



PARADISE GREENS HOME OWNER'S ASSOCIATION

PO Box 66018, ALBUQUERQUE, NM 87193

PLAN OF OPERATION

RESTRICTIVE COVENANT VIOLATION

First warning letter will be sent immediately upon discovery of the violation of the restrictive covenant by First Class Certified Mail. Violations must be corrected within 10 days. The Board of Directors, at its discretion, may otherwise accept from the home owner an acceptable strategy for prompt correction of the violation within a specific time frame.

Second warning letter will be sent ten (10) days after the First warning letter by First Class Certified Mail if no response, or objectionable response from the home owner.

Temporary Restraining Order notice will be sent ten (10) days after the second warning letter by First Class Certified Mail if no response, or objectionable response from the home owner. A Temporary Restraining Order will be filed in court at the same time of the mailing of this notice. The court will be petitioned for Permanent Injunction prohibiting the behavior indefinitely. In the event a judgment is obtained, such judgment will include attorney's fees, court costs, and any and all costs incurred, and will be the personal obligation of the homeowner.

For violations that have been occurring for over a year the Board of Directors may acknowledge that the home owner should have been notified of the violation at an earlier date. However, failure to enforce the Restrictive Covenant does not constitute a waiver of the Board of Director's authority to enforce the Covenant or Condition. The Court has stated that the benefits of Restrictive Covenants outweighed arguments that the neighborhood had changed significantly and such covenants are no longer enforceable. The lower court found there had been no waiver or abandonment of the right to enforce the Restrictive Covenants. Neff v. Hendricks. 57N.M. 440,441 259P.2d 1025,1026 (1953). Courts favor Restrictive Covenants and generally will enforce them. "The trial court has a duty to enforce the expressed intentions as set forth in covenants when they are unambiguous... In doing so we uphold the historical recognition of covenants as valuable property rights, coupled with the duty to enforce the expressed intentions set forth in unambiguous covenants that do not violate the public policy." Aragon v. Brown. 2003-NMCA-126, 134N.M. 459,462 (Ct.App. 2003).

ADOPTED: November 8, 2004



PARADISE GREENS HOME OWNER'S ASSOCIATION

PO Box 66018, ALBUQUERQUE, NM 87193

FIRST CLASS CERTIFIED MAIL

Date __, 200_

Re: **RESTRICTIVE COVENANT VIOLATION**
FIRST WARNING LETTER - ADDENDUM

Dear Paradise Greens Home Owner,

This is a follow-up to our earlier letter of _____. At that time, you were requested to _____ by _____. You have seemed to be taking action to _____; the Board of Directors has been reluctant to take any additional action.

As noted in our earlier letter, the _____ needs to be completed in a manner consistent with requirements set forth in the Paradise Greens Subdivision Restrictions. We have these concerns:

- 1.
- 2.
- 3.

If you are unable to comply with this, please advise us in writing:

1. Your plan to correct the situation so that you will meet the Paradise Greens Subdivision Restrictions.
2. The date by which you will bring _____ into compliance with the Paradise Greens Subdivision Restrictions.

If you have questions, you may contact the undersigned or any member of the Paradise Greens Home Owner's Association Board of Directors.

Sincerely yours,

Board of Directors
Paradise Greens Home Owner's Association

ADOPTED: November 8, 2004



PARADISE GREENS HOME OWNER'S ASSOCIATION

PO Box 66018, ALBUQUERQUE, NM 87193

FIRST CLASS CERTIFIED MAIL

Date __, 200_

Re: **RESTRICTIVE COVENANT VIOLATION**
FIRST WARNING LETTER

Dear Paradise Greens Home Owner,

As I believe you know, pursuant to the Paradise Greens Restrictive Covenants, the _____ is not permitted, as articulated in section _____ of the Paradise Greens Restrictive Covenants, copy of which is attached to this letter.

There have been complaints by residents of the neighborhood regarding _____. The Board concurs the situation must be corrected in order to prevent further action by the Paradise Greens Home Owner's Association. Please consider this **FIRST WARNING LETTER** as notice that _____ must be corrected no later than _____. The Board of Directors, at its discretion, may otherwise accept from the home owner an acceptable strategy for prompt correction of the violation within a specific time frame.

If you have questions, you may contact the undersigned or any member of the Paradise Greens Home Owner's Association Board of Directors.

Sincerely,

Board of Directors
Paradise Greens Home Owner's Association

ADOPTED: November 8, 2004



PARADISE GREENS HOME OWNER'S ASSOCIATION

PO Box 66018, ALBUQUERQUE, NM 87193

FIRST CLASS CERTIFIED MAIL

Date __, 200_

Re: **RESTRICTIVE COVENANT VIOLATION**
SECOND WARNING LETTER

Dear Paradise Greens Home Owner,

As I believe you know, pursuant to the Paradise Greens Restrictive Covenants, the _____ is not permitted, as articulated in section _____ of the Paradise Greens Restrictive Covenants, copy of which is attached to this letter.

There have been complaints by residents of the neighborhood regarding _____. The Board concurs the situation must be corrected in order to prevent further action by the Paradise Greens Home Owner's Association. Please consider this **SECOND WARNING LETTER** notice that _____ must be immediately corrected. The Board of Directors, at its discretion, may otherwise accept from the home owner an acceptable strategy for prompt correction of the violation within a specific time frame.

If the Board of Directors has no response within ten (10) days, or objectionable response from the home owner, a **Temporary Restraining Order** will be filed in court. The court will be petitioned for Permanent Injunction prohibiting the behavior indefinitely. In the event a judgment is obtained, such judgment will include attorney's fees, court costs, and any and all costs incurred, and will be the personal obligation of the homeowner.

If you have questions, you may contact the undersigned or any member of the Paradise Greens Home Owner's Association Board of Directors.

Sincerely,

Board of Directors
Paradise Greens Home Owner's Association

ADOPTED: November 8, 2004



PARADISE GREENS HOME OWNER'S ASSOCIATION

PO Box 66018, ALBUQUERQUE, NM 87193

FIRST CLASS CERTIFIED MAIL

Date __, 200_

Re: **RESTRICTIVE COVENANT VIOLATION**
TEMPORARY RESTRAINING ORDER

Dear Paradise Greens Home Owner,

As I believe you know, pursuant to the Paradise Greens Restrictive Covenants, the _____ is not permitted, as articulated in section _____ of the Paradise Greens Restrictive Covenants, copy of which is attached to this letter.

Since the Board of Directors has had no response within ten (10) days, or objectionable response, a **Temporary Restraining Order** will be filed in court. The court will be petitioned for Permanent Injunction prohibiting the behavior indefinitely. In the event a judgment is obtained, such judgment will include attorney's fees, court costs, and any and all costs incurred, and will be the personal obligation of the homeowner.

If you have questions, you may contact the undersigned or any member of the Paradise Greens Home Owner's Association Board of Directors.

Sincerely,

Board of Directors
Paradise Greens Home Owner's Association

ADOPTED: November 8, 2004