



MANAGEMENT MONTHLY:

BY KIM HOCKINGS, CCAM

The second installment of the “enforcement process” will address how a board of directors can maintain order within a community by handling infractions appropriately. Also emphasized is the importance of being reasonable when creating rules or guidelines that govern the outdoor aesthetics of a community.

How to handle infractions

Minor infractions range from trashcans remaining in the street beyond the designated pickup dates to visible weeds in the planters. An example of a major infraction would include exterior modifica-

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CC&R: THE ENFORCEMENT PROCESS, NOT THE ROCK BAND

tions being made without proper approval. Upon the initial observation of a minor infraction, a courtesy notification should be sent to the homeowner identifying the violation and offering a deadline date for compliance or hearing attendance. In the case of a major infraction, a cease-and-desist letter should be sent and legal counsel should be consulted. If the violation is not remedied and attendance at a hearing is ignored, the homeowner may be subject to a fine depending on the violation policy.

The violation policy needs to detail both the violation notification process and the hearing procedure, as well as include a fine schedule. Fines should relate to the type of infraction and correspond with the price point of the homes. Unreasonable or insufficient fines may result in ineffective compliance efforts. Levied fines may be pursued through small claims court if not voluntarily paid. The association’s general counsel may also initiate a lawsuit to gain compliance after offering alternative dispute resolution.

Homeowners’ rights to use common area facilities may also be limited or restricted, depending upon the infraction. Though hard-line methods may be periodically necessary to gain compliance, the most reasonable, respectful and courteous methods should always remain the first choice among board members and management firms.

Architectural guidelines

When creating or modifying architectural guidelines and regulations, board members and management firms should apply the principle of rationality. As explained above, these documents may be modified by a board vote, but only after the membership has been provided a full 30 days to comment.

Based on this premise, board members should opt to modify the above documents rather than ignore what they consider unreasonable or ineffective rules and architectural guidelines. Choosing to ignore rules may create the perception of inconsistent enforcement procedures. It is the management firm’s responsibility to advise the board regarding any modifications adversely impacting or enhancing property values. The methods for gaining compliance with these documents should be detailed in a violation policy, which should mirror the structure discussed in the documents governing the community.

An efficient monitoring method should be employed to accurately track new community landscape installation deadlines. Courtesy reminder notices should be sent to each new homeowner two to three months in advance of the installation deadline. The reminder should provide direction to prompt feedback from new homeowners that will aid in facilitating expedient responses and strife-free compliance. Including additional architectural submittal forms with reminder notices may be helpful to homeowners as well. Should a homeowner begin installation prior to obtaining necessary architectural approvals, a cease-and-desist notification should be sent to the homeowner immediately. This notification should instruct the discontinuation of all work and advise the homeowner of requirements for submitting plans for exterior modifications.

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