

**Eagles Buff – Canada Hills 14 Homeowners' Association
Resolution #2019-01 Appeals and Due Process of Nuisances
and Non Compliance of CC&Rs**

WHEREAS, the Subject Properties in the Association are under jurisdiction of the Declaration of Covenants, Conditions, and Restrictions (CC&R's) for the Association; and

WHEREAS, Covenants, Conditions and Restrictions (CC&R's) of the Eagles Bluff Village 14 Homeowners Association, recorded at Docket 9607 at Page 2275, gives the Board of Directors the power to promulgate rules, regulations, By-Laws, and polices, for the operation of the Association; and

WHEREAS, the Board of Directors wishes to provide the homeowners with a revision to the Resolution #1999-09, *Appeals and Due Process for Nuisances and Non-Compliance of CC&R's*, pursuant to A.R.S. §33-1803 *Assessment limitation; penalties; notice to member of violation*; and

WHEREAS, the Board of Directors has followed its own standards and procedures, which are both fair and reasonable; and

WHEREAS, the Board of Directors rendered this decision in good faith, and in a manner which is neither discriminatory nor capricious.

THEREBY, GOOD CAUSE EXISTING, IT IS HEREBY RESOLVED:

The following steps define the due process for alleged violations of the Association's CC&Rs, By-laws, Policy's and Resolutions, also referred to as "Association Rules":

1. Warning Notice(s)

- 1.1. It is the desire of the Association membership to resolve violations of the Association Rules as amiably as possible. To that end, the Board of Directors, Enforcement Committee or the Association's Management Company will notify the Owner of the Lot and Occupant (if applicable), of any alleged violation of the Association Rules, either by First-class mail, or served upon the property. This Warning Notice is to acquaint the owner/occupant of the Association's rules, and the desire, and the necessity, to adhere to the Association's rules and to correct the non-compliance. All alleged violations of the Association Rules, are the responsibility of the Owner of the Lot to appeal or correct.

2. Notice of Violation

- 2.1. When the Warning Notice(s) does not correct the alleged violation, a written Notice of Violation (An example is shown in Appendix A), together with a request to cease and desist shall be served upon the Owner of the Lot, via Registered, Return-Receipt mail, and shall specify:
 - a. The provision of the Association Rules that has allegedly been violated.
 - b. The date of the violation or the date the violation was observed.
 - c. The first and last name of the person or persons who observed the violation.
 - d. The action required to abate the violation within twenty-one (21) calendar days from the date of the Notice.
 - e. A statement that any subsequent violation of the same rule or regulation of the Association Rules will result in the imposition of sanctions, after a notice and hearing has been conducted.

- 2.2. In the event the Owner of the Lot is leasing the unit, the Association shall provide a copy of the Notice of Violation to the Owner's tenant via First-class mail.

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3. Appeal Process

3.1. The Owner of the Lot can make an appeal to the Association of the alleged violation of the Association Rules, without regard to whether a monetary penalty or other sanction is imposed by the Notice of Violation, with a written response, by Registered, Return-Receipt mail to the address identified in the notice, within twenty-one (21) calendar days from the date of the notice. This appeal must include specific reasons for being unable to immediately comply and a timeline for progress toward full compliance.

3.2. The Owner of the Lot may also request a hearing before the Board, to make an appeal in person. This request must be made in writing via Registered, Return-Receipt mail, before the expiration of the Notice of Violation.

3.3. The Board has ten (10) business days after receipt of the registered mail from the Owner of the Lot, to respond.

3.4. Failure to Correct or Abate

3.4.1. Notice of Hearing

In the event the Owner of the Lot has either (a) failed to correct or abate the violation in the allotted time, (b) failed to request an extension in writing, to the Board of Directors, or (c) a request for an extension has been denied by the Board, a written Notice of a Hearing (An example is shown in Appendix B), shall be served upon the Owner of the Lot, via Registered, Return-Receipt mail, and shall specify: (a) the alleged violation; (b) the location, date, and time of the meeting. In the event the Owner of the Lot is leasing the unit, the Association may also provide a copy of the Notice of a Hearing to the Owner's tenant, via First-class mail.

3.4.2. Hearing

The hearing shall be held in executive session pursuant to the Notice of a Hearing and the Owner of the Lot shall be afforded a reasonable opportunity to be heard. Prior to any ruling becoming effective, the Board shall submit proof of the notice and the invitation to be heard which shall be attached to the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered into the minutes by the officer or director who delivered such notice. The notice requirement is also satisfied if the Owner of the Lot, or their authorized representative, appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanctions if any, imposed.

3.4.3. Imposition of a fine and other sanctions.

At the conclusion of the hearing, the Owner of the Lot shall be excused from the hearing and the Board of Directors shall determine the type of sanction and/or the amount of the fine to be imposed, based on: (a) this is a first violation or a continuing violation; (b) the type of violation poses a health or safety risk to any person or property; (c) the Owner of the Lot agrees to abate the violation within the time specified by the Board of Directors.

The Board of Directors shall send a notice to the Owner of the Lot, via Registered Mail, Return Receipt. The notice shall include (a) the decision of the Board concerning the violation; if applicable, (b) the amount of time for the Owner of the Lot to abate the violation; (c) the amount of the fine, and any other sanctions imposed; (c) the probationary length of time in which any subsequent violations of

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the same policy or regulation of the Association Rules will result automatic fines or sanctions.

As an additional penalty imposed upon the Owner of the Lot, the Board may require that the Owner of the Lot reimburse the Association for any attorney fees incurred by the Association, or other costs which relate to the violation and/or the hearing.

3.4.4. Failure to Appear

In the event the Owner of the Lot, fails to appear at the meeting, that Owner will have waived their right to a hearing before the Board, and a summary judgement shall be made against the Owner of the Lot, and a corrective action decided.

3.4.5. Appeals

Rulings of the Board of Directors of Eagles Bluff – Canada Hills Village 14, may not be appealed to the Canada Hills Community Association. The ruling of the Board will be final.

4. Corrective Action

4.1. Lot Owner Provided Corrections

If corrective action has been made by the Owner of the Lot, any costs incurred by the Association such as, but limited to: (postage, printing, meeting expenses, legal fees), shall be charged to the Owner of the Lot. Failure to reimburse the Association for those costs within thirty (30) days, may result in additional charges pursuant to *Resolution 2019-02 Imposition of Fines or Other Sanctions*.

4.2. Association Provided Corrections

If it becomes necessary for the Association to correct the violations incurred by the Owner of the Lot or their tenant, all costs associated with the corrective action shall be assessed against the Owner and the property. The Owner of the Lot will receive (a) written notice of the action to be taken, (b) the estimate cost to correct the violation, (c) notice of completion and a bill for services rendered, included but limited to postage, printing, meeting expenses, interest charges, legal fees, etcetera, shall be charged to the Owner of the Lot, pursuant to *Resolution 2019-02 Imposition of a Fine or Other Sanctions*.

5. Imposition of Fines or Other Sanctions

Please refer to *Resolution 2019-02 The Imposition of a Fine or Other Sanctions*.

Confirmed this 18th day of April, 2019 at a meeting of the Board of Directors.

The Effective date of this resolution is April 30, 2019.

President

Date

Secretary

Date

Eagles Bluff – Canada Hills 14 Homeowners' Association
NOTICE OF VIOLATION

[Date]

[Name of Owner]

[Address]

[Address]

[City, State ZIP]

VIA: Registered, Return Receipt Mail

RE: Lot # _____, Violation of Declaration of Covenants, Conditions
and Restrictions and/or Rules for Eagles Bluff – Canada Hills Village 14

Dear _____:

The purpose of this letter is to advise you that after one or more warning notices have been mailed to you or served upon the property, you are still in violation of [Article _____, Section _____ of the Declaration of Covenants, Conditions and Restrictions for Eagles Bluff – Canada Hills Village 14] **OR** [the rule adopted by the Board of Directors, Resolution _____, Section ____] which provides that you...

[paraphrase what the declaration or rule says]

By taking title to the Lot within Eagles Bluff – Canada Hills Village 14, you contractually agreed to follow the provisions of the Declaration and to comply with the Rules and Regulations of the Association. The Owner of the Lot is also responsible for violations committed by their guest and tenants. You must take immediate action to...

[describe the requested action such as: Removing the improperly parked vehicle, or other corrective action to the alleged violation.]

This action on your part, is required within twenty-one (21) calendar days from the date of this notice to abate the violation. You also have the right to (1) request an extension in time to abate the violation; or (2) request a hearing before the Board of Directors to challenge this violation. Either request must be received via Registered, Return-Receipt mail within twenty-one (21) calendar days of the date of this notice, to:

Eagles Bluff Homeowners' Association
c/o Cadden Community Management
1870 W. Prince Road, Suite 47
Tucson, AZ 85705

The Board as ten (10) business days from the date of the receipt of your request, to respond.

Eagles Bluff – Canada Hills 14 Homeowners' Association
NOTICE OF VIOLATION

The Association has the right to impose a fine or other sanction against you for this violation, and for any subsequent violation of the same nature. That fine may include the imposition of a fine for each occurrence that the violation continues or for subsequent violations of the same nature. In addition, you may be assessed for any late fees, administrative and attorney fees incurred by the Association as a result of this violation.

The Association desires and requests that you cease and desist in violating the Rules of the Association and take corrective action within the time allotted to abate the violation before it becomes necessary to call for a hearing and the possible imposition of a fine or other sanctions.

Board of Directors of Eagles Bluff
Canada Hills Village 14 Homeowners' Association

Eagles Bluff - Canada Hills 14 Homeowners' Association

NOTICE OF A HEARING

[Date]

[Name of Owner]

[Address]

[Address]

[City, State ZIP]

VIA: Registered, Return Receipt Mail

RE: Lot # _____, Violation of Declaration of Covenants, Conditions
and Restrictions and/or Rules for Eagles Bluff – Canada Hills Village 14

Dear _____:

The Board of Directors will be meeting on _____, _____, at the hour of _____, at the offices of Cadden Community Management, 1870 W. Prince Road Suite 47, Tucson, AZ 85705, to determine whether the alleged violation stated in the enclosure, warrants a fine or other sanction to be imposed upon you. You or your authorized representative, is required to attend this meeting.

If you or your authorized representative, does not appear at the meeting, you will have waived your right to a hearing before the Board. After discussion of this matter at the meeting, whether or not you are present, the Board will notify you of its decision and advise you whether a fine has been imposed, the amount of such fine, and any additional sanctions imposed.

If you fail to pay the fine(s) within thirty (30) days from the date of invoice of that fine, a monthly late fee in the amount of 1.5% of the fine or \$15.00, whichever is greater, will be imposed. Any unpaid fine will become a lien against your Lot and may be collected in the same manner as delinquent assessments.

Board of Directors of Eagles Bluff
Canada Hills Village 14 Homeowners' Association

Enclosure: Notice of Violation Dated – [mm/dd/yyyy]