

Resolution

Maple Court Home Owners' Association, Inc.

POLICY RESOLUTION NUMBER: 2009-08

Relating to Collection of Assessments and Other Charges of the Association

WHEREAS, the Maple Court Home Owners' Association, Inc. ("Association") is charged with certain responsibilities regarding the care, maintenance, and service of certain portions of the community; and

WHEREAS, Article VII Section 1 of the Bylaws of Maple Court Home Owners' Association, Inc. ("Bylaws") assigns the Board of Directors ("Board") shall have the power to adopt and publish rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof, and all powers and duties necessary for the administration of the affairs of Maple Court Homeowners' Association ("Association"); and

WHEREAS, Article IV of the Declaration of Covenants, Conditions and Restrictions ("Declaration") requires that Board of Directors collect assessments and other charges from owners; and

WHEREAS, Article VII Section 2(c)(3) of the Bylaws the Board of Directors at such time as they deem appropriate foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date and/or bring an action at law against the Owner personally obligated to pay the same; and

WHEREAS, the association must have the financial ability to discharge its responsibilities, and

WHEREAS, Section 33-1104 of the Connecticut Revised Nonstock Corporation Act provides that the directors shall exercise their powers and duties in good faith and in the best interest of the Association and its members; and

WHEREAS, the Board of Directors wishes to adopt a uniform, non-discriminating, and systematic procedure to collect assessments and other charges of the association.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors does hereby adopt the following procedures and policies for the collection of assessments and other charges of the association.

1. **Due Dates.** The annual assessment as fixed by the Board of Directors and as allowed for in the declaration, articles of incorporation, and bylaws shall be due and payable in twelve (12) installments due on the first day of each month. Assessments or other charges not paid to the association by the fifteenth (15th) day of the beginning of the month in which they are due shall be considered past due and delinquent.
2. **Invoices.** The association may, but shall not be required to, invoice an owner as a condition to an owner's obligation to pay assessments or other charges of the association. If the association provides an owner with an invoice for monthly assessments, although invoices are not required, the invoice should be mailed or sent to the owner between the 16th and 25th day of the month preceding each due date. Non-receipt of an invoice shall in no way relieve the owner of the obligation to pay the amount due by the due date.
3. **Late Charges Imposed on Delinquent Installments.** Assessments shall be past due and delinquent if not paid as specified above. The association shall impose a \$10.00 late charge on the outstanding or past due balance then due the association for the first offense in a given fiscal year. For the second and any subsequent offense of being past due in the current fiscal year, the Association shall impose a \$25.00 late charge on the outstanding or past due balance then due to the association.

The late charge shall be a "common expense" for each owner who fails to pay an installment of the annual assessment by the due date as specified above. The late charge shall be the personal obligation of the owner(s) of the unit for which such assessment or installment is unpaid. All late charges shall be due and payable immediately, without notice, in the manner provided by the declaration (and as set forth above) for payment of assessments.

4. **Interest.** The Association shall impose interest of 9% per annum on any balance not paid within thirty (30) days after the due date. The interest shall be a "common expense" for each owner who fails to pay an installment of the annual assessment by the due date as specified above.

The interest shall be the personal obligation of the owner(s) of the residential unit for which such assessment or installment is unpaid. All interest shall be due and payable immediately, without notice, in the manner provided by the declaration (and as set forth above) for payment of assessments.

5. **Acceleration of Assessment.** In the event of a default for a period of ten (10) days by any Residential Unit Owner in the payment of any Common Expense assessment levied against his or her Unit, the Board of Directors shall have the right, after Notice and Hearing, to declare all unpaid assessments for that Residential Unit for the then current fiscal year to be immediately due and payable.
6. **Return Check Charges.** In addition to any and all charges imposed under the declaration, articles of incorporation, and bylaws, the rules and regulations of the association, or this resolution, a \$35.00 fee shall be assessed against an owner in the event any check or other instrument attributable to or payable for the benefit of such owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to insufficient funds.

This returned check charge shall be a "common expense" for each owner who tenders payment by check or other instrument that is not honored by the bank upon which it is drawn. Such return check charge shall be due and payable immediately, upon demand. Notwithstanding this provision, the association shall be entitled to all additional remedies as may be provided by applicable law.

Returned check charges shall be the obligation of the owner(s) of the unit for which payment was tendered to the association. Return check charges shall become effective on any instrument tendered to the association for payment of sums due under the declaration, articles, bylaws, rules and regulations, or this resolution after June 1, 2009. If two or more of a unit owner's checks are returned unpaid by the bank within any (fiscal) year, the association may require that all of the unit owner's future payments, for a period of one year, be made by certified check or money order.

7. **Attorney's Fees on Delinquent Accounts.** As an additional expense permitted under the declaration, bylaws, and state statutes, the association shall be entitled to recover its reasonable attorney's fees and collection costs incurred in the collection of assessments or other charges due the association from a delinquent owner. The reasonable attorney's fees incurred by the association shall be due and payable immediately when incurred, upon demand.
8. **Application for Payments Made to the Association.** Payments received from an owner will be credited in the following order:
 - a. Charges for legal fees, court costs, and other costs of collection
 - b. All late charges and interest accrued, as applicable
 - c. All other charges incurred by the association as a result of any violation by an owner, his/her family, employees, agents or licensees, of the declaration, articles of incorporation, bylaws, rules and regulations, or resolutions.
 - d. The monthly assessment for a unit, including any accelerated or special assessment due, as applicable; payments shall be applied toward the oldest month(s) then owed.
9. **Collection Letters.** After an assessment installment or other charge due the association becomes fifteen (15) days past due, the association may, but shall not be required to, send a late notice to the unit owner. The association may simultaneously send a copy of the notice to the mortgagee of the unit.

After a monthly assessment or other charge due the Association becomes 30 days past due, the Association may cause, but shall not be required to send, a "demand notice" to be sent to the unit owner who is delinquent in payment.

If payment in full is not received within sixty (60) days, the association may, but shall not be required to, send notice to the unit owner that it intends to refer the account to an attorney. The association may simultaneously send a copy of the notice to the mortgagee of the unit.

10. **Use of Certified Mail/Regular Mail.** In the event the association shall send a collection or demand letter or notices to a delinquent owner by regular mail, the association may also send, but shall not be required to send, an additional copy of that letter or notice by certified mail.

11. ***Liens.*** The association may file a notice of lien against the property of any delinquent owner in accordance with the terms and provisions of the declaration, articles of incorporation, and bylaws. A copy of the notice of lien shall be mailed to the owner and to the mortgage lender with a request that the lender send a letter to the delinquent owner advising the owner of the lender's option to accelerate the mortgage debt.
12. ***Referring Delinquent Accounts to Attorneys.*** The association may, but shall not be required to, refer delinquent accounts to an attorney for collection. Upon referral to the attorney, the attorney shall take all appropriate action to collect the accounts referred. If the delinquent account is sent to an attorney for collection, all payments and communications for the debt shall be sent directly to the attorney.
13. ***Referring Delinquent Accounts to Collection Agencies.*** The association may, but shall not be required to, refer delinquent accounts to one or more collection agencies for collection. Upon referral to a collection agency, the agency shall take all appropriate action to collect the accounts referred.
14. **The association may grant a waiver of any provision herein upon petition in writing by an owner showing a personal hardship.** Such relief granted an owner shall be appropriately documented in the files with the name of the person or persons representing the association granting the relief and the conditions of the relief. In addition, the association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the association shall determine appropriate under the circumstances.
15. ***Notification to Owners.*** The association shall cause all owners to be notified of this resolution and the late charges, returned check charge, and attorney's fees to be imposed after the effective date of those provisions of this resolution. All other policies and procedures set forth in this resolution shall be effective immediately.
16. ***Ongoing Evaluation.*** Nothing in this resolution shall require the association to take specific actions other than to notify homeowners of the adoption of these policies and procedures. The association has the option and right to continue to evaluate each delinquency on a case-by-case basis.

Maple Court Home Owners' Association, Inc.
RESOLUTION ACTION RECORD

Resolution Type: Policy No. 2009-08

Pertaining to: Collection of Assessments and Other Charges of the Association

Duly adopted at a meeting of the Board of Directors held: May 17, 2009

Motion by: mat Cook Seconded by: Mike (Secordings) Girard

	VOTE:			
	YES	NO	ABSTAIN	ABSENT
<u>Matthew J. Cook</u> Matthew J. Cook, President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Michael Girard</u> Michael Girard, Vice President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Andrea Farrell</u> Andrea Farrell, Treasurer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Deb Yurko</u> Deb Yurko, Secretary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Jean Sablan</u> Jean Sablan, Member at Large	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTEST:

Rebecca Yurko
Secretary

5-17-09
Date

FILE:

Book of Minutes – Year 2009

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Resolution effective date: June 1, 2009