

# WESTVIEW LAKES HOMEOWNERS ASSOCIATION

## RESOLUTION 2009-1

### (Collection of Assessments and Charges)

**WHEREAS**, the Board of Directors is directed by Article V of the Amended and Restated Declaration of Covenants, Conditions and Restrictions (“Declaration”), dated April 12, 2003, and recorded on May 23, 2003, in the Clerk’s Office of the Circuit Court of the City of Hampton, Virginia (“Clerk’s Office”), as Instrument # 030011402, by Article IV of the Articles of Incorporation of Westview Lakes Homeowners Association and by Article X of the Association’s Bylaws, as all of the same may have been amended or supplemented from time to time, to fix and collect annual and/or special assessments and charges and to provide procedures for such imposition and collection; and

**WHEREAS**, for the benefit and protection of the Association and of the individual members, the Board of Directors deems it desirable to establish a procedure to assure consistent collection of past due assessments; and

**WHEREAS**, the Board of Directors will provide notice of this policy to all current owners by mail and to all future owners by including the Resolution in resale disclosure packages prepared pursuant to Section 55-509.5 of the Property Owners’ Association Act.

**NOW THEREFORE**, the Board of Directors of Westview Lakes Homeowners Association does hereby adopt this Resolution in order to adopt the following collections procedures:

1. **Due Date.** Assessments are due on January 1<sup>st</sup> of each year. Quarterly assessment payments are permitted as long as the quarterly payments remain current and paid on the 1<sup>st</sup> day of each quarter (January, April, July and October) (“Due Date”). Quarterly assessment payments are due by the Due Date.
2. **Interest.** Any quarterly assessment payment not received within 30 days of the Due Date shall accrue interest at the rate of six percent (6%) per annum in accordance with Section 5.1 of the Declaration.
3. **Late fee.** A late fee of \$30.00 will be assessed for any quarterly assessment not received within thirty (30) days of the Due Date pursuant to Section 5.1 of the Declaration.

4. Notices to Owners of Late Assessments.
- a. A First Notice letter will be sent to the Owner if any quarterly assessment is not received within 30 days of the Due Date requesting payment within ten (10) days of the date of the First Notice letter.
  - b. If the account remains unpaid by the 10<sup>th</sup> day following the date of the First Notice letter, a Second Notice letter will be sent to the Owner by certified mail, return receipt requested, informing the Owner that the account will be forwarded to the Association's counsel for collection if payment is not received within 10 days of the date of the Second Notice letter.
  - c. All costs of mailing the Second Notice letter will be assessed to the Owner's account and collected as an assessment.
  - d. Hardship Appeal.
    - (1) Any request for special consideration of hardship circumstances, including all reasons why the Board should consider the request, must be submitted in writing to the Association's Manager within 10 days of the date of the Second Notice letter.
    - (2) The Hardship Appeal will suspend collection of the assessment account then past due, but will not relieve the Owner from any future assessment Due Date.
    - (3) The Hardship Appeal will be reviewed at the next regular Board Meeting. The Board's decision to approve or deny the Hardship Appeal will be sent to the Owner via U.S. Mail, First Class, within seven (7) days of the Meeting at which the Appeal was reviewed.
    - (4) If a Hardship Appeal is not submitted by the Owner within 10 days of the date of the Second Notice letter, the right to do so shall be deemed waived.
5. Acceleration of Assessments. If an Assessment payment becomes more than sixty (60) days late, or at the discretion of the Board, the privilege of making quarterly payments will be revoked and the entire Annual Assessment will become immediately due and payable and shall accrue interest and late fees as noted in these procedures.

6. Collection of Past Due Accounts.

- a. Costs of Collection. If the account is forwarded to the Association's counsel for collection, the account will become subject to additional costs, attorney's fees and interest. The Board of Directors, on behalf of the Association, hereby reserves the right to collect all assessments, of any nature whatsoever, by all methods and means available by law.
- b. Lien for Assessments. In addition, the Board of Directors shall cause a lien to be filed in the land records of the City of Hampton, Virginia, against the Lot if any assessment remains unpaid for a period in excess of 60 days, or at any time as the Board determines necessary, as allowed by Section 55-516 of Virginia's Property Owners' Association Act, as the same may be amended from time to time. The Board reserves all rights to foreclosure on such liens as allowed by Section 55-516 of the Property Owners Association Act.

7. Payment of Past Due Accounts.

- a. Once an account is forwarded to the Association's collections attorney for collection, payment shall be made by certified check, money order or cash only and shall be payable only to the Association's collections attorney. Payments on past due accounts shall not be accepted by the Association's Board of Directors, individual Board Members, the Association's management office or the Association's Manager. No past due account shall be deemed current until all costs of collection, including attorney's fees, have been paid in full.
- b. The Board, the individual Board Members and/or the Association's Manager shall not discuss the collection of the account directly with the Owner once the Owner's past due assessment account has been turned over to the Association's collection attorney.

8. Violation Charges. Charges for violations assessed pursuant to Section 55-513 of Virginia's Property Owners' Association Act shall be imposed and collected as an assessment.

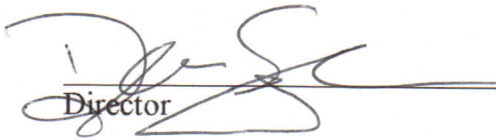
9. Notices.

- a. All correspondence, documents and notices relating to assessments or charges shall be mailed to the address of record with the Association or to such other address as is designated in writing by the Lot Owner(s).
- b. Non-receipt or lack of notice shall not prevent the Association from collecting past due assessments.

10. Special Assessment Payments.

- a. Payment of any special assessment adopted by the Board of Directors shall be as set forth in the Resolution adopting such special assessment. In lieu of such provision, all special assessments shall be payable as set forth in this Resolution.
- b. Due Date. Any special assessment adopted by the Board shall be paid in full ninety (90) days from the date noted on correspondence to the Owners notifying the Owners of the Board's adoption of a special assessment.
- c. Late Fee. A late fee of ten percent (10%) will be assessed if the special assessment is not received by the 30<sup>th</sup> day of the month following the Due Date of the special assessment as established by Section 10.a above.
- c. A special assessment unpaid as of the Due Date established shall be forwarded immediately to the Association's collections counsel to be collected as set forth in this Resolution.

**IN WITNESS WHEREOF** the Board of Directors of Westview Lakes Homeowners Association has set their hands on this 21st day of September, 2009.

  
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