

Resolution #18 Establishing a Standard Foreclosure Policy for the
Collection of Delinquent Common Fee Assessments

I. Statement of Facts

- A. For the proper operation of the community, the Association must collect all sums due from the unit owners in a timely manner.
- B. The Association has authority under the Connecticut Common Interest Ownership Act (“Act”) to collect the sums owed to it and, if necessary, to foreclose its statutory lien on delinquent units.
- C. The Association wishes to adopt a standard for commencing foreclosures.

II. Statement of Authority

- A. The documents of the Association and Subsection 47-244(a) of the Act give the board the power to collect sums owed from unit owners.
- B. Section 47-258 of the Act permits the Association to bring foreclosure actions against units to collect unpaid common charges, together with the Association’s attorneys’ fees and costs.
- C. Subsection 47-258(m) of the Act provides that an Association may not commence an action to foreclose its statutory lien on a unit unless: (1) the unit owner, at the time the action is commenced, owes a sum equal to at least two months of common charges; (2) the Association has made a demand for payment in a record; and (3) the executive board has either voted to commence a foreclosure action specifically against that unit or has adopted a standard policy that provides for foreclosure against that unit.
- D. Additionally, Subsection 47-258(m) of the Act requires an Association to provide a written notice by first class mail to the holders of first and second mortgages on the unit not less than sixty days before beginning an action to foreclose its statutory lien on the unit. The notice must include:
 - 1. The amount of unpaid common expense assessments owed to the Association as of the date of the notice;
 - 2. The amount of any attorney’s fees and costs incurred by the Association in the enforcement of its lien as of the date of the notice;
 - 3. A statement of the Association’s intention to foreclose its lien if the amounts of delinquent common expense assessments, attorney’s fees, and costs are not paid to the Association not later than sixty days after the date on which the notice is provided;
 - 4. The Association’s contact information, including, without limitation, the name of the individual acting on behalf of the Association with respect to

the collection and the Association's mailing address, telephone number, and electronic mail address, if any; and

5. Instructions concerning the acceptable means of making payment on the amounts owing to the Association as included in the notice.

- E. The Connecticut Supreme Court has held that a standard foreclosure policy is a rule, and can be adopted only after giving all owners notice of and an opportunity to comment on the proposed policy pursuant to Subsections 47-261b(a) and (b) of the Act.

III. Resolution

WHEREAS, under the Declaration, Article XXV, Section 25.2, the Executive Board is empowered to administer to the affairs of the Association and to adopt and amend Bylaws, Rules and Regulations; and

WHEREAS the Executive Board is empowered to collect assessments for common expenses from unit owners; and

WHEREAS the Executive Board is empowered to impose charges or interest or both for late payment of assessments; and

WHEREAS the Executive Board desires to adopt a uniform, non-discriminating, and systematic procedure to collect assessments and other charges of the Association; and

WHEREAS the Executive Board desires to adopt a standard, uniform, non-discriminating foreclosure policy.

NOW THEREFORE IT IS RESOLVED that the rules of the Association are hereby amended to add the following standard foreclosure policy:

- A. Before sending a delinquent account to its attorneys, the Association shall send, via electronic and/or 1st Class mail, to the unit owner at least one written demand for the amounts owed. The final demand shall include the following paragraphs:

Connecticut law now requires Associations to send notice to the holders of any first or second mortgages on a unit at the same time they send the final demand to the unit owner. This final demand is sent by our attorneys, who now must order and review a title search and if the title search indicates that there are mortgages on the unit, to prepare a notice to the mortgage holder or holders at the same time they send a demand letter to the unit owner.

As of the date of this notice, the cost of a title search and obtaining copies of recorded documents is typically about \$225, and the attorney's fees for reviewing the title and preparing the demand letter and notices is typically

about \$550, for a total of approximately \$775. The actual amount may be higher. The Association is entitled to collect these fees and costs in addition to the common charges and other fees you owe.

Additionally, the Association's manager may charge the Association a legal turnover charge, which the Association will include as an additional late charge that will increase your balance.

If you do not make arrangements to bring your account current now, these fees and cost will be included in the demand letter you receive from our attorneys.

The attorney's fees and costs in the preceding paragraphs shall be adjusted from time to time to reflect the fees and costs currently being charged to the Association.

- B. At the time that the Association sends a delinquent account to its attorneys for collection, the Association shall block the application of any payments by the unit owner or others on the account by any means, including, by way of example, cash, checks, wires, EFTs, and payments mailed to a lockbox, and the Association shall forward any payments to its attorneys or, in the alternative, consult with its attorneys before applying any payments to the account.
- C. Once the Association sends the account to its attorneys, the attorneys are instructed to obtain information concerning first and second mortgages on the unit from the land records of the towns in which the common interest community is located or from the complaint in a pending mortgage foreclosure action.
- D. The attorneys are further instructed simultaneously to make a written demand for payment on the unit owner and to give notice to the holders of first and second mortgages on the unit of the Association's intention, or their attorneys if an action to foreclose their mortgages is pending, to foreclose the Association's statutory lien on the unit.
- E. The attorneys are authorized to commence a foreclosure against the unit owner, mortgage holders, and lien holders with no further action by the executive board if:
 - 1. At least 30 days have passed since the attorneys made written demand on the unit owner, or if the unit is subject to any mortgages, at least 60 days have passed since the attorneys made written demand on the unit owner and gave notice to the first and second mortgage holders; and
 - 2. The unit owner continues to owe the Association a sum equal to or greater than two months' common charges, the oldest part of which sum is at least 60 days past due; and

3. The unit owner has not agreed to and is following a repayment plan that will bring his or her account, including applicable attorney's fees and costs, entirely current in six or fewer monthly payments.

The policies and practices outlined herein shall remain in effect until such time as they may be changed, modified, or amended by a duly adopted resolution of the Executive Board. A copy of this policy shall be provided to all Unit Owners.

Effective on August 16, 2016.

Adopted by vote of the Executive Board on August 16, 2016.

President, Carol Ann Manzella

Secretary, Diane Gerber