

**THE MEADOWS AT TIMBERHILL  
OWNER'S ASSOCIATION, INC.**

**Resolution of The Board of Directors**

**COLLECTION OF UNPAID HOA ASSESSMENTS**

The Board of Directors ("Board") of The Meadows at Timberhill Owner's Association ("Association") is charged with the responsibility to establish, assess and collect homeowner assessments. Furthermore, pursuant to the governing documents of the Association, owners are obligated to pay all assessments levied by the Association. ("Declaration" is *Declaration of Covenants, Conditions and Restrictions for The Meadows at Timberhill*, "Bylaws" is *Bylaws of The Meadows at Timberhill Owners' Association*, and "Act" is *Oregon Planned Community Act, Oregon Revised Statutes, Chapter 94*). The Board deems it in the Association's best interest to adopt a uniform and systematic procedure for the collection of unpaid assessments in a timely manner, and further believes it to be in the Association's best interest to refer these accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue. Further, the Board has entered into a contract with Vial Fotheringham LLP ("VF"), who is authorized to undertake collection and lien enforcement activities on behalf of The Meadows at Timberhill Owner's Association.

Regardless of any and all processes outlined below and otherwise, it is the responsibility of the owner to ensure that assessments are paid on time.

If a lot is being foreclosed on by a first lender, an owner cannot expect the past due assessments to be paid through the foreclosure, especially in negative equity situations. Assessments owed to the Association, which are not paid out of the foreclosure sale are still the responsibility of the homeowner and the Association will proceed against them by seeking a personal judgment.

A. Article 3, Section 3.8 and Article 8, Section 8.1 of the Declaration, Article III, Section 4 of the Bylaws and ORS 94.630(a) allow the Association to adopt rules and enforce compliance with the Declaration, Bylaws, and administrative rules and regulations;

B. Article 8, Section 8.1 of the Declaration authorizes the Board to enforce provisions of the Declaration, Bylaws and Rules and Regulations, including action to collect unpaid assessments;

C. Article 8, Section 8.2.1 of the Declaration and ORS 94.630(1)(n) authorize the Board to establish late charges and fines;

D. Article 4, Section 4.1 and Article 8, Sections 8.1 and 8.7 of the Declaration and ORS 94.709(1) provide that all assessments, together with interest, attorney fees and costs of collection shall be a continuing lien upon the lot against which each such assessment is made;

E. Article 8, Sections 8.4.2 and 8.4.3 of the Declaration and ORS 94.709(4) authorizes the Board, on behalf of the Association, to bring suit to foreclose the lien against the lot and authorizes the Board to bring an action to obtain a money judgment against an Owner for damages and for unpaid assessments;

F. ORS 94.630(1)(n) provides that all costs of collection are imposed against the delinquent owner as assessments and are due when incurred, in the amounts incurred, regardless of whether suit or action is commenced. Collection costs and fees include, but are not limited to all of the following, and shall be added to the initial balance due and collected concurrently:

- a. Collection charges imposed by the management company, if included in contract with association, including: reasonable mailing costs, recording fees, time spent for account maintenance, etc.
- b. Any attorney fees for work done on the account such as: file intake; preparing calculations; processing payments; monitoring compliance with payment plans; consultations and telephone calls with the Association, owners, court, witnesses, etc; legal research; drafting and preparing legal documents; drafting and preparing letters; depositions; trial preparations; travel time; investigations; court appearances; analyzing the account to determine the appropriate next action; preparing and attending debtor exams.
- c. Any and all costs such as: recording fees, postage costs, copy costs, service costs, court costs, filing fees, paralegal fees, private investigator fees, garnishment fees, etc.

G. Assessments are currently due and payable in advance on the first of the month;

H. Pursuant to Article 8, Section 8.7 of the Declaration and ORS 94.704(5)(b), interest at a rate of eighteen percent (18%) per annum shall accrue on all unpaid charges;

I. Pursuant to Article 8, Section 8.7 of the Declaration and ORS 94.630(1)(n), a late charge may be charged for each delinquent assessment. Any assessment not paid within ten (10) days of its due date will be charged a late charge in an amount not to exceed thirty percent (30%) of the unpaid assessment.

#### PROCEDURE

1. Once an assessment is more than 30 days delinquent, the Association or its agent will send notice to the owner with the amount due and demand immediate payment. The Board will thereby notify the owner that from that date forward, any and all collection costs incurred to collect the past due balance are imposed against the owner as assessments and will be the responsibility of the owner to pay.

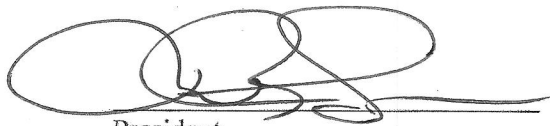
2. Once the assessment is 60 days delinquent, the Association or its agents may turn the file over to VF (the Association or its agents may place a lien on the property before turning

the account over to VF). VF will then:

- a. send a demand for payment and notify the owner that a lien will be placed against the property or that it has already been placed; and
  - b. record a lien against the lot, if a lien has not previously been recorded.
3. After the file has been turned over to VF, all contact with the delinquent owner must be through VF, unless VF gives consent otherwise.
4. If the Assessment is still not paid after 30 days from VF's notice, VF will send a final letter demanding payment within 10 days. The letter will state that VF may sue the owner to obtain a personal money judgment or foreclose on the Association's lien.
5. If the assessments (including all assessments from the Association, collection charges, costs and attorney fees) are not paid after VF's 10 day letter, VF will file suit against the owner, foreclose on its lien, or both.
6. After VF obtains a judgment, it will begin collection of the judgment by any combination of the below:
  - a. garnishing the owner's bank account;
  - b. garnishing the owner's wages;
  - c. executing a writ against the owner's real or personal property; and
  - d. any additional methods authorized by law.
7. At any time after the file has been turned over to VF, and at the discretion of VF, the owner may enter into a payment plan that is secured by a Confession of Judgment or Stipulated Judgment. In order for a payment plan to be accepted the delinquent owner will be required to complete a questionnaire regarding their assets.
8. All payments made by the owner shall be made to VF. The Association grants VF a limited power of attorney to endorse and deposit checks made payable to the Association or its manager. Funds will be disbursed to the Association as outlined in the Association's representation agreement with VF. When payments are received, they are split 50/50. Fifty percent of the payment is applied to past due assessments and non-attorney related collection charges and fees, and fifty percent is applied to attorney related charges and fees. Each payment will be split accordingly until one is paid in full, at which point the remainder of the payments will be applied in full to the remaining balance.
9. Nothing in this resolution prevents the Association from taking any other actions against an owner, including termination of utilities and preventing access from recreational or

service facilities, if provided for in the governing documents of the Association.

10. A copy of this Resolution will be sent to all owners.



President

4/12/12  
Date



Secretary

4/9/12  
Date

EXHIBIT "A"

**SAMPLE DEMAND LETTER TO BE SENT BY BOARD OF DIRECTORS ONCE  
ASSESSMENTS ARE 30 DAYS PAST DUE**

May 1, 2009

John Doe  
111 S.W. 11<sup>th</sup> Avenue  
Portland, OR 97208

RE: NOTICE OF UNPAID ASSESSMENTS

Dear Mr. Doe:

The records of [HOMEOWNERS ASSOCIATION NAME] show that your assessment account is now past due. Our records reflect the following:

Principal Assessments Due:	\$ _____
Accrued Late Charges:	\$ _____
Accrued Interest:	\$ _____
Total Due:	\$ _____

Demand is hereby made for immediate payment of the balance in full. If you have any questions, please contact the undersigned. If payment is not made in full in 30 days, your account will be sent to Vial Fotheringham LLP and a lien will be placed on your property and you will be responsible for all collecting costs and attorney fees.

You are hereby given notice that **all charges associated with collecting on your account as outlined in the association collection resolution** are imposed against you and your unit. (ORS 94.630(1)(n) or ORS 100.405(4)(k)). Pursuant to statutes, you have a right to a hearing, to request a hearing you may contact [ at address, e-mail] in writing to voice your dispute. The board must receive any written dispute of the imposition of these charges no later than by the expiration of the 30 days of the date of this letter. If no hearing is requested by the end of the 30 day period, your right to a hearing is forfeited.

If you would like to set up a payment plan, arrangements must be made with the contact below before the 30 days expires.

Your prompt payment of the balance due is appreciated.

Sincerely,

Jane Smith  
President, Board of Directors  
(Phone number) (Email) (Physical Address)