

# THE HELM AT FOUNTAINHEAD HOMEOWNERS ASSOCIATION, INC

## COLLECTION OF UNPAID ASSESSMENTS 2014

**Policy:** It is vital to the effective administration of the Association that assessments and other charges be paid by Members in a timely manner. While a certain amount of bad debt is expected in any business, the Association must collect certain unpaid assessments in order to continue to serve the community well and efficiently. To perform these duties the Board needs to remain flexible in its approach in order to account for the unique facts and circumstances surrounding each delinquent payment.

### **Procedure:**

**Assessment Due Dates.** Assessments levied pursuant to the Annual Budget are due monthly on the first (1st) day of each month. Special and other types of assessments not levied pursuant to the annual budget are due as and when determined by the Board under the provisions of the Amended Declaration.

**"Past Due" Assessments.** Assessments of all kinds are "past due" if they are not paid within thirty (30) days after the due date and shall bear interest from the due date.

**Fees and Interest.** A late fee will be charged against all past due assessments and to bear interest at the rate of twelve percent (12%) per annum. The fees and interest charged will become due the date the assessment became due. These fees and interest shall be added to the total delinquent amount and shall become a charge upon the land as provided in the Amended Declaration. Once assessments become past due, the Association may suspend the voting rights of the delinquent Owner.

**Non-Sufficient Funds.** If an Owner should pay the Association by check and such check is returned because of Owner's insufficient funds, the Owner shall, in addition to the amount owed and any late charges and interest, owe the Association a contractual charge of all bank fees at the current rate to process the NSF and cure the default together with all other and further amounts due the Association under the provisions of Colorado law, including, without limitation C.R.S. § 13-21-109.

**Payment Plans.** Except as provided here, the Association will make a good faith effort to coordinate with an Owner who has unpaid assessments to set up a payment plan with the following minimum terms: repayment of all unpaid assessments, late fees, interest, and other charges, costs, and expenses (including attorney fees) that may be included with any assessment as provided in C.R.S. §38-33.3-316.3, over a period of no fewer than six (6) months in equal monthly installments. During the term of any repayment plan entered into under this policy, the Owner shall also keep current on all assessments that may come due. The Association has no obligation to coordinate a payment plan with an Owner that does not occupy their unit and

acquired their unit either through default in a security interest encumbering the Unit, or foreclosure of the Association's assessment liens. Additionally, the Association has no obligation to coordinate a payment plan with an Owner with whom it has previously entered into a payment plan under this policy, regardless of the outcome.

**Application of Payments on Delinquent Accounts.** Payments made against balances owed on delinquent accounts shall be applied first to late charges, interest, returned check fees, and other costs and expenses that may become a charge upon the land under the terms of the Amended Declaration, and then to unpaid assessments beginning with the amounts left unpaid the longest and continuing in chronological order.

**Available Legal Remedies.** Subject to the provisions of this policy, the Association, acting through the Board, may initiate collection proceedings of any kind at any time after any assessment payment becomes past due, as defined above. The Board, in its sole discretion in light of the relevant facts and circumstances may choose to employ any one or more of the following means in seeking collection, with or without notice, at any time after a payment is past due. In addition to the remedies described in this policy, the Board may pursue collection of unpaid assessments by any means authorized under Colorado law, as the same may exist from time to time.

**i. Acceleration.** If any assessment payment is more than 60 days past due, all of the assessment payments due during the remainder of the current assessment year will become immediately due and owing. The entire amount so accelerated will be a charge upon the land of the delinquent Owner, as provided in the Amended Declaration.

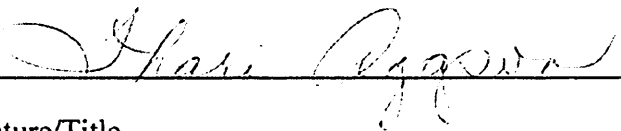
**ii. Collection Agencies/Lawyers.** Once an assessment has become 90 days past due, the Association will refer the past due assessments to a collection agency or a lawyer for collection. The delinquent Owner will be liable for any fees or other expenses associated with referring the matter for collection. Such expenses will be added to all delinquent amounts and will become a charge upon the land, as provided in the Amended Declaration. *At least 30 days prior to referring the matter to a collection agency or lawyer, however, the Association shall first provide the involved Owner with a notice of delinquency, describing the amount due, indicating whether the owner is eligible for a payment plan under this policy and providing contact information for purposes of setting up such a plan, stating the name of the person from whom the Owner may obtain a copy of the ledger or other accounting statement indicating the amount due, and providing that a failure to act in response to the notice within 30 days may result in referral of the matter to a collections agency or a lawyer for collection, foreclosure of the Association's assessment lien or the pursuit of other remedies provided by law.*

**iii. Lien.** . Once an assessment has become 120 days past due, the Association will give formal legal notice of its lien against the delinquent Owner's

property. Any costs or expenses associated with this process, including attorneys' fees, shall be added to the total delinquent amount and shall become a charge upon the land as provided in the Amended Declaration.

iv. **Foreclosure.** As a last resort, the Association may foreclose its assessment lien upon the property of a delinquent Owner to satisfy the past due assessments, fees, costs, and other expenses charged against the land. Once the Owner has a balance of unpaid assessments equal to or exceeding 6 months of assessments computed under the Association's periodic budgets, and the Board, by vote on the record, determines to pursue foreclosure on an individual basis, the Association may begin foreclosure proceedings. The costs and expenses of so doing, including attorneys' fees, shall be charged against the proceeds of any foreclosure sale, along with the delinquent assessments, costs, fees, and other expenses as provided by the Amended Declaration.

Adopted on 2014

A handwritten signature in cursive script, appearing to read "Hari Aggarwal", is written over a horizontal line.

Signature/Title