

The CC&R Enforcement Process

While the exact process may vary, CC&R enforcement typically involves a series of steps of escalating severity. - The first step after the SJNAACC is notified, is for the HOA board to notify the violator. This is usually a written notice that includes details of the violation. In either case, the violator has a set amount of time to fix the problem.

Notification Letter #1 is sent with a 30 day deadline to respond.

(Example: 01/12/2021 mailing date plus 3 days post = 02/15/2021 deadline) - If verbal and written warnings do not resolve the issue, the next step is usually an administrative hearing. This consists of the SJNA board meeting to discuss the situation and determine appropriate action. The violator has the right, but not an obligation, to present a defense at this hearing. These hearings may be informal, with all parties taking part in an open discussion. Some boards hold more formal hearings that mimic a court of law. After the violator has had his or her say, the board votes on a final decision and resolution.

Notification Letter #2 is then sent with a first of month deadline to respond, and end of the following month to resolve the issue.

(Example: 3/5/2021 mailing date, 4/01/2021 to respond, & 4/30/21 to resolve issue)

The SJNA board will vote to decide on a fair fine/penalty to levy against the property owner in case the issue is not resolved at the end of the next month.

Notification Letter #3/Invoice is sent at the 1st of the month after Letter #2 was sent.

(Example: 4/01/2021, 4/30/2021) This is the last notice that the issue must be resolved at the end of this month. And if it is not resolved to send a check for the payment.

Notification Letter #4 Invoice for fine/penalty will be sent after the following SJNA board meeting. (Example: 5/07/2021 board meeting, Letter #4 is sent demanding payment of the fine.) If the property owner still refuses to make this payment and then the next month's payment. (Example: missed 5/01/2021 payment & 6/01/2021 payment) The account would then have a lien placed on the property including any future months payments that are owed as a fine by the property owner.

- If the property owner states a hardship, the board may elect to grant an extension of time. (30 days, 60 days, or longer)

- If the violator still refuses to comply, the HOA can bring a lawsuit against the resident. The court will render a formal legal judgment, which will be binding on both sides. The court's decision can be either for or against the violator, and it may even find the CC&R provision unenforceable. The court will order appropriate action, depending on the violation. This could include removal of the offending personal property or awarding monetary damages. The court will also determine whether local police or the HOA should take the necessary actions.