

Westhaven Homeowners Association, Inc.
Policy Resolution Regarding Delinquent Assessment Payments
Policy Resolution No. 2016-2

WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Westhaven Homeowners Association, Inc., as amended, (the "Declaration"), the Bylaws of Westhaven Homeowners Association, Inc. (the "Bylaws"), and the Articles of Incorporation of Westhaven Homeowners Association, Inc. (the "Articles") together known as the Governing Documents, provide that the Lots and Owners are subject to the Governing Documents and the Rules and Regulations of Westhaven Homeowners Association, Inc. (the "Association"); and

WHEREAS, Article IX of the Declaration, Article VII, Section 2 and 3 of the Bylaws and Article IV of the Articles provide that the Board shall have all of the powers conferred by the Virginia Property Owners Association Act (Section 55-508 et seq. of the Code of Virginia) (the "Act") and the Governing Documents and may delegate any such powers to a Managing Agent unless expressly reserved to the Board; and

WHEREAS, Article IV, Section 1 of the Declaration creates an assessment obligation for an Owner which includes the payment of Annual Assessments and Special Assessments ("Assessments"); and

WHEREAS, Article IV, Sections 1 and 8, and Article X, Section 1 of the Declaration and Article VII, Section 1 of the Bylaws provide that the Board may bring suit, file a lien, or foreclose a lien if Assessments are not paid when due; and

WHEREAS, Article IV, Sections 1 and 8 of the Declaration authorizes the recovery of interest, late charges, reasonable attorney's fees, and costs if an Owner is delinquent in the payment of the Assessments; and

WHEREAS, in accordance with Article IV, Section 7 of the Declaration, the Board of Directors (the "Board") has determined that Annual Assessment is due quarterly in equal installments on January 1, April 1, July 1 and October 1 of each year (the "Due Date"); and

WHEREAS, Article IV, Section 8 of the Declaration allows for the acceleration of Assessment installments when the payment of any installment is thirty (30) days late; and

WHEREAS, Article II, Section 1 provides that the Board can regulate parking on the Common Area, including assigning and reserving parking spaces to the exclusive use of individual Owners; and

WHEREAS, Article VII, Section 1(a) of the Bylaws gives the Board the authority to make and amend the Association's Rules and Regulations; and

WHEREAS, Article II, Section 1 of the Declaration and Article III, Section 5 and Article VII, Section 1 of the Bylaws provide that the Board may impose charges for violations of the Governing Documents and may suspend an Owner's right to vote when the Assessments are unpaid for more than sixty (60) days and suspend the right to use the Common Area for any period during which an Assessment remains unpaid; and

WHEREAS, there is a need to establish orderly procedures for the billing and collection of the Assessments;

NOW THEREFORE, it is hereby RESOLVED THAT the Board duly adopts the following assessment collection procedures:

I. Routine Collections

A. The amount of the Annual Assessment shall be established by the Board and collected quarterly, in equal installments, with payment due on January 1, April 1, July 1 and October 1 of each year (the "Due Date"). The due dates of the installments of a Special Assessment will be determined by the Board and provided to the Owners when notice of the imposition of the Special Assessment is given. In accordance with Article XIII, Section 1 of the Bylaws, the fiscal year of the Association shall be the twelve month period beginning January 1 and ending December 31.

B. Non-receipt of a payment coupon, coupon books, notices, or other such documents relating to the payment of the Assessments shall not excuse an Owner from the obligation to pay Assessments. In accordance with Article IV, Section 8 of the Declaration, no Owner may exempt himself from liability for Assessments by abandonment of any lot belonging to him or by the abandonment of his right to the use and enjoyment of the Common Area.

C. Non-resident Owners must provide the Board with a telephone number and address, in writing, where the Owner can be contacted; otherwise, all notices shall be sent to the Lot address or address on record with the Association.

II. Remedies for Nonpayment of Assessments

A. Late Charge. If any Assessment or installment thereof remains delinquent for thirty (30) days from the due date, a late fee of fifty dollars (\$50.00) shall be assessed to the delinquent Owner's account.

B. Interest. Interest will be charged at the rate of 12% per annum or the highest possible rate, not to exceed 18%, on all past due balances as of the 30th day of each month.

C. Returned Check Charge. If the Association receives a check from an Owner which fails to clear the Owner's personal banking account, the Association or the Managing Agent shall charge the Owner a returned check charge of fifty dollars (\$50.00), or the maximum amount permitted by law. If the Association receives from any Owner, in any fiscal year, one or more returned checks for payment of an installment of the Assessments, the Managing Agent may require all future payments to be made by cashier's check or money order for the remainder of the fiscal year.

D. Collection Cost. The costs of collections charged by the Managing Agent to the Association shall be assessed to the delinquent Owner's account. Such amounts may include, but are not limited to, the reminder notice, the demand letter, postage and any other charges authorized by the Virginia Property Owners' Association Act (the "POAA"), as amended.

E. Action of Managing Agent. Whenever an Owner becomes delinquent in the payment of an Assessment, the Managing Agent, without any further vote of the Board, shall automatically take the following action:

1. The Managing Agent shall send a reminder letter to the Owner if an account is delinquent for more than thirty (30) days. As reminder notices are not required to commence legal action, an Owner's failure to receive said notices shall not prohibit the ability of the account to be referred to legal counsel for collection action.

2. If the Owner remains in default for more than thirty (30) days, the Managing Agent shall refer the Owner's account to legal counsel for immediate collection action, if the amount is equal to or greater than the quarterly assessment.

3. Once an account is turned over to the Association's attorney for collection, payments can only be made through the attorney. No member of the Board of Directors or management can assist a homeowner with making a payment.

4. After notice as further outlined in Section III herein, the Board or Managing Agent may suspend an Owner's right to use of the Community Facilities if Owner is delinquent in the payment of the Assessments in excess of sixty (60) days.

5. If the Board or Managing Agent elects to suspend the right to the use of the Community Facilities, in compliance with Section 55-513(B) of the POAA, as amended, the Owner shall be mailed a written notice after he is sixty (60) days delinquent providing a reasonable opportunity for Owner to cure the delinquency to avoid the commencement of the suspension or limitation of use of the Community Facilities as further detailed in Section III herein. This notice period shall not prohibit the collection action of legal counsel.

F. Referral to Legal Counsel.

1. Legal counsel is authorized, without further action of the Board, to take the following action: (a) send any required notices in accordance with the Governing Documents to Owner demanding payment, providing notice of acceleration, and notification of recordation of liens, if applicable, for failure to cure delinquency by specified date which shall not be less than thirty (30) days from date of notice; (b) proceed to collect the delinquency after notice to Owner and failure of Owner to remedy delinquency by date specified; (c) if the delinquency is not paid in full by due date set forth in demand letter, proceed to collect the entire balance of the Assessments for the remainder of the fiscal year; (d) file a civil action for judgment against the Owner for the unpaid Assessments, interest, late charges, attorney's fees, costs of collection, and any other properly assessed charges to the Owner; and (e) take post-judgment action to collect the unpaid Assessments, interest, late charges, attorney's fees, management fees, collection costs, or any other properly assessed charges to the Owner.

2. The Board authorizes legal counsel to record a memorandum of lien and may choose to authorize it to foreclose the memorandum of lien for unpaid Assessments, pursuant to the Declaration and in the manner provided by the laws of the Commonwealth of Virginia, including the POAA.

G. Method of Crediting Payments. After an account becomes delinquent, payment received from an Owner will be credited to the account according to general accounting methods in the following order of priority:

a. Charges for attorney's fees and court costs.

b. Interest, late charges, management fees, collection costs, resale disclosure packet fees or any other fees authorized by the POAA, and returned check charges.

c. All other repair or maintenance assessments (pursuant to Article VII of the Declaration and 55-513 of the POAA) for violation by an Owner, his family, employees, agents, tenants or licensees of the Governing Documents and rules and regulations of the Association.

d. Any Special Assessments.

e. The Annual Assessment, oldest outstanding first.

III. Suspension of Use of Community Facilities and Parking

Voting. In accordance with Article II, Section 1 of the Declaration and Article III, Section 5 and Article VII, Section 1 of the Bylaws, an Owner may not vote at any meeting if the Owner is in violation of any provision of the Declaration. Suspension of the right to vote does not require notice and a hearing.

Suspension. Once an account is delinquent for sixty (60) days, such Owner may not be entitled to any of the rights and privileges of an Owner in good standing which include the use of the Common Area and Green and Visitor parking. Suspension is subject to the notice and hearing provisions of the POAA as follows:

1. Before any suspension, the Owner shall be given a reasonable opportunity to correct the delinquency as set forth in Section II (D) (4), above. This notice period shall not prohibit the collection action of legal counsel.
2. If the delinquency is not cured within the specified time stated set forth in the Notice of Suspension referred to in Section II (D) (4), the Owner shall be given an opportunity to be heard, to present witnesses and to be represented by counsel before the Board or other tribunal specified in the Governing Documents and rules and regulations of the Association.
3. Notice of the hearing shall be mailed by certified mail, return receipt requested to the Owner at the address of record with the Association, at least fourteen (14) days prior to the hearing.
4. The Notice of the hearing shall contain a description of the amount of the unpaid assessments and the provisions of the Governing Documents and rules and regulations of the Association alleged to have been violated.
5. The Board decision shall be hand delivered or mailed by certified mail, return receipt requested, to the Owner at the address of record with the Association within seven (7) days of the hearing.

Approved by the Board of Directors of Westhaven Homeowners Association, Inc. on this 10th day of November, 2016.

This Resolution supersedes all prior resolutions regarding collection of assessments, including Resolution 2014-1.

The Board directs that this Policy Resolution Regarding Delinquent Assessment Payments shall be reasonably published or distributed to the Owners of the Association.

Westhaven Homeowners Association, Inc.

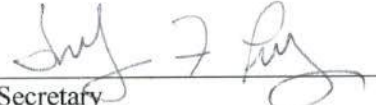


President

11/10/16

Date

Attested By:



Secretary

11/10/2016

Date