

ORGPA Enforcement Appeals Process

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Overview

Several association policies include enforcement actions such as imposing a fee, placing a lien, or towing a vehicle. Actions like towing a vehicle incur a cost that cannot be reversed, and owners and residents should be given an opportunity to appeal the enforcement before it is executed.

In all cases an appeal is submitted in writing or email to the Board of Directors who shall review the appeal and, if accepted, shall discuss the appeal and render a judgment by majority vote in a timely manner at a regularly scheduled board meeting. This document describes the process and procedures for submitting and judging an appeal.

[ARS 33-1242](#) provides specific details on notification timelines and content with which the board must comply. A written notification¹ to the unit owner is required before the penalty for violation can be applied, and must include an address to which the unit owner can send a certified letter within 21 calendar days after the date of the notice along with other information described in that article. To ensure compliance with the law, the **enforcement date** shall be no less than 28 days after the date of the notice. The **enforcing agent**² may issue warnings with in-person visits, phone, or email prior to the written notification, and the recipient may initiate an appeal on the basis of the warnings. All notices, written or electronic, shall include the information listed in ARS 33-1242 sections (B) and (C), and shall be made available to the secretary to be recorded.

Additional notification timelines may be described by other governing documents, such as CC&R VII.2.

The process in this document is intended to address sections 1 and 2 of CC&R Article XII “Resolution of Disputes”. Unit owners that remain unsatisfied may have options to continue to appeal through the provisions of that article or those of [ARS 33-1242\(D\)](#).

¹ It is unclear whether email constitutes a written notice, but for any enforcement of significance the notice should be sent by certified mail.

²The enforcing agent shall be an HOA Board Member, or somebody designated by the board as the enforcing agent. Different enforcement actions may have different enforcing agents.

Appeal³

Submission

An interested party may appeal to the board with a request to delay or cancel the enforcement. This appeal shall be submitted by email to the entire board at boardofdirectors@orchardriver.org and must include a description of the extenuating circumstances that the interested party believes support the appeal. The appeal may be made to a board member who agrees to submit it on behalf of the interested party, but the appeal is not received until it is sent to the entire board via email at the email address noted above. A written response submitted by certified mail in accordance with [ARS 33-1242](#) shall be treated as a submitted appeal with the secretary submitting it on behalf of the unit owner. Submitted appeals shall be recorded by the secretary in the unit records.

Appeals received on or after the enforcement date are not timely, and may be considered only if the enforcement can be reversed.⁴

Review

Reception of an appeal halts the enforcement sequence for a review period of three (3) full days after the day of reception. The board uses this period to discuss the request via email. Additional information or appeals received during this period will be taken into consideration but do not extend the review period. For an enforcement action that has not had an appeal denied by the board, the appeal is accepted for consideration if, during the review period, more than one-fourth⁵ of the directors responds to boardofdirectors@orchardriver.org unambiguously agreeing that the appeal should be deliberated. If an appeal to the action had already been denied, more than half the directors must so respond within the review period to accept the appeal.⁶

³ Terminology is as follows: **Submit**: An appeal is sent to the board. **Received**: the submission is present in the boardofdirectors@orchardriver.org archive. **Accepted**: A sufficient number of board directors agree the submitted appeal has merit. **Rejected**: The submission was too late or an insufficient number of directors agree the appeal has merit. **Approved (with modifications)**: A majority of voting board directors approves the appeal in a meeting (potentially with modifications to the terms). **Denied**: The board deliberation does not result in approval.

⁴ For example, an imposed fee can be reversed with no impact. A towed car remains towed and any fees associated with the towing may not be reversed.

⁵ If the number of directors is between 4 and 7 inclusive 2 directors are required. If it is between 8 and 11 inclusive then 3 directors are required.

⁶ Note that a new appeal that merely repeats information the board has already considered is likely to be rejected, and that if the enforcement date has been reached it's too late to submit additional appeals.

On completion of the review period the appeal submitter(s) shall be informed by return communication⁷ whether the appeal was accepted or rejected, prior to or contemporaneous with any subsequent notification. If a written notice per [ARS 33-1242](#) had been sent, the response content shall conform to the requirements of that article regardless of whether or not the appeal was submitted in writing. The response shall be recorded by the secretary.

If the appeal is rejected, the enforcement sequence continues as scheduled, unless a party to the enforcement action chooses to pursue the options allowed under CC&R XII or [ARS 33-1242\(D\)](#)

If the appeal is accepted, the enforcement sequence remains halted and an agenda item is added to the next regular board meeting where the board has an opportunity to meet and discuss the request.

If no appeal is accepted during the review period, the enforcement sequence advances to the next stage as scheduled or on the day after completion of the review period for a submitted appeal, whichever is later.

Multiple requests related to a single enforcement action may be submitted. If any one is accepted, the details of all requests shall be provided to the board for consideration in the meeting, even if some were not accepted during the email discussion or were received after the accepted request. Additional requests received less than 24 hours before the board meets are not guaranteed to be part of the discussion, unless submitted under the terms of ARS 33-1242.

Board Deliberation

When the board meets to discuss an accepted appeal, it shall discuss based on a motion to cancel the enforcement action. If the board denies the appeal, the enforcement sequence continues as if the appeal had been rejected.

Denial of an appeal does not exhaust the rights of interested parties to appeal again (but see [Review](#) above).

Approved by Orchard River Board of Directors in an open Board meeting 2022-11-21.



Peter Bigot, Secretary, 2022-11-22

⁷ If the appeal was submitted electronically, the response may be sent by email; otherwise it must be sent by mail.