

## **Association Collection Policy**

WHEREAS the board of directors of the association is charged with the responsibility of collecting assessments for common expenses from homeowners pursuant to the Declaration; and

WHEREAS the association members are responsible for the payment of assessments and providing a written notice to the association (via certified mail with a return receipt) if the mailing address is different from their owned parcel address; and

WHEREAS the board deems it to be in the best interests of the association to adopt a uniform and systematic procedure for notifying its members of assessments and its terms for payment; and

WHEREAS from time to time homeowners become delinquent in their payments of these assessments and fail to respond to the demands from the board to bring their accounts current; and

WHEREAS the board believes it to be in the best interests of the association to refer these accounts promptly to an attorney for collection so as to minimize the association's loss of assessment revenue; and

WHEREAS the board has retained the association's attorneys for their experience in representing condominium and homeowners associations in collections and other matters; and

WHEREAS the board has directed the association's attorneys to represent the association on the terms outlined in the resolution;

NOW, THEREFORE, BE IT RESOLVED that the association's attorneys shall pursue all collection and other matters which the board, acting through the manager, may from time to time refer to them and to provide any advice and counsel which the board may from time to time require; and

BE IT FURTHER RESOLVED that the manager, acting on behalf of the association, shall pay the association's attorneys their usual and customary charges for time incurred in connection with their representation of the association, together with all costs incurred by the firm, including but not limited to fees and charges for filing, service of process, messenger service, photocopies, postage, long distance calls, investigator's services, credit reports, and title reports, promptly upon receipt of the monthly invoice; and

BE IT FURTHER RESOLVED that all assessments of the association shall be set no less than 30 days prior to January 1 of each calendar year and noticed to each member by: public display of a sign and a posting to the community website or by written invoice to the parcel address of record within the community unless otherwise having received a written change of mailing address by the member; and

BE IT FURTHER RESOLVED that all assessment shall be due January 1 of the calendar year and considered delinquent thirty (30) days thereafter; and

BE IT FURTHER RESOLVED that any assessment or portion thereof unpaid after the due date shall be further assessed a late fee in the amount of \$25 or 5% of the assessment amount, whichever is greater and allowed by the Declaration; and

BE IT FURTHER RESOLVED that any delinquent assessment shall accrue daily interest (until paid in full) at the highest legal rate or according to the Declaration starting on the January 2 of the assessment year; and

BE IT FURTHER RESOLVED that the member shall be responsible for the timely delivery of funds to the Association which shall be the date in which the Association physically receives the payment (not postmarked);

BE IT FURTHER RESOLVED that payments must be made by a local personal check, money order, certified check, credit card or electronic transfer and that no cash is accepted (with a reasonable fee charged to member for any credit card or electronic transfers); and

BE IT FURTHER RESOLVED that the Association instructs the manager and will charge the member an insufficient funds or returned item fee in the amount of 5% of the face value of the payment of a \$25 fee, whichever is greater, in addition to any late fees and accrued interest for such events, in addition to other remedies allowed by law; and

BE IT FURTHER RESOLVED that any payment received shall be applied first to any accrued interest, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and lastly to the delinquent assessment. This application of payment schedule shall apply regardless of any restrictive endorsement on the back of the check to the contrary; and

BE IT FURTHER RESOLVED that the manager is directed to send to any homeowner who is more than thirty (30) days delinquent in the payment of regular or special assessments, or other charges authorized by the association's governing documents (hereinafter referred to as "assessments"), a written notice (hereinafter referred to as the "First Notice") of the late fee and a request for immediate payment; and

BE IT FURTHER RESOLVED that the First Notice sent by the manager to the delinquent owner shall also state that unless the owner disputes the validity of the debt, or any portion thereof, within forty-five (45) days after receipt of the notice, the debt will be assumed to be valid; and if the owner notifies the manager in writing within the forty-five day period that the debt, or any portion thereof, is disputed, the manager will obtain verification of the debt and a copy of such verification will be mailed to the owner by the manager; and

BE IT FURTHER RESOLVED that the First Notice sent by the manager to the delinquent owner shall state that any request for special consideration of hardship circumstances, including all reasons why the board should consider the request, must be submitted in writing to the board before the assessment becomes sixty (60) days delinquent, together with a request for a hearing, or in the alternative, a request that the determination be made by the board based on the written request, and if not so submitted, then such request shall have been deemed waived; and

BE IT FURTHER RESOLVED that the manager is directed to send to any homeowner who is more than seventy-five (75) days delinquent in the payment of assessments, a written notice (hereinafter referred to as the "Final Notice"), that if the account is not paid in full within fifteen (15) days it will be turned over to the association's attorneys for collection and the homeowner will be liable for payment of all charges imposed by the association's attorneys to cover fees and costs charged to the association; and

BE IT FURTHER RESOLVED that the manager is directed to refer any account which remains delinquent for fifteen (15) days after the Final Notice to the association's attorneys for collection and to accelerate the total amount of assessment due by sending a notice of acceleration to the owner via certified mail,

return receipt requested; and

BE IT FURTHER RESOLVED that the manager is directed to consult with the association's attorneys and turn over for collection immediately any account where the owner files or is the subject of a petition for relief in bankruptcy or a lender has commenced any action for foreclosure of its lien against the unit; and

BE IT FURTHER RESOLVED that the membership rights of any owner whose account is thirty (30) days past due will be suspended during the period that any installment, charge or assessment remains unpaid, subject to the terms of the governing documents; and

BE IT FURTHER RESOLVED that the following policies shall apply to all delinquent accounts turned over to the association's attorneys for collection:

1. All contacts with a delinquent homeowner shall be handled through the association's attorneys. Neither the manager nor any association officer or director shall discuss the collection of the account directly with a homeowner after it has been turned over to the association's attorneys unless one of the association's attorneys is present or has consented to the contact.
2. All sums collected on a delinquent account shall be remitted to the association in care of the association's attorneys until the account has been brought current.
3. The association's attorneys' minimum legal fee shall be assessed against each delinquent unit and its owner (including repeat offenders) when the account is turned over to the association's attorneys for collection. That amount shall be credited against the fees and costs actually incurred in the collection of the homeowner's account. All legal fees and costs incurred in the collection of a delinquent account shall be assessed against the delinquent unit and owner and shall be collectable as an assessment as provided in the Declaration.
4. In the event that a delinquent unit is rented by its owner, the association's attorneys are authorized, pursuant to the declaration, to demand and collect the rent from the tenant in the unit.
5. Where at the expiration of the period specified in the association's attorneys' demand letter, an account remains delinquent and without a payment plan embodied in a signed Stipulation for Judgment, or in the event of a default under the terms of either agreement, the association's attorneys are authorized to take such further action as they, in consultation with the board president, believe to be in the best interest of the association, including but not limited to:
  - a. Filing suit against the delinquent homeowner for money due pursuant to the Declaration,
  - b. Instituting a foreclosure of the association's lien, pursuant to the Declaration; or
  - c. Filing a proof of claim in bankruptcy; or

BE IT FURTHER RESOLVED that this resolution was adopted by the board of directors of the Association and a copy of this resolution shall be sent to all homeowners at their last known addresses of record.

Association: \_\_\_\_\_

This resolution was adopted by the board of directors on \_\_\_\_\_, 20 \_\_, and shall be effective on \_\_\_\_\_, 20\_\_.

### **Fair Debt Collection Practices Act**

This is to advise you that the Fair Debt Collections Practices Act requires that you be given the following information, to-wit:

1. The amount of the debt owed is itemized herein plus late charges, interest, costs and attorney's fees as they accrue.
2. The name of the Creditor to whom the debt is owed is the Association to which you belong.
3. Unless the Consumer, within forty-five (45) days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid.
4. If the Consumer notifies the Creditor or their Assigns in writing within the forty-five (45) day period that the debt, or any portion thereof, is disputed, the Creditor shall issue a verification of the debt by mail to the Consumer.
5. Upon the Consumer's written request within the forty-five (45) day period, the firm attempting to collect this debt will provide the Consumer with the name and address of the original creditor, if different from the current Creditor.

This is an attempt to collect a debt, and any information obtained will be used for that purpose.