

Marsh Winds Owners Association, Inc.
Administrative Resolution #1
For Collection of Delinquent Accounts

WHEREAS the Board of Directors of the Association is charged with the responsibility of collecting assessments for common expenses from homeowners pursuant to Article VI Section 1(a) of the Declaration; and

WHEREAS Article IV, Section 2(a) provides, “In the administration or the operation and management of the Regime, the Association shall have and is hereby granted the authority and power to enforce the provisions of this Master Deed, levy and collection assessments...and to adopt, promulgate and enforce such rules and regulations...as the Board of Directors of the Association may deem to be in the best interest of the Regime;” and

WHEREAS from time to time homeowners become delinquent in the payment of these assessments and fail to respond to the demands from the Board to bring their accounts current; and

WHEREAS the Board deems it to be in the best interests of the Association to adopt a uniform and systematic procedure for dealing with delinquent accounts in a timely manner, and further believes it to be in the best interests of the Association to refer these accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue; and

WHEREAS the Board has retained the Association's attorneys for their experience in representing homeowners associations in collections and other matters; and

WHEREAS the Board has directed the Association's attorneys to represent the Association on the terms outlined in this resolution;

WHEREAS the Board has further determined that it would be inequitable for any homeowner who is not in good standing to have the right to vote at any annual or special meeting or the right to serve on the Association’s board or any committee thereof;

WHEREAS the Board has defined “good standing” as any member not more than 60 (sixty) days past due in any assessment or fees and in compliance with all rules and regulations;

NOW, THEREFORE, BE IT RESOLVED that the Association's attorneys shall pursue all collections and other matters which the Board, acting through the Manager, may from time to time refer to them and provide any advice and counsel which the Board may from time to time require; and

BE IT FURTHER RESOLVED that the Manager, acting on behalf of the Association, shall pay the Association's attorneys their usual and customary charges for time incurred in connection with their representation of the Association, together with all costs incurred by the firm, including but not limited to fees and charges for filing, service of process, messenger service, photocopies, postage, long distance calls, investigator's services, credit reports, and title reports, promptly upon receipt of the monthly invoice; and

BE IT FURTHER RESOLVED that pursuant to Article VI, Section 1(i) of the Declaration there is hereby levied against any assessment account which is not paid in full as of the fifteenth (15th) day of each month a one-time late fee in the amount of five percent (5%) on the unpaid assessment, plus interest at the rate of one percent (1%) per month of the remaining unpaid balance which the Manager is authorized and directed to charge to and collect from any delinquent homeowner; and

BE IT FURTHER RESOLVED that the manager is directed to send to any homeowner who is more than sixty (60) days delinquent in the payment of regular or special assessments, or other charges authorized by the Association's Governing Documents (hereafter referred to as "Assessments"), a written notice (hereafter referred to as the "First Notice") of the late fee and a request for immediate payment; and

BE IT FURTHER RESOLVED that the First Notice sent by the Manager to the delinquent owner shall state that 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 Board before the Assessment becomes ninety (90) days delinquent, together with a request for a hearing, or in the alternative, a request that the determination be made by the Board based on the written request, and if not so submitted, then such request shall have been deemed waived; and

BE IT FURTHER RESOLVED that the Manager is directed to send to any homeowner who is more than ninety (90) days delinquent in the payment of Assessments written notice (hereinafter referred to as the "Second Notice") that, if the account is not paid in full within thirty (30) days, a Notice of Lien will be recorded at the Charleston County RMC office and any such fees incurred shall be the responsibility of the homeowner; and

BE FURTHER RESOLVED that the Manager is directed to send to any homeowner who is more than one hundred (120) days delinquent in the payment of Assessments, a written notice (hereinafter referred to as the "Third Notice"), that if the account is not paid in full within ten (10) days it will be turned over to the association's attorneys for collection and the homeowner will be liable for payment of the minimum charge imposed by the Association's attorneys to cover fees and costs charged to the Association; and

BE IT FURTHER RESOLVED that the Manager is directed to refer any account which remains delinquent for ten (10) days after the Third Notice to the Association's attorneys for collection; and

BE IT FURTHER RESOLVED that the Manager is directed to consult with the

Association's attorneys and turn over for collection immediately any account where the owner files or is the subject of a petition for relief in bankruptcy or a lender has commenced any action for foreclosure of its lien against the unit; and

BE IT FURTHER RESOLVED that the following policies shall apply to all delinquent accounts turned over to the Association's attorneys for collection:

1. All contacts with a delinquent homeowner shall be handled through the Association's attorneys. Neither the Manager nor any Association officer or director shall discuss the collection of the account directly with a homeowner after it has been turned over to the Association's attorneys unless one of the Association's attorneys is present or has consented to the contact.
2. All sums collected on a delinquent account shall be remitted to the Association in care of the Association's attorneys until the account has been brought current.
3. The Association's attorneys' minimum legal fee shall be assessed against each delinquent unit and its owner (including repeat offenders) when the account is turned over to the Association's attorneys for collection. The amount shall be credited against the fees and costs actually incurred in the collection of the homeowner's account. All legal fees and costs incurred in the collection of a delinquent account shall be assessed against the delinquent unit and owner and shall be collectable as an Assessment as provided in Article VI, Section 1(o) of the Declaration.
4. To the extent that the Association's attorneys, in their discretion, consider it to be appropriate in the circumstances, they are authorized to enter into an installment payment plan, secured by a Confession of Judgment; provided, however, that any payment plan which provides for a down payment of less than one third (1/3) of the delinquent balance, or a duration in excess of six (6) months shall require the approval of the Board president.
5. Where, at the expiration of the period specified in the Association's attorneys' demand letter, an account remains delinquent and without a payment plan embodied in a signed Confession of Judgment, or in the event of a default under the terms of either agreement, the Association's attorneys are authorized to take such further action as they, in consultation with the Board president, believe to be in the best interest of the Association, including but not limited to:
 - a. Filing suit against the delinquent homeowner for money due pursuant to Article VI, Section 1(k) of the Declaration; and
 - b. Instituting an action for foreclosure of the Association's lien, pursuant to Article VI, Section 1(k) of the Declaration; or
 - c. Filing a proof of claim in bankruptcy;

BE IT FURTHER RESOLVED that any homeowner who is not in good standing shall not have the right to vote at any annual or special meeting or the right to serve on the Association's board or any committee thereof.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to all homeowners at their last known addresses.

This resolution was adopted by the Board of Directors on January 11, 2013, and shall be effective immediately.

Distribution. The Association's Managing Agent is authorized and directed to circulate a copy of this Resolution to all Members.

ATTEST: MARSH WINDS OWNERS ASSOCIATION, INC.

Recorded in the Book of Minutes on January 11, 2013.