

Windward Covenants Compliance Process

Purpose of this document: To overview the process used across the Windward community to resolve covenant compliance issues. This process is executed by the WCSA Property Managers and the Covenants Committee to ensure fair and consistent resolution of all covenant violations.

Summary: Covenant compliance is a commitment that each homeowner makes when purchasing a home in Windward, i.e. to maintain their home and property consistent with the covenants, rules and regulations documented on the Windward website. When Covenant violations do occur, the process described below is executed to work with the homeowner to achieve repair and bring their home back into community standards compliance.

Initiating Event: A property owner with a home maintenance issue is identified by a neighbor or via one of the regularly scheduled Community Association Manager monthly inspections, triggering notices to be issued to the homeowner to alert them of the compliance violation and work with them to achieve resolution.

Maintenance Request Notice

Action: For non-urgent matters, a courtesy “Maintenance Request” Notice is issued to property owner

Resolution: Owner remedies item or agrees to a plan of action with Management

Communication: Upon receipt of the notice, the homeowner should promptly reach out to the WCSA Property Manager to discuss the issue and a resolution approach.

Time Frame: 3+ weeks before next property review to remedy maintenance **or** agree to plan of action with Management

Consequence of no response: Owner is issued a Level 1 or Level 2 letter, dependent upon urgency; no fines incurred

Level 1 Violation Notice

Action: Level 1 Letter is issued to property owner

Elapsed Time: Typically 3+ weeks from initial “Maintenance Request”

Resolution: Owner remedies maintenance or agrees to a plan of action with Management

Communication: Upon receipt of the notice, the homeowner should promptly reach out to the WCSA Property Manager to discuss the issue and a resolution approach.

Time Frame: 10+ days to remedy maintenance **or** agree to plan of action with Management

Consequence of no response: Owner is issued a Level 2 letter; no fines incurred

Level 2 Violation Notice

Action: Level 2 Letter is issued to property owner

Elapsed Time: Typically 6+ weeks from initial “Maintenance Request”

Resolution: Owner remedies maintenance or agrees to a plan of action with Management

Communication: Upon receipt of the notice, the homeowner should promptly reach out to the WCSA Property Manager to discuss the issue and a resolution approach.

Time Frame: 10+ days to complete maintenance **or** agree to plan of action with Management

Consequence of no response: Owner is issued a Level 3 letter; no fines incurred

Level 3 Violation Notice

Action: Level 3 Letter is issued to property owner

Elapsed Time: Typically 9+ weeks from initial “Maintenance Request”

Resolution: Owner remedies maintenance item and arranges to pay fine

Communication: Full, prompt communication with Community Association Manager is critical to avoid fines.

Time Frame: immediate remedy **or** agree to plan of action with Management to suspend fines

CVRB: Immediately before fines are initiated, as a final effort to encourage resolution, the WCSA board will contact the homeowner to encourage the resolution of the issue driving the fining. This is termed the Covenants Violation Review Board (CVRB) and is composed of 3 board members that execute this outreach to the homeowner to ensure every effort has been made to resolve the issue prior to fining being initiated.

Consequence of no response: 20 days after date of notice, daily fines begin accrue until matter is settled. Refer to Windward Rules and Regulation paragraph ‘XXV: Violations and Fines’ for fining schedule based on severity of violation.

Note: It is 12 + weeks of no remedy, or no communicated plan of remedy, before fines begin. Typically, management waits an additional 4 weeks before actually posting fines to allow for unknown issues such as mail delivery or homeowner on vacation

Level 5 Violation Notice

Action: Level 5 Letter is issued to property owner – automatic and immediate fine incurred

Elapsed Time: none

Resolution: Owner remedies maintenance item and arranges to pay fine

Communication: Full, prompt communication with Community Association Manager

Time Frame: immediate remedy **or** agree to plan of action with Property Manager to suspend fines and additional daily fines

Consequence of no response: A one-time immediate fine is charged; plus daily fines accrue until the violation is remedied. Refer to Windward Rules and Regulation paragraph ‘XXV: Violations and Fines’ for fining schedule based on severity of violation.

Note: This notice is only for few matters deemed serious by the Board of Directors, e.g. conducting a modification without written authorization (including tree removal, roofing and window replacement), gas boats on the lake or realtor signage violations etc.

Delinquency Letter

Action: Delinquency Letter is issued to property owner advising the matter will be turned over to WCSA Lawyer for resolution if not promptly resolved.

Elapsed Time: Typically 16+ weeks from initial “Maintenance Request”

Resolution: Owner completes maintenance or agrees to a plan of action with Community Association Manager

Communication: Full, prompt communication with Management

Time Frame: immediate remedy **or** agree to plan of action with Management to suspend fines

Consequence of no response: Fines continue to accumulate on a daily basis until violation is remedied. See Windward Rules and Regulation paragraph ‘XXV: Violations and Fines’ for fining schedule based on severity of violation. if the balance accumulates to \$2,000 or more the account is turned over to the attorney for collections.

Case turned over to attorney

Action: When the fine total reaches \$5,000, case is turned over to WCSA Attorney

Elapsed Time: Typically 17+ weeks from initial “Maintenance Request”

Resolution: Owner completes maintenance and settles fine

Communication: Only via WCSA Attorney; **not with Management or WCSA Board/Committees**

Time Frame: owner completes maintenance and settles fine

Consequence of no response: WCSA may impose “self-help” to resolve the maintenance issue and bill the cost of repair back to the property owner. The WCSA Attorney proceeds to perform escalating legal actions including lien, filing suit, garnishing wages, and/or foreclosure until the home is brought back into compliance by the homeowner. Fines continue to accumulate at the original daily fine rate until matter is settled.

Legal Fees/Legal Action: All legal fees incurred for compliance are billed and ultimately collected from the homeowner involved in the compliance matter. Through all of the stages of notification (fines, liens, foreclosure) legal fees are incurred by WCSA as a lawyer is engaged to resolve maintenance issues that are not addressed by the owner as a normal function of maintaining their home. When a home falls into disrepair and the homeowner fails or refuses to effect repairs for the betterment of their neighbors and the community, typically after 6 months of notices and interaction by the management company, lawyers takes over the resolution and the legal fees are incurred.

There is a cost of \$32 to generate a warning letter, \$6 for a notice of lien and \$100 for the final notice along with draft of lawsuit. A cost of \$474 is charged if actually having to finalize the lawsuit and file it. Rates for additional work (such as court appearances) typically run \$280/hr.

Access Management bills \$100 for processing matters that are beyond its contract with WCSA, plus any time spent actually testifying in court.

NOTE: In levying fines, WCSA's objective is solely to ensure compliance with WCSA Covenants, and maintain a high standard of maintenance for our 35+ year old community.

Sometimes residents are unaware of the impact that overlooked or neglected maintenance has on the value of the community at large, and the only realistic method WCSA has is of bringing an overlooked item to a property owner's attention is a letter, which WCSA recognizes no one is happy to receive. While technically daily fines continue until the homeowner notifies management of resolution, if management (during regular monthly inspections) notes the situation has been resolved, fines will cease.

Appeals: During all stages of compliance notification from first notice until 10 days after the last fining notice, the homeowner has the option to request a hearing with the Covenants Committee. This is typically as late as 120 days after first violation notice and before being turned over to WCSA's Attorney. If a property owner desires to dispute a maintenance/fine issue, the owner can appeal to the WCSA Covenants Committee. This is scheduled by contacting the WCSA Property Manager. The hearing is a meeting with the Covenants committee where the homeowner describes his disagreement with the application of covenants to his property and any unique circumstances that surround the case. After meeting with the homeowner, the Covenants Committee deliberates on information provided, as well as details of the covenants that apply, and issues a ruling which is subsequently communicated to the homeowner via a letter. Once the matter is forwarded to the collections attorney, all communications with the homeowner are routed exclusively through the law firm until the matter is resolved. If an owner is not satisfied with the Committee's decision, within 30 days an owner may appeal directly to the Board of Directors for their independent review and decision.

Disclosure: Copies of all "standard" notifications and letters are available on the community website, and we are always open to suggestions for improving the letter content and/or the process of enforcement.

Owners should understand that privacy laws and rights prevent WCSA from disclosing enforcement actions taken which affect others in the community...we are simply unable to discuss what actions are being taken regarding another neighbor's property. Nonetheless, we do consistently follow our procedures, so that it is highly likely that if you observe a maintenance issue, some action is being taken to bring the property up to Windward standards if an obvious issue exists.

If you have any questions about the compliance process described herein, please contact the WCSA property manager at 770-802-8360 or via email at windward@accessmgt.com.