



# ANDERSON & KRIGER LLP

*Joel M. Kriger, APC - Community Association Division*

December 3, 2007

Dear Homeowners and Residents of Penasquitos Casablanca:

We are writing as the attorneys for the Homeowners Association to address, once again, the issue of illegal hard surface flooring installed in second and third floor units. Section 3.3.2 of the Penasquitos Casablanca CC&Rs prohibits hard surface flooring in second and third floor units except in those areas where the hard surface flooring was installed by the original developer of the condominium complex (known as the "Declarant"). Here is the exact provision for your easy reference:

3.3.2 Any Owner who owns a Unit which is located on the second or third floor of a building in the Development shall not install hard surface flooring (including, but not limited to, vinyl, wood, linoleum or tile) on the floor of any room within the Unit except the kitchen, the bathrooms, and any hard surface flooring in the entry area as designated by Declarant at the close of escrow for the first sale of the Unit by Declarant to said Owner. [See, First Amendment to Declaration of Covenants, Conditions, and Restrictions, Etc., recorded as of June 24, 1985, Section 3.3.2, page 2.]

The reason for this provision, among others, is to prevent excess noise transmission from upper units to lower units. Prior to this letter, the policy of the Association had been to address illegally installed hard surface flooring on a case-by-case basis. No hard surface flooring has ever been approved by the Association. However, it has become apparent that many of you have either illegally installed hard surface flooring yourselves, or have purchased units containing hard surface flooring which was illegally installed by the previous owner despite the provision in the CC&Rs to the contrary. This letter is meant to inform you that the case-by-case policy has changed and the provision in the CC&Rs prohibiting hard surface flooring will now be enforced in every case, regardless of whether there are noise complaints or other extenuating circumstances, except as allowed by law. The Association has decided to give you all six months to bring your second and third floor units into compliance with the CC&Rs. Accordingly,

**PLEASE TAKE NOTICE: Effective immediately, all illegally installed hard surface flooring must be removed, at owner's expense, by May 31, 2008.**

The only approved replacement is wall-to-wall carpeting with adequate padding to minimize noise impacts. If you have any question as to whether your unit contains illegal hard surface flooring, please contact management to arrange for an inspection.

The Association has the right, and the intention, to enforce the CC&Rs to require the removal of illegally installed hard surface flooring no matter who installed it (e.g., the current or the previous owner) if the materials are not removed by May 30, 2008. After May 30, 2008, the owners of units containing illegally installed hard surface flooring will face fines as well as legal action which could include a lawsuit. We thank you in advance for your cooperation.

Sincerely,

LAURI CROCE of  
ANDERSON & KRIGER  
Attorneys for the Penasquitos Casablanca Owners Association