

**MISSION VIEJO HOMEOWNERS' ASSOCIATION INC.**  
Policy Regarding Covenant Enforcement Proceedings

The following policy regarding covenant enforcement was adopted by the Board of Directors of the Mission Viejo Homeowners' Association Inc. ("Mission Viejo HOA").

**Effective Date:** December 19, 2006

**NOW, THEREFORE, IT IS RESOLVED** that Mission Viejo HOA does hereby adopt the following policy regarding covenant enforcement violations:

***Covenant Enforcement:***

**WHEREAS**, the original recorded Conditions, Covenants and Restrictions (CC&R's) for the Mission Viejo Community governed in Filings 1-3, 5-13, and 15-16 were created with the legal provision that they are enforceable in terms of equitable servitude, which gives every homeowner within the Mission Viejo Community in those specified filings the power to individually enforce the original recorded CC&R's through a court of law.

**WHEREAS**, it is also affirmed that the Mission Viejo Homeowners' Association Inc. (HOA) represents the collective interests of the community and retains the legal right to enforce covenant violations through a court of law.

**WHEREAS**, the original CC&R's stipulated enforcement powers to an entity known as the Architectural Committee which has effectively been dissolved, the Mission Viejo HOA does not have legal authority to approve homeowner building improvements prior to construction or to conduct individual lot inspections.

**WHEREAS**, any individual homeowner or the Mission Viejo HOA may legally challenge newly constructed improvements, or matters relating to general maintenance of a unit owner's property affecting other homeowners, within one year of the improvement's completion.

**NOW, THEREFORE**, the Mission Viejo HOA agree only to participate in actions of violations of the original CC&R's in accordance with the following stipulations and proceedings:

## **STIPULATIONS AND PROCEEDINGS:**

1. The Mission Viejo HOA will not challenge any unit owners' improvement unless it can unquestionably be demonstrated that such an improvement has 1) occurred within the one year time limit and 2) the improvement is not congruent with existing covenant restrictions and 3) is incongruent to the general residential plan for the Mission Viejo neighborhood.
2. Non-improvement matters concerning general maintenance including but not limited to: un-kept lawns, auto repair activities and the storage of boat, truck, trailer, camper on a unit property are the only other CC&R's that will be considered by the Mission Viejo HOA for covenant violations. The Mission Viejo HOA further encourages all individual homeowners to first report violations of the original CC&R's though equivalent city zoning ordinances in lieu of court proceedings or further involvement of the HOA.
3. The Mission Viejo HOA will rely only on written documented complaints by individual homeowners. The complaint must detail the violation and documented unsuccessful efforts to resolve the violation including such actions as informal written and oral requests, city zoning ordinance violation citations or unofficial mediation. The Mission Viejo HOA Board further encourages that the document contain written support of the complaint from more than one affected neighbor. The Board of Directors however reserves the right to support or not support a neighbor complaint through further action.
4. Each documented violation will be given consideration at the next scheduled Executive Board of Directors' meeting. The Board will then initiate a vote of participation in support of the complaint and may take further action while considering the following:
  - a. The number of affected homeowners in the area of the violation.
  - b. The legal and personal risk to the Mission Viejo Executive Board of Directors acting in good faith.
  - c. The potential legal costs to the Association.
  - d. Necessary Association funds to support further legal action and cover any Directors and Officers Insurance or similar insurance covering the Board's involvement in the complaint action.
5. Further action by the Board would then involve a written letter from the Mission Viejo HOA to be delivered to the homeowner who is shown to be in violation of the original CC&R's.

6. If the violation still remains unresolved, the Mission Viejo HOA reserves the right to pursue any legal action with due consideration to all of the concerns stipulated previously in sections 4 a-d of this policy.

The undersigned hereby certifies that the foregoing resolution was adopted and made part of the minutes of the meeting of the Board of Directors conducted on the 19<sup>th</sup> day of December, 2006.

Mission Viejo Homeowners Association Inc.

By:  Title President