

THE VILLAS OF BABCOCK (SUMMERWIND) HOMEOWNERS' ASSOCIATION, INC.

ASSESSMENT COLLECTION RESOLUTION



SCANNED

The Villas of Babcock (Summerwind) (the "**Community**") is a residential community in Bexar County, Texas established pursuant to the certain Declaration of Covenants, Conditions, Easements and Restrictions for The Villas of Babcock Planned Unit Development, recorded at Volume 9549, Pages 51-52 in the Official Public Records of Bexar County, Texas, and any and all amendments thereto (the "**Declaration**"). The operation of the Community is vested in The Villas of Babcock (Summerwind) Homeowners' Association, Inc., a Texas non-profit corporation (the "**Association**"), acting through its board of directors (the "**Board**"). The Association is empowered to enforce the covenants, conditions and restrictions of the Declaration, the Bylaws and Rules, regulations, policies and procedures of the Association (collectively, the "**Documents**"), including the obligation of Owners to pay Assessments pursuant to the terms and provisions of the Declaration.

The Board hereby adopts this Assessment Collection Resolution to establish equitable policies and procedures for the collection of Assessments levied pursuant to the Declaration. Words and phrases used in this policy have the same meanings given to them by the Declaration.

**SECTION 1. DELINQUENCIES, LATE CHARGES & INTEREST**

- 1.A Due Date. An Owner will timely and fully pay Regular Assessments and Special Assessments. Regular Assessments are assessed annually and are due and payable on the first calendar day of the month at the beginning of the fiscal year, or in such other manner as the Board may designate in its sole and absolute discretion. If any Assessment is not paid within thirty (30) days after the date of delinquency, the Assessment shall bear a late fee of \$30.00.
- 1.B Delinquent. Any Assessment that is not fully paid when due is delinquent. When the account of an Owner becomes delinquent, it remains delinquent until paid in full including collection costs, interest and cost of collection fees.
- 1.C Cost of Collection Fees & Interest. If any such Assessment is not paid within thirty (30) days after the date of delinquency, the Assessment shall bear interest from the date of delinquency (with no notice required to be given), until paid, at the rate of ten percent (10%) per annum or the maximum rate allowed by law, whichever is the lesser.
- 1.D Liability for Collection Costs. The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, court costs, filing fees, and other reasonable costs and attorney's fees incurred by the Association in collecting the delinquency.
- 1.E Insufficient Funds. The Association may levy a charge of \$25 for any check returned to the Association marked "not sufficient funds" or the equivalent.
- 1.F Wavier. Properly levied collection costs, cost of collection fees and interest may only be waived by a majority of the Board. Because of the potential for

inadvertently affecting a waiver of the policies contained in this policy, the Board will exercise caution in granting adjustment to an Owner's account.

## **SECTION 2. INSTALLMENTS & ACCELERATION**

- 2.A If an Assessment, other than a Regular Assessment, is payable in installments, and if an Owner defaults in the payment of any installment, the Association may declare the entire Assessment in default and accelerate the due date on all remaining installments of that Assessment. An Assessment, other than a Regular Assessment, payable in installments may be accelerated only after the Association gives the Owner at least fifteen (15) days prior notice of the default and the Association's intent to accelerate the unpaid balance if the default is not timely cured. Following acceleration of the indebtedness, the Association has no duty to reinstate the installment program upon partial payment by the Owner.

## **SECTION 3. PAYMENTS**

- 3.A Application of Payments. After the Association notifies the Owner of a delinquency and the Owner's liability for cost of collection fees or interest, any payment received by the Association may be applied in the following order, starting with the oldest charge in each category, until the category is fully paid, regardless of the amount of payment, notations on checks, and the date the obligations arose:

- 1) Collection costs and attorney fees
- 2) Fines
- 3) Reimbursable expenses
- 4) Cost of Collection Fees & interest
- 5) Delinquent Special Assessments
- 6) Delinquent Annual Assessments
- 7) Current Special Assessments
- 8) Current Annual Assessments

- 3.B Form of Payment. The Association may require that payment of delinquent Assessments be made only in the form of cash, cashier's check, or certified funds.
- 3.C Partial and Conditioned Payment. The Association may refuse to accept partial payment (i.e., less than the full amount due and payable) and payment to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the Owner's account. If the Association does not accept the payment at that time, it will promptly refund the payment to the payer. A payment that is not refunded to the payer within thirty (30) days after being deposited by the Association may be deemed accepted as to payment, but not as to words of limitation or instruction accompanying the payment. The acceptance by the Association of partial payment of delinquent Assessments does not waive the Association's right to pursue or to continue pursuing its remedies for payment in full of all outstanding obligations.
- 3.D Notice of Payment. If the Association receives full payment of the delinquency after recording a notice of lien, the Association will cause a release of notice of lien

to be publicly recorded, a copy of which will be sent to the Owner. The Association may require the Owner to prepay the cost of preparing and recording the release.

#### **SECTION 4. LIABILITY FOR COLLECTION COSTS**

- 4.A Collection Costs. The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, filing fees, and other reasonable costs and attorney's fees incurred in the collection of the delinquency.

#### **SECTION 5. COLLECTION PROCEDURES**

- 5.A Delegation of Collection Procedures. From time to time, the Association may delegate some or all of the collection procedures, as the Board in its sole discretion deems appropriate, to the Association's managing agent, an attorney, or a debt collector.
- 5.B Delinquency Notices. If the Association has not received full payment of an Assessment by the due date, the Association may send written notice of nonpayment to the defaulting Owner, by hand delivery, first class mail, and/or certified mail, stating the amount delinquent. The Association's delinquency-related correspondence may state that if full payment is not timely received, the Association may pursue any or all of the Association's remedies, at the sole cost and expense of the defaulting Owner.
- 5.C Verification of Owner Information. The Association may obtain a title report to determine the names of the Owners and the identity of other lienholders, including the mortgage company.
- 5.D Collection Agency. The Board may employ or assign the debt to one or more collection agencies.
- 5.E Notification of Mortgage Lender. The Association may notify the mortgage lender of the default obligations.
- 5.F Notification of Credit Bureau. The Association may report the defaulting Owner to one or more credit reporting services.
- 5.G Collection by Attorney. If the Owner's account remains delinquent for a period of ninety (90) days, the Association shall refer the delinquent account to the Association's attorney for collection. In the event an account is referred to the Association's attorney, the Owner will be liable to the Association for its legal fees and expenses. Upon referral of a delinquent account to the Association's attorney, the Association's attorney will provide the following notices and take the following actions unless otherwise directed by the Board:
- 1) Initial Notice: Preparation of the Initial Notice of Demand for Payment Letter. If the account is not paid in full within 30 days (unless such notice has previously been provided by the Association), then
  - 2) First Notice: Preparation of the Notice of Demand for Payment Letter. If the account is not paid in full within 30 days, then

- 3) Lien Notice: Preparation of the Lien Notice of Demand for Payment Letter and record a Notice of Unpaid Assessment Lien. If the account is not paid in full within 30 days, then
- 4) Final Notice: Preparation of the Final Notice of Demand for Payment Letter and Intent to Foreclose. If the account is not paid in full within 30 days, then
- 5) Notice of Intent to Foreclose Notice to Lender: Preparation of Notice of Intent to Foreclose Letter to owner's Lender. If account not paid in full within 30 days, then
- 6) Foreclosure of Lien: Only upon specific approval by a majority of the Board.

**AFTER 5.G 5). OWNERS ARE SUBJECT TO THE DE-ACTIVATION PROCESS AS PROVIDED IN THE TRANSPONDER ISSUANCE RESOLUTION, ATTACHED HERETO AS EXHIBIT "A".**

- 5.H Payment Plan: Unless otherwise directed by the Board, the Association's attorney is authorized to enter into a payment plan with the Owner for duration of up to six (6) months.
- 5.I Notice of Lien. The Association's attorney may cause a notice of the Association's Assessment lien against the Owner's home to be publicly recorded. In the event, a copy of the notice will be sent to the defaulting Owner, and may also be sent to the Owner's mortgagee.
- 5.J Cancellation of Debt. If the Board deems the debt to be uncollectible, the Board may elect to cancel the debt on the books of the Association, in which case the Association may report the full amount of the forgiven indebtedness to the Internal Revenue Service as income to the defaulting Owner.
- 5.K Suspension of Voting Rights. If permitted by the Documents and applicable law, the Board may suspend the voting rights of an Owner whose account with the Association is delinquent for at least 20 days.
- 5.L Suspension of Use of Certain Facilities or Services. If permitted by the Documents and applicable law, the Board suspends the use of the Common Area amenities by an Owner or his tenant, whose account with the Association is delinquent for at least thirty (30) days.

**SECTION 6. GENERAL PROVISIONS**

- 6.A Independent Judgment. Notwithstanding the contents of this detailed resolution, the officers, directors, manager, and attorney of the Association will exercise their independent, collective, and respective judgment in applying this resolution.
- 6.B Other Rights. This resolution is in addition to and does not detract from the rights of the Association to collect Assessment under the Association's Documents and the laws of the State of Texas.

- 6.C Limitation of Interest. The Association and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Documents or any other document or agreement executed or made in connection with this resolution, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid Special Assessments and Regular Assessments, or reimbursed to the Owner if those Assessments are paid in full.
- 6.D Notices. Unless the Documents, applicable law, or this resolution provide otherwise, any notice or other written communication given to an Owner pursuant to this resolution will be deemed delivered to the Owner upon depositing same with the U.S. Postal Service, addressed to the Owner at the most recent address shown on the Association's records or on personal delivery to the Owner. If the Association's records show that an Owner's property is owned by two (2) or more persons, notice to one Co-Owner is deemed notice to all Co-Owners. Similarly, notice to one resident is deemed notice to all residents. Written communications to the Association, pursuant to this resolution, will be deemed given on actual receipt by the Association's president, secretary, managing agent, or attorney.
- 6.E Amendment of Resolution. The Board may amend this resolution from time to time.

Motion to adopt this Assessment Collection Resolution was made, seconded and approved by the majority vote during The Villas of Babcock (Summerwind) Homeowners' Association, Inc. Board Meeting dated October 5<sup>th</sup>, 2014 (See Minutes).

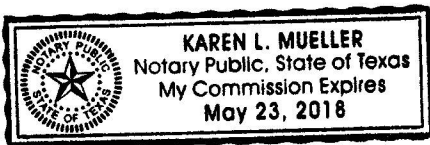
  
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 Melissa Martinez-Carrasco, President

10/20/2014  
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 Date

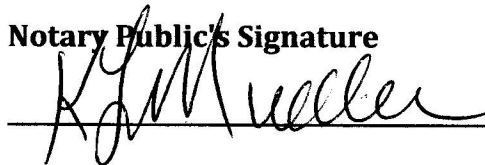
State of Texas, County of Bexar

This instrument was acknowledged before me on the 20<sup>th</sup> day of October, 2014 by Melissa Martinez-Carrasco of The Villas of Babcock (Summerwind) Homeowners' Association, Inc., a Texas Non-Profit corporation, on behalf of said corporation.

(Personalized Seal)



Notary Public's Signature

  
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Any provision herein which restricts the sale, or use of the described real property because of race is invalid and unenforceable under Federal law STATE OF TEXAS, COUNTY OF BEXAR  
 I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Real Property of Bexar County, Texas on:

Doc# 20140184480 Fees: \$42.00  
 10/24/2014 3:35PM # Pages 5  
 Filed & Recorded in the Official  
 Public Records of BEXAR COUNTY  
 GERARD C. RICKHOFF COUNTY CLERK

OCT 24 2014



  
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 COUNTY CLERK BEXAR COUNTY, TEXAS