

**Adopted with unanimous approval by the Board on**

**Panamint Villas Homeowners Association (PVHOA) CC&R Enforcement Procedure**

In 2014, The Idaho State Legislature adopted Senate Bill 1310 which placed limits on fines issued by property owners' associations. Senate Bill 1310 was adopted into the statutes and became a law under Idaho Code Section 55-115. It states, "*no fine may be imposed for a violation of the covenants and restrictions pursuant to the rules or regulations of the homeowner's association unless the authority to impose a fine is clearly set forth in the covenants and restrictions.*"

The Panamint Villas Homeowners Association's CC&Rs have the specific language required by Idaho Code Section 55-115 authorizing the (PVHOA) Board of Directors to set fines and assess penalties.

ARTICLE III, Section IV, Paragraph D. The Association may impose a fine, charge or penalty for any violation of the Declarations, the Bylaws, and or Rules and Guidelines after reasonable of the violation and a reasonable opportunity for a hearing. Additionally, the Association may seek injunctions or other equitable relief or may file an action for money damages owing from such violations.

Following is the protocol that will be used in assessing violations and subsequent violation fees.

Step 1: Courtesy Reminder

Step 2: Covenant Infraction Notice

Step 3: Board of Directors Hearing

The next two pages describe the Violation Enforcement Process in detail.

**Step 1: Courtesy Reminder**

When DS Property Management observes a violation of our CCRs, or a violation is reported to DS Property Management by an PVHOA resident or an PVHOA Board member in writing (email or letter), the violation will be documented, including photographs if possible.

- A. DS Property Management will send a Courtesy Reminder email or phone call to the owner and:
  - 1. Describe the violation,
  - 2. Request action to correct the violation and set a reasonable deadline for compliance,
  - 3. Provide DS Property Management's contact information,
  - 4. Explain that failure to resolve pending violation can lead to legal action and expenses that will be assessed against the owner's account.
- B. If the owner complies and solves the violation, process stops here.
- C. If the owner fails to respond or comply to the Courtesy Notice, the non-compliance is documented, including photographs if possible. The Covenant Infraction Notice is initiated, unless, after considering the circumstances, the DS Property Management deems it practical to resend the Courtesy Reminder.

**Step 2: Covenant Infraction Notice**

If the CCR violation is not corrected with the Courtesy Reminder communication, a **Covenant Infraction Notice** will be sent to the homeowners address of record via Certified Mail (Return Receipt Requested), and via email. The owner will then have 30 calendar days from the date of the Covenant Infraction Notice to contact the DS Property Management in writing (including email) and arrange an acceptable timeframe/plan to remedy the violation.

- A. The 30-calendar day period provides proper "Notice of Hearing" to the non-compliant owner in violation of the CCR's.
- B. The **Covenant Infraction Notice** will:
  - 1. Describe the CC&R violation and inform the owner that if unresolved, their violation may initiate legal action and, if so, any related expenses will be assessed against the owner's account.
  - 2. Request action correct the violation and set a reasonable deadline for compliance.
  - 3. Give notice of the date of the Board's next meeting that is at least thirty (30) days from the date of service of the Notice ("Hearing Meeting").
  - 4. Give notice that, at the Hearing Meeting, the Board will consider initiating legal action against the owner for the violation unless the owner can prove the violation is fully resolved, or partially resolved in good faith prior to the Hearing Date.
  - 5. Give instructions to contact the agent in writing (including email) to negotiate a resolution prior to the Hearing Meeting.
  - 6. Give notice that this is the owner's last opportunity to resolve their violation and avoid the assessment of legal expenses against them.
  - 7. Explain that if the member fails to contact the DS Property Management in writing, the member will be deemed to not dispute the violation notice and waive any further rights to negotiate or mediate the claim.

**Step 3: Board of Directors Hearing**

If a homeowner fails to comply with the instructions given in the Covenant Infraction Notice, the Board will hold the Hearing Meeting as scheduled and to consider legal action to force compliance. Again, pursuant to our governing documents, all legal fees associated with this action (as well as any other damages incurred as a result of the owner's failure to comply) will be assessed to that owner.

A. At the Hearing Meeting, the DS Property Management shall give the Board notice of:

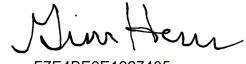
1. All undisputed, actionable violation notices given at least thirty (30) days prior to the Hearing Meeting and all pending, undisputed, and unresolved violations.
2. Any information submitted by the owner defending or explaining their noncompliance.
3. DS Property Management's recommendation whether or not to take legal action.
4. DS Property Management's determination that the violation is (a) fully resolved, (b) partially resolved, or (c) unresolved.
  - (a) Fully resolved violations are recorded as resolved and no further action is needed unless the violation recurs. If the violation recurs the Board will address it at the next Board Meeting without the need for a 30-Day notice since that notice was previously served to the homeowner.
  - (b) Partially resolved violations will be scheduled by DS Property Management for a date/time to follow-up and determine if the member has continued to resolve the pending violation in good faith. If DS Property Management deems that violation is not resolved the Board will address it at the next Board Meeting or sooner, without the need for a 30-Day notice since that notice was previously served to the homeowner.
  - (c) Unresolved violations will be reviewed and considered for legal action by the Board. A majority vote of Board members is required to initiate legal action against the owner. **If legal action is approved by majority Board vote, the owner's account will immediately be assessed \$250 for initial attorney fees and associated administrative expenses associated with the action.**

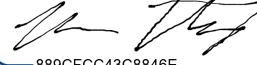
B. Notify the appropriate parties.


1. DS Property Management will notify the owner if the violation has been resolved, letting them know that no expenses have been assessed.
2. DS Property Management will notify legal counsel if the Board has decided to take legal action or corrective (self-help) action. Assess the owner for the costs of enforcement as they are incurred. Legal counsel shall notify the owner.

C. Additional Fees for Violations:

1. A violation fee in the amount of **\$75.00** will be included with Step 2. Covenant Infraction Notice.
2. Should a second violation be warranted then a fee of **\$150.00** will be assessed,
3. These fees are in addition to the **\$250.00** legal fee to be assessed if legal action is warranted,

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