

RESOLUTION 18.001 RESCINDING AND REPLACING RESOLUTIONS 06.002, 06.002 (Revision #1)
AND 14.002, COLLECTION OF ASSESSMENTS

SUBJECT: Adoption of Policy and Procedure for Collection of Assessments rescinding and replacing Resolutions 6.002, "Collection of Assessments", 06.002 (Revision #1), "Collection of Assessments" and 14.002, "Overdue Assessments Payment Plan, Amending and Restating Portions of Resolution 06.002".

AUTHORITY: Colorado Law, the Articles of Incorporation, "Amended and Restated Protective Covenants," recorded as Reception No. 776995 on October 29, 2009 (Covenants) and Colorado Common Interest Ownership Act ("CCIOA") In compliance with C.R.S. § 38-33.3-209.5(1)(b)(I).

Effective Date: April 18, 2018

GENERAL: To establish a clear collection of policies and procedures for assessments.

The Board hereby adopts the following policies and procedures to be known as "Collection of Assessments".

THE POLICY

1. Due Dates.

The quarterly installments of the annual assessments (as determined by the Association and as allowed for in the Declaration) shall be due and payable on January 31, April 30, July 31 and October 31 of each year ("Due Dates"). Special assessments shall be due on the date stated on the notice of assessment.

2. Billing Statement.

It shall be the policy of the Association to send and invoice/billing statement for each quarterly installment of the annual assessment (operating assessment and capital reserve assessment) to each Owner. All statements shall be sent to the Owner at the billing address on record with the Association. Failure to receive this statement does not obviate the Owner's responsibility to stay current on assessments.

3. Late Charges and Interest.

Payments shall be considered overdue and delinquent when an Owner fails to pay any assessment by the last day of the following month in which the payment is due (i.e. if not paid on or before February 28, May 31, August 31, and November 30, respectively). The Association shall assess a \$20.00 MONTHLY Late Charge on overdue payments. Overdue payments shall also accrue interest from the due date at the rate of 9% per annum.

4. Returned Check Charges.

Any returned check charges incurred by the Association shall be assessed to the Owner causing such charge.

5. Collection Process.

Before the Association turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for collection or other legal action, the Association must send the Owner a “Notice of Failure to Pay and Notice of Intent to File Assessment Lien” specifying:

- a. The total amount due to the Association, with an accounting of how the total amount was determined;
- b. Whether the opportunity to enter a payment plan exists and instructions for contacting the Association to enter such a payment plan;
- c. The name and contact information for an individual the Owner may contact to request a copy of the Owner’s ledger in order to verify the amount of the debt; and
- d. A statement indicating that action is required to cure the delinquency and that failure to do so within thirty (30) days of the “Notice of Failure to Pay and Notice of Intent to File Assessment Lien” may result in the Owner’s account being turned over to an attorney or a collection agency, the filing of a lawsuit against the Owner, the filing and foreclosure of a lien against the Owner’s property, or other remedies available under Colorado Law, including revoking the owners right to vote in Association matters.

6. Collection Procedures/Time Frames.

The following time frames shall be followed for use in the collection of monthly installments of the annual assessment and other charges.

DUE DATE (date payment due)

- January 31, April 30, July 31, October 31 of each year

Past Due Date (date payment is late if not received on or before that date)

- February 28/29, May 31, August 31, November 30 of each year

Notice of Failure to Pay and Notice of Intent to File Assessment Lien (“Notice”)

(notice of late charge and interest accrual; required disclosures of the Association; notice of suspension of voting rights; the availability of a payment plan, if applicable; notice of possible referral to collection agency or the Association’s attorney; and notice of intent to file a lien, if payment is not received within 30 days of the date of the Notice.)

- Any time after payment is past due and delinquent

The attorney is to consult with the Association as necessary to determine if payment has been arranged or what collection procedures are appropriate.

7. Payment Plan.

As required by C.R.S. § 38-33.3-316.5, the following provisions apply to payment plans:

- a. The Association shall make a good-faith effort to coordinate with an Owner to set up a payment plan that meets the requirements of this section except that, an Owner is **not qualified** to enter a payment plan and the Association is **not required** to offer a payment plan if:

- i. The Owner does not occupy the Lot and acquired title to the property as a result of (A) a default of a security interest encumbering the Lot; or (B) foreclosure of the Association's lien.
 - ii. The Owner has previously entered into a payment plan with the Association. Pursuant to C.R.S. § 38-33.3-209.5(5)(a)(V)(B), prior to the Association referring an account to an attorney or collection agency for collection action, the Association shall inform a delinquent Owner if he/she is qualified to enter a payment plan and, if qualified, instructions for contacting the Association to enter into such a payment plan.
 - b. When a payment plan is entered, it shall be for a minimum term of ten (10) months or such other longer term as may be approved by the Board. Said payment plan must permit the Owner to pay off the deficiency in equal installments over the payment period.
 - c. Each Owner who has entered a payment plan pursuant to this Resolution is required to remain current with regular assessments, plus make timely payments under the payment plan. In the event the Owner defaults under the payment plan or otherwise does not comply with the terms and conditions of the payment plan, including the payment of ongoing assessments of the Association, the Association may at any time thereafter terminate the payment plan and, without additional notice, refer the delinquent account to an attorney or collection agency for collection action or may take such other action as it deems appropriate in relation to the delinquency.
 - d. "Assessments" includes regular and special assessments and any associated fees, charges, late charges, attorney fees, fines, and interest charged pursuant to C.R.S. § 38-33.3-315(2) and the Covenants.
8. Attorney Fees on Delinquent Accounts.
As an additional expense permitted under the Covenants and by Colorado law, the Association shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand.
9. Application of Payments.
All payments received on the account of any Owner shall be applied in the following order: (1) any and all attorney fees, legal fees and costs incurred, including lien fees; (2) fines, late charges, and interest; (3) past-due assessments; and (4) current assessments. Checks containing a restrictive endorsement on the back will be returned to the Owner and the amount tendered shall be considered unpaid.
10. Legal Remedies Available to the Association.
The Association is authorized to pursue all available legal remedies for collection pursuant to the Association's governing documents (Covenants) and Colorado law, including, but not limited to:
- a. Recording a lien against the delinquent Owner's Lot;
 - b. Filing a suit against the delinquent Owner for a money judgment;

- c. Instituting a judicial foreclosure action of the Association's lien, upon approval by the Association's Board;
- d. Filing necessary claims, documents and motions in bankruptcy court in order to protect the Association's interests;
- e. Filing a court action seeking appointment of receiver;
- f. Garnishment and attachment; and
- g. Referral to a Collection Agency whether or not reduced to a money judgment.

11. Suspension of Rights.

After an installment of an annual assessment or other charges due to the Association becomes overdue and delinquent (i.e. failure to pay on or before February 28, May 31, August 31, November 30), the Owner's right to vote on Association matters shall be deemed suspended. Such rights shall be suspended until an Owner has paid delinquent accounts in full (including assessments, charges, interest, and costs of collection, including attorney fees).

12. Judicial Foreclosure.

The Association may choose to foreclose on its lien in lieu of or in addition to suing an Owner for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or other circumstances favor such action. The Association shall consider individually each recommendation for a foreclosure and may only approve a foreclosure action after the delinquency equals or exceeds an amount equal to six (6) months of common expenses assessments (i.e. two (2) quarterly installments) based on a periodic budget adopted by the Association. Such foreclosure shall be approved by the Board of Directors via Resolution or a vote of the Board recorded in the minutes of the meeting at which the vote was taken.

13. Defenses/No Right to Offset.

Failure of the Association to comply with any provision in this Resolution shall not be deemed a defense to payment of assessment fees or other charges, late charges, returned check charges, attorney fees and/or costs as described and imposed by this Resolution. There is no right to offset. An Owner may not withhold assessments owed to the Association on the alleged grounds that the Owner is entitled to recover money or damages from the Association for some other obligation.

14. Credit Report.

In the event an Owner becomes delinquent in the payment of assessments pursuant to the Covenants and Colorado law, the Association may cause a credit report to be pulled via an agent, in order to facilitate the collection of unpaid assessments.

15. Supplement to Law.

The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Covenants and the law of the State of Colorado governing the common interest community.

16. Deviations.

The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

17. Amendment.

This Resolution may be amended from time to time by the Board.

PRESIDENT'S CERTIFICATION:

The undersigned, being President of the Kings Row Homeowners Association, Inc., a Colorado non-profit corporation, certifies that the foregoing policies and procedures were adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board on April 18, 2018, and in witness thereof, the undersigned has subscribed his/her name.

KINGS ROW HOMEOWNERS ASSOCIATION, INC.,
a Colorado non-profit corporation

By: Julie Hazard, President
Julie Hazard, President