

SEVERNA ENCLAVE CONDOMINIUM

BOARD POLICY RESOLUTION

COLLECTION OF ASSESSMENTS

WHEREAS, Article IV, Section 2, of the Declaration of Severna Enclave Condominium ("the Declaration") recorded among the Land Records of Anne Arundel County in Book 6731, page 460 et seq. provides that all present and future owners, tenants and occupants of condominium units within Severna Enclave Condominium ("the Condominium") shall be subject to and comply with the provisions of the Maryland Condominium Act ("the Act"), the Declaration, the Condominium's Bylaws, and its resolutions of the Council of Unit Owners; and

WHEREAS, Article III, Section 1, of the Bylaws of Severna Enclave Condominium ("the Bylaws") provides that the affairs of the Council shall be governed by a Board of Directors ("the Board"); and

WHEREAS, Article III, Section 2, of the Bylaws provides that the Board shall have all powers and duties necessary for the administration of the affairs of the Condominium and may do such things as are not prohibited by the Maryland Condominium Act, the Declaration or the Bylaws; and

WHEREAS, Article III, Section 2 b., of the Bylaws provides that the Board shall have the power and duty, in pertinent part, to establish and collect assessments from the members; and

WHEREAS, the policies and procedures as herein set forth are intended to be in furtherance of, and in derogation of the provisions of the Declaration, as amended from time to time, and Exhibits thereto, including the Articles of Incorporation of Severna Enclave Condominium ("the Articles"), the Bylaws, and the Condominium Plats hereinafter collectively referred to as "The Founding Documents"; and

WHEREAS, Article IV, Section 4, of the Declaration creates an obligation upon each Unit Owner to pay annual assessments and special assessments (collectively referred to as "assessments"); and

WHEREAS, Article VI, Part B, Sections 2-9, of the Bylaws sets forth certain remedies and options relative to non-payment of assessments; and

WHEREAS, the Board of Directors recognizes that there is a need to establish orderly procedures for the billing and collection of said assessments;

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors hereby adopts the following Board Policy Resolution For Collection of Assessments.

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I. GENERAL

- A. The annual assessment shall be made against the Unit Owners in proportion to their percentage interest in the Condominium.
- B. The Annual Assessment against each condominium unit shall be payable in twelve equal monthly installments due in advance on or before the first day of each month.
- C. Special assessments or other charges assessed pursuant to the Founding Documents shall be due and payable at the times and as directed by the Board or its agents from time to time.
- D. It is the obligation of each Owner to assure delivery of the assessment payment on or before its due date.
- E. Each Owner shall furnish the Condominium with the Owner's name and current mailing address as provided in Section 11-109(c)(3) of the Maryland Condominium Act. All documents, correspondence, and notices relating to the charges shall be mailed to the address which appears on the books and records of the Condominium as maintained by the Managing Agent, and as modified in writing by the Owner from time to time. If the Owner has not designated a different address to be listed on the books and records, all correspondence and notices shall be sent to the Owner at the Severna Enclave Condominium unit address.
- F. Annual coupon booklets shall be sent to the Owner of record of each unit with notification of the adopted annual budget. Each coupon shall request 1/12 of the annual assessment due for that unit and shall provide the amount and date due, and the mailing address for payment.
- G. Failure to receive a billing statement shall not relieve the Owner of the obligation to pay the amount due by the due date.
- H. No Owner may become exempt from the obligation to pay assessments by abandonment of the unit or by reason of inconvenience or dissatisfaction arising from inability to utilize the Common Areas, or with dissatisfaction arising as a result of any action of the Board of Directors or its agents, *inter alia*.
- I. The Board of Directors authorizes its Managing Agent to administer and enforce the provisions of this Resolution including the execution of assessment liens, releases and certificates.
- J. The Managing Agent shall provide the attorney with a statement of collection costs incurred by it prior to referral, and all out-of-pocket collection costs incidentally incurred by it thereafter. In order to facilitate any collection procedure employed, the

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Managing Agent will advise the attorney of any and all information available to it that pertains to the delinquent Owner, including place of employment, and bank account information.

- K. The Managing Agent shall promptly notify the attorney of any payments or other correspondence it receives on behalf of the delinquent Owner while the attorney is actively involved in the collection.
- L. The attorney will keep a full accounting of all legal fees and expenses paid by the law firm on the Condominium's behalf.
- M. It is the intention of the Board of Directors that the least cumbersome, most effective method of collection be used at all times. In this regard, those employing this collection procedure are authorized to deviate from it when special circumstances indicate that such deviation is in the best interests of the Condominium. As such, the Board may grant a waiver of any provision herein upon a written petition from an Owner alleging a compelling personal hardship. Such relief, if granted, shall be appropriately documented in the records of the Condominium.
- N. This procedure will be reviewed periodically by the Board in consultation with the attorney and the Managing Agent to ensure that the procedure is effective and in compliance with current law.
- O. If the Condominium receives from any Owner, in any accounting year, two or more checks tendered for payment of assessment installments, which are returned unpaid by the Owner's bank, the Board may require that Owner to make payments for the remainder of the fiscal year by cash, certified check, cashier's check, treasurer's check or money order. A handling fee of not less than twenty-five dollars (\$25.00) may be assessed for any personal check returned unpaid by the bank.
- P. Partial payments tendered to the Condominium may be accepted, but only payment in full will stop collection proceedings, unless the Board expressly agrees otherwise. Unless otherwise specifically agreed upon in writing by the Board of Directors, payments which are not allocated will be applied in the order first to last: 1) attorney's fees, 2) collection costs, 3) interest charges, 4) late fees, 5) other properly assessed fees and charges, 6) principal common expense assessment arrearage, and 7) current principal due (including accelerated principal due, if any).

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II. COLLECTION PROCEDURES AND SANCTIONS FOR DELINQUENT ACCOUNTS

- A. If payment of an assessment installment is not received in the office of the Condominium, its Managing Agent, or its designated banking facility by the tenth (10th) day of the month when due, the Managing Agent shall send to the Owner(s) of record, not later than the fifteenth (15th) day of that month, a notice of the Owner's delinquency as provided in this paragraph. The notice shall:
1. Request immediate payment of all assessment installments due of whatever nature and advise the Owner that a late charge of fifteen dollars (\$15.00) will be automatically assessed pursuant to this Section II, B below; and
 2. Advise the Owner that unless payment in full is received within fifteen (15) days from the date of the notice, all assessment installments will be accelerated for the remainder of the fiscal year, and will constitute a lien on the unit in accordance with law.
 3. Advise that a collection cost charge of ten dollars (\$10.00), or other such amount as established by the Board, has been assessed to the delinquent account.
- B. If payment of any assessment is not received in the office of the Condominium, its Managing Agent, or its designated banking facility on or before the fifteenth (15th) day of the month when due, a late charge of fifteen dollars (\$15.00) shall be assessed to the account to become part of the continuing lien for assessments as provided for in Article VI, Part B., Section 2, of the Bylaws, until all sums due, including such late charges, have been paid in full.
- C. If payment of an assessment installment is not received in the office of the Condominium, its Managing Agent, or its designated banking facility by the thirtieth (30th) day of the month when due, the Managing Agent shall immediately send to the Owner(s) of record, a notice of the Owner's delinquency and advise the Owner(s) that steps are being taken to establish a lien against the Owner's condominium unit.
- D. The Managing Agent shall also cause an owner verification to be conducted and will cause each delinquent Owner to be promptly served with a Notice of Intent to Create a Condominium Lien pursuant to Maryland law. A collection cost charge of not less than fifty dollars (\$50.00) will be assessed to a delinquent account at this time.
- E. If, within thirty (30) days of the service date of the Notice of Intent to Create a Condominium Lien, the delinquent Owner fails to remit the total amount due as claimed and does not exercise the rights as provided in the Maryland Contract Lien Act, the account will immediately be forwarded to the Condominium's attorney for the purpose of creation of the lien among the Land Records of Anne Arundel County.

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- F. The Managing Agent shall forward to the attorney information that reflects the current information contained in the Condominium official books and records and shall include for each delinquent Owner the Owner's complete name, mailing address, address of unit owned, and a breakdown of the total fees due. Copies of the notices mailed to the Owner as required above, and proof of service of the Notice to Create a Condominium Lien shall also be sent to the attorney when the account is turned over. Once a delinquent account has been referred to the attorney for collection, no further billing statements, or other correspondence relating to the delinquency, shall be sent to the Owner by the Managing Agent without first notifying the attorney of its nature and content.
- G. Promptly upon receipt of the list of delinquencies from the Managing Agent, the attorney shall proceed as necessary to establish the lien and collect the amounts due to the Condominium. Any correspondence setting forth the amounts owed to the Condominium that is sent to the delinquent Owner by the attorney shall include in addition to all annual assessments due, interest at 18% per annum (or such greater amount provided for by the Act), any applicable late charges, the actual costs of collection (including service costs) plus reasonable attorneys' fees, and any other properly assessed amount due from whatever source. Notice of the delinquency may also be sent to the mortgagee(s), if any, of the unit. The letter will contain any and all additional information required by law.
- H. The attorney will promptly advise the Managing Agent if the Owner files a Complaint in the Circuit Court for Anne Arundel County to determine whether probable cause exists for the establishment of a lien pursuant to the Maryland Contract Lien Act. The attorney will take any and all legal action necessary to establish the lien and will promptly advise the Managing Agent of hearing dates and other pertinent events. If a Court hearing is required, representatives of the Managing Agent and the Board of Directors shall be made available upon request by the attorney to testify on behalf of the Condominium concerning the legitimacy of all amounts claimed in the Notice of Intent to Create a Condominium Lien and concerning all other matters as deemed appropriate by the attorney. In such proceeding, the attorney shall request the Court to assess all legal expenses against the Owner for costs incurred in establishing the lien.
- I. If the Circuit Court determines that probable cause exists for the establishment of the lien, the attorney will undertake to establish the lien in accordance with law. If the Circuit Court determines that probable cause does not exist for the establishment of the lien, the attorney will advise the Board of Directors of the decision and recommend what further action, if any, should be taken to collect the amounts due.

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- J. If, within thirty (30) days from the service date of the Notice of Intent to Create a Condominium Lien, the delinquent Owner fails to remit the total amount due as claimed and does not exercise the right provided by the Maryland Contract Lien Act, a Statement of Lien will be recorded by the attorney among the Land Records of Anne Arundel County. The Statement of Lien shall claim all assessments due of whatever nature (including accelerated amounts), late charges, interest, collection costs, and other charges permitted by law, together with reasonable attorneys' fees.

- K. Upon recordation of the lien statement among the County Land Records, the attorney shall notify the mortgagee(s) and the delinquent Owner of the establishment of the lien. The attorney will evaluate the various collection alternatives and recommend the best alternative to the Board via its Managing Agent. The Managing Agent shall, at the next regular meeting of the Board of Directors, present such matters to the Board for its consideration and decision concerning what type of action, if any, should be taken to collect the amounts due. The Managing Agent will immediately notify the attorney of all action taken by the Board, and the attorney shall proceed with the collection action as directed.

- L. If an action is filed by the Condominium to foreclose on a recorded Statement of Lien, payment on the delinquent account may be accepted and applied in accordance with this Resolution at any time until completion of the auction of the property under foreclosure. However, only full payment of all obligations of the Owner then owing to the Condominium, including costs and expenses of the foreclosure sale and all accrued attorneys' fees, will stop the foreclosure proceedings.

- M. If a judgement for delinquent assessments is obtained on behalf of the Condominium and is not promptly paid, the attorney will prepare and file a Request to File Notice of (Judgement) Lien with the District Court of Anne Arundel County and with any other jurisdiction where the attorney knows the judgement debtor owns real property. If the judgement is not paid in full within thirty (30) days after judgement is entered, the attorney shall within a reasonable time thereafter, send a post-judgement collection letter to the debtor demanding payment in full within fifteen (15) days from the date of that letter.

- N. The Board of Directors, its attorneys and agents may take any other lawful action deemed necessary or advisable to collect any judgement or delinquent assessment.

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III. STATEMENT OF COMPLIANCE AND ADOPTION

The foregoing Severna Enclave Condominium Policy Resolution No.2 - Collection of Assessments was duly adopted in accordance with any and all applicable federal, state and local laws and ordinances and accordance with all requirements set forth in the Founding Documents and is further **APPROVED BY A MAJORITY OF THE BOARD OF DIRECTORS THIS** _____ **DAY OF** _____, **1999:**

ATTEST:

Charles A. Beckman

President

Witness