

Eagle Lake Community Association Design Review Committee: process/procedure for addressing design guidelines violations

Version: 1.0

Date Adopted: 13 October 2020 by unanimous vote of the ELCA Board of Directors

In accordance with the State of Washington Homeowners Association Act (RCW 64.38), the Eagle Lake Community Association (ELCA) has the opportunity to adopt internal procedures for the enforcement of association governing documents, including the imposition of statutorily authorized fines.

Accordingly, when an ELCA Site Owner acts in violation of the Design Guidelines, as interpreted by members of the ELCA Design Review Committee (DRC), the following procedure shall be followed:

Determination of Violation and Notification of Site Owner

- Upon notification that a violation of the Design Guidelines has occurred, current members of the DRC will visit the site in order to determine the nature of the violation and meet with the Site Owner, notifying them that a violation has occurred.
- In addition, the DRC will meet to determine if a violation has occurred and determine the requirements for remediation. The DRC will notify the ELCA Board of the violation and draft a letter of non-compliance for the Site Owner for the Board to review and approve.
- A Board-approved letter of non-compliance with the Design Guidelines will be sent to the Site Owner by the DRC chairperson, on behalf of the Board, within sixty (60) calendar days of the determination of violation by the DRC. The letter will contain the following elements:
 - a. A description of the violation
 - b. Specific reference to the section(s) of the Design Guidelines and/or CCRs that were found to be violated and any supporting documentation (photographs, emails, other correspondence)
 - c. DRC-proposed remediation steps and a date by which the violation(s) must be corrected
 - d. An acknowledgement of receipt of the letter by the Site Owner and a pre-addressed, stamped envelope for returning the receipt of the letter and instructions for the Site Owner to either acknowledge of the violation or request an appeal.
- The letter of non-compliance will be delivered electronically, directly to the Site Owner's Eagle Lake Mailbox, and via US Mail (registered). Delivery to the Site Owner will be presumed to have occurred upon sending the letter by email and US Mail.

Appeal Procedure

- The Site Owner has the ability to appeal to the ELCA Board and may request an opportunity to contest the violation.
- The Site Owner must notify the ELCA Board Secretary in writing (USPS or electronic mail) of the intent to appeal within thirty (30) calendar days of the date of issue of the letter of non-compliance.
- If the Site Owner does not request an opportunity to contest the violation within thirty (30) calendar days of the date of issue of the letter of non-compliance, the Site Owner is assumed to have accepted the findings of violation and accepted the plan and timeframe for remediation and has waived any further ability to appeal.
- If the Site Owner chooses to appeal the findings of the letter of non-compliance to the ELCA Board, they may do so in writing (USPS or equivalent, or electronic mail) or in person (live meeting, teleconference, or videoconference).
 - An *ad hoc* meeting of the ELCA board for the purpose of hearing the appeal will be conducted within thirty (30) calendar days of the Site Owner notifying the ELCA Board Secretary of the intent to appeal.
 - The ELCA Board will vote to either:
 - uphold the decision of the DRC;
 - support the position of the Site Owner;
 - amend or revise the decision of the DRC, including modification of the steps or timelines for remediation.
 - A simple majority vote of the board will be sufficient to uphold the DRC decision.
 - In the event of a tie vote (owing to unfilled Board positions and an even number of Board members, the ELCA Board President will determine whether or not to uphold the decision of the DRC).
 - If the Board upholds the DRC decision, then the remediation steps must proceed following the original timeframe.

Failure to Respond

- If no response is made to the ELCA Board Secretary by the Site Owner within thirty (30) days of the date of issue of the initial letter of non-compliance, then a second letter shall be sent to the Site Owner by the same methods as outlined above. The second letter will remind the Site Owner of the first letter, the date sent, the violations still outstanding, and the specific time frame for correction. It will point out the applicable governing documents and their provisions that permit enforcement and politely warn that the ELCA may recover its costs (e.g. the cost of bringing the site back into compliance), legal fees, and/or attorneys' fees if it has to pursue enforcement beyond these polite requests. It will also remind the Site Owner of the deadline for appeal and the potential for \$50 per day fines if the violation is not corrected.
- If no response to the second letter is made to the ELCA Board Secretary by the Site Owner within thirty (30) days of the date of issue of the second letter, then a third and

final letter shall be sent to the Site Owner by the same methods as outlined above. The Final Letter will identify the specific date upon which the \$50 per day fines will commence and will notify the Site Owner that ELCA will record a formal lien against the Site Owner's property once the fines reach a total of \$1500. The Final Letter will notify the Site Owner that additional charges to their account, including charges for lien preparation and recording fees, and any attorney fees, will be the responsibility of the Site Owner. The Final Letter will remind the Site Owner that they will be liable for all attorneys' fees or other legal costs incurred by ELCA, on top of any fines owed and interest accruing. The Final Letter will also remind the Site Owner that ELCA reserves the right to pursue all available legal remedies for collection or remediation.

Resolution of Non-Compliance

- The DRC shall evaluate the requested changes at the completion of the remediation steps and make a determination of compliance or continued non-compliance and notify the Site Owner accordingly, in writing (USPS or electronic mail).

Failure to Comply

- Failure to comply with the DRC and/or Board imposed remedy or failure to comply within the required timeframe may result in a fine of \$50 per calendar day assessed to the Site Owner, as allowed by RCW 64.38.020(11).
- ELCA is entitled to impose or collect charges for late payments of assessments resulting from non-compliance, as per RCW 64.38.020(11).
- ELCA is entitled to any remedy provide by law or in equity, as per RCW 64.38.050, including, but not limited to, the cost of repairs/remediation and reasonable attorneys' fees.
- If the Site Owner lists for sale, or sells, the property prior to resolution the violation of the CC&Rs or Design Guidelines, ELCA is entitled to take any actions necessary to ensure that the Site Owner brings the property into compliance prior to closing, including notification of the title company handling the transaction.