



Covenant Enforcement: Requirements and Recommendations

Out of all of the many powers offered by homeowners associations, covenant enforcement is likely the most well-known. Under Colorado law, every Association must have a covenant enforcement policy before an Association can pursue covenant enforcement.

Requirements

- **NOTICE:** Homeowners in violation of the covenants **must** have proper notice of their covenant violation. The notice should contain:
 - The specific portion of the covenant in violation;
 - A timetable to cure;
 - Notice for the opportunity for a hearing; and
 - The potential for further legal action should the covenant violation remain unremedied.

Recommendations

- **HEARING:** Prior to the application of covenant-violation fines to a homeowner's account, the homeowner must be offered a hearing. Here are some suggestions regarding hearings:
 - The decision on the covenant violation *should* be decided without the homeowner present after the hearing has taken place.
 - If the homeowner fails to make a request for a hearing in the timeframe permitted under the governing documents but requests a hearing at any point during the covenant enforcement process, the Board should try and grant the hearing.
 - Even if the homeowner is a "problem child" and the Board already has made up its mind regarding the covenant violation, the Board *should try* to go into the hearing with as open of a mind as possible.
- **REPEAT OFFENDERS:** In the event of repeat offenders, policies may be put in place to ensure compliance for a certain time before the covenant violation is considered cured:
 - For example, in the event of a covenant violation where the homeowner's property is covered in weeds, the property must remain weed free for six months before the matter is considered cured. If not, additional fines may be applied.
- **LIEN:** If the violation remains uncured, a covenant enforcement lien can be placed on the property and because it is an encumbrance, the property cannot be sold until the covenant violation is cured or an escrow account is set up for the purpose of curing the violation.

Do you have any Covenant Enforcement questions? Join us on June 6 for a DORA approved class at tinyurl.com/WLGJune

Please note that this newsletter is for informational purposes and does not constitute legal advice in anyway.