

**RESOLUTION OF THE
RIVERWALK GARNET BUILDING ASSOCIATION
REGARDING THE POLICY AND PROCEDURES FOR COLLECTION OF UNPAID
ASSESSMENTS**

Updated: Colorado House Bill 13-1276

SUBJECT: Adoption of a policy and procedure regarding the collection of unpaid assessments.

PURPOSE: To provide notice of the Association's adoption of a uniform and systematic procedure to collect assessments and other charges of the Association.

AUTHORITY: The Declaration, Articles of Incorporation and Bylaws of the Association and Colorado law. This policy is being adopted pursuant to house Bill 13-1276, C.R.S. §38-33.3-209.5, and Policy VII of the Policies and Procedures previously adopted by the Association.

**EFFECTIVE
DATE:** January 1, 2014

RESOLUTION: The Riverwalk Garnet Building Association ("Association") hereby adopts the following policy:

It is in the best interest of the Association to refer delinquent accounts promptly to an attorney or collections agency for collection so as to minimize the Association's loss of assessment revenue. The Association hereby gives notice of its adoption of the following policies and procedures for the collection of assessments and other charges of the Association to promote the convenience, safety and welfare of the Owners:

1. **Due Dates.** Installments of the annual assessment as determined by the Association and as allowed for in the Declaration shall be due and payable in twelve (12) monthly instalments due on the 1st day of each month. Assessments or other charges not paid in full to the Association by the 10th day of the month in which they are due shall be considered past due and delinquent and shall incur late fees as provided below.
2. **Invoices.** The Association may, but shall not be required to invoice an Owner as a condition to an Owner's obligation to pay assessments or other charges of the Association. If the Association provides an Owner with an invoice for quarterly installments of the annual assessments, although invoices are not required, the invoice should be mailed or sent to the owner between the 15th and 20th day of the month preceding each due date.
3. **Late Charges Imposed on Delinquent Installments.** A monthly installment of the annual assessment shall be past due and delinquent if not paid by the 10th day of the

month in which it is due. The Association shall impose a twenty-dollar (\$20.00) late charge on the outstanding or past due balance then due the Association. An additional twenty-dollar (\$20.00) late charge shall accrue during each and every subsequent 10-day period that the assessment remains unpaid. In the event of late payment the amount of damages incurred by the Association is difficult to ascertain and the amount charged for a late fee hereunder is not a penalty and is proper as liquidated damages.

4. **Interest.** Delinquent assessments, fines or other charges due the Association shall bear interest at the rate of twenty-one percent (21%) per annum from the due date until paid. All late charges and interest charges shall be due and payable immediately, without notice, in the manner provided for payment of assessments.

5. **Return Check Charges.** In addition to any and all charges imposed under the Declaration and the Rules and Regulations of the Association, a fee of \$20.00 shall 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 considered an assessment due and payable immediately, upon demand. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check charges shall be effective on any payment of sums due under the Declaration and Rules and Regulations. If two (2) or more of an Owner's checks are returned unpaid by the bank within any (fiscal) year, the Association may require that all of the Owner's future payments, for a period of one (1) year, be made by certified check or money order. This return check charge shall be in addition to any late fees or interest incurred by an Owner. Any returned check shall cause an account to be past due if full payment of the quarterly installment of the annual assessment is not timely made within ten (10) days of the due date.

6. **Payment Plan.** Any Owner who becomes delinquent in payment of assessments after January 1, 2014 and whose account is not currently with the Association's attorney or a collection agency for collection action on January 1, 2014, may enter into a payment plan with the Association, which plan shall be for a minimum term of six (6) months or such other term as may be approved by the Board of Directors. Such payment plan shall be offered to each owner prior to the Association referring any account to an attorney or collection agency for collection action. In the event the Owner defaults or otherwise does not comply with the terms and conditions of the payment plan, including the payment of ongoing assessments of the Association, the Association may, without additional notice, refer the delinquent account to an attorney or collection agency for collection action or may take such other action as it deems appropriate in relation to the delinquency. This payment plan shall not apply to a unit Owner who does not occupy the unit and has acquired the property as a result of a default of a security interest encumbering the unit; or a foreclosure of the association's lien. The Association or a holder or assignee of the Association's debt is not obligated to negotiate a payment plan with an Owner who has previously entered into a payment plan with the Association.

7. **Attorney's Fees on Delinquent Accounts.** As an additional expense permitted under the Declaration, Articles and Bylaws, the Association shall be entitled to recover its reasonable attorney's fees incurred in the collection of assessments or other charges due the Association from a delinquent owner

8. **Application of Payments.** All payments received on a delinquent account of any Owner or the Owner's property (hereinafter collectively "Owner"), shall be applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late charges, returned check charges, lien fees, and other costs owing or incurred with respect to such Owner pursuant to the Declaration and Rules and Regulations, prior to application of the payment to any special or regular assessments due or to become due with respect to such Owner. The Association shall have the discretion to return any partial payment that directs payment other than in the above priority.

9. **Collection Process.** After an assessment or other charges due to the Association becomes more than ten (10) days delinquent, the Association shall send a written Notice of delinquency advising that an amount is past-due, that interest and late fees have accrued and request immediate payment. The Association's notice, at a minimum, shall include the following:

- (a) The total amount due to the Association along with an accounting of how the total amount was determined;
- (b) Whether the Owner may enter into a payment plan and instructions for contacting the Association to arrange for and enter into a plan;
- (c) A name and contact information for an individual the Owner may contact to request a copy of the Owner's ledger in order to verify the amount of the debt;
- (d) A statement indicating that action is required to cure the delinquency and that failure to do so within thirty (30) days may result in the Owner's delinquency account being turned over to an attorney, collection agency, the filing of a lawsuit against the owner, appointment of a receiver, the filing and foreclosure of a lien against the Owner's property, or other remedies available under Colorado law including revoking the Owner's right to vote if permitted in the Bylaws or Declaration.

10. **Use of Certified Mail/Regular Mail.** In the event the Association shall cause a collection letter or notices to be sent to a delinquent Owner by regular mail, the Association may also cause, but shall not be required to send, an additional copy of that letter or notice by certified mail.

11. **Liens.** The Association may file a Notice of Lien against the property of any delinquent Owner in accordance with the terms and provisions of the Declarations, Articles, Bylaws, and C.R.S. §38-33.3-316. Prior to foreclosing on its lien, the balance due of assessments and charges secured by the lien must equal or exceed six (6) months of common expense assessments; and the HOA executive board must vote, and record the vote, to foreclose on the property.

12. **Referral of Delinquent Accounts to Attorneys** The Association may, but shall not be required to refer delinquent accounts to its attorneys for collection. Upon referral to the Association's attorneys, the Association's attorneys shall take all appropriate action to collect the accounts referred. The Owner(s) of the Unit with the delinquent account shall be responsible for, and pay as an assessment on such Unit, any attorney's fees incurred in this instance.

13. **Referral of Delinquent Accounts to Collection Agencies** The Association may, but shall not be required to refer delinquent accounts to one or more collection agencies for collection. Upon referral to a collection agency, the agency shall take all appropriate action to collect the accounts referred.

14. **Amendment** This policy may be amended from time to time by the Board of Directors of the Association.

PRESIDENT'S CERTIFICATION: The undersigned, being the President of the Association, certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on the 14th day of MARCH, 2014, and in witness thereof, the undersigned has subscribed his/her name.

The Riverwalk Garnet Building Association,
a Colorado nonprofit corporation

By: 
President