Manager are authorized to impose Fines against members in accordance with the procedures set forth herein for his or her own acts and failures to act and for the acts and failures to act of his or her family members, and such residents, guests, contractors, workmen and domestic help as he/she shall authorize to enter and/or perform work on his or her behalf within the community. The Association reserves the right to exclude any person who is not a member or resident from entering into the common areas owned by the Association (including prohibiting use of the roads) if such person refuses to comply with the governing documents.

4. Complaints- Members may file written complaints with the Board or a Committee or the General Manager for a violation of the Governing Documents consisting of an act, or a failure to act, or a condition for which the Board may impose a sanction and/or Fines, or the Committees or the General Manager may impose Fines. A complaint must be on the form provided by the Association. Forms are available at the gatehouse or at the Association Office. When a complaint about the Member or his or her family members, residents, guests, contractors, workmen or domestic help as he/she shall authorize to enter and/or perform work on his or her behalf within the community, is received the Member will be informed of the complaint. If appropriate, action in addition to action under these Procedures may also be taken by the Association against the Member, his or her family members, residents, guests, workmen, or domestic help, as he/she shall authorize to enter and/or perform work on his or her behalf within the community.

5. Inspections- The Board, a Committee and the General Manager may make periodic or routine inspections of any part of the subject property, including building sites and common areas, on its own volition or pursuant to a complaint, to determine if there are violations of the governing documents for which a sanction or fine may be imposed.

6. Notice of Alleged Violation- Upon receipt of a complaint alleging a violation of the governing documents, or upon a determination by the Board or a Committee that a violation has occurred, for which the Board may impose a sanction or a Committee may impose a fine, the Board or the Committee shall cause notification to be given to the member in accordance with this Section 6 as follows:

- a. Written notice shall be given which shall briefly describe the alleged violation;
- b. The notice shall state the date, time and place of the meeting at which the committee or board will decide whether the alleged violation exists;
- c. The notice shall indicate the possible sanctions that may be imposed if the Board or committee determines that the alleged violation exists;
- d. The notice shall be delivered to the member by either personal delivery or first-class mail at least ten (10) days prior to the meeting at which the Board or the Committee is to decide whether the alleged violation exists and whether sanctions or other action is appropriate; and

- e. The notice shall state whether the alleged violation is a "dangerous violation" or is a "blatant violation." A "dangerous violation" is a violation of a provision of a governing document that poses an unreasonable risk of either personal injury or material physical property damage, or both. A "blatant violation" is a violation of a provision of a governing document that is open to observation by one or more members and poses an unreasonable risk the violation will mislead others about enforcement of the provision. Whether an alleged violation is a "dangerous violation" or a "blatant violation" is to be determined in the discretion of the Board or of the Committee(s) or General Manager authorized to impose Fines for the nature of the violation in question.
- f. The notice shall include a statement that the member has a right to attend the meeting and may address the Board or the Committee at the meeting, that he or she has a right to request that the hearing be held in executive session, and that he or she has a right to present evidence in his or her defense and has the right to representation.

7. Continuance of Hearing- A member may in writing request that a hearing schedule set by a notice sent in accordance with Section 6 above shall be set for a different date and time. The written request for a different date and time for the hearing shall be signed and dated by the member, shall not be effective unless received by the Association at least 96 hours before the scheduled time. A request for a continuance shall do one of the following:

- a. State that the member admits that the violation indicated in the Notice exists and that the member agrees to pursue diligently curing the violation; or
- b. State that the member disputes, in whole or in part, that the violation indicated in the Notice exists and gives each and every reason a continuance is needed.

The Board or the Committee shall send notice, no less than 48 hours before the scheduled time, of (i) rejection of the request for a continuance, in which case the hearing shall be held at the date and time originally scheduled or (ii) the rescheduled date and time for the hearing. A request for a continuance shall NOT be accepted or considered to continue a hearing regarding an alleged "dangerous violation" or an alleged "blatant violation" (defined at 6.e above).

8. Hearing Procedures- The determination of whether an alleged violation in fact exists and, if so, whether sanctions should be imposed, shall be fairly and reasonably made by the Board or the Committee at a meeting as follows:

- a. Hearing. The member responsible for the alleged violation shall be given an opportunity to be heard, either orally or in writing, or both, at the hearing;
- b. Evidence. The Board or the Committee shall review the alleged violation and evaluate the evidence;
- c. Executive Session. The hearing shall be held in executive session if requested by the member but any matter discussed in executive session shall be generally noted in the minutes of the following meeting of the Board or of the Committee; and
- d. Factors. The Board or the Committee shall consider all aggravating and mitigating factors including without limitation:

- (1) The seriousness of the alleged violation;

- (2) The efforts of the member in curing the alleged violation;
- (3) The prior history of the member in connection with compliance with the governing documents; and
- (4) If requested by the member, the financial condition of the member.

If a decision regarding sanctions and/or Fines discipline is not reached at the hearing, the Board or the Committee shall set the date, time and place at which the hearing will be continued.

- e. Notice of Decision. If the Board imposes sanctions and/or Fines or the Committee imposes Fines, written Notice of Decision of the sanction and/or Fines shall be given by either personal delivery or first class mail to the member within fifteen (15) days following the decision to impose discipline. The notice shall specify the rule violated and the penalty or penalties imposed. For violations of the CC&Rs, a Notice of Violation shall be prepared and filed with the Association's records.
- f. Dispute Resolution. If after receiving the Notice of Decision, the member is dissatisfied with the decision of a Committee, the member may file an appeal with the Board. If after receiving the Notice of Decision, the member is dissatisfied with a decision of the Board, whether a decision on an appeal of a Committee decision or a decision initially made by the Board, he or she shall have the right to initiate (1) the Association's dispute resolution procedure required by Civil Code Sections 1363.810 through 1363.850, and (2) alternative dispute resolution pursuant to the provisions set forth in California Civil Code, Sections 1369.510 through 1369.590. An appeal of a Committee decision to the Board must comply with the following provisions:
 - (1) The member must deliver to the Association his or her written request for a hearing before the Board not later than ten (10) business days after the date of the Notice of Decision;
 - (2) The member's written request shall state the date of the Committee's decision and shall state all reasons the member believes the Committee's decision should be changed; and
 - (3) The member's written request shall indicate whether the member desires that the Board conduct the meeting concerning his or her appeal in executive session. The Association shall send to the appealing member notice of the date, time and place of the meeting at which the Board will decide the member's appeal. That meeting shall be held within 30 days of receipt of the member's request. All fines imposed by the decision of the Committee shall be suspended until such time as the Board's decision is rendered. The procedures stated above for the Committee's hearing shall apply to the hearing before the Board. The Association shall send notice of the Board's decision of the appeal in accordance with Civil Code Section 1363(h).

9. Sanctions- If the Board determines that a sanction and/or Fines should be imposed upon a member, the Board shall have the right to take any or all of the following actions:

- a. File a Notice of Violation against the property in the Association files.
- b. Impose an administrative charge against the member not to exceed \$500.00.
- c. Impose a fine in accordance with the then current schedule of Fines. Initial schedules are attached to and made a part of these Rules Enforcement Procedures.
- d. Any of the preceding actions shall result also in immediate suspension of the member's "Member in Good Standing" status and membership privileges shall be suspended for the member, the members of his/her household, his resident(s); contractors, workmen, and domestic help until the cause of the suspension has been cured and the sanctions imposed by this procedure have been satisfied. The suspension shall include, without limitation, the following:
 - i. **Priority Access Through Resident Lane.** Members, family members and residents shall be denied the right to use the resident lane at the entrance gate.
 - ii. **Use of Community Facilities.** Members and residents shall be prohibited from using community facilities and participating in community activities.
 - iii: **Voting on Association Matters.** Members shall be prohibited from voting on Association matters up to the maximum extent permitted by the CC&Rs and the Bylaws.

10. Assessments- The procedures in this document do not apply to the collection of assessments and related charges. The Association encourages the prompt payment of assessments and collects delinquent assessments and related charges in accordance with the CC&Rs, including but not limited to Section (5)(E) of Clause V, and the Civil Code. Please see the Association's statement of policies and practices under Civil Code Section 1365(d).

11. Publish Names- The Board shall have the right to publish names of all persons who violate the governing documents and who have had their privileges suspended.

12. Sanctions Cumulative of Other Enforcement- The sanctions imposed pursuant to this Rules Enforcement Procedures are intended to be cumulative of all other enforcement remedies available under the governing documents. The Association and members may take such actions as deemed necessary including but not limited to (i) any self help remedy provided for in the CC&Rs, and (ii) court actions for damages or injunctive relief, or both to enforce the governing documents and to collect any Fines.

SUMMARY OF PROCEDURE

Step 1: A notification of the alleged violation is sent to the member by the Board, committee and/or General Manager noting the provision of the governing documents alleged to have been violated (Section 6).

Step 2: A Hearing is held by the Board or a Committee authorized to impose fines. (Section 8)

Step 3: A Notice of Decision is sent to the member. (Paragraph 8.e)

Step 4: The member may appeal a Committee decision to the Board and may request alternative dispute resolution. (Paragraph 8.f.).

Step 5: The Association reserves the right to cure the violation by self-help, as authorized by the CC&Rs, and to seek judicial enforcement.

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Adopted 4/12/01

Bell Canyon Association

Board of Directors