

PROCEDURE FOR RESOLVING ALLEGED VIOLATIONS WITHIN THE SCOPE OF THE EMERALD LAKES VILLAGE RESTRICTIONS COMMITTEE

Adopted by the ELV Board, November 9, 2020

In accordance with Policy Letter #15 dated October 23, 2013; Policy Letter 006 dated September 3, 2014; the ELVHA Bylaws as amended May 23, 2012; and the ELVHA Restrictions Agreement dated November 19, 2013, the Restrictions Committee will proceed as follows:

1. **Format of Complaint**: All complaints must be in writing filed via the Restrictions Committee e-mail at: ELVRestrictions@gmail.com.

All complaints should include the following information:

- a. Complainant's name, address, telephone number and e-mail address;
- b. Alleged violator's name and address, and if known to the complainant, the alleged violator's telephone number and email address;
- c. Date(s) of alleged violation;
- d. Detailed description of the alleged offense(s);
- e. Name, address, phone number and e-mail address of any potential witnesses, if known;
- f. Supporting documents and/or photographs;
- g. A statement outlining the complainant's efforts to resolve the situation with the alleged offender without ELV Restrictions intervention;
- h. If no such efforts have occurred, a statement explaining why.

Incomplete, anonymous, verbal, or "unofficial" complaints will not be considered. The identity of the complainant shall remain confidential.

2. **Initial Complaint, Request for Information (RFI)**: The Restrictions Committee Chair may proceed on the basis of the initial complaint, or may request additional information or evidence of the alleged violation from the complainant.
3. **Alternative Resolution**: Upon receipt of a complaint or a response to an RFI as specified in #s 1 and 2 above, the Restrictions Committee Chair may request that the complainant and alleged violator attempt to resolve the circumstances or dispute that resulted in the complaint being filed.

Residents assisting the Restrictions Committee Chair (Restrictions Chair Assistants) may be asked to help facilitate an alternative resolution. All agreements reached by an Alternative Resolution must comply with the ELV Bylaws, Restrictions Agreement, and Policy Statements.

The Restrictions Committee Chair may proceed to the formal complaint resolution process outlined below without seeking an Alternative Resolution.

4. **Complainant's Failure to Respond to RFI**: A complainant's failure to provide requested information and evidence within five (5) days of a Request for Information shall constitute a withdrawal of the complaint and no further action will be taken on the complaint, unless the complainant can establish good cause for not responding within five (5) days.

5. **Notice of Violation**: If the information received in the initial complaint and / or the information provided in response to an RFI sufficiently supports the alleged violation, and efforts to resolve the situation in accord with #3 above are unsuccessful, the Restrictions Committee may issue a written Notice of Violation.
6. **Restrictions Committee Composition**: The Restrictions Committee shall be composed of an odd number of voting ELV Board Members. No fewer than 3 voting ELV Board Members shall be on the Committee. The ELV Board Vice-President, or his/her designee, shall hold a permanent seat on the Committee. The ELV Restrictions Chair, or his/her designee, shall hold a permanent seat on the Committee. Additional committee members shall be selected by the ELV Board.
7. **Content of Notice**: The Notice of Violation shall include the provision violated, together with a description of the factual nature of the alleged offense. The notice shall also state what fine is to be imposed, or if offered as a resolution, what corrective measures must be taken in response to the violation. A fine may be imposed without an opportunity to take corrective action.
8. **Service of Notice**: The Notice of Violation shall be personally delivered or sent by electronic mail and first-class mail, postage prepaid, to the property Owner and to any tenant, if applicable.
9. **Response to Notice**: The Owner / Alleged Violator may either:
 - a. Accept responsibility and pay the fine assessed, or take corrective action if such action is offered as an alternative to a fine in the Notice of Violation.
 - b. Request a Hearing, in writing, via the Restrictions Committee email at ELVRestrictions@gmail.com.
10. **Default**: Failure of an Alleged Violator to respond to the Notice of Violation in writing to the Restrictions Committee e-mail at: ELVRestrictions@gmail.com within five (5) days shall constitute a default, unless the alleged violator can demonstrate good cause for a failure to respond within five (5) days. Upon default, a fine may be levied. Additional remedies may be pursued as authorized in the Bylaws, Restrictions Agreement, and Policy Letters.
11. **Hearing Panel**: The ELVHA Board shall establish a Hearing Panel comprised of an odd number, but no less than three, voting ELVHA Board members. An alternate voting ELVHA Board member shall be designated as an alternate panelist. The alternate panelist will act in the event the original panelist is absent or incapacitated. All hearings shall be held before the Hearing Panel.
12. **Timing of Hearing**: Hearings before the Hearing Panel will occur within ten (10) days of receipt of the Alleged Violator's / Owner's request for a hearing, unless there is good cause for the hearing to be held outside the ten (10) day time period.
13. **Stay of Enforcement**: Enforcement action is stayed until the Hearing Panel or Board (see item #15) renders its decision.
14. **Opportunity to Defend**: If the Owner / Alleged Violator requests a hearing, he/she shall have an opportunity to offer evidence in defense of the alleged violation.

15. **Hearing Panel Referral to the ELV Board**: In complex matters, or significant matters that could impact the interests of ELV or the Board as a whole, the Hearing Panel may refer the matter for consideration to the entire voting ELV Board. If referred, the ELV Board shall consider the matter at its next regularly scheduled Board meeting.
16. **Hearing and Decision**: After a hearing conducted by the Panel or Board, the Panel or Board shall, by majority vote at the hearing, decide whether a violation has occurred. The decision of the Hearing Panel or Board is final.
17. **Amounts**: If the Hearing Panel / Board decides that the Owner committed a violation, the Panel may levy fines as provided in ELV Policy #015 updated and approved October 23, 2013. The Panel / Board may also enforce any other applicable provisions of the Bylaws, Restrictions Agreement, or Policy Statements.
18. **Collection**: The fine shall be assessed against the violator and shall be due and payable within ten (10) days from the date on the Notice of Violation, unless the Owner has requested a hearing. If the Owner requests a hearing, the fine is due and payable within ten (10) days of the Hearing Panel's decision at the hearing.
19. **Failure to Pay**: If the Owner does not timely pay the fine, it shall become a lien against the Owner's lot. Failure to pay the fine may also subject the Owner to all liabilities, late charges and other remedies, including enforcement of a lien, as otherwise set forth in the subdivision Restrictions.