

EDWARDS VILLAGE CENTER OWNERS ASSOCIATION, INC

POLICIES AND PROCEDURES FOR COLLECTING DELINQUENT ASSESSMENTS

(Effective Date: December 31, 13)

The Edwards Village Center Owners Association, Inc. (the "Association") is a commercial common interest association of owners that was organized under the provisions of the Colorado Revised Nonprofit Corporation Act. The Association is subject to the terms and provisions of the Colorado Common Interest Ownership Act ("CCIOA"). Under Section 209.5 of CCIOA, the Association is required to adopt written policies and procedures for collecting delinquent assessments.

Under the Association's Declaration, the Executive Board (the "Board") has the delegated power to adopt and amend budgets for revenues, expenditures and reserves of the Association as well as to collect assessments. This power includes the right to impose interest and late payment charges and to recover attorney fees and other legal costs of collecting and enforcing payment of delinquent assessments.

Past due assessments create a statutory lien under CCIOA which automatically attaches to the affected unit and which is preserved by recordation of a statement of lien. This statutory lien may be foreclosed in the same manner as any other lien or charge against real property, and the unit may be sold at a foreclosure sale in order to satisfy the delinquent assessments. The Declaration also establishes that the assessment obligation is a personal obligation of the owner of the unit. Therefore, the Association's collection remedies include the right to institute a personal civil suit against the owner of the unit in order to obtain a judgment for damages against the owner for the amount of the delinquent assessments along with late charges, interest, attorney fees and costs.

This statement of policies and procedures for the collection of delinquent assessments has been adopted by the Executive Board of the Association as of the date specified above.

Underlying Philosophy

The Association must operate in a fiscally responsible manner. Without insisting on the prompt payment of all assessment obligations levied by the Association, the ability of the Association to provide services under the Declaration could be impaired. Consequently, the Executive Board has determined that it will vigorously enforce all of the Association's available remedies to collect delinquent assessments. These remedies will be applied in a nondiscriminatory manner.

Standard Billing and Payment Procedures

Assessments are billed on a monthly basis. Monthly statements for assessment obligations are mailed to or delivered to owners on or before the 23rd day of each previous month. Amounts shown due in this statement includes the assessment obligation for the following month.

Each statement is payable on full by the 5th day of the following month. A payment is considered to be delinquent if it has not been paid within 15 days from the payment due date.

When any payment becomes delinquent, the manager will first make a courtesy call to the delinquent owner in order to expedite payment. However, a \$100.00 late fee will be imposed for every payment which becomes delinquent by 30 or more days. This fee is imposed at the beginning of each month that any assessments remain delinquent. In addition, interest at the rate of 18% per annum will be imposed on all delinquent assessments. In the event any payment by check is reversed because the check is returned to the Association unpaid, the Executive Board has authority to impose a returned check fee in the amount of \$35.00.

Payments received on delinquent accounts will be applied first to any accumulated and unpaid late charges and delinquent interest accruals as well as any other charges such as attorney fees. The remaining amount of the payment will be applied against the amount of the delinquent assessment obligation. For example, if the delinquent assessment obligation is \$1,000, and \$200 in late fees and delinquency interest have accrued against the account, a payment of \$1,000 will be applied first to the late fees and accrued interest, thereby leaving only \$800 to be applied against the \$1,000 assessment obligation.

Collection Proceedings and Payment Plan

After a payment is delinquent for a period of 90 days, the manager will commence collection proceedings.

When initiating any steps to collect past due assessments and other delinquent payments, the association will attempt to enter into a payment plan with any owner who has not previously entered into a payment plan with the association. The payment plan will permit the owner to pay off the delinquency in equal installments over a period of six months. However, the owner must also remain current with assessments and other obligations that come due to the association during this six month period.

If the owner fails to comply with the terms of the payment plan, the association may immediately commence legal action against the owner or undertake any other remedies available to the association. For purposes of this policy statement, any reference to assessments includes regular and special assessments and any associated fees, charges, late charges, attorney fees, fines and interest that may be due to the association.

The association is not required to enter into a payment plan in any situation where the owner does not occupy the unit and has acquired title to the unit because of a mortgage or lien foreclosure proceeding.

Notice of Delinquency

Before the association refers a delinquent account to a collection agency or to an attorney for collection, the association will send the owner a notice of delinquency specifying the total amount due along with an accounting of how this total amount was calculated. The notice will also state whether the opportunity to enter into a payment plan exists, and if so, will contain instructions for contacting the association's manager to enter into a payment plan. The notice will also contain the name and contact information of the association's manager and provide that the owner may request a copy of the assessment ledger from this source in order to verify the amount that is due.

The notice will specifically explain the action that is required to cure the delinquency. The notice will also provide that the failure to cure the delinquency within thirty days could result in the account being turned over to a collection agency or attorney for further action. This could include the commencement of a lawsuit against the owner or the commencement of a foreclosure lawsuit against the owner's unit or the pursuit of any other remedies that may be available to the association.

The notice will also explain the method that is used to apply payments received by the association against delinquent accounts. This includes the association's right to apply payments first against outstanding late charges and fees, such as attorney fees and court costs, before applying sums against amounts that are delinquent. The notice will also specify the various collection remedies that are available to the association under its governing documents and under Colorado law.

Collection Procedures

The first step in the collection procedures involves the preparation, execution and recording of a statement of lien. The Association has a very clear statutory lien power under the provisions of CCIOA, and the recordation of the Association's lien statement becomes a lien and encumbrance against the affected unit. The lien statement will contain a summary of all assessments which are due and owing as of the date of the lien statement along with a description of any late fees, interest, attorney fees and costs.

Under the terms of the Association's Declaration, the Association is entitled to impose late fees as well as interest on all delinquent assessments. In addition, the Association may add amounts to the assessment indebtedness for expenses incurred by the Association for attorney fees and costs which relate to the collection process. Interest is imposed on all past due assessment obligations at the rate of 18% per annum.

Lien Foreclosure

After a lien statement has been recorded and any portion of the assessment obligation described in such statement remains unpaid for a period of 60 days after the date on which the lien statement was recorded, the manager will forward the matter to the Association's attorney for the commencement of a judicial foreclosure proceeding. The lien foreclosure proceeding will be filed in the Eagle County District Court and will request the foreclosure and sale of the affected unit in order to satisfy the lien indebtedness. In a judicial foreclosure proceeding, the owner of the affected unit will be personally served with a copy of the district court summons and complaint. Depending upon the location where the affected owner is served, a responsive pleading must be filed within 20 or 30 days in order to prevent the entry of a judgment by default and an order of sale.

Suit For Money Judgment

Under the terms of the Association's Declaration, the Association also has the right to institute a civil action against the owner of the affected unit seeking a personal judgment against the owner for money damages in the amount of the delinquency along with all late fees, interest, costs and attorney fees. In some instances, the Association may choose to bring the suit for a personal judgment as part of its judicial foreclosure proceedings. In this instance, the complaint in the judicial foreclosure proceeding will also contain a separate claim against the owner for a personal judgment. In other instances, the Association may determine that it is more effective to file a civil action for a personal judgment against the owner and temporarily forego any judicial foreclosure

remedy. This election of remedies is a matter which is within the sole discretion of the Executive Board, and decisions of this nature will be made on a case by case basis.

Suspension of Voting Rights

Under both CCIOA and the Association's Declaration, the Association has the authority to suspend the voting rights of an owner of a unit who has failed to pay a delinquent assessment. The Executive Board will enforce this authority in all cases. Consequently, when an assessment is delinquent more than 90 days from its due date, the owner of the affected unit will not be permitted to vote on any matters which come before the Association at any regular or special meetings of the owners.

Mediation

Under the provisions of CCIOA, the Association and a member of the Association have the right to jointly agree to submit any dispute to mediation proceedings. However, it is the decision of the Executive Board that mediation is not an effective remedy for collecting delinquent assessments. Consequently, the Association will not consent to mediating any dispute arising out of a controversy involving delinquent assessments.

Attorney Fees and Costs

The terms of CCIOA provide that in any litigation between the Association and a member of the Association, the court may award attorney fees and costs to the prevailing party. This means that if the Association prevails in litigation against a member, the attorney fees, expenses and court costs incurred by the Association will be awarded as part of any judgment against the member. This also means that the Association's attorney fees, expenses and court costs will be awarded as part of any assessment lien foreclosure proceedings in which the Association prevails.

In the event that a court should find that a member has not violated the terms of the Declaration by failing to pay assessments, the court may award the member reasonable attorney fees and costs incurred in asserting or defending the Association's claims.