

APPROVED

3/19/98 by the Board

RESOLUTION OF THE BOARD OF DIRECTORS  
CAÑADA HILLS COMMUNITY ASSOCIATION

*Preamble*

Section 12.3 of the Declaration for Cañada Hills provides that the Association has the power to enforce any of the provisions of the Declaration for Cañada Hills [Master Declaration] and all Additional Covenants which have been executed pursuant to or subject to the provisions of the Master Declaration or any Additional Covenants which indicate that the provisions were intended to be enforced by the Cañada Hills Community Association [the Association].

Section 1.1 of the Master Declaration defines "Additional Covenants" as covenants in addition to those in the Master Declaration which are provided for in any Tract Declaration. All of the Declarations of Covenants, Conditions and Restrictions for the sub-associations in Cañada Hills are considered as such "Additional Covenants". Thus, under Section 12.3 of the Master Declaration, this Association has the power to enforce the provisions contained in any of the sub-association's documents.

Section 6.3 of the Master Declaration gives the Board of Directors the authority to adopt Rules provided that they do not discriminate among the Owners and Occupants and are not inconsistent with the provisions of the Master Declaration. Rules are adopted by the Board of Directors to enhance the preservation and development of the Covered Property, which includes the individual lots encompassed by a Tract Declaration and under the jurisdiction of a sub-association.

Article IV of the Master Declaration provides that all proposals for construction, or any improvements to a Lot, must be approved by the Design Review Committee [DRC] of the Association and by any similar committee of a sub-association. Thus, prior to submitting any architectural matter to the Design Review Committee for its approval, an Owner is required to obtain the approval of the sub-association's architectural or similar committee.

Some Owners have neglected to submit their plans to the DRC for approval and have only submitted their plans to the sub-association for its approval and beginning construction after obtaining that approval. As a result of an Owner's failure to follow the two-step process of obtaining approval of proposed construction by the sub-association and the Master Association, it is the desire of this Association to adopt a resolution which provides for sanctions against any Owner who fails to obtain architectural approval by DRC of the plans for any proposed construction, even if that Owner applied for and obtained the approval of the sub-association.

In addition, the Association has determined that there is no mechanism in place for an Owner to contest the decision of the architectural committee of the sub-association or to request further review of the plans by the DRC, in the event the sub-association's architectural committee rejects the plans for the proposed construction or improvements on the lot [the "plans"].

Section 4.7 of the Master Declaration provides that any Owner who is aggrieved by the decision of the DRC is entitled to appeal that decision to the Board of Directors of the Association in accordance with procedures established in the Design Guidelines. This presupposes that the sub-association has already approved the plans but that the DRC disapproved such plans.

At the present time no procedures have been adopted and set forth in the Design Guidelines for an appeal of the DRC's decisions to the Board of Directors. Under Section 4.3 of the Master Declaration, the Board of Directors has the authority to adopt and implement procedures to enable an Owner to appeal an adverse decision of the DRC which occurs after a sub-association has approved the plans.

To give an individual who is aggrieved by the decision of the architectural committee of a sub-association the same right to appeal that decision which is given to an individual who is aggrieved by the decision of the DRC [which occurs after that Owner receives a favorable response from the architectural committee of the sub-association], the Board of Directors adopts the following addendum to the Design Guidelines. This addendum provides that any Owner who is aggrieved by the decision of a sub-association's architectural committee may appeal that decision to the DRC, which shall act in the capacity of an appellate panel.

#### *Resolution*

The Board of Directors of Cañada Hills Community Association adopts the following resolution:

1. Sanctions for Failure to Obtain Approval of Plans and Specifications by the Architectural Committee of the Cañada Hills Community Association. In the event that any Owner fails to obtain the approval of the DRC, regardless of whether that Owner obtained the approval of the sub-association for any proposed construction on the Lot, the Association, has the right to impose sanctions against the Owner. The Association shall provide written notice to the Owner of his/her failure to obtain architectural approval from DRC and request that the Owner cease all construction activities until the DRC has had the opportunity to review the plans and specifications for the construction. If the Owner fails to cease construction and submit the plans to the DRC within the time set forth for performance in the notice, then that Owner shall be invited to attend a meeting of the Board of Directors of the Association at which time the Board shall discuss imposing sanctions against the Owner for his/her failure to obtain the required approval. The members of the DRC shall also be invited to attend this hearing and present any relevant information to the Board of Directors. If the Board

of Directors determines that the proposed construction violates the standards established by the DRC, it has the right to require the removal of any construction on the lot which is nonconforming and to determine the amount of any fines, penalties or other sanctions to be imposed on the Owner. At such time as the Board of Directors determines the sanctions to be imposed, it shall provide written notice of its decision with a demand for payment and a date by which payment must be made. Any fines, penalties or other sanctions which are not paid when due shall be collected in the same manner as delinquent assessments, including the imposition of any late fee on payments which are not timely made and the placement of a lien on any lot for such nonpayment.

2. Appeal from Adverse Decisions of the Sub-association. If an Owner submits plans and specifications for approval of any architectural matter in the manner provided for in any sub-association's governing documents, and the architectural committee of that sub-association denies approval of such plans, then that person has the right to appeal that decision to the Design Review Committee [DRC] of Cañada Hills Community Association, provided that the following procedures are followed:
  - a. The aggrieved Owner shall submit his/her Notice of Appeal to the DRC within thirty days of the date of the sub-association's denial and shall provide a copy of the Notice of Appeal to the Board of Directors of the sub-association. The Notice of Appeal shall contain proof that the Notice of Appeal was either mailed, by certified mail, return receipt requested or delivered to the sub-association; a copy of the plans and specifications for the proposed construction; and any other documents, correspondence, materials, or other items which were included in the package of information submitted to the sub-association for its review. It shall also include a copy of the negative decision of the architectural committee of the sub-association.
  - b. In the event that the sub-association which denied the approval desires a hearing before the DRC to present additional information concerning its reasons for denying the request for approval, then that sub-association has ten days after receipt of the Notice of Appeal to request a hearing, in writing, before the DRC. If the sub-association does not request a hearing, then the matter shall be submitted to the DRC which shall review the matter based on the information provided by the Owner and any information furnished by the sub-association, if it wishes to submit additional materials in lieu of a hearing. Any information which the sub-association wants the DRC to review when it considers the appeal shall be provided to the Management Company for the Association.

within ten days after receipt of the Notice of Appeal.

- c. The DRC shall schedule a hearing, if requested by the sub-association, and shall notify the Owner and the sub-association of the date, time and place of such hearing. This hearing shall be held in executive session. Each party will be given fifteen minutes to present its position on the matter. At the conclusion of the parties' presentations, they will be excused by the DRC. The DRC shall review the information provided together with the presentations of the parties and render its decision. The parties will be notified of the DRC's decision within ten days of the date of the hearing. The DRC may reverse, modify or sustain the decision of the sub-association. The decision of the DRC is final and binding on all parties.
- d. Although Section 4.7 of the Declaration provides that any person who is aggrieved by a *decision* of the DRC has the right to appeal to the Board of Directors, this section only applies to decisions of the DRC in instances where the sub-association has first approved the proposed construction and the DRC, as part of this two-step process, reverses the sub-association's decision. Thus, in instances where the sub-association denied approval of the proposed construction and the Owner appeals that decision, once the DRC has reviewed the materials submitted by the owner and the sub-association, held its hearing, if requested in accordance with this procedure, and advised the parties of its decision *on the appeal*, that decision is final and there is no right to appeal that decision to the Board of Directors.

2. Appeals from Adverse Decisions of the DRC.

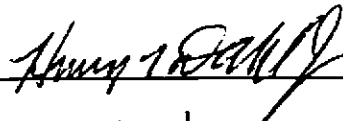
- a. If an Owner has obtained the approval of the architectural committee of the sub-association, and then submits his/her plans to the DRC for its approval and the DRC disapproves of the proposed construction, the aggrieved Owner may appeal the DRC's decision to the Board of Directors. A Notice of Appeal must be in writing and filed with the Board of Directors within thirty days of the date of DRC's denial. A copy of the Notice of Appeal must also be provided by the Owner to the DRC in care of the Association's Management Company. The Notice of Appeal shall include a copy of the plans and specifications and any other documents, correspondence, materials, or other items which were included in the package of information submitted to the DRC for its review. It shall also include a copy of the negative decision of the DRC.

- b. The Board of Directors shall review the materials submitted to it in executive session at the next regularly scheduled meeting after receipt of the Notice of Appeal, provided that the Notice is received at least ten days prior to that scheduled meeting. If the Notice of Appeal is not received at least ten days prior to the regularly scheduled meeting of the Board of Directors, then it shall be placed on the agenda for the following meeting. The Board of Directors, in its sole and absolute discretion, has the right to call a special meeting to consider the appeal, in lieu of scheduling that hearing at its next regularly scheduled meeting. The Owner may not engage in the construction of the proposed improvements during the time that the appeal is being considered by the Board of Directors. No parties shall attend the executive session unless the Board of Directors makes a written request on the parties requesting their attendance. The Board of Directors may reverse, modify or sustain the decision of the DRC. The decision of the Board of Directors shall be provided to the Owner and the DRC within fifteen days after its review and shall be final and binding on all parties.

Adopted by the vote of a majority of the Board of Directors in accordance with the provisions of Section 4.3 of the Master Declaration.

DATED: 3-14-98

CAÑADA HILLS COMMUNITY ASSOCIATION

By: 

Its: President