

ABIQUA HEIGHTS HOMEOWNERS ASSOCIATION

Resolution of The Board of Directors

Rule 09-01

COLLECTION OF UNPAID CHARGES

WHEREAS, "Declaration" is the *Declaration of Covenants, Conditions and Restrictions of Abiqua Heights, Subdivision*, "Bylaws" is *Bylaws of Abiqua Heights Homeowners Association, Inc.*, "Act" is the Oregon Planned Community Act, Oregon Revised Statutes, Chapter 94 and "Association" is *Abiqua Heights Homeowners Association*;

WHEREAS, "assessments," as used in this Resolution, includes all amounts validly assessed against a Lot or Unit Owner ("Owner") pursuant to the Declaration, the Association's Bylaws, Rules and Regulations, and any Board of Directors ("Board") Resolution, including, but not limited to, common expenses, interest, fees, fines, attorney fees and all collection costs;

WHEREAS, Article V, Section 24 of the Declaration and Article V, Section 2(a) of the Bylaws allow the Association to adopt rules and enforce compliance with the Declaration, Bylaws, and administrative rules and regulations;

WHEREAS, Article XII, Section 2 of the Declaration authorizes the Board to enforce provisions of the Declaration, Bylaws and Rules and Regulations, including action to collect unpaid assessments;

WHEREAS, Article XII, Section 4 of the Declaration authorizes the Board to establish late charges and fines;

WHEREAS, Article XI, Section 1 of the Declaration provides that all assessments, together with interest, attorney fees and costs of collection shall be a continuing lien upon the unit against which each such assessment is made;

WHEREAS, Article XII, Section 5 of the Declaration authorizes the Board, on behalf of the Association, to bring suit to foreclose the lien against the unit and Article XII, Section 7 of the Declaration authorizes the Board to bring an action to obtain a money judgment against an Owner for damages and for unpaid assessments;

WHEREAS, Article XII, Section 8 of the Declaration provide that Owners shall be obligated to pay reasonable fees and costs, including, but not limited to, attorney fees incurred in connection with efforts to collect delinquent and unpaid assessments, regardless of whether suit or action is commenced, and to enforce the provisions of the Declaration, Bylaws, rules and regulations or the Act;

WHEREAS, assessments are currently due and payable yearly in advance on the first of each calendar year;

WHEREAS, from time to time Owners become delinquent in the payments of their assessments and fail to respond to the demands from the Board to bring their accounts current, and it is imperative assessment payments are timely received;

WHEREAS, pursuant to Article XII, Section 4 of the Declaration, interest at a rate of 12% shall accrue on all unpaid charges;

WHEREAS, pursuant to Article XII, Section 4 of the Declaration and ORS 94.630(1)(n), a late charge may be charged for each delinquent assessment in an amount established by resolution of the Board;

WHEREAS, the Board deems it in the Association's best interest to adopt a uniform and systematic procedure for the collection of unpaid assessments in a timely manner, and further believes it to be in the Association's best interest to refer these accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue.

NOW, THEREFORE, IT IS RESOLVED, that the following steps be adopted to provide for the uniform and systematic procedure for the collection of unpaid assessments:

1. All assessments shall accrue interest at the rate of 12% per annum from the date such assessment is first due.

2. There is hereby levied a late fee against any assessment account for any assessment which is not paid in full within sixty (60) days of the date such assessment is due; and such late fee shall be forty dollars (\$40.00) per month for each month of the unpaid annual assessment; (Rule 07-01 revised November 12, 2009)

3. If any assessment remains unpaid by an Owner for more than thirty (30) days from the due date for its payment, the Board shall send a notice to the Owner indicating the amount due, including notice of the late fees and interest, and demand for immediate payment thereof. *See* Exhibit "A" attached hereto.

4. If any assessment remains unpaid by the Owner for more than sixty (60) days from the due date for its payment, the Board shall turn over collection to the Association's attorney ("Attorney"), who shall: (a) send a 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; (c) notify the Owner within twenty (20) 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.

5. 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 judgment or foreclose on the lien. The demand shall include the updated amount owing, including all collection costs to date.

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

7. If the Association is successful in obtaining a money judgment, Attorney shall collect on the judgment 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 judgment; (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 judgment 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.

NOW, BE IT FURTHER RESOLVED, that all legal fees and costs incurred in the collection of a delinquent account shall be assessed against the delinquent Owner and shall be collected as an assessment as provided in the Bylaws, the Declaration, and the Act.

NOW, BE IT FURTHER RESOLVED, that all contacts and contracts with the delinquent Owner shall be through Attorney. Neither the Board, nor any of its agents, shall discuss the collection of the account directly with the Owner after it has been turned over to Attorney, unless one of the Attorneys is present or has consented to the contact and contract.

NOW, BE IT FURTHER RESOLVED, that Attorney shall have the discretion to enter into an installment payment plan with a delinquent Owner in appropriate circumstances. In all cases in which a lawsuit has been filed, any such plan must be secured by a Stipulated Judgment. Any payment plan providing for a down payment of less than the greater of one-third (1/3) of the delinquent balance or twice the current assessment, or a duration in excess of twelve (12) months shall require approval of the Board president.

NOW, BE IT FURTHER RESOLVED, that Attorney, in its initial demand notice, shall communicate to Owner that the account has been turned over to it for collection, and that all 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.

EXHIBIT "A"

**SAMPLE DEMAND LETTER TO BE SENT BY BOARD OF DIRECTORS ONCE
ASSESSMENTS ARE 30 DAYS PAST DUE**

July 13, 2009

John Doe
111 S.W. 11th Avenue
Silverton, OR 97381

RE: NOTICE OF UNPAID ASSESSMENTS

Dear Mr. Doe:

The records of Abiqua Heights Homeowners Association 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.

Your prompt payment of the balance due is appreciated.

Sincerely,

Jane Smith
Resolution Signor Title:, Board of Directors