

ASSOCIATION OF APARTMENT OWNERS OF KOA LAGOON

COLLECTION POLICY

RECITALS

WHEREAS, the Association of Apartment Owners of Koa Lagoon (the “Association”) is charged with certain responsibilities regarding the care, maintenance, and service of certain portions of the community; and

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

WHEREAS, the payment of common expense assessments is necessary for the proper operation and management of the Association; and

WHEREAS, the governing documents of the Association and Chapter 514B, Hawaii Revised Statutes (“HRS”), provide that the duties of the Association shall include levying and collecting assessments from Owners; and

WHEREAS, the Board of Directors (the “Board”) is charged with pursuing collection of assessments and other charges from delinquent Owners; and

WHEREAS, the Board of the Association desires to adopt a uniform and systematic procedure to collect assessments and other charges of the Association;

NOW, THEREFORE, BE IT RESOLVED that the Association does hereby adopt the following procedures and policies for the collection of monies from Owners.

TERMS OF POLICY

1. **Common Expenses.** Assessments shall be made for common expenses based on a budget adopted at least annually by the Board. The term “common expense” means expenditures made by, or financial liabilities of, the Association for operation of the property, and shall include the charges and expenses identified in the Declaration. No Owner shall withhold any common expense assessment claimed by the Association for any reason.

2. **Obligation to Pay Assessments.** All sums assessed by the Association but unpaid for the share of the common expenses chargeable to any property shall constitute a lien on the property. Each assessment and each special assessment shall be separate, distinct and personal debts and obligations of the Owner against whom the same are assessed.

3. **Due Date.** Regular quarterly assessments shall be due and payable quarterly in advance on or before the first day of each and every quarter and without notice of demand. Special assessments shall be due and payable when directed by the Board.

4. **Interest.** If an Owner shall fail to pay any assessment when due, the unpaid amount of such assessment shall bear interest at the rate of one percent (1%) per month from and after fifteen (15) days following the date on which the same came due.

5. **Return Check.** Due to the administrative time and costs incurred, up to a \$35.00 fee may 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. Such return check charge shall be due and payable immediately upon demand. If two or more of an Owner's checks are returned unpaid by the bank within any calendar year, the Association may require that all of the Owner's future payments, for a period of one year, be made by certified check or money order.

6. **Application of Payments; Full and Partial Payment.** All delinquent accounts remain delinquent until paid in full. No partial payments will waive the Association's right to pursue full payment and/or to enforce the provisions of this Policy. All payments shall be applied in accordance with HRS § 514B-105, as may be amended from time to time.

7. **Attorney's Fees and Costs on Delinquent Accounts.** The Association shall be entitled to recover all of its reasonable attorneys' fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner. The reasonable attorneys' fees incurred by the Association shall be due and payable immediately when incurred, upon demand.

8. **Notices.** Notices and letters will be mailed to the Owner's mailing address as shown in the Association's books and records. Owners have an obligation to provide their most current mailing address to the managing agent of the Association.

9. **Attorney Action.** Generally, the managing agent will first provide notice of the delinquency to the Owner prior to referring to Association's attorneys; however, the Association may, at any time after the Owner becomes delinquent, direct its attorneys to proceed with collection action, as certain circumstances may require. Once referred to the attorneys' office, the Owner shall communicate directly with the attorneys' office and will be responsible for all attorneys' fees incurred for such communication, unless informed otherwise. Upon referral of the delinquent account to the Association's attorneys' office, the Board authorizes the attorneys' office to take all actions allowable by the governing documents, this Policy, HRS Chapters 514B and 667, including but not limited to the following actions:

- (1) Send a demand letter;
- (2) Record a lien against the property;
- (3) Foreclose, by judicial action or nonjudicial/power of sale procedures, as set forth in HRS Chapter 667 and Article VI, Section 4(b) of the Bylaws;
- (4) File an action to recover a money judgment;
- (5) Rent intercept pursuant to Article VI, Section 5 of the Bylaws and HRS § 514B-145;
- (6) Negotiate and execute payment plans; and
- (7) Mediate and/or arbitrate any dispute concerning the delinquency.

10. Suspend privileges and access to amenities. Consistent with Section 14 of the Declaration, if a property is Owner-occupied, the Association may, after sixty (60) days' notice to the Owner and to the property's first mortgagee of the nonpayment of the delinquency, terminate the delinquent Owner's access to the common elements and cease supplying the delinquent property with any and all services and utilities normally supplied or paid for by the Association. Any terminated services and privileges shall be restored upon payment of all delinquent assessments but need not be restored until payment in full is received.

11. Collection of Past Due Assessments from Tenants/Rental Agents. Consistent with Section 17 of the Declaration, if an Owner shall at any time rent or lease the property and shall default for a period of thirty (30) days or more in the payment of the Owner's share of the common expenses, the Board may, at its option, so long as such default shall continue, may demand in writing and receive each month from any tenant occupying the property, or from any such Owner's rental agent who collects rentals from lessees on behalf of the Owner, an amount sufficient to pay all sums due from the property Owner to the Association.

- (1) The tenant's payment shall not exceed the tenant's rent due each month.
- (2) The tenant or rental agent's payment shall discharge the amount of payment from the tenant's rent obligation.
- (3) The Owner shall not take any retaliatory action against the tenant for payments made to the Association.
- (4) Before demanding any rent from the tenant, the Board shall give the Owner written notice that the Board intends to collect the rent from the tenant. The notice shall be sent to the Owner by first-class and certified mail at the Owner's address shown on the records of the Association.
- (5) Demanding rent from a tenant shall not be deemed to prevent the Board from proceeding with foreclosure or any other means of collecting the Owner's delinquent common expenses.

12. Foreclosure special assessment. The Association may impose a special assessment for the amount of unpaid regular common assessments against a person or mortgagee who, in a judicial or nonjudicial power of sale foreclosure, purchases a delinquent property upon giving proper notice. This special assessment shall not exceed the total amount of unpaid regular monthly common assessments that were assessed during the six months immediately preceding the completion of the judicial or nonjudicial power of sale foreclosure, or other special assessment as provided by HRS § 514B-146.

13. Dispute of assessments. Owners may dispute assessments in accordance with the governing documents and HRS § 514B-146, as may be amended from time to time.

14. Notification to Owners. After execution of this Collection Policy, the Association shall cause all Owners to be notified of this Collection Policy. This Collection Policy shall supersede and replace any previously adopted collection policies.

CERTIFICATE

I, hereby certify that the foregoing is a true copy of the Collections Policy adopted by a majority vote at a meeting of the owners duly held on March 5, 2021 and duly entered in the book of minutes of the Association, and that this Policy is in full force and effect.

ASSOCIATION OF APARTMENT OWNERS OF
KOA LAGOON

A handwritten signature in cursive script, reading "Valerie S. Oliver".

Signature: _____

Printed Name: Valerie Oliver, Secretary