

**COMPTON VILLAGE HOMEOWNERS ASSOCIATION**

**POLICY RESOLUTION 2012- 3**

**ASSESSMENT BILLING AND COLLECTION OF  
DELINQUENT ACCOUNTS PROCEDURES**

**WHEREAS**, Sections 55-515 and 55-513 of the Virginia Property Owners Association Act ("Act") require that each Owner, tenant, or occupant of a Lot comply with the Act, and the Declaration of Covenants, Conditions and Restrictions ("Declaration") of Compton Village Homeowners Association' ("Association") and the rules and regulations of the Association (collectively, the "Governing Documents"), as may be amended from time to time; and

**WHEREAS**, Article V of the Declaration provides for the Association to establish and collect from the Lot Owners assessments to provide for the maintenance of Common Area and payment of other common expenses; and

**WHEREAS**, Article V, Section 5.1 of the Declaration obligates each Lot Owner to pay all assessments and charges levied by the Association which are secured by a continuing lien upon the property against which the assessment is made and that no owner may waive or otherwise escape liability for the assessment by non-use of the Common Area or by abandonment of his Lot; and

**WHEREAS**, Article VI of the Bylaws of Compton Village Homeowners Association ("Bylaws") authorizes the Association's Board of Directors ("Board") to exercise for the Association all of the powers, duties and authority vested in or delegated to the Association and not reserved to the membership; and

**WHEREAS**, Article VI, Section 6.8(iv) of the Bylaws provides that the Board may adopt and publish rules and regulations governing the use of the Common Areas and facilities; and

**WHEREAS**, Article V, Section 5.8 of the Declaration and Section 55-513 of the Act provides that the Board may suspend the voting rights of an Owner and/or an Owner's right to use the recreational facilities or services provided through the Association for nonpayment of assessments which are more than sixty (60) days past due; and

**WHEREAS**, Article XII, Section 12.2(b) of the Declaration provides that the Board has the right to accelerate payment of assessments; and

**WHEREAS**, Article X, Section 5.8 of the Declaration provides that any assessment which is not paid within fifteen (15) days after the date due shall be delinquent; and

**WHEREAS**, Article V, Section 5.8 of the Declaration provides that a late charge of

twenty-five dollars (\$25.00) per month or such other amount as may be established by resolution of the Board shall be added to any delinquent assessment; and

**WHEREAS**, Article XII, Section 12.1(c) of the Declaration provides that if an assessment is not paid within fifteen (15) days after the due date, the Association may provide Registered Notice to the Owner that in the event payment together with late fees is not paid within thirty (30) days from the date of such Registered Notice, then an action at law may be brought against the Owner; and

**WHEREAS**, Article XII, Section 12.1 (c) of the Declaration provides that in any proceedings arising out of an alleged default by an Owner in paying any assessments, the Association shall be entitled to recover the costs of such proceeding along with reasonable attorneys' fees; and

**WHEREAS**, Article XII, Section 12.1(e) of the Declaration provides that if a default by an Owner in paying any sum assessed against such Owner's Lot continues for a period in excess of ten (10) days, interest from the due date at a rate not to exceed the lesser of the maximum permissible interest rate which may be charged by a Mortgagee under a Mortgage at such time or twelve percent (12%) per annum may be imposed at the discretion of the Board; and

**WHEREAS**, the Board deems it necessary and desirable to establish orderly procedures for the collection of assessments.

**NOW, THEREFORE**, be it resolved that the Board hereby vacates and supersedes any and all previously adopted resolutions related to or regarding assessment collection procedures, and hereby adopts the following rules and regulations to provide for the billing of assessments and collection of delinquent accounts:

#### **I. ROUTINE COLLECTIONS**

**A. Due Dates.** The Annual Assessment for each fiscal year shall be established by the adopted operating budget for that fiscal year. The Annual Assessment shall be due and payable in four (4) equal quarterly installments. Assessment installments shall be due and payable quarterly in advance, not later than the first day of each quarter to which they apply.

**B. Lot Owner's Mailing Address.** All documents, correspondence and notices regarding assessments shall be mailed first-class to the address appearing on the books of the Association, or as modified in writing to the Association by the Lot Owner. Lot Owners have the responsibility of informing the Association, in writing, of their correct "address of record" and any subsequent changes to their address.

**C. Invoices and Other Notices.** Non-receipt of an invoice, payment coupon or other notice shall in no way relieve the Owner of the obligation to pay the assessment when due.

If a Lot Owner does not receive a notice within the expected or required time period, it is the Lot Owner's responsibility to contact the Association's management agent immediately to obtain a copy of the notice and to confirm the Lot Owner's correct mailing address.

## II. REMEDIES FOR NONPAYMENT OF ASSESSMENT

**A. Late Notice.** The Association or the Association's management agent shall send a "Late Notice" to all Lot Owners who have not paid assessments or charges in full by the fifteenth (15th) day of the first month of the quarter. Non-receipt of such notice does not relieve the Lot Owner of his or her obligation to pay the assessment or the resulting late fees, costs, attorneys' fees or other applicable charges. Additional late notices or "reminder" notices may be sent to a delinquent Lot Owner, at the Board's discretion, prior to referral of an account to legal counsel. The Late Notice shall warn that if the overdue assessments become more than sixty (60) days in arrears, the right of the Lot Owner to vote and the rights of the Lot Owner and his or her residents, tenants, and invitees to use the Common Areas and any other facilities or services provided by the Association will be suspended. If the Lot Owner requests a hearing regarding the proposed suspension, the Board will hold a hearing, consistent with the provisions of its Governing Documents related to due process. The Late Notice shall also specify that the Lot Owner shall have the right to request such a hearing and that such request must be in writing and directed to the Association.

**B. Late Fees.** Assessment installments not received by the Association by the fifteenth (15th) day of the first month of the quarter shall be deemed late, and a late charge of thirty dollars (\$30.00) shall automatically be added to the account and shall be a part of the continuing lien and personal obligation for assessments, as provided for in the Bylaws, until all sums due and owing shall have been paid in full.

**C. Returned Checks.** If a check or electronic debit is returned or rejected for insufficient funds, the Lot Owner's account shall be assessed a returned check/debit processing charge of not more than twenty-five dollars (\$25.00), plus the bad check/debit return fee, if any, charged to the Association by the bank. If the Association receives from any Lot Owner, in any calendar year, two or more returned checks or rejected electronic debits, the Board may require all future payments to be made by certified check, cashier's check, or money order for the remainder of that fiscal year.

**D. Interest.** Any sum assessed that is not paid within ten (10) days of the due date shall bear interest at a rate of twelve percent (12%) per annum from the due date until paid. The failure of the Association to post interest charges on a Lot Owner's account does not waive the Association's right to later charge, demand and collect interest from the applicable due date if the account is forwarded to legal counsel for collection, and the Association's legal counsel is hereby authorized to demand and collect interest on the overdue amounts accruing from the applicable due dates.

**E. Other Charges.** Other charges assessed pursuant to the Association's Governing Documents or Section 55-513 of the Act shall also be collected in the same manner as an

assessment or as otherwise determined by the Board.

**F. Acceleration.** If payment in full (including late fees) is not received by the sixtieth (60th) day after the due date, a "Notice of Intent to Accelerate Installments and file a Memorandum of Lien" shall be mailed to the Lot Owner.

**G. Referral to Legal Counsel.** If payment in full (including any assessment installment or other charge, returned check charges, any late fees, interest and postage charges) is not received by the Association or the management agent by the sixty-fifth (65th) day of the quarter, then the Association shall refer the account to the Association's legal counsel for collections. Counsel shall mail a Demand Letter which notifies the Lot Owner of legal action which may be taken against him or her by the Association.

**H. Demand by Counsel and Lien Filing.** If payment in full of the amounts due (including any returned check charges, late fees, interest, postage and attorney's fees) remain past due as of the tenth (10th) day following receipt of the Demand Letter from the Association's legal counsel, the Association shall authorize its legal counsel to automatically accelerate the remaining Annual Assessment installments and declare the full amount of the balance of the Annual Assessments due and payable and a Memorandum of Lien may be filed. Nonreceipt shall not prevent the Association from filing a lien within the statutory deadline. Reasonable attorneys' fees and the costs of collection, including, the late charge(s), the costs of the certified notices, and the costs of filing and releasing the Memorandum of Lien, shall be added to the account, and the delinquent Lot Owner shall be liable for said costs and attorneys' fees.

**I. Suspension of Rights and Suit Filing.** If payment in full of all amounts due is not received by legal counsel or the Association's management agent by the sixtieth (60th) day after the due date, the Lot Owner's rights, and the rights of the Lot Owner's residents, tenants, and invitees to facilities and services provided by the Association (as provided in paragraph A above) will be automatically suspended (unless a hearing is requested), and a civil suit may be filed personally against the delinquent Lot Owner.

**J. Further Legal Action.** If an account remains delinquent after the initiation of legal action (for example, the filing of a lien or civil suit), the Association's legal counsel is authorized to take other appropriate legal action to collect the sums due, except as provided in Paragraph K below or unless directed otherwise by the Board. Once a judgment is entered against a Lot Owner, further legal actions may include, but are not limited to, garnishment of wages, rent and/or bank accounts, and the attachment of vehicles or other assets.

**K. Action to Enforce Lien.** If a lien remains unpaid, a suit to enforce the lien and foreclose on the Lot may be filed or a nonjudicial foreclosure action may be commenced within thirty-six (36) months of the date the lien is recorded (or such other period as may be authorized by the Act from time to time).

L. **Board Waiver.** The Board may grant a waiver of any provision herein, except filing of Memoranda of Liens beyond the statutory deadline, at its discretion by a Lot Owner alleging a temporary hardship. However, an Owner wishing to request such waiver must appear in person before the Board and also make a written request for the Association records. The Board is not obligated to approve such a request. Any such relief granted to a Lot Owner shall be appropriately documented in the Association's files with the name of the person or persons representing the Board who granted the relief and the conditions of the relief, if any. The Board may designate the management agent, President or any other officer or agent with authority to act on behalf of the Board in this regard if a decision is needed prior to the Board's next meeting. If the Board grants a payment plan request for delinquent amounts that will extend for more than ninety (90) days, then the Board may require that the delinquent amounts be secured by a recorded Memorandum of Lien and/or by a promissory note as a condition of the payment plan.

M. **Management Waiver.** The Board hereby authorizes the management agent to waive the imposition of late fees on payments received by the management agent after the thirtieth (30) day of the first month of the quarter if, in the judgment of the management agent, the delinquent Lot Owner has owned the Lot for less than three months at the time of the delinquency and the management agent determines that the delinquency was the result of a misunderstanding of the correct procedures relative to payment of the assessment. This type of waiver may be granted only once to any Lot Owner.

N. **Application of Payments.** Payments received from a Lot Owner shall be credited in the following order:

1. any collection costs for delinquent accounts, including, for example, administrative fees, certified mailing costs, lien filing/releasing costs, and court costs;
2. any attorney's fees awarded by the court or secured by liens against the Lot;
3. any late fees and returned check charges;
4. any other charges assessed against the Lot Owner's account (for example, for violations of the Declaration, Bylaws and rules and regulations);
5. annual and special assessments, applied to the oldest outstanding amount first.

The remedies stated herein shall not constitute an election of remedies and all remedies shall be deemed cumulative.

COMPTON VILLAGE HOMEOWNERS ASSOCIATION

RESOLUTION ACTION RECORD

Policy Resolution No.: 2012- 3

Pertaining to: Assessment Billing and Collection of Delinquent Accounts Procedures

Duly adopted at a meeting of the Board of Directors of Compton Village Homeowners Association, held Sept. 19, 2012.

Motion by: [Signature] Seconded by: JUSTIN EBERSOLE

VOTE:	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
<u>Justin Ebersole</u> , Director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Thomas M. Wagues</u> , Director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> , Director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> , Director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____, Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTEST:  
[Signature]  
Secretary

9/19/12  
Date

Book of Minutes - 2012

Resolution effective as of Sept. 20 2012.