

Nanawale Community Association, Inc.

Working to keep Nanawale the Big Island's most beautiful community.

ESTABLISHMENT OF NON-COMPLIANCE PROCEDURES*

Purpose

It is the intent of the NCA Board of Directors to establish procedures to ensure correction by property owners, tenants, guests and contractors of Non-Compliance with Nanawale Community rules and regulations enacted by the Declaration of Protective Restrictions, Conditions and Reservation (CC&R's) of the Community. The purpose of these procedures is to maintain Nanawale Community as a desirable area to live and protect our property owner's investment and land values. This is to be accomplished as follows:

- First: Establish a means to inform property owners of Non-Compliance with official guidelines, documents, and standards.
- Second: Establish the process through which correction of Non-Compliance is to be accomplished.
- Third: Establish a structure of fines that may be assessed property owners for failure to correct Non-Compliance issues. (Nanawale Schedule of Fines)

The Board's policy is that the preferred means of accomplishing compliance is by voluntary means and corrective action by the property owner once a Non-Compliance issue has been noted and made known to the property owner or third party such as tenant, guest, or contractor. The Board and/or Property Manager will use the following procedures in addressing Non-Compliance issues in Nanawale Community Association.

Procedure

The following sets forth the procedure that will be followed by the Board and/or General Manager in routine Nanawale Community Association non-compliance matters:

- Step one: Formal notification will be made to the property owner /landowner of a Non-Compliance issue, which shall be by written communication in the form of a courtesy letter. The expected response from the property owner would be an acknowledgment within 30 days of the Non-Compliance issue and a plan (in writing) to correct the issue in a diligent and timely manner.

An issue of Non-Compliance that would require immediate attention such as a dangerous situation or where the Non-Compliance requires immediate attention and warrants accelerated action in which it may endanger health, safety or welfare would bypass these steps based on direction of the President or the Vice President when the President is not available or the Property Manager, when neither the President nor the Vice President is available, may, with one other Board member concurring, issue a "Cease and Desist" order for the property owner , tenant, guest or contractor to stop the Dangerous or Non-Complying action pending full Board review.

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- Step two: Lacking an acceptable response from the property owner within 30 days of the courtesy letter, an additional official letter from the Board or Property Manager re-stating the non-compliance issue and expected corrective action required of the property owner will be sent to the mailing address on file with the Management Company. This letter will also set forth a fine on the property owner's account. The property owner will be given an additional 30 days from date of mailing to respond to the Board via written communication with a plan for corrective action including a time frame for completion. Upon a suitable response from the property owner, follow up action will be taken to ensure the corrective action is taken within agreed to time frames.
- Step three: Lacking an acceptable response from the property owner within 30 days of the 2nd letter, an additional official letter from the Board or Property Manager re-stating the non-compliance issue and expected corrective action required of the property owner will be sent to the mailing address on file with the Management Company. This letter will also set forth a second fine on the property owner's account. The property owner will be given an additional 30 days from date of mailing to respond to the Board via written communication with a plan for corrective action including a time frame for completion. Upon a suitable response from the property owner, follow up action will be taken to ensure the corrective action is taken within agreed to time frames.
- Step four: Lacking a suitable response to the prior letters within the time given and/or the failure by the property owner to carry out the corrective plan of action, the Board will impose a third fine and place a lien on the property. Additional legal action can be taken at the discretion of the Board. The fine may be as defined in the guidelines set forth in Nanawale Schedule of Fines but is not limited to that list. If the issue is one not anticipated by the Nanawale Schedule of Fines, the Board may establish a fine for that issue which then will become part of Nanawale Schedule of Fines. The property owner will be sent written notice outlining the Board's action including the proposed fine. The letter shall contain the amount of the proposed fine stating the dollar amount and frequency with continued non-compliance, the effective date, which will normally be immediately after notice the home/landowner notice expired.

If the fine is not paid in a timely manner, the NCA Board shall implement legal action, which could include one or all of the following:

1. Placing a lien on the property.
2. Filing and prosecution of a small claims lawsuit to collect the fine, attorney fees and/or other costs incurred.
3. Additional measures to be determined as needed.

If a judgment is rendered in favor of NCA, Inc. the judgment shall be recorded in the Public Records of Hawaii County.

*Updated February 2022. Please see Nanawale Property owner s Association's "Schedule of Charges & Fines" for more detailed information as well as many other HOA documents at Nanawale.com.