

Villas at Flintrock, Inc.
Policy Governing Collection of Past Due Assessments

Overview:

ARTICLE 4. FUNDS AND ASSESSMENTS of the **DECLARATION OF CONDOMINIUM REGIME** ("Declaration") along with Section 82.113 of the Uniform Act (Chapter 82 of the Texas Property Code) sets forth the authority and guidelines for levying and collecting Assessments against each unit.

Section 4.4 provides that the Board shall determine and levy the amount ("level") of Assessments necessary to pay the estimated expenses to be incurred by the Association in performing its functions under the Declaration, including a reasonable provision for contingencies and appropriate replacement reserves. The Board is further granted the authority to levy additional Assessments if the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment. The Board has the authority ("in its sole and absolute discretion") to designate in which manner such Assessments may be due and payable, including equal monthly installments.

Section 4.6 provides that the Board may designate late charges to be paid by an Owner in the event of any delinquent payment of an Assessment ("and any reasonable handling costs"); provided, however, that such charge shall not exceed the maximum charge permitted under applicable law (whatever that may be).

Section 4.7 provides that in the event of default in the payment of any such Assessment, the Owner shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect (absent thereof at 2%) from the due date thereof, together with all costs and expenses of collection, including reasonable attorney fees.

Section 4.8 sets forth the provisions governing Assessment Lien and Foreclosure. Consideration is to be given to the priority of lien filing. The lien may be enforced by the foreclosure on the defaulting Owner's Unit by the Association in a like manner as a mortgagee of real property or the Association may institute suit against the Owner personally obligated to pay the Assessment. In either case the Owner is required to pay the costs, expenses, and reasonable attorney fees incurred.

Considerations:

1. The obligation to pay Assessments is made known prior to one's taking ownership of a Unit. The amount and obligation is not something subject to nondisclosure or discovery.
 2. Owners may on occasion be subject to financial hardships, resulting in their short-term inability to pay current Assessments. Consideration and temporary modification to payment terms can be granted to such Owners upon their request to and subject to approval by the Board.
 3. On the other hand, certain Owners may obstinately disregard the obligation to pay for the services rendered and functions performed by the Association under the Declaration, resulting in the transfer of such financial obligations to other Owners without their consent, willingness, or perhaps ability to discharge those obligations. In these cases, late fees should be assessed for the nonpayment and if necessary, collection actions initiated.
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Suggested Policy:

1. Upon nonpayment of an Assessment by the prescribed due date, the Owner should be charged an initial late fee of \$10.00.
 2. An additional late fee of \$25 should be charged should any portion of the Assessment remain unpaid 30 days following the due date and for each 30-day period thereafter until the Assessment is paid in full, including any previously imposed late fees.
 3. A letter should be sent to the defaulting Owner within 30 days following the due date, advising of the additional late fee to be imposed and notice that the account will be referred for collection if payment is not received within 15 days.
 4. If the Assessment remains unpaid 45 days after the due date, the account should be referred for collection.
 5. The collection attorney should then send a letter to the Owner demanding immediate payment of the Assessment along with accrued late fees and applicable collection costs/attorney fees.
 6. Should the Assessment remain unpaid 30 days after Owner's receipt of the demand letter, a notice of lien should be filed and a suit for collection instituted (all at the Owner's expense).
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