

**RESOLUTION OF THE
INDEPENDENCE SQUARE CONDOMINIUMS OWNER'S ASSOCIATION, INC.
REGARDING POLICY AND PROCEDURES FOR COLLECTION OF
UNPAID ASSESSMENTS**

SUBJECT: Adoption of a policy and procedure regarding the collection of unpaid assessments.

PURPOSE: To provide notice of the Association's adoption of a uniform and systematic procedure to collect assessments and other charges of the Association.

AUTHORITY: The Declaration, Articles of Incorporation and Bylaws of the Association and Colorado law.

EFFECTIVE DATE: 4/8, 2014

RESOLUTION: The Association hereby adopts the following policy:

It is in the best interest of the Association to refer delinquent accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue. The Board of Directors has retained an attorney with experience in representing homeowner associations in collections and other matters. The Association hereby gives notice of its adoption of the following policies and procedures for the collection of assessments and other charges of the Association:

1. Due Dates. The monthly installments of the annual assessment as determined by the Association and as allowed for in the Declaration shall be due and payable on the first day of each month. Assessments or other charges not paid in full to the Association on or before the due date shall be considered past due and delinquent. Assessments or other charges not paid in full to the Association within 10 days of the due date shall incur late fees as provided below. Assessments or other charges not paid in full to the Association within 10 days of the due date shall incur interest as provided below. In the event notice of acceleration is given to delinquent Owner(s), the Owner(s) of the Unit shall also be charged any costs incurred by the Association in giving notice of such acceleration.
2. Receipt Date. The Association shall post payments on the day that the payment is received by the Association.
3. Late Charges on Delinquent Installments. The Association shall impose on a monthly basis a \$25.00 late charge for each Owner who fails to timely pay his/her monthly installment of the annual assessment within 10 days of the due date. This late charge shall be a "common expense" for each delinquent Owner. The Association shall impose interest from the date due at 8% per annum on the amount owed for each Owner who

fails to timely pay their monthly installment of the annual assessment within 10 days of the due date.

4. Personal Obligation for Late Charges. The late charge shall be the personal obligation of the Owner(s) of the Unit for which such assessment or installment is unpaid. All late charges shall be due and payable immediately, without notice, in the manner provided by the Declaration (and as set forth herein) for payment of assessments.

5. Lien. Under the terms of Colorado law and the Declaration, there is a statutory lien for any unpaid assessment. The Association reserves the right to file a Notice of Lien in the county records at any time after an assessment becomes delinquent. The Board of Directors delegates authority to the Association's management agent or attorney to sign and acknowledge the Notice of Assessment Lien. This delegation may be withdrawn at any time. If the delegation is withdrawn, the Board will send written notice to the Association's management agent or attorney of the withdrawal.

6. Administrative Expenses. Charges imposed by the Association's management agent for delinquent accounts will be the Owner's obligation.

7. Return Check Charges. If any check or other instrument payable to or for the benefit of the Association is not honored by the bank or is returned by the bank for any reason including, but not limited to, insufficient funds, the Owner is liable to the Association for one of the following amounts, at the option of the Association:

(a) An amount equal to the face amount of the check, draft, or money order and a return check charge of \$20.00 or an amount equal to the actual charges incurred by the Association levied by the party returning the check, whichever is greater; or

(b) If notice has been sent as provided in C.R.S. § 13-21-109 and the total amount due as set forth in the notice is not paid within 15 days after such notice is given, the person issuing the check, draft or money order shall be liable to the Association for collection for three times the face amount of the check, but not less than \$100.00.

Any returned check shall cause an account to be past due if full payment of the monthly installment of the annual assessment or of any other charge is delinquent. If two or more of an Owner's checks are returned unpaid by the bank within any fiscal year, the Association may require that all of the Owner's future payments, for a period of one year, be made by certified check or money order.

8. Attorney Fees on Delinquent Accounts. As an additional expense permitted under the Declaration and by Colorado law, the Association

shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand.

9. Application of Payments. All payments received on account of any Owner or the Owner's property, may be applied first to post-judgment attorney's fees, costs and expense; then to costs and attorney's fees not reduced to a judgment; then to interest; then to late charges; then to return check charges; then to fines and other amounts levied pursuant to the Declaration; then to delinquent assessments; then to current assessments not reduced to judgment; and finally to amounts reduced to judgment.

10. Collection Notices. The Association may send delinquency notices to Owners. The Association may refer an account that is at least 100 days past due to the Association's attorney or a collection agency. However, before the Association turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, the Association must send the Owner a notice of delinquency specifying:

- the total amount due, with an accounting of how the total was determined;
- whether the opportunity to enter into a payment plan exists as provided in this collection policy, and instructions for contacting the Association to enter into a payment plan, if a payment plan is available;
- the name and contact information for the individual the Owner may contact to request a copy of the Owner's ledger to verify the amount of the debt; and
- a statement that action is required to cure the delinquency and that failure to do so within 30 days may result in the Owner's delinquent account being turned over to a collection agency or an attorney, a lawsuit being filed against the Owner, the filing and foreclosure of a lien against the Owner's property, or other remedies available under Colorado law.

11. Payment Plans. An Owner may enter into a payment plan to pay off a deficiency in equal installments over a period of six months or such other period as authorized by the Board of Directors. If the Owner fails to comply with the terms of the payment plan (fails to remit payment of an agreed-upon installment, or to remain current with regular assessments as they come due during the payment plan term), the Association may pursue legal action. The Association is not obligated to negotiate a payment plan with an Owner who has previously entered into a payment plan after January 1, 2014. Further, the Association is not obligated to enter a payment plan if the Owner does not occupy the Unit and has

acquired the property as a result of a default of a security interest encumbering the Unit or foreclosure of the Association's lien. All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney. The attorney is to consult with the Association as necessary to determine if payment has been arranged or what collection procedures are appropriate.

12. Acceleration and Deceleration of Assessments. The Board reserves the right to accelerate and call due the entire unpaid annual assessment on any delinquent account. Such acceleration shall result in the entire unpaid annual assessment being due to the Association immediately. The Board also reserves the right to decelerate any accelerated assessment.

13. Certificate of Status of Assessment. The Association shall furnish to an Owner or such Owner's designee upon written request, first class postage prepaid, return receipt, to the Association's agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's property for a reasonable fee. However, if the account has been turned over to the Association's attorney, such request may be handled through the attorney.

14. Bankruptcies and Public Trustee Foreclosures. Upon receipt of any notice of a bankruptcy filing by an Owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any Unit within the Association, the manager may notify the Association's attorney of the same and turn the account over to the Association's attorney, if appropriate.

15. Use of Certified Mail/Regular Mail. Notices will be sent to the Owner's registered mailing address. Any notice of delinquency sent prior to the last letter before sending a delinquent account to an attorney or collection agency is a routine notice and may be sent by first class mail. The final letter prior to sending an account to an attorney or collection agency and subsequent demands for payment by the Association's attorney or collection agency will be sent by certified mail. The Association may, but is not required to, also send this notice by first class mail.

16. Referral of Delinquent Accounts to Attorneys. Upon referral to the Association's attorney, the attorney shall take all appropriate action to collect the accounts referred. After an account has been referred to an attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. The attorney, in consultation with the Association, is authorized to take whatever action is necessary and determined to be in the best interests of the Association, including, but not limited to:

- (a) Filing of a suit against the delinquent Owner for money judgment;

- (b) Instituting a judicial foreclosure action of the Association's lien;
- (c) Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association's interests; and
- (d) Filing a court action seeking appointment of a receiver.

17. Appointment of a Receiver. The Association may seek the appointment of a receiver if an Owner becomes delinquent in the payment of assessments pursuant to the Declaration and Colorado law. A receiver is a disinterested person, appointed by the court, who manages the rental of the property, collects the rent and disburses the rents according to the court's order. The purpose of a receivership for the Association is to obtain payment of current assessments, reduce past due assessments and prevent the waste and deterioration of the property.

18. Judicial Foreclosure. The Association may choose to foreclose on its lien in lieu of or in addition to suing an Owner for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or other circumstances that favor such action.

The Association will not commence a foreclosure action unless the balance of the assessments and charges secured by its lien (which may include late fees, fines and other charges) equals or exceeds six months of common expense assessments based on the Association's periodic budget. Prior to filing a foreclosure action, the Board will resolve by a recorded vote to authorize the filing of the foreclosure action against the particular Unit, on a specific basis.

19. Waivers. The Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association shall determine appropriate under the circumstances.

20. Communication with Owners. All communication with a delinquent Owner shall be handled through the Association's attorney once a matter has been referred to the attorney. Neither the manager nor any member of the Board of Directors shall discuss the collection of the account directly with an Owner after it has been turned over to the Association's attorney unless the attorney is present or has consented to the contact.

21. Defenses. Failure of the Association to comply with any provision in this policy shall not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this policy.

22. Definitions. Unless otherwise defined in this Resolution, initially capitalized terms defined in the Declaration shall have the same meaning as provided in the Declaration.

23. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Community.

24. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

25. Amendment. This policy may be amended from time to time by the Board of Directors.

**PRESIDENT'S
CERTIFICATION:**

The undersigned, being the President of the Independence Square Condominiums Owner's Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors of the Association on 4-08-2014, 2014 and in witness thereof, the undersigned has subscribed his/her name.

**INDEPENDENCE SQUARE CONDOMINIUMS OWNER'S
ASSOCIATION, INC.**

a Colorado non-profit corporation,

By:

Jeanna M. Larson
Print Name: Jeanna M. Larson
Its President