

FAIRFAX COMMONS: A CONDOMINIUM
ADMINISTRATIVE RESOLUTION NO. 1-2008
PROCEDURES RELATIVE TO COLLECTIONS

(Relating to Collection of Annual and Special Assessments and Charges)

WHEREAS, Article III, Section 3.3 of the Bylaws of the Unit Owners' Association of Fairfax Commons: A Condominium ("Bylaws") provides that the Board of Directors ("Board") of the Unit Owners' Association of Fairfax Commons: A Condominium ("Association") shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by the Virginia Condominium Act ("Act") or the condominium instruments required to be exercised and done by the Association;

WHEREAS, Article III, Section 3.3 (b) (ii) of the Bylaws empowers the Board make assessments against Unit Owners to defray the cost and expenses of the Condominium, establish the means and methods of collecting such assessments from the Unit Owners and establish the period of the installment payment of the annual assessment for Common Expenses;

WHEREAS, Article III, Section 3.3 (b) (i) (1) of the Bylaws empowers the Board make and amend the rules and regulations;

WHEREAS, Article VI, Section 6.2 of the Bylaws provides that all Unit Owners shall be obligated to pay the Common Expenses assessed by the Board and such expenses not paid by the tenth day of each month shall be in default;

WHEREAS, Article XI, Section 11.1(a) of the Bylaws provides that failure to comply with any of the terms of the Declaration, Bylaws and the rules and regulations shall be grounds for relief which may include, without limitation to, an action to recover any sums due for money damages, foreclosure of the lien for payment of all assessments, and any other relief afforded by the Bylaws or a court of competent jurisdiction;

WHEREAS, Article XI, Section 11.1 (c) of the Bylaws provides that in any proceeding arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding, and such reasonable attorneys' fees as may be determined by the court;

WHEREAS, Article XI, Section 11.1 (e) (i) of the Bylaws provides that in the event of a default by any Unit Owner in paying any sum assessed against the Unit other than for Common Expense which continues for a period in excess of fifteen days, interest at a rate of current prime rate plus 5% per annum at the due date thereof may be imposed in the discretion of the Board on the principal amount unpaid from the date due until paid;

WHEREAS, Article XI, Section 11.1(e) of the Bylaws provides that in the event of a default in timely payment of two installments, the collection of assessments may be accelerated;

WHEREAS, Article XI, Section 11.1 (e) (ii) of the Bylaws provides that any assessment levied pursuant to the Declaration or Bylaws, or any installment thereof, which is not paid within nine (9) days after it is due, shall be subject to a late charge of not more than twenty-five percent (25%) of the assessment for each monthly assessment in arrears, or such other amount as the Board may fix;

WHEREAS, Article XI, Section 11.2 of the Bylaws provides that any sum duly levied against each Unit Owner made pursuant to the Bylaws is to be a lien levied against the Unit or Unit Owner as provided in Section 55-79.84 of the Act;

WHEREAS, there is a need to establish orderly procedures for the billing and collection of assessments and charges.

NOW, THEREFORE, BE IT RESOLVED THAT the Board duly adopts the following collection procedures to all delinquencies existing prior to and occurring thereafter the effective date.

I. ROUTINE COLLECTIONS

A. All monthly installments of the annual assessments shall be due and payable in advance on the first (1st) day of the applicable month. Unless the Board determines otherwise, all special assessments and monetary charges shall be due and payable on or before the first day of the next month, which begins after delivery to the Unit Owner of notice of the special assessments or monetary charges ("Due Date").

B. All documents, correspondence and notices relating to assessments or monetary charges shall be mailed to the address which appears on the books of the Association or to such other address as is designated in writing by a Unit Owner.

C. Non-receipt of an invoice shall in no way relieve the Unit Owner of the obligation to pay the amount due by the Due Date.

D. Once an account is referred to legal counsel, all contact with a delinquent Unit Owner shall be handled through Association legal counsel. If the Unit Owner contacts any member of the Board of Directors or the management agent, such person shall direct the Unit Owner to communicate with Association legal counsel.

II. REMEDIES FOR NON-PAYMENT OF ASSESSMENTS AND CHARGES

A. Default - If payment of the total assessments or monetary charges due and owing is not received by the Managing Agent by the tenth (10th) day of the month, the account shall be in default.

B. Interest Charges - If a Unit Owner defaults in paying any sum assessed or monetary charges against his unit which continues for a period in excess of fifteen (15) days from the Due Date, interest at the rate of eighteen percent per annum or an interest at a rate of current prime rate plus 5% per annum, whichever is less, at the due date thereof may be imposed in the discretion of the Board on the principal amount unpaid from the date due until paid. No notice of the imposition of such interest need be provided to the Unit Owner. Such interest shall be part of the continuing lien as provided for in Article XI, Section 11.2 of the Bylaws.

C. Late Fee - If a Unit Owner defaults in paying any sum assessed or monetary charges against his Unit which continues for a period in excess of nine (9) days of the Due Date, a late fee of twenty-five dollars (\$25.00) or twenty-five percent (25%) of the assessment, whichever is less, for each assessment in arrears will automatically be imposed. No notice of the imposition of the late fee need be provided to the Unit Owner. The late fee shall be part of the continuing lien as provided for in Article XI, Section 11.2 of the Bylaws.

D. Late Fee on Returned Check - If a check is returned, and an assessment or monetary charge due and owing is not otherwise received in the applicable time period, the account shall be deemed late, and a late fee as proscribed in Section II C above shall be imposed, in addition to a forty-dollar (\$40.00) returned check charge.

E. Late Notice - A "Late Notice" may be sent by the Managing Agent to Unit Owners who have not paid assessments or monetary charges, in full, by the fifteenth day after the Due Date.

F. Referral to Legal Counsel - If payment in full, including interest, late fees and returned check charges, is not received by the Managing Agent by the forty-fifth (45th) day after the Due Date, the Managing Agent shall refer the account to legal counsel. Legal counsel shall mail a "Notice of Intent to Accelerate Installments and File Lien" pursuant to Section 55-79.84 of the Act to the Unit Owner at the address listed on the books of the Association via certified mail, return receipt requested, with the cost of preparation of the Notice added to the delinquent Unit Owner's account.

G. Demand by Counsel and Lien Filing - If payment in full of the delinquent assessments or monetary charges, including interest, late fees, returned check charges and legal costs, is not received by legal counsel within thirty (30) days after the "Notice of Intent to Accelerate Installments and File Lien" has been sent, then the remaining installments of the annual assessments shall be accelerated and a Memorandum of Lien shall be filed against the delinquent Unit Owner's Unit. The cost of preparation and filing the Memorandum of Lien will be added to the account.

H. Suit to Enforce Lien - If payment in full, including interest, late fees, return check charges and legal costs, is not received by legal counsel within thirty (30) days after the "Notice of Intent to Accelerate and File Lien" has been sent, legal counsel may file a civil suit to recover a money judgment against the Unit Owner.

I. Foreclosure - If payment in full, including interest, late fees, return check charges and legal costs, is not received by legal counsel, upon direction of the Board, legal counsel may initiate proceedings to commence foreclosure upon the Memorandum of Lien, sixty (60) days after Notice of Intent to Foreclose has been sent by legal counsel to the Unit Owner at the address listed on the books of the Association via certified mail, return receipt requested.

J. Returned Checks - If the Association receives from any Unit Owner, in any accounting year, two (2) or more returned checks for payment of assessments or charges, the Board may require all future payments to be made by certified check or money order for the remainder of the fiscal year.

K. Board Waiver - The Board may grant a waiver of any provision herein upon petition in writing by a Unit Owner. Such relief granted a Unit Owner shall be appropriately documented in the files with the name of the person or persons representing the Board granting the relief and the conditions of the relief. The Board may accept payment plans on a case-by-case basis.

L. Property Manager Right to Waive - The Board hereby authorizes the Managing Agent to waive the imposition of interest on payments received by the Managing Agent after the fifteenth (15th) day of the month, if, in the judgment of the Managing Agent, the delinquent Unit Owner has owned the Unit for less than three (3) months at the time of the delinquency and the Managing Agent determines the delinquency was the result of a misunderstanding of the correct procedures relative to payment of the assessment.

M. Referral in case of Bankruptcy - The Board hereby authorizes the Managing Agent to consult with legal counsel and immediately refer for collection any account not previously referred for legal action where the Unit Owner files or is the subject of a petition for relief in bankruptcy or where a deed of trust beneficiary or any other party has commenced foreclosure proceedings against the property.

N. Crediting of Payments - Payments received from a Unit Owner will be credited against the Unit Owner's account in the following order of priority:

1. Attorneys' fees, court costs and administrative expenses;
2. Interest accrued, late fees and returned check charges;
3. All other charges incurred by the Association as a result of any violation by a Unit Owner, his family, employees, agents or licensees of the Declaration, Bylaws, Rules and Regulations or Resolutions or the Act, including monetary charges assessed pursuant to Section 55-79.80:2 of the Act;
4. The annual and any special assessments for each Unit applied first to the oldest amount due;

This resolution shall be effective as of January 15, 2009.

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Resolution Action Record

Resolution Type: Administrative No. 2008-01

Pertaining to: Collections

Duly adopted at a meeting of the Board of Directors held December 11, 2008.

Motion by: William Goetz Seconded by: David Kurke

VOTE:

	YES	NO	ABSTAIN	ABSENT
Ken Reinshuttle Director	<u>X</u>	_____	_____	_____
William Goetz Director	<u>X</u>	_____	_____	_____
David Kurke Director	X	_____	_____	_____

ATTEST:

Secretary: Olivia Smoot Date: December 11, 2008

Resolution effective January 15, 2009.