

RIVER DISTRICT SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

Resolution #3 of the Board of Directors Regarding CC&R ENFORCEMENT

I. DEFINED TERMS

- A. **Remedies** is the means with which the HOA shall exercise its right to enforce the CC&R guidelines.
- 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 Brian Webb
- 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. **Homeowner** refers to the Homeowner or Homeowners, in law or equity, of any property included in the Declaration, including particularly any Homeowners 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 enforce the rules and regulations set forth in the *Declaration of Covenants, Conditions and Restrictions for River District Subdivision*.
- B. **Limited Assessment.** Pursuant to Article IX, Section 9.3A and 9.3B of the Declaration, the Association can levy a Limited Assessment to reimburse the Association for the cost of such maintenance and repair required to bring a property into compliance, together with any other cost or expenses, including management fees and attorney fees, arising out of or incident to such maintenance and repair or the collection of the Assessment therefore.
- C. **Assessment Collection.** Pursuant to Article IX 9.5 B.1, the Association can assess each Property and collect those assessments.
- D. **Monetary Penalties.** Pursuant to Article XI, Section 11.2D and Article IX, Section 9.1A and 9.1B of the Declaration, the Board can assess monetary penalties as a compliance measure, assess interest and late fees for late payments of assessed fees and pursue any legal measures at their disposal to enforce compliance and payments.
- E. **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.
- F. **Foreclosure.** Pursuant to Article IX, Section 9.6, of the Declaration, the Board may opt to foreclose its lien on a Property.

- G. **Legal Action.** Pursuant to Article IX, Section 93.3 D 9.5 of the Declaration, the Board may opt to bring a legal action against the Homeowner for unpaid assessments.
- H. **Legal Fees.** Pursuant to Article XI, Sections 11.2, of the Declaration, the delinquent Homeowner 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. VIOLATIONS AND REMEDIES

- A. **Notice.** A covenant infraction letter will be hand delivered to the property or sent via regular first-class mail. The Homeowner will have seven (7) calendar days to correct the situation or contact the EPM office to arrange for an acceptable timeframe and plan to remedy the violation. If no attempt at correction is made within the seven (7) day period, a second notice will be issued with three (3) calendar days to correct the situation, if not corrected within the three (3) day period, the matter will be turned over to an attorney for legal recourse.
- B. **Extension.** An extension request can be made with the submission of your correction plan and timeline through EPM. Following review of the Board, if approved, you may be granted additional time to complete the correction.
- C. **Legal Action.** If no attempt at correction is made within the seven (7) days from the date of the original notice, the matter will be turned over to an attorney who will issue a second violation infraction notice. The Homeowner's account will be charged for any service fees relating to the notices, legal fees or any entity related to such enforcements.
- D. **Monetary Penalties.** The Board reserves their right to utilize Monetary Penalties, as opposed to Corrective Maintenance, for compliance enforcement efforts. In addition to the right to enforce the CC&Rs by any proceedings at law or in equity, the Board shall be entitled to impose a Monetary Penalty, in the sum of \$100.00 per day, against an owner who has caused or permitted a violation of the CC&Rs provided that the owner is given fifteen (15) days written notice of the proposed penalty and a timely opportunity to be heard on the matter. In order to be compliant with Idaho Statute 1310 effective July 1, 2014, the Association will give thirty (30) days written certified mail notification of a hearing to review penalty compliance actions. Any Monetary Penalty imposed as provided herein shall become a part of the assessment to which such Owner's Lot is subject. Each Homeowner against whom a Limited Assessment is levied agrees to and shall pay all the costs of said corrective action, plus interest on all expended funds, from the date of expenditure at the rate of two percent (2%) per month plus a management fee equal to twenty five percent (25%) of all the costs expended for the corrective action and all attorney fees incurred, which such amounts shall be added to and become a part of the Limited Assessment against that Lot, and Homeowner and shall create a lien enforceable in the same manner as other Assessments set forth the Declaration.
- E. **Repeat Offense.** The resolution period will be reduced to one (1) day for repeat offences by the same Homeowner regardless of which property owned by the offender the infraction(s) occur on. The intent being that Homeowners are responsible for notifying their representatives of the regulations and monitoring onsite activity so that the Board is not continually addressing the same concerns with specific Homeowners.
- F. **Contest.** If you contest a proposed corrective maintenance or monetary penalty action, you must notify EPM within five (5) calendar days of notice of the impending action. Notification must include reasoning for contesting the Board action.

- G. **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 notification shall be issued promptly and in a uniform manner.
- B. **Notice.** If any assessments remain unpaid by an Homeowner for more than thirty (30) days from the due date for its payment, the Board (or its manager) shall send a notice to the Homeowner 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 Homeowner 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 Homeowner's unit in the name of the Association; (c) notify the Homeowner 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 Homeowner'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 Homeowner of the Homeowner'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 Homeowner 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 Homeowner thirty (30) days after the date of Attorney's demand, Attorney shall send Homeowner a ten (10) day demand letter for payment notifying the Homeowner 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 Homeowner 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 Homeowner and Property, to be due and payable at the time they are charged by Attorney.
- I. **Attorney Communication.** After and Homeowner has been turned over to the Attorney, all contacts and contracts with the delinquent Homeowner regarding late assessments shall be through Attorney. Neither the Board, nor any of its agents, shall discuss the collection of assessments directly with the Homeowner 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 Homeowner 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 Homeowner 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 Homeowner 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 Homeowners and, after giving notice and an opportunity to be heard, terminate the rights of any Homeowners to receive such benefits or services until the correction of any violation covered by such rule has occurred.
- M. **Notice To Homeowners.** A copy of this Resolution shall be mailed or hand-delivered to each Homeowner prior to the turnover of any Homeowner'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 Rowey
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 COVENANT VIOLATION
RIVER DISTRICT SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

Dear Mr. Doe:

It is the obligation of the Board of Directors to ensure that each Homeowner in our Community is adhering to the Declaration of Covenants, Conditions and Restrictions (CCR's) set forth in our Documents. Our Community is striving to continue to be a beautiful place in which to reside harmoniously with our neighbors. We are all bound to conform to the Articles of our Covenants.

We believe that you are good neighbors and would not knowingly violate our CCR's. Please be advised that the following Covenant Violation exists:

**** COVENANT VIOLATION****

The Violation falls under **Article X, Section Y**

"Quote."

This Violation must be remedied within seven (7) calendar from the date of this notification. The Board hereby encourages you to avoid any additional costs and fees. Any and all charges associated with the enforcement of the CC&Rs will be assessed against you and your property.

Sincerely,

Jane Smith
President, HOA Board