

King City Civic Association Resolution:

Administration 2012-304

Purpose: **COLLECTION OF UNPAID CHARGES (Reformatted Resolution adopted May 24, 2005. No words have been change. Exhibit "A" is unknown and not attached.)**

Authority: **CC&Rs Article VI, Section 3.B and 3.F.; Article VIII, Section 2.B.; Article V, Section 1 & 7 ORS 94.630(1); ORS 94.777; ORS 94.780**

WHEREAS, "Declaration" is the Restated Declaration of Covenants, Conditions, and Restrictions of King City Civic Association, "Bylaws" is Restated Bylaws of the King City Civic Association, "Act" is the Oregon Planned Community Act, ORS 94.550 - 94.783 and "Association" is King City Civic Association;

WHEREAS, "assessments," as used in this Resolution, includes all amounts validly assessed against a Lot or Unit Owner ("Owner") pursuant to the Declaration, the Association's Bylaws, Rules and Regulations, and any Board of Director Resolution, including, but not limited to common expenses, interest, fees, fines, attorney fees and all collection costs;

WHEREAS, Article VI, Section 2(E) of the Declaration allows the Association to adopt rules and enforce compliance with the Declaration, Bylaws, and administrative rules and regulations;

WHEREAS, Article VI, Section 3(B) and Article VIII, Section (C) of the Declaration authorize the Board to enforce provisions of the Declaration, Bylaws and Rules and Regulations, including action to collect unpaid assessments;

WHEREAS, Article VIII, Section 2(A) and Article V, Section 7(A) of the Declaration and ORS 94.630(1)(n) authorize the Board to establish late charges and fines;

WHEREAS, Article V, Section 8 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 V, Section 8 and Article VIII, Section 2(B) of the Declaration authorizes the Board, on behalf of the Association, to bring suit to foreclose the lien against the unit and/or to bring an action to obtain a money judgment against an Owner for damages and/or for unpaid assessments;

WHEREAS, Article V, Section 7(B) 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/or to enforce the provisions of the Declaration, Bylaws, rules and regulations or the Act;

WHEREAS, assessments are currently due and payable annually in January of each year;

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 timely received;

WHEREAS, the Board deems it in the Association's best interest to adopt a uniform and systematic procedure for the collection of unpaid assessments in a timely manner, and further believes it to be in the Association's best interest to refer these accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue.

NOW, THEREFORE, IT IS RESOLVED, that pursuant to the authority of the Association as set forth in Article V, Sections 3(B) and 7 of the Declaration and ORS 94.630(1)(n), there is hereby levied a late fee against any assessment account for any assessment which is not paid in full within thirty (30) days of the date such assessment is due; and such late fee shall be twenty five dollars (\$25.00) for each 30-day period thereafter;

NOW, BE IT FURTHER RESOLVED, that in addition to late fees, for each check from a member that a bank returns for any reason, the member must pay \$25.00 for each occurrence and all bank charges assessed against the association.

NOW, BE IT FURTHER RESOLVED, that the following steps be adopted to provide for the uniform and systematic procedure for the collection of unpaid assessments:

1. If any assessment remains unpaid by an Owner for more than thirty (30) days from the due date for its payment, the Board shall send a notice to the Owner indicating the amount due, including notice of the late fees, and demand for immediate payment thereof. See Exhibit "A" attached hereto.
2. If any assessment remains unpaid by the Owner for more than sixty (60) days from the due date for its payment, the Board shall turn over collection to the Association's attorney ("Attorney"), who shall (a) send a written demand for payment and any notice as required by the federal Fair Debt Collection Practices Act, if applicable; (b) prepare and record a lien against the Owner's unit; (c) notify the Owner within twenty (20) days of recording that the lien has been recorded; and (d) may notify any first mortgage or trust deed holder of the Owner's default; if applicable. The lien amount shall include all collection costs to date, including attorney's fees and the cost of preparing and/or recording the lien, any notice of lien required by law, and any notice to a first Mortgage holder, if applicable. The demand for payment shall notify the Owner of the Owner's liability for payment of charges imposed by Attorney to cover fees and costs associated with all collection efforts. The demand for payment shall include all collection costs to date.
3. If any assessment remains unpaid by the Owner thirty (30) days after the date of Attorney's demand, Attorney shall send Owner a ten (10) day demand letter for payment notifying the Owner that if full payment is not received within 10 days of the date of the letter the Association intends to file suit to either obtain a money judgment or foreclose on the lien. The demand shall include the updated amount owing, including all collection costs to date.
4. If any assessment remains unpaid by the Owner ten (10) days after the attorney's ten-day demand letter/notice of intent to file suit, the Attorney shall file suit for a money judgment, unless the Board, after recommendation by Attorney, determines that lien foreclosure is advisable under the circumstances. In such cases, the attorney may file a lawsuit for a money judgment, for foreclosure, or for both a money judgment and foreclosure, as permitted by applicable law.
5. If the Association is successful in obtaining a money judgment, Attorney shall collect on the judgment in this order, unless the attorney determines other actions or another order of collection is appropriate under the circumstances: (1) file and send a ten (10) day demand to pay judgment; (2) garnish accounts, wages and/or rents; (3) levy against any personal and real property; and (4) levy against the unit. Additional steps may be necessary to determine the availability and location of the judgment debtor's assets. If the Association is successful in a suit to foreclose on the lien, Attorney shall proceed as necessary to complete the foreclosure unless otherwise directed by the Board.

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.

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NOW, BE IT FURTHER RESOLVED, that all contacts and/or contracts with the delinquent Owner shall be through Attorney. Neither the Board nor any of its agents shall discuss the collection of the account directly with the Owner after it has been turned over to Attorney, unless one of the attorneys is present or has consented to the contact and/or contract.

NOW, BE IT FURTHER RESOLVED, that Attorney shall have the discretion to enter into an installment payment plan with a delinquent Owner in appropriate circumstances. In all cases in which a law suit has been filed, any such plan must be secured by a Stipulated Judgment. Any payment plan providing for a down payment of less than the greater of one-third (1/3) of the delinquent balance or twice the current annual assessment, or a duration in excess of twelve (12) months shall require approval of the Board president.

NOW, BE IT FURTHER RESOLVED, that Attorney, in its initial demand notice, shall communicate to Owner that the account has been turned over to it for collection, and that all payments are to be made to Attorney until the account has been brought current. The Association hereby grants to Attorney its limited power of attorney to endorse for deposit checks made payable to the Association (or its agent management company, if any) in satisfaction of accounts sent to Attorney for collection. Attorney shall deposit all payments in its trust account. All amounts collected shall be disbursed by Attorney according to the provisions of the Association and Attorney representation agreement.

NOW, BE IT FURTHER RESOLVED, that nothing 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 and, after giving notice and an opportunity to be heard, terminate the rights of any owners to receive such benefits or services until the correction of any violation covered by such rule has occurred.

NOW, BE IT FURTHER RESOLVED, that a copy of this resolution shall be published in the Association newsletter that is sent to all Owners at their last known address.

ATTEST:

/s/ Stephen J. Mcshane

Chairman (President), Board of Directors

King City Civic Association

/s/ Shirley A. Moore

Secretary, Board of Directors

King City Civic Association

Date: 5/24/05

IT IS RESOLVED this ___ day of February 2012 by a majority vote of the Board of Directors that the foregoing Resolution dated May 24, 2005 be re-adopted effective upon distribution of the Association's March 2012 Newsletter.

King City Civic Association

By WR Cavasher
Rob Cavasher, President

By Sandi Fuhrman
Sandi Fuhrman, Secretary

October 27, 2020