

The Ocotillo Community Association Violation and Design Review Appeal Policy

WHEREAS, The Ocotillo Community Association ("Association") has the authority pursuant to the Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservation and Easements ("Declaration") and the By-Laws of the Ocotillo Community Association, Inc. ("By-Laws"), and the Ocotillo Design Standards and Community Rules ("Design Standards") (collectively, the "Governing Documents") to determine the manner in which a member may be heard regarding his or her Notice of Violation, monetary penalties for violations of the Governing Documents, or for decisions rendered by the Ocotillo Design Review Board ("ODRB").


WHEREAS, the Board of Directors finds there is a need to establish uniform procedures for handling Owner appeals related to violations and design review decisions;

WHEREAS, the Association intends to generally follow the procedures outlined below, but reserves the right, in the Board's sole and absolute discretion, to vary from these procedures due to the unique circumstances of every situation;

NOW THEREFORE, IT IS RESOLVED that the following procedures and practices are established and shall govern the Association's handling appeals of violations and/or design review decisions, which shall hereafter be known as the "Violation and Design Review Appeal Policy":

1. **Appeals.** Any Owner who receives a Notice of Violation or is "aggrieved by a decision of the ODRB" has the right to submit a written appeal to the Association's Board of Directors (the "Board") regarding the matter. All appeals must be in writing and submitted to the Association's Community Manager at the address specified in the Notice of Violation or ODRB decision, and must be actually received by the Association by the deadline set forth in the Notice to be considered.
 - a. If the Owner does not submit a written appeal to the Association in the period prescribed by the Notice to the Owner, the Owner will have waived his or her right to be heard. After receiving the written appeal, the Board, in its discretion, may request more information or an in-person meeting to answer any questions regarding the Owner's written appeal. If the Owner does not respond to the Association's reasonable attempts to obtain more information or to schedule an in-person hearing, the Owner will have waived his or her right to be heard. If an in-person hearing is scheduled and the Owner does not attend the hearing, the Owner will have waived the right to be heard. If the Owner waives his or her right to be heard, the Association will make a decision on a Notice based only on the information before it.
 - b. The Board will review and consider the Owner's written appeal at the Board's next duly scheduled Board Meeting. The Board will review all appeals in the closed portion of the meeting. The Board may take into consideration circumstances that require a longer period of time—for example, to request further information from the Owner or to research the information provided to it in an Owner's written appeal.

- c. In order for the Board to grant an appeal, an Owner must demonstrate extenuating circumstances that require deviation from the Governing Documents.
- d. All written appeals should contain the Owner's statement of his or her case, applicable documentation, statements from persons who witnessed the alleged violation, any new information that would warrant a reconsideration, and all pertinent backup information to support the existence of extenuating circumstances.
- e. Upon the Board's completion of its review of an Owner's written appeal, the Association shall send a written notice of the Association's decision to the Owner via regular or electronic mail within fifteen (15) business days after the conclusion of the appeal review, unless otherwise determined by the Board.
- f. All decisions of the Board of Directors regarding a written appeal are final and may not be further appealed.
- g. If the Board denies an appeal, the Owner must bring the violation into compliance within fourteen (14) calendar days from the date of the Association's written response. If the violation still exists after the expiration of these fourteen (14) days, the Owner shall be subject to further enforcement action under the Association's Fine Policy until the violation is corrected.

By: 
Wally Brown, Board President
On Behalf of the Board of Directors