

Treehill Park Homeowners Assn.

5083-001  
WC 712  
VCR  
whitebook

10/27/04

TO: Tim Zimmerman  
Vial-Fotheringham  
503-684-4111  
FAX: 503-598-7758

FR: Carol Colleen, Board Chair  
503-257-1736  
FAX: 503-492-8681

RE: Amended Collection Procedures

Enclosed is a copy of Treehill's amended collection procedures that you reviewed and edited for us several months ago.

In addition to shortening the time for taking legal action from 60 to 45 days, we also amended the late fee language per your recommendation. Late fees are addressed on page 2, paragraph 1.

The language in this document is the same language you proposed, I have formatted it a little differently so it can be read a little easier.

This resolution has been mailed to our homeowners.

Thanks again for your help with this project.

A copy has been sent  
to Excelsior's accounting  
dept.

## ***Treehill Park Homeowners Assn.***

October 20, 2004

**TO:** Treehill Homeowners

**FR:** Treehill Board

**RE:** Attached Resolution

### **AMENDED COLLECTION PROCEDURES**

On June 1, 2004 Treehill homeowners were mailed a copy of a proposed resolution to amend the Associations collection procedures. The amended collection procedures allows the Association to begin legal action to place an Association lien on a property once a homeowner's assessments remain unpaid for 45 days. Under the original wording of the resolution, this action could not take place until assessments remained unpaid for 60 days.

Treehill homeowners had until July 19, 2004 to comment on the proposed resolution. As no comments were received, the resolution was adopted by the Board of Directors at the August 30, 2004 board meeting.

Attached to this memo is a copy of the final Resolution.

**The language addressing this change can be found on Page 2, Paragraph 3.**

**Homeowners need to retain a copy of this resolution for their files.**

# **TREEHILL PARK HOMEOWNERS ASSN.**

## **Amended Resolution of The Board of Directors R-04-01 COLLECTION OF UNPAID CHARGES**

### **Background:**

On July 26, 1999 the Treehill Board of directors adopted Resolution 99-1 titled Delinquent Payment Policy. Under the language of this resolution, the process for taking legal action to place an Association lien on a property could not be started until a homeowner's assessments remained unpaid for 60 days.

In discussion with the Association's attorney, Vial Fotheringham, on ways to gain better control of delinquencies, the Board was advised to shorten the time for taking legal action from 60 to 45 days. To address this change, Resolution R-04-01 was written to amend the original resolution.

The language in this amended resolution was approved by the Board of Directors at the April 26, 2004 Board Meeting. A copy of the amended resolution was mailed to all homeowners at their last known address on June 1, 2004. Homeowners were notified that they had until July 19, 2004 to comment on the proposed amendment. As no comments from homeowners were received, the amended resolution as written below was adopted by the Board at the August 30, 2004 Board Meeting.

### **WHEREAS:**

- "Declaration" is the *Declaration of Unit Ownership for Treehill Park Condominiums*, "Association" is the *Treehill Park Unit Owners Association* and "Resolution" is the Delinquent Payment Policy of Treehill Park Homeowner's Association;
- "Assessments," as used in this Resolution, includes all amounts validly assessed against a Unit Owner ("Owner") pursuant to the Declaration, the Association's Bylaws, Rules and Regulations, and any Board of Director Resolution, including, but not limited to common expenses, interest, fees, fines, attorney fees and all collection costs;
- Section 8.9 of the Declaration and Section 1.3, of the *Bylaws of Treehill Park Unit Owners Association* ("Bylaws") states that Owners must comply with the Declaration, Bylaws, and Administrative Rules and Regulations;
- Section 8.12 of the Declaration and Sections 4.2, 4.3 and 6.6 of the Bylaws authorize the Board to enforce provisions of the Declaration, Bylaws and Rules and Regulations, including action to collect unpaid assessments;
- Section 8.12 of the Declaration, Section 6.0 of the Bylaws, and the Oregon Condominium Act authorize the Board to establish late charges and fines, and authorizes the termination of utility services;
- Section 8.12 of the Bylaws provides for interest on past due assessments at the rate of ten percent (10%) per annum;
- Sections 6.6 and 15.1 of the Bylaws and the Oregon Condominium Act provide that a lien may be placed against a unit for which assessments are unpaid.
- Section 8.12 of the Bylaws, and/or the Oregon Condominium Act provide that all assessments, together with interest, attorney fees and costs of collection shall be a continuing lien upon the unit against which each such assessment is made;
- Section 8.12 of the Bylaws authorizes the Board, on behalf of the Association, to bring suit to foreclose the lien against the unit and/or to bring an action to obtain a money judgment against an Owner for damages and/or for unpaid assessments;

- Section 8.12 of the Bylaws and/or provide that Owners shall be obligated to pay reasonable fees and costs including, but not limited to, attorney fees incurred in connection with efforts to collect delinquent and unpaid assessments, whether or not suit or action is commenced, and/or to enforce the provisions of the Declaration, Bylaws, rules and regulations or the Act;
- The Association's Delinquent Payment Resolution adopted July 26, 1999 provides that assessments are currently due and payable on the first (1st) day of each month;
- From time to time Owners become delinquent in the payments of their assessments and fail to respond to the demands from the Board to bring their accounts current, and it is imperative assessment payments are timely received;
- 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.

**NOW, BE IT RESOLVED,** that the following steps be adopted to provide for the uniform and systematic procedure for the collection of unpaid assessments:

1. All homeowner fees are due the first of each month. There will be a grace period of ten (10) days. A late fee of \$15.00 will be charged if payment has not been received by the Association's management company by the tenth of the month. If the tenth falls on a weekend, the grace period will be extended to the following Monday.
2. If any assessment remains unpaid by an Owner for more than thirty (30) days from the due date for its payment, the Board shall send a notice to the Owner indicating the amount due, including notice of the late fees, and demand for immediate payment thereof. See Exhibit "A" attached hereto.
3. If any assessment remains unpaid by the Owner for more than forty-five (45) days from the due date for its payment, the Board shall
  - a. Begin the process for placing a lien on the unit. The lien will include all future assessments, interest, late fees, attorney fees and costs, and other costs of collection whether or not a suit or action is instituted. The Association's attorney will thereafter take the necessary steps to collect the outstanding amount including filing a suit, which may include
    - (1) Sending a written demand for payment and any notice as required by the federal Fair Debt Collection Practices Act, if applicable
    - (2) Ensuring that a lien has been recorded against the Owner's unit, preparing and placing one, if necessary;
    - (3) Notifying the Owner within twenty (20) days of recording that a lien has been recorded; and
    - (4) Notifying any first mortgage on trust deed holder of the Owner's default; if applicable.

The lien amount shall include all collection costs to date, attorney's fees and the cost of preparing and/or recording the lien, any notice of lien required by law, and any notice to a first Mortgage holder, if applicable.

The demand for payment shall notify the Owner of the Owner's liability for payment of charges imposed by Attorney to cover fees and costs associated with all collection efforts. The demand for payment shall include all collection costs to date.

- b. Notify the unit owner in writing that the Association intends to terminate water service to the unit and deny access to recreation facilities. Costs associated with shutting off the water shall be borne by the unit owner.
5. If any assessment remains unpaid by the Owner thirty (30) days after the date of Attorney's demand, Attorney shall send Owner a ten (10) day demand letter for payment notifying the Owner that if payment is not received that the Association intends to file suit to either obtain a money judgment or foreclose on the lien. The demand shall include the updated amount owing, including all collection costs to date.
6. If any assessment remains unpaid by the Owner ten (10) days after the attorney's ten-day demand letter, the Attorney shall file suit for a money judgment, unless the Board, after recommendation by Attorney, determines that lien foreclosure is advisable under the circumstances. In such cases, the attorney may file suit for a money judgment, for foreclosure, or for both a money judgment and foreclosure, as permitted by applicable law.
7. If the Association is successful in obtaining a money judgment, Attorney shall collect on the judgment in this order:
  - a. File and send a ten (10) day demand to pay judgment;
  - b. Garnish accounts, wages and/or rents;
  - c. Levy against any personal and real property; and
  - d. Levy against the unit.

Additional steps may be necessary to determine the availability and location of the judgment debtor's assets. If the Association is successful in a suit to foreclose on the lien, Attorney shall proceed as necessary to complete the foreclosure unless otherwise directed by the Board.

**NOW, BE IT FURTHER RESOLVED THAT:**

1. All legal fees and costs incurred in the collection of a delinquent account shall be assessed against the delinquent Owner and shall be collected as an assessment as provided in Section 8.12 of the Bylaws and/or the Oregon Condominium Act.
2. All contacts and/or contracts with the delinquent Owner shall be through Attorney. Neither the Board nor any of its agents shall discuss the collection of the account directly with the Owner after it has been turned over to Attorney, unless one of the attorneys is present or has consented to the contact and/or contract.
3. Attorney shall have the discretion to enter into an installment payment plan with a delinquent Owner in appropriate circumstances. In all cases, any such plan must be secured by a Stipulated Judgment. Any payment plan providing for a down payment of less than the greater of one-third (1/3) of the delinquent balance or twice the current monthly assessment, or a duration in excess of twelve (12) months shall require approval of the Board president.
4. Attorney, in its initial demand notice, shall communicate to Owner that the account has been turned over to it for collection, and that all payments are to be made to Attorney until the account has been brought current. Attorney shall deposit all payments in its trust account. All amounts collected shall be disbursed by Attorney according the provisions of the Association and Attorney representation agreement.

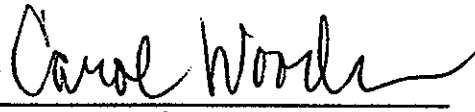
5. Nothing in this Resolution precludes the Board from taking further action in the collection of unpaid assessments permitted by the Association's governing documents or applicable law, including, but not limited to, adopting or enforcing rules regarding the termination of utility services paid for out of assessments of the association and access to and use of recreational and service facilities available to owners and, after giving notice and an opportunity to be heard, terminate the rights of any owners to receive such benefits or services until the correction of any violation covered by such rule has occurred.

**NOW, BE IT FURTHER RESOLVED**, that a copy of this resolution shall be sent to all Owners at their last known address.

Adopted by the Board August 30, 2004



Carol Colleen, Chair  
Board of Directors  
Treehill Park Homeowners Association



Carol Woods, Secretary  
Board of Directors  
Treehill Park Homeowners Association

**EXHIBIT "A"**

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

[Date]

John Doe  
111 S.W. 11<sup>th</sup> Avenue  
Portland, OR 97111

RE: NOTICE OF UNPAID ASSESSMENTS

Dear Mr. Doe:

The records of the Treehill Park Homeowners Association 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.

Your prompt payment of the balance due is appreciated.

Sincerely,

Property Management Company