

Summerfield Homeowners Association

POLICY RESOLUTION NUMBER 001-B

Collection Process [for Unpaid Assessments]

WHEREAS, “Declaration” is the Declaration of Covenants, Conditions and Restrictions for Summerfield Subdivision, “Bylaws” is the Bylaw of Summerfield Homeowners Association, Inc. and “Association” is Summerfield Homeowners Association, Inc. and “[the] Board” or [the] “Board of Directors” is the Summerfield Homeowners Association Board of Directors, “Agent” is the Association’s Property Management Company, Association Attorney is a Board-designated attorney;

WHEREAS, “assessments,” as used in this Resolution includes all amounts validly assessed against a Unit Owner (“Owner”) pursuant to the Declaration, the Association’s Bylaws, Rules and Regulation, and any Board of Directors (Board) Resolution, including but not limited to, common expenses, interest, fees, fines, legal fees and all collection costs;

WHEREAS, Article III, Sections 3.5.1.5 and 3.5.2.6 of the Declaration and Article IV, Paragraph 11 of the Bylaws allow the Association to adopt rules and enforce compliance with the Declaration, Bylaws, and administrative rules and regulations;

WHEREAS, Article III, Sections 3.5.1.1 and 3.5.1.3 of the Declaration and Article IV, Section 4.1 of the Declaration authorizes the Board, on behalf of the Association, to enforce provisions of the Declaration, and the Bylaws, including action to collect unpaid assessments;

WHEREAS, Article IV, Section 4.1 of the Declaration provides that all assessments, together with interest, attorney fees and costs of collection shall be a continuing lien upon the unit against which each such assessment is made;

WHEREAS, Article IV, Section 4.7 of the Declaration authorizes the Board, on behalf of the Association, to bring suit to foreclose the lien against the unit and to bring an action to obtain a monetary judgment against an Owner for damages and for unpaid assessments;

WHEREAS, Article IV, Section 4.1 of the Declaration provides that Owners shall be obligated to pay reasonable fees and costs, including, but not limited to, attorney fees incurred in connection with efforts to collect delinquent and unpaid assessments, regardless of whether suit or action is commenced, and to enforce the provisions of the Declaration and Bylaws;

WHEREAS, assessments are currently due and payable annually ~~on~~ on the dates that shall be established by the Board;

WHEREAS, from time to time Owners become delinquent in the payments of their assessments and fail to respond to the demands from the Board to bring their accounts current, and it is imperative assessment payments are received timely;

WHEREAS, pursuant to Article IV, Section 4.7 of the Declaration, an interest rate of 21% (twenty-one percent) per annum, or at the highest rate allowed by law if such rate is less than 21%, shall accrue from the due date on all unpaid charges;

WHEREAS, the Board of Directors deems it is in the best interest of the Association to adopt procedures for the collection of unpaid assessments, up to and including referral of unpaid assessments to an attorney for collection;

WHEREAS, all written demands for payment, will include any notice required by the Fair Debit Collection Practices Act;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. If the assessment is past due by more than thirty (30) days from the date of the first invoice, then the Agent will issue a 2nd invoice to the Owner, including interest. (March 31st)
2. If the assessment is past due by more than ninety (90) days from the date of the first invoice, then the Managing Agent may issue a demand letter to the Owner, indicating amount due, including interest and legal fees, to be payable immediately. Letter will inform Owner if assessment is not paid immediately, the Managing Agent may prepare and record a lien against the Owner's home, unless otherwise directed by the Board; lien amount shall include all collection costs to-date including legal fees, the cost of preparing and recording the lien, as well as the cost of any notice of lien as required by law. (May 31st)
3. If assessment is past due by more than one hundred and twenty (120) days from the date of the first invoice, then the Managing Agent will prepare and record a lien against the Owner's home, unless otherwise directed by the Board; lien amount shall include all collection costs to-date including legal fees, the cost of preparing and recording the lien, as well as the cost of any notice of lien as required by law. (June 30th)
4. If assessment is past due by more than one hundred and fifty (150) days from the date of the first invoice, then the Managing Agent may direct the Association Attorney to file suit for a monetary judgment, unless otherwise directed by the Board; the suit shall include all collection costs to-date including all collection costs to-date, including but not limited to, legal fees, court fees, mailing fees. (July 31st)
5. If the Association is successful in obtaining a monetary judgment, the Association will obtain a Writ of Execution and Garnishment. The Garnishment will order the party in possession [of the debtor's money] to turn over that money to the Sheriff. The maximum amount the Sheriff can levy on each pay period is 25% of the debtor's disposable earnings. Other limitations apply. See <https://adasheriff.org/Services/Civil/FAQ> for more details. (Aug 31st)
 - a. Additional steps may be necessary to determine the availability and location of the judgment debtor's assets.

NOW, BE IT FURTHER RESOLVED THAT: all contacts and contracts with the delinquent Owner shall be through the Association Attorney unless the account has been turned over to the Ada County Sheriff for Garnishment of wages.

NOW, BE IT FURTHER RESOLVED THAT: Association Attorney shall have the discretion to negotiate an installment payment plan with a delinquent Owner in appropriate circumstances. In all cases, in which a lawsuit has been filed, any such plan must be secured by a Stipulated Judgment. Any payment plan shall require approval of the Board.

NOW, BE IT FURTHER RESOLVED THAT: Association Attorney shall communicate to Owner the account may be turned over for collection [by the Ada County Sheriff], but until such time, all payments are to be made to the Association.

NOW, BE IT FURTHER RESOLVED THAT: all legal fees and costs incurred in the collection of a delinquent account shall be assessed against the delinquent Owner and shall be collected as an assessment as provided in the Bylaws and the Declaration.

NOW, BE IT FURTHER RESOLVED THAT: no information stated in this Resolution precludes the Board from taking further action in the collection of unpaid assessments permitted by the Association’s governing documents or applicable law, including, but not limited to, adopting or enforcing rules regarding the termination of utility services paid for out of assessments of the Association and access to and use of recreational and service facilities available to Owners to receive such benefits or services until the correction of any violation covered by such rules has occurred.

ATTEST:

President, Board of Directors

Date

ATTEST:

Secretary, Board of Directors

Date