

**RESOLUTION OF THE
BEL-AIRE ESTATES OWNERS ASSOCIATION
REGARDING
THE POLICY AND PROCEDURES FOR COVENANT AND RULE ENFORCEMENT**

SUBJECT: Adoption of a policy regarding the enforcement of covenants and rules and adoption of procedures for the notice of alleged violations, conduct of hearings and imposition of fines.

PURPOSE: To adopt a uniform procedure to be followed when enforcing covenants and rules to facilitate the efficient operation of the Association.

AUTHORITY: The Declaration, Articles of Incorporation and Bylaws of the Association, and Colorado law.

**EFFECTIVE
DATE:** July 16, 2013

RESOLUTION: The Association hereby adopts the following policy and procedures to be followed when enforcing the covenants and rules of the Association:

1. Policy. It is the policy of the Association to enforce its covenants, bylaws and rules. The Board of Directors shall investigate alleged violations, provide opportunity for the Owners to be heard regarding alleged violations, and, if necessary, assess fines to achieve compliance.

2. Reporting Violations. Complaints regarding alleged violations may be reported by an Owner or resident within the community, a group of Owners or residents, the Association's management company, if any, Board member(s) or committee member(s) by submission of a written complaint.

3. Complaints.

(a) Complaints by Owners or residents shall be in writing and submitted to the Board of Directors. The complaining Owner or resident shall have observed the alleged violation and shall identify the complainant ("Complainant"), the property with the violation (the "Property in Violation"), and set forth a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, when the violation was observed and any other pertinent information. Non-written complaints or written complaints failing to include any information required by this provision need not be investigated or acted upon at the discretion of the Board.

(b) Complaints by a member of the Board of Directors, a committee member, or the property manager (the "Managing Agent"), if any, may be made in writing or by any other means deemed appropriate

by the Board if such violation was observed by the Director or the Managing Agent.

4. Investigation. Upon receipt of a complaint by the Association, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by the Board or their designated individual or committee. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.

5. Notice of Violation Letter.

(a) If the Board determines that a violation exists, a Notice of Violation Letter shall be sent to the Owner of the Property in Violation explaining the nature of the violation, the level of the violation, and the amount of the fine that will be assessed if the violation is not corrected. The Owner of the Property in Violation will have 15 days from the date of the letter to bring the property into compliance (the "Compliance Period").

(b) The foregoing procedure will not be used, however, and no initial Notice of Violation Letter shall be necessary in the event the violation is determined by the Board to be a Repetitious Violation as defined in paragraph 13 of this policy. In such event, the procedure outlined in paragraph 13 shall be followed.

(c) The Notice of Violation will state that Owner of the Property in Violation is entitled to a hearing provide an opportunity for the Owner of the Property in Violation to have a hearing before the Board on the merits of the matter provided that such hearing is requested in writing within 10 days of the date on the Notice of Violation Letter.

6. Continued Violation After Compliance Period.

(a) If the Owner of the Property in Violation does not bring the property into compliance within the Compliance Period, the fines specified on the Notice of Violation Letter may be imposed without further action by the Board and communicated to the Owner of the Property in Violation in a second and any subsequent letter(s) (the "Fine Notices").

(b) Fine Notices for properties which remain out of compliance may be billed monthly, on or around the beginning of the month, but not less frequently than quarterly. The amount of assessed fines will have a due date at the end of the billing month, with a payment due date of no less than 20 days from the date of the Fine Notice. The provisions of the Policy and Procedures for Collection of Unpaid Assessments shall govern the collection of fines and the Association's other legal remedies.

- (c) Each Fine Notice sent to the Owner of the Property in Violation will state that the Owner of the Property in Violation is entitled to a hearing before the Board on the matter provided that such hearing is requested in writing within 10 days of the date on the Notice of Violation Letter. When such a hearing is properly requested, billings may continue, but collection efforts will be suspended pending the determination of the Board based on the hearing.
- (d) The foregoing procedure will not be used, however, in the event the violation is determined by the Board to be a Repetitious Violation as defined in paragraph 13 of this policy. In such event, the procedure outlined in paragraph 13 shall be followed.

7. Notice of Hearing. If a hearing is requested by the Owner of the Property in Violation, the Board, committee or other person conducting such hearing as may be determined in the sole discretion of the Board, may serve a written notice of the hearing to all parties involved at least 10 days prior to the hearing date.

8. Impartial Decision Maker. Pursuant to Colorado law, the Owner of the Property in Violation has the right to be heard before an "Impartial Decision Maker". An Impartial Decision Maker is defined under Colorado law as "a person or group of persons who have the authority to make a decision regarding the enforcement of the association's covenants, conditions, and restrictions, including architectural requirements, and other rules and regulations of the association and do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a direct personal or financial interest in the outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the association." Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint to act as the Impartial Decision Maker the entire Board, specified members of the Board, any other individual or group of individuals.

9. Hearing. At the beginning of each hearing, the presiding officer, shall introduce the case by describing the alleged violation(s) and the procedure to be followed during the hearing. Each party or designated representative, may, but is not required to, make an opening statement, present evidence and testimony, present witnesses, and make a closing statement. The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances. The Owner of the Property in Violation is required to be in attendance at the hearing, however, the Complainant is not. The Impartial Decision Maker shall base its decision solely on the matters set forth in the Complaint, results of the investigation and such other credible evidence as may be presented at the hearing. Unless otherwise determined by the Board, all hearings shall be open to attendance by all Owners. After all testimony and other evidence has been

presented at a hearing, the Impartial Decision Maker shall, within a reasonable time, not to exceed 10 days, render its written findings and decision, and impose a fine, if applicable. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the hearing committee's decision absent a showing of denial of due process.

10. Failure to Timely Request Hearing. If the Owner of the Property in Violation fails to request a hearing within 10 days of any letter, or fails to appear at any hearing, the Impartial Decision Maker may make a decision with respect to the alleged violation based on the Complaint, results of the investigation, and any other available information without the necessity of holding a formal hearing. If the decision is that a violation is found to exist, the Owner of the Property in Violation may be assessed a fine pursuant to this policy and these procedures.

11. Notification of Decision. The decision of the Impartial Decision Maker shall be in writing and provided to the Owner of the Property in Violation and Complainant within 30 days of the hearing, or if no hearing is requested, within 30 days of the final decision.

12. Fine Schedule.

(a) The following fine schedule has been adopted for violations of the Association's covenants and rules:

Level of Violation	Fine if not Remedied within Compliance Period	Examples of Violations
Minor	\$15 per day	Neglected landscaping, excessive weeds, presence of trash or debris, disallowed vehicle parking or storage, state of disrepair of the Residence or Improvements
Moderate	\$25 per day	Failure to submit a landscaping plan, incomplete landscaping, landscaping not installed consistent with an approved design plan, Improvements commenced without approval, escalation of other violations which are not corrected in a reasonable timeframe, repetitious or otherwise significant
Serious	\$50 per day	Construction of residence or significant Improvement commenced without approval, construction not completed within required time frame, safety hazards, escalations of other violations which are not corrected in a reasonable timeframe, repetitious or otherwise significant

- (b) The Board may select the level of the violation in their sole discretion based on the violation(s) and any particular circumstances.
- (c) Violations may be turned over to the Association's attorney to take appropriate legal action at any point in time.

13. Repetitious Violations. Repetitious Violations are defined as a series of identical or substantially similar individual violations of the same covenant or rule restriction that occur repeatedly or continuously within a period of time to be determined in the discretion of the Board. In the event of such Repetitious Violation, in the discretion of the Board, each instance of noncompliance may constitute a separate violation, and the Board shall not be required to provide a Compliance Period for the Owner of the Property in Violation. A Notice of Violation Letter shall be sent for the first violation in the series. After the Notice of Violation Letter, the Board may cause violation notices to be sent for each violation in the series stating the amount of the fine to be imposed (pursuant to the Fine Schedule in paragraph 12), and giving notice and an opportunity for a hearing. The Board shall individually consider each violation for which a hearing is requested, but is permitted to combine any and all hearings requested for Repetitious Violations on one date.

14. Waiver of Fines. The Board may waive all, or any portion, of the fines if, in its sole discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any portion thereof, upon the Owner of the Property in Violation coming into and staying in compliance with the Articles, Declaration, Bylaws or Rules.

15. Other Enforcement Means. This fine schedule and enforcement process is adopted in addition to all other enforcement means which are available to the Association through its Declaration, Bylaws, Articles of Incorporation and Colorado law. The use of this process does not preclude the Association from using any other enforcement means.

16. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

17. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.

18. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

19. Amendment. This policy may be amended at any time by the Board of Directors.

PRESIDENT'S CERTIFICATION:

The undersigned, being the President of the Association, a Colorado nonprofit corporation, certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on July 16, 2013 and in witness thereof, the undersigned has subscribed his/her name.

BEL-AIRE ESTATES OWNERS ASSOCIATION,
a Colorado nonprofit corporation,

By 
Ghassan Timani
President of the Board of Directors