

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE CIELITO LINDO DE TUBAC HOMEOWNERS
ASSOCIATION**

Re: Enforcement Policy

This Resolution has been adopted by the Board of Directors of Cielito Lindo de Tubac Homeowners Association pursuant to A.R.S. §33-1803 of the Arizona Planned Communities Act, and the pertinent provisions of the *Declaration of Covenants, Conditions, Restrictions and Easements for Cielito Lindo de Tubac Subdivision* (the "Declaration"). The purpose of this Resolution is to set forth the Board's policies and procedures on enforcement of the Declaration and Association Rules. The enforcement policy adopted herein supersedes and replaces all prior Association enforcement policies.

1. Notice to Owner.

1.1. First Notice of Violation. A first notice of violation will be sent to the Lot Owner of record (via first class mail) with a timetable for corrective action, which will be at least 21 calendar days from the date of the first notice of violation.

1.2. Contents of First Notice. The first notice of violation from the Board of Directors or its authorized agent shall provide at least the following information:

A. The rule or restriction that allegedly has been violated.

B. Action(s) required to cure the violation.

C. The date of the violation or the date the violation was observed.

1.3. Contesting the Notice of Violation. If the Lot Owner wishes to contest the first notice of violation, he or she shall provide the Board a written response by certified mail within 21 calendar days after the date of the Association's first notice of violation, which shall include a request for any additional information he or she requires. This response shall be sent to the Association's office at the address shown on the notice of violation.

1.4. Response by Association to Owner. Within 10 business days after receipt of the Lot Owner's response, the Board or its authorized agent shall respond to the Lot Owner by certified mail with a written explanation regarding the notice of violation, and shall provide the following information and any other additional information requested:

A. The rule or restriction that allegedly has been violated.

B. Action(s) required to cure the violation.

C. The date of the violation or the date the violation was observed.

D. The first and last name of the person(s) who observed the violation.

E. A copy of this Policy to assure the Lot Owner is aware of the process he or she must follow to contest the notice.

F. Notice of the Lot Owner's option to petition for an administrative hearing on the matter in the Arizona Department of Real Estate pursuant to Arizona Revised Statutes Section 41-2198.01.

15. Second Notice of Violation. After the procedure in Paragraphs 1.1 – 1.4 is completed, or after the initial 21-day response period set forth in the first notice of violation (if the Lot Owner has not responded), a follow-up inspection will be conducted by the Board or its authorized agent. If the Lot Owner has not cured the violation(s) within the time specified, a second notice of violation will be sent, wherein the Lot Owner will be instructed to cure the violation(s) within 7 calendar days after the date of the second notice.

Alternatively, at this point, the Board may elect to follow the procedures set forth in Section 3 of this Resolution and exercise "self-help." If the Board elects to exercise self-help at this point, Section 2 below does not apply.

2. Imposition of Monetary Penalty

21. Notice of Hearing. A follow-up inspection will be conducted on or after the deadline date of the second notice of violation. If the non-compliance still has not been cured, the Board may send the Lot Owner a "Notice of Hearing" via certified mail, return receipt requested and first class mail, wherein the Owner will be invited to attend the next Board Meeting/Hearing Panel Session and have an opportunity to be heard. The date, time and location of the hearing shall be stated in the Notice of Hearing.

22. Hearing Panel. A quorum of the Board of Directors shall act as the Hearing Panel at a regularly-scheduled or special meeting of the Board. The Hearing will be held in executive session unless the affected Lot Owner requests that the Hearing be held in an open session.

23. Designated Representative. A Lot Owner may present to the Board (prior to or at the Hearing) written notification that another person is the Owner's designated representative. A designated representative may speak on behalf of the Owner.

24. Procedure for Hearing. Procedure for the Hearing will be set by the Board of Directors. The Lot Owner and his/her designated representative will be informed of the procedure before the Hearing begins. The Lot Owner and/or his/her designated representative will be given an opportunity to present supporting documentation and testimony to show cause why further enforcement action should not be authorized by the Board, which could include the levy of a monetary penalty and/or referral of the matter to the Association's attorney.

25. Proof of Delivery of Notice. Proof of delivery to the Lot Owner of the Notice of Hearing 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 of the meeting, by the officer, director, or agent who mailed or delivered the Notice.

26. Procedure if Owner or Representative Does Not Appear. If the Lot Owner or his/her designated representative does not appear at the hearing, the Board may levy a monetary penalty and/or refer the matter to the Association's attorney for further action.

27. Hearing Panel's Decision. Notice shall be sent to the Lot Owner by the Board or its designated agent, within 15 days after the date of the Hearing, stating the Hearing Panel's decision, including the amount of any monetary penalty that may have been imposed by the Board, and its due date.

28. Delinquency of Penalty. Any monetary penalty imposed, which has not been paid within 30 days after its stated due date shall be delinquent, and a late charge of \$15.00 shall be added to the penalty.

29. Repeat Violations. A penalty for repeated violation of an Association Rule or restriction may be imposed by the Board for each issue of noncompliance of the same Rule or restriction. No additional hearing is required for a subsequent violation of the same rule or restriction. Daily penalties for violation of a Rule or restriction may accrue for ongoing issues of noncompliance until each such violation is corrected.

2.10. Collection of Penalties. The Association has a lien for penalties and associated late charges, attorney fees and costs, imposed for violation of a rule or restriction, after the entry of a judgment in a civil suit for penalties, late charges and associated attorney fees and costs, by a court of competent jurisdiction, and the recording of that judgment in the office of the Santa Cruz County Recorder. This lien is effective on conveyance of any interest in the subject Lot. The Association may collect the amounts due under the judgment prior to conveyance of the Lot, by any lawful means.

3. Association's Remedy for Owner's Failure to Maintain.

3.1. Owners' Obligation to Maintain Lots. Article 7, Section 7.5 of the Declaration states that maintenance, repair and upkeep of Dwelling Units and all other improvements on a Lot is the sole responsibility of each Owner unless a portion of the lots has been accepted in writing by the Association.

3.2. Association's Right to Self Help. If any Owner fails to fulfill his/her maintenance obligation, the Board may proceed under Section 3.1.E of the Declaration after the Association's first notice of violation (instead of proceeding with the procedure to impose a monetary penalty). Section 3.1.E states:

All maintenance, repair and repainting of the Dwelling Unit and other improvements on a Lot shall be undertaken in a manner and with such frequency as shall keep each Owner's Lot in an attractive, well-kept and maintained condition in conformity with all other Lots. In the event any Owners fails to fulfill his or her obligation under this Section, the Association, after approval of two-thirds (2/3) vote of the Board of Directors, shall have the right through its agents and employees to enter upon the

subject property, and to repair, maintain, and restore the lot, including the perimeter yard walls, or fences and any other improvements. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject. The Board shall have the right to determine whether or not a Lot is in need of maintenance, repair and upkeep in order to conform to the standards of the general neighborhood of the Properties and the Board shall use a reasonably high standard to determine whether such maintenance, repair and upkeep is required so that the Lots as a whole will reflect a high pride of ownership.

- 4. Cumulative Rights and Remedies.** All rights and remedies of the Association at law or in equity are cumulative and not exclusive, and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy. This means that the Association's Board can decide to bring a lawsuit against an owner to enforce an applicable rule, restriction or statute in addition to or instead of imposing a monetary penalty or exercising self-help, and may refer any enforcement matter to the Association's attorney in place of the procedures set forth in this Resolution.
- 5. Violation of Law.** Each and every provision of the Declaration and any amendment thereto is subject to all applicable governmental ordinances and subdivision regulations and any future amendments thereto. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Properties is a violation of the Declaration and subject to any or all of the Association's enforcement procedures.
- 6. Expenses of Enforcement.** Expenses of enforcement, in the event the Association is a substantially prevailing party, shall be paid to the Association by the Owner against whom enforcement action was commenced.

The effective date of this Resolution is _____.

IN WITNESS WHEREOF, the undersigned certifies that this document is a true and correct copy of the Resolution that was adopted by the Board of Directors of Cielito Lindo de Tubac Homeowners Association at its duly held meeting on the _____, day of _____ 2019

Cielito Lindo De Tubac HOMEOWNERS
ASSOCIATION, an Arizona non- profit corporation

By: _____
Its: President

ATTEST:

Secretary

STATE OF ARIZONA)
)ss.
County of Pima)

Subscribed and sworn to before me this _____ day of _____, 2019,
by _____, as President of Cielito Lindo De Tubac
Homeowners Association, an Arizona non-profit corporation.

Notary Public

STATE OF ARIZONA)
)ss.
County of Pima)

Subscribed and sworn to before me this _____ day of _____, 2019,
by _____, as Secretary of Cielito Lindo De Tubac
Homeowners Association, an Arizona non-profit corporation.

Notary Public