

## **River Glen Homeowners Association (HOA)**

### **Hearing Panel and Procedures**

**Approved by the River Glen HOA Board of Directors**

**February 22<sup>nd</sup> 2014**

This document serves as the guidance for a Hearing Panel and Procedures which shall be used when a River Glen homeowner wishes to appeal a covenant violation notification (or notice) received from the River Glen Homeowners Association (RGHOA) Board of Directors (BOD).

#### **Background and Purpose**

A Hearing Panel is required by the Colorado Common Interest Ownership Act (CCIOA) to provide a means for homeowners to challenge an alleged covenant violation, fine or pending enforcement action. The purpose is to provide an opportunity for homeowners present any arguments that are relevant and make requests regarding a violation as they see fit. The Hearing Panel will render a decision based on input from the homeowner, the covenants, Bylaws, and policy and procedures of the RGHOA.

#### **Formation of the Hearing Panel**

The Hearing Panel shall be comprised of the three (3) HOA members appointed by the Board of Directors. In the event that volunteers cannot be found to serve on the Hearing Panel, three (3) Board members shall comprise the Hearing Panel. A Hearing Panel member shall recuse themselves from the panel in the event that they cannot meet the requirements of "impartial decision makers" in the matter under consideration.

*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."*

#### **Request for Hearing**

Any Owner receiving a violation Notice has the right to request a hearing before a Hearing Panel serving as the Association's impartial decision-maker. To request a hearing, the Owner must contact the Association in writing within five business days after the effective date of the Notice.

## **Hearing Procedure**

The general procedure for the hearing is as follows:

1. The presiding Hearing Panel member shall:
  - a. Establish a quorum.
  - b. Explain the procedures.
  - c. Describe the nature of the violation as specified in the Notice.
  
2. The Owner may then provide rebuttal to the Notice using witnesses or any other information deemed relevant and necessary.
  
3. After all testimony and other evidence have been presented, the Hearing Panel shall decide whether the Owner should be held responsible for the alleged violation. If the Panel finds that the Owner has violated the Association Documents, enforcement action by the Panel or mutually agreeable arrangements made with the Owner to ensure correction of the violation and compliance in the future. If the Panel finds that the Owner should not be held responsible for the alleged violation, then no enforcement action shall be taken.

The hearing process will not and cannot be used to determine if a particular provision of the Association Documents is desirable.

## **INJUNCTION**

If the violation has not been corrected within 120 days after notice to the homeowner, the Association may commence the necessary legal proceedings under the Association Documents or under Colorado law to compel correction of the violation as well as to recover any unpaid court costs, attorneys' fees and other Association expenses arising from the violation. Nothing in this paragraph shall preclude the Association from commencing legal proceedings to correct the violation prior to expiration of the 120 day period.

**Approved by the River Glen HOA Board of Directors  
February 22<sup>nd</sup> 2014**

Tye Riley  
President  
River Glen Homeowners Association  
Board of Directors