

RIVER DISTRICT SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

Resolution #2 of the Board of Directors Regarding

COLLECTION OF UNPAID CHARGES

I. DEFINED TERMS

- A. **Assessments**, as used in this Resolution, include all amounts validly assessed against a Lot or Unit pursuant to the Governing Documents.
- B. **Association** is River District HOA Inc., a nonprofit corporation organized under the laws of the State of Idaho
- C. **Attorney** refers to the lawyer or law firm representing the Association, at present Vial Fotheringham, LLP
- D. **Board** refers to the Board of Directors of the Association, duly elected pursuant to the Governing Documents.
- E. **Bylaws** refer to the properly adopted bylaws of the Association.
- F. **Declaration** is *the Declaration of Covenants, Conditions and Restrictions for River District Subdivision*, recorded in the records of Ada County, State of Idaho.
- G. **Governing Documents** include the Declaration, Bylaws, Rules, and Regulations, any Board Resolution, otherwise adopted statements of corporate governance or intent.
- H. **Owner** refers to the owner or owners, in law or equity, of any property included in the Declaration, including particularly any owners recorded on title in the records of Ada County, State of Idaho.
- I. **Property** refers to the individually-owned units or lots subject to the Declaration.

II. LEGAL AUTHORITY

- A. **Rule Enforcement.** The Association is authorized by Article III Section 3.3, 9.5 of the Declaration to adopt rules and regulations.
- B. **Assessment Collection.** Pursuant to Article IX 9.5 B.1, the Association can assess each Property and collect those assessments.
- C. **Penalties.** Pursuant to Article IX, Section 9.1A and 9.1B of the Declaration, the Association can assess interest and late fees for late payments of assessed fees
- D. **Continuing Lien.** Pursuant to Article IX, Section 9.6 of the Declaration all assessments, together with interest, attorney fees and costs of collection shall be a continuing lien upon each Property so assessed. Attorney is hereby explicitly authorized to record a notice of said lien on behalf of the Association, and record this Resolution if needed.
- E. **Foreclosure.** Pursuant to Article IX, Section 9.6, of the Declaration, the Board may opt to foreclose its lien on a Property.
- F. **Legal Action.** Pursuant to Article IX, Section 9.3 D 9.5 of the Declaration, the Board may opt to bring a legal action against the Owner for unpaid assessments.
- G. **Legal Fees.** Pursuant to Article IX, Section 9.3 D, of the Declaration, the delinquent owner shall be obligated to pay reasonable fees and costs, including attorney fees, incurred in collecting

delinquent and unpaid assessments, regardless of whether foreclosure or legal action is commenced.

III. ASSESSMENTS AND PENALTIES

- A. **Due Date.** Assessments shall be due and payable monthly in advance on the first day of each month unless some other due date is established by the Board.
- B. **Interest.** Late assessments shall accrue interest at the rate of 2% per month, starting on the due date, plus 25% of all costs incurred to collect.
- C. **Late Fee.** Any assessment that is not paid in full within ten (10) days of the due date is levied a late fee of \$25.00 per each week (or portion thereof) that the payment is late. Late assessments shall accrue interest at the rate of 2% per month and 24% per annum, starting on the due date.

IV. COLLECTION PROCESS

- A. **Uniform.** Each assessment shall be collected promptly and in a uniform manner.
- B. **Notice.** If any assessment remains unpaid by an Owner for more than thirty (30) days from the due date for its payment, the Board (or its manager) shall send a notice to the Owner indicating the amount due, including notice of any late fees and interest, and demand immediate payment. See Exhibit "A" attached hereto for an example notice.
- C. **Turnover.** If any assessment remains unpaid by the Owner for more than sixty (60) days from the dues date, and shall be greater than \$100 or include balances more than one year old, the Board shall turn over collection to the Attorney.
- D. **Attorney Demand.** The Attorney shall: (a) send written demand for payment and any notice as required by the Federal Fair Debt Collection Practices Act, if applicable; (b) prepare and record a lien against the Owner's unit in the name of the Association; (c) notify the Owner within five (5) days of recording that the lien has been recorded; and (d) may notify any first mortgage or trust deed holder of the Owner's default, if applicable. The lien amount shall include all collection costs to date, including attorney's fees and the cost of preparing and 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. The Attorney may also charge the Owner a reasonable fee to draft and record a lien release upon satisfaction of the amount owed.
- E. **Ten Day Warning.** 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 full payment is not received within ten (10) days of the date of the letter the Association intends to file suit to either obtain a money judgement or foreclose on the lien. The demand shall include the updated amount owing, including all collection costs to date.
- F. **Lawsuit of Foreclosure.** If any assessment remains unpaid by the Owner ten (10) days after the Attorney's ten-day demand letter or notice of intent to file suit, the Attorney shall file suit for a money judgement, unless the Board, after recommendation by Attorney, determines that lien foreclosure is advisable under the circumstances. In such cases, the Attorney may file a lawsuit


for a money judgement, for foreclosure, or for both a money judgement and foreclosure, as permitted by applicable law.

- G. **Post-Judgement Collection.** If the Association is successful in obtaining a money judgement, Attorney shall collect on the judgement in this order, unless Attorney determines other actions or another order of collection is appropriate under the circumstances: (a) file and send a ten (10) day demand to pay judgement; (b) garnish accounts, wages, and 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 judgement 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.
- H. **Costs Assessed.** All legal fees and costs incurred in the collection of the account are hereby assessed against the delinquent Owner and Property, to be due and payable at the time they are charged by Attorney.
- I. **Attorney Communication.** After and Owner has been turned over to the Attorney, all contacts and contracts with the delinquent Owner regarding late assessments shall be through Attorney. Neither the Board, nor any of its agents, shall discuss the collection of assessments directly with the Owner after turnover to the Attorney, unless the Attorney is present or has consented to the contact and contract.
- J. **Payment Plans.** Attorney shall have the discretion to enter into an installment payment plan with a delinquent Owner in appropriate circumstances. Any payment plan providing for a duration in excess of twelve (12) months shall require approval of the Board president or the Board's manager.
- K. **Post-Turnover Payments.** Attorney, in its initial demand notice, shall communicate to Owner that the account has been turned over to it for collection, and that all Association payments are to be made to Attorney until the account has been brought current. The Association hereby grants to Attorney its limited power of attorney to endorse for deposit checks made payable to the Association (or its agent management company, if any) in satisfaction of accounts sent to Attorney for collection. Attorney shall deposit all payments in its trust account. All amounts collected shall be disbursed by Attorney according to the provisions of the Association and Attorney representation agreement. The Association further directs its manager or accountant, if any, to forward any payments received from an Owner following turnover directly to the Attorney until the balance is paid in full.
- L. **Additional Remedies.** Nothing in the 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.
- M. **Notice To Owners.** A copy of this Resolution shall be mailed or hand-delivered to each Owner prior to the turnover of any Owner's account to the Attorney.

This resolution of the River District HOA Board has been passed on November 7th, 2017 by vote of the Board members.



Todd Rowley
President



Linda Stewart
Secretary

EXHIBIT "A"

SAMPLE DEMAND LETTER FOR BOARD OF DIRECTORS

November 1, 2016

John Doe
1234 Lone Shore
Eagle, ID 83616

RE: NOTICE OF UNPAID ASSESSMENTS
RIVER DISTRICT SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

Dear Mr. Doe:

The records of River District Subdivision Homeowners Association, Inc. 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. If payment is not made in full in 30 days, your account will be sent to Vial Fotheringham LLP and a lien will be placed on your property.

You are hereby given notice that if your balance remains unpaid at the expiration of the 30 days, **all charges associated with collecting on your account as outlines in the resolution, which will be sent out to you**, are imposed against you and your property.

The Board hereby encourages you to avoid any additional costs and fees. If you need assistance in the form of a payment plan contact the above contact before the 30 days expires.

Your prompt payment of the balance due is appreciated.

Sincerely,

Jane Smith
President, HOA Board