



Lucas Valley Homeowners Association

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Procedures for Managing Violations of Architectural Guidelines and Related CC&Rs

Purpose: Currently, no standard procedure exists for managing violations of the Lucas Valley Homeowners Association Architectural Guidelines and related CC& R violations. The purpose of this document is to establish a formal procedure managing and resolving violations.

BACKGROUND: There are generally three types of violations commonly observed in the Valley:

Application Violation - This violation results from homeowners who start alterations without the approval of the Architectural Review Committee (ARC). The CC&Rs require each homeowner to submit an application to the ARC prior to beginning an alteration that may alter the appearance of the exterior of the house; including but not limited to landscaping, painting, roofing, fencing, solar panels and re-models. Failure to submit the application in a timely manner and receive approval prior to starting work is a clear violation of the CC&R's.

Compliance Violation - This violation covers a variety of violations in the CC&Rs and Design Guidelines that are not a Nuisance but require Homeowner attention and compliance and may be deemed a Nuisance in the future if action is not taken. Notification of these violations are to put the Homeowner on notice that other Homeowners may have made formal complaints and may include, but are not limited to,; minor deferred maintenance, peeling paint, overgrown, unmaintained or no landscaping, storage in carport or visible streetscape, extended construction projects, unused vehicles, temporary structures, etc. In a typical Compliance Violation no property would have more than one or two noted violations, three or more notable violations may move property into a Nuisance status.

Nuisance Violation - This violation occurs when a homeowner's property falls into a state of disrepair or negligence making it an eyesore or blight. Both the LVHA Design Guidelines and Articles V and VI of the CC&Rs address this condition. The actual determination of a Nuisance Violation is considered serious and therefore will be brought up for careful review by both the ARC and LVHA Board of Directors requiring consensus of members from both bodies.

The ARC and Board share the responsibility for enforcing the CC&Rs and LVHA Design Guidelines (CC&R Article V SECTION 5.2); however, a single member of the ARC or the Board cannot be the ultimate manager of this responsibility. As a result a "procedure" must be immediately put into place to manage and monitor potential and actual violations of all types.

PROCEDURE:

Homeowner and ARC Responsibility - Homeowner and ARC Responsibility – All homeowners are encouraged to advise the ARC or Board of any apparent CC&R violations. A form will be available on line at lucasvalley.org or at the community center for this purpose. The ARC and/or Board will then look into the situation and act accordingly. All homeowners are expected to follow the procedures outlined in the CC&Rs and Design Guidelines.

When the situation is appropriate, Homeowners should talk to their fellow Homeowner; help them to

understand the process and commitment/requirement of all homeowners to uphold the CC&R and Design Guidelines. Advocacy for these guidelines will make a positive impact on the community, as many violations occur inadvertently; simple community enlightenment may resolve many issues before they become violations.

1. File a timely written Homeowner CC&R Violation Complaint to the ARC and LVHA; if at all possible list stated violations with reference to the CC&R and/or Design Guidelines.

ARC Process upon Notification of Homeowner Complaint:

1. Acknowledge in writing to the notifying Homeowner, informing them that their complaint has been received and the situation is under review.
2. Copy LVHA Office Manager, who shall create an incident file and enter the complaint and subsequent response into the tracking log.
3. Notify the Board Liaison to the ARC or another LVHA Board Member of Homeowner Complaint.
4. Thoroughly review the situation (taking photographs when possible) and discuss the error/violation in regular ARC meetings to determine if this is in fact a violation and assign notification responsibilities.
5. If there is disagreement among the ARC as to the type or severity of the violation, it is to be put to a vote with majority rule.
6. Follow the procedures as outlined below.

APPLICATION VIOLATION – Scenario: Homeowner begins modifications to his/her home or property without having submitted an application to the ARC or without having received approval for their project.

Process for Dealing with Application Violation:

1. ARC or Board Member is made aware of an application violation through personal observation or notification by another Homeowner.
2. ARC Representative will fill in a standard “**first notice**” letter citing appropriate language from CC&Rs notifying the Homeowner of their “error / violation” and directing the homeowner to stop work and submit an appropriate application within 10 business days of the notification. This letter shall be signed by a minimum of two members of the ARC and acknowledged by a minimum of one Board Member. Letter shall be delivered via regular mail.
3. Assuming the Homeowner does not stop work and/or submit application within 10 days, ARC shall prepare a “**second notice.**” The “second notice” letter shall request the Homeowner to appear at a hearing in accordance with Section 9.7(a) of the CC&R. This letter shall be signed by a Board Member (preferably the President) and acknowledged by at least one member of the ARC. The hearing shall be attended by the Board President or his / her designee, the Board liaison to the ARC and the Chairman of the ARC or his / her designee. Sent via certified US mail.
4. A plan of action and a timeline for resolution shall be developed and agreed to by the Board representatives, the ARC representatives, and the Homeowner at the conclusion of the meeting.
5. LVHA Office Manager is to be copied on all formal correspondence and shall maintain a log,, distributed regularly to the Board and ARC Chairman, of all Application Violations. The log shall at a minimum include dates of all correspondence, meetings, and a date and description of the final resolution. A separate file shall be maintained for each incident.

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6. In the unlikely event that the Homeowner refuses to meet, discuss or resolve this issue, the Board shall

take all appropriate actions afforded them under Article X of the CC&Rs, including but not limited to, deeming the status of the violation as Nuisance, discontinuing services to the property and appropriate fines.

COMPLIANCE VIOLATION – Homeowner’s within the community have made a formal complaint of CC&R and Design Guidelines violations. Upon review by the ARC and / or Board Members, the violations are deemed warranted but not considered excessive (three or more notable violations) or extreme (visible deterioration over an extended period of time). If not addressed in a timely manner by the Homeowner these violations may be changed to a Nuisance status.

Process for Dealing with Compliance Violation:

1. ARC or Board Member is made aware of an application violation through personal observation or notification by another Homeowner.
2. ARC members will investigate complaint; document types and severity of violations including photographs of each violation. It is assumed that the issue will be discussed at a regular ARC meeting and the nuisance determination shall be voted on by the ARC members.
3. ARC Representative will fill in a standard “first notice” letter citing appropriate language from CC&Rs notifying the Homeowner of his/her “error /violation” and directing the homeowner to respond within 10 business days of the notification with an appropriate plan of action and timeline to correct the infraction. This letter shall be signed by a minimum of two members of the ARC and acknowledged by a minimum of one Board Member. Letter shall be delivered via regular mail.
4. Assuming the Homeowner does not correct the situation or submit an appropriate course of action within 10 days, ARC shall prepare a “second notice.” The “second notice” letter shall request the Homeowner to appear at a hearing in accordance with Section 9.7(a) of the CC&Rs. This letter shall be signed by a Board Member (preferably the President) and acknowledged by at least one member of the A RC. The hearing shall be attended by the Board President or his / her designee, the Board liaison to the ARC and the Chairman of the ARC or his / her designee. This letter shall be sent via certified US mail.
5. A plan of action and a timeline for resolution shall be developed and agreed to by the Board representatives, the ARC representatives and the Homeowner at the conclusion of the meeting.
6. LVHA Office Manager is to be copied on all formal correspondence and shall maintain a log, distributed regularly to the Board and ARC Chairman of all Application Violations. The log shall at a minimum include dates of all correspondence, meetings, and a date and description of the final resolution. A separate file shall be maintained for each incident.
7. In the unlikely event that the Homeowner refuses to meet, discuss ,or resolve this issue, the Board shall take all appropriate actions afforded them under Article X of the CC&Rs, including but not limited to, deeming the status of the violation as Nuisance, discontinuing services to the property and appropriate fines.

NUISANCE VIOLATION – This is considered a serious violation and occurs when a Homeowner’s property falls into a state of disrepair or negligence making it an eyesore or blight. These violations may include, but are not limited to, excessive deferred maintenance, unused vehicles in carport or driveway or alongside house, extended construction projects, peeling paint, excessive or overgrown vegetation, etc. Negligence by Homeowner to address or correct prior violations in a timely manner may also be deemed Nuisance.

Process for Dealing with Nuisance Violation:

1. ARC or Board Member is made aware of a nuisance violation through personal observation or notification

by another Homeowner.

2. ARC and/or Board members will investigate complaint; document types and severity of violations including photographs of each violation. A property will be deemed a Nuisance only when voted as such by a majority of ARC Members and separately a quorum or LVHA Board Members. It is assumed that the issue will be discussed at a regular ARC meeting and the nuisance determination shall be voted on by the ARC members.
3. ARC Representative will fill in a standard “first notice” letter citing appropriate language from CC&Rs notifying the Homeowner of the situation and directing him/her to correct the nuisance or submit a course of action within 10 business days of the notification. Since this violation is considered serious, this letter shall be signed by a majority of the ARC and acknowledged by a minimum of two Board Members. Photographs of the nuisance shall be included with the letter. Where possible the entire Board will be made aware of the situation. Letter shall be delivered via regular mail.
4. If the Homeowner submits a plan of action and timeline to correct violations it will follow a standard review process before being “approved” or “not approved.”
5. Assuming the Homeowner does not correct the situation within 10 days or receives a “not approved” notification on the submitted plan, ARC shall prepare a “second notice.”
6. The “second notice” letter shall request the Homeowner to appear at a hearing in accordance with Section 9.7(a) of the CC&R. This letter shall be signed by a Board Member (preferably the President) and acknowledged by at least one member of the ARC. The hearing shall be attended by the Board President or his/her designee, the Board liaison to the ARC and the Chairman of the ARC or his/her designee. This letter shall be sent via certified US mail.
7. A plan of action and a timeline for resolution shall be developed and agreed to by the Board representatives, the ARC representatives and the Homeowner at the conclusion of the meeting.
8. LVHA Office Manager is to be copied on all formal correspondence and shall maintain a log, distributed regularly to the Board and ARC Chairman of all Scenario #1 issues. The log shall at a minimum include dates of all correspondence, meetings and a date of the final resolution. A separate file shall be maintained for each incident.
9. In the unlikely event that the Homeowner refuses to meet, discuss or resolve this issue, the Board shall take all appropriate actions afforded them under Article X of the CC&Rs including but not limited to discontinuing services to the property, appropriate fines and/or legal action.

REQUEST FOR CONSIDERATION OF HARDSHIP STATUS

During the hearing process, the Board will hear and consider all credible evidence of a hardship status, which may be the root cause of the violation or may impact the action plan and timeline to correct the violations. This does not relieve the status of the violation but will be given consideration in the development of the timeline and may delay any action taken by the Board including but not limited to discontinuation of services to the property, appropriate fines and/or legal action, as long as agreed upon progress is continually met.