

GREAT OAK SQUARE HOMEOWNERS' ASSOCIATION, INC.

POLICY RESOLUTION NO. 2016-03-COLL

Collection of Routine and Delinquent Assessments and Collection Process

WHEREAS, Article VII, Section 1(c) of the Bylaws of Great Oaks Square Homeowners Association, Inc. provides that the Board of Directors may exercise all the powers of the Association, except as are reserved to the Members; and,

WHEREAS, Article VII, Section 1(a) of the Bylaws provides that the Board of Directors may make such rules and regulations consistent with the terms of this Declaration and the Association's Articles of Incorporation and Bylaws as it deems advisable and,

WHEREAS, the Bylaws at Article VII, Section 1(a) authorize the Board of Directors to adopt penalties for violations of the Governing Documents; and

WHEREAS, the Declaration of Article V, Section 1 (d) authorize the Board of Directors to suspend and temporarily revoke a Member's voting rights and the right of any Owner or resident to use all or any portion of the Community Facilities for a violation of the Declaration or an infraction of the Governing Documents for a period of up to 60 days or the cure of the violations; and

WHEREAS, the Section 55-513 of the Property Owners Association Act (POA Act), as amended, authorize the Board of Directors to suspend services provided by the Association to Owners determined by the Board of Directors to be in violation of the Association's Governing Documents as long as the suspension does not endanger the health, safety and welfare of the Resident or Association after a hearing; and

WHEREAS, the Declaration at Article VI authorize the Board of Directors to levy General Annual Assessments to Owners to manage the business and responsibilities of the Association; and

WHEREAS, Article VI, Section 1 of the Declaration provides that each Owner has an obligation to pay Annual Assessments and Special Assessments are established, and interest, costs of collections, costs and reasonable attorney fees; and,

WHEREAS, Article VI, Section 8 of the Declaration states:

Section 8. Effect of Non-payment of Assessments:

Remedies of the Association. Any assessment which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight (8%) per cent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Areas or abandonment of his Lot.

WHEREAS, for the benefit and protection of all Owners and to encourage compliance by all Members, the Board deems there is a need to establish orderly procedures for the billing and collection of assessments and hearing procedures;

NOW THEREFORE, BE IT RESOLVED that the Board of Directors duly adopts the following assessment procedures, which shall supersede and replace any previously adopted policies or procedures relating to the same subject.

I. ROUTINE COLLECTIONS.

A. Assessments shall mean and refer to the General Annual Assessment, together with any Sector or Sector Special Assessment and Administrative or Special Assessments levied by the Association ("Assessments").

B. The Annual Assessment is due in full on January 1st of each fiscal year, but may be billed and paid on a monthly basis by a Member in Good Standing. If the Lot Owner elects not to pay the full assessment amount on January 1st of each fiscal year, then all monthly installments of the Annual Assessments shall be due and payable in advance on the first day of each month, and all Service and Special Assessments shall be due and payable on the date specified on the notice of assessment (hereinafter "Due Date").

C. Lot Owners may make arrangements with the Managing Agent, if any, to pay the monthly assessments through a direct debit program or other means if available.

D. All documents, correspondence, and Notices relating to the charges shall be mailed to the address which appears on the books of the Association or as modified in writing by a Lot Owner. Non-resident Lot Owners shall furnish the Board with a telephone number and an address where the Owner will promptly receive mail and notices within a reasonable time of the change. If no such address is designated, all notices shall be mailed to the lot address.

E. Non-receipt of an invoice, payment notice, payment coupon or statement shall in no way relieve a Lot Owner of the obligation to pay the amount due by the Due Date.

F. Lot Owners are deemed delinquent in the payment of assessments if any balance due exists after the thirtieth (30th) day from the Due Date.

II. REMEDIES FOR NONPAYMENT OF ASSESSMENT.

A. If any payment, including installment payments, is not received by the Board or Managing Agent, if any, by the thirtieth (30th) day from the Due Date (or the first working day thereafter if such day is a Saturday, Sunday or legal holiday) the account shall be deemed "delinquent" and thereafter be a part of the continuing lien for assessments until all sums due, including interest, late fees, legal fees, and costs, have been paid in full. The Association may charge an Owner's account any costs incurred as a cost of collection to collect the funds due the Association.

B. The unpaid monthly assessment(s) shall bear interest at a rate of eight percent (8%) per annum from the Due Date until paid in full.

C. A late fee of five percent (5%) of the monthly assessment(s) shall be added to the account on the 61st day of the assessment period as a cost of collection and thereafter be a part of the continuing lien for assessments or such other amount as the Board may determine by resolution.

D. A "**Late Notice**" may, but is not required, to be sent to Owners who have not paid their assessments in full by the thirty-first (31st) day of the month, to include a post delinquency or other statement. The late notice shall advise the Lot Owner that the following actions shall be taken if the account is not brought current within ten (10) days:

- (a) the Member will be deemed a Member Not In Good Standing after an opportunity for a hearing if a balance remains after sixty (60) days from the date the assessment was due; and

(b) A **“Hearing Notice to Suspend the Member’s Voting Rights, Access to Community Facilities, Areas and Services and Other Privileges”** will be issued and that late fees, interest and cost of collection will be added to the account.

III. SUSPENSION AND DELINQUENCY PROCEDURES.

A. Prior to the Board taking any action, other than assessing late fees and interest as permitted by the Governing Documents, against any owner in delinquency status, and in accordance with Virginia Code Section 55 - 513, a **“Hearing Notice to Suspend the Member’s Voting Rights, Access to Common Areas and Other Privileges”** (“Hearing Notice”) shall be sent to Owners who are in delinquency status (defined as Owners who have not paid in full their assessments by the Forty-fifth (45th) day from the date the assessment was due (or the first working day thereafter if such day is a Saturday, Sunday or legal holiday) or within ten (10) days of the issuance of any Late Notice,) and shall include a statement of the account or post delinquency statement.

The Hearing Notice will notify the Owner that if on the sixtieth (60) day their account is past due that the Owner is be deemed a Member Not-In-Good Standing.

The Hearing Notice will inform the Lot Owner of their rights under Virginia law and Association Governing Documents to address the change of Membership status, their right to an opportunity to correct the delinquency prior to any action by the Association and that a hearing has been scheduled to determine if the Member’s right to vote, to use Common Areas, to request approvals of Exterior House/Lot Modification applications are to be suspended. In addition the following actions may be taken if the account is not brought current by the hearing date:

1. Actions that will be taken by Association:
 - impose the five percent (5%) late fee on all unpaid monthly assessment per annum from the Due Date;
 - impose interest at a rate of eight percent (8%) per annum from the Due Date;
 - declare the entire balance of any Assessment due and payable in full;
 - declare that the full annual, service and/or special assessment for the upcoming year may also be considered due in full on January 1 of the upcoming year if the equivalent of two (2) or more assessment payments remain outstanding as of December 1 and/or if the account is in collection status;

- discontinue all ACH, auto debit payment or other payment arrangements;
- refer the account to the Association's legal counsel for collection;
- charge the Lot Owner for the fees and costs, cost of collections and reasonable legal fees incurred in collection of the debt from the Due Date;
- file and foreclose the liens against the Lot;
- file an action at law against the Owner and to garnish and levy on any assets of the Owner so to collect the assessment due after judgment;
- notify the Owner's Mortgage holder of the non-payment of assessments;
- that in any proceeding against an Owner or Lot, the amount which may be recovered by the Association shall include all costs of the proceeding, including reasonable attorneys' fees;
- all cost of notices and hearings will be assessed to the Owner's account as a cost of collection, and such costs shall include, but are not limited to, legal or administrative expenses, to include certified mail or regular mail fees, management charges, hearing charges, hearing costs and fees as costs of collection resulting from an Owner's failure to pay assessments when due (regardless of whether suits or liens are filed) or from any other default referred to in this paragraph.
- The suspension shall remain in effect until all delinquent amounts have been paid in full or as determined by the Board of Directors.

B. The "Hearing Notice" shall be sent via Certified Mail, Return Receipt Requested and regular first-class mail.

C. The Board or Managing Agent, if any, shall include in the Hearing Notice a **Hearing Response/Request for Delay Form (Form)**. The form will inform the Owner' of their right to attend the hearing in person or electronically on such date and time as indicated in the Hearing Notice at a specified time on the scheduled date to a specific telephonic number or other electronic means of communication for the hearing to be conducted telephonically or by other electronic means of communication with the Owner, on such date and time as indicated in the Hearing Notice, to address their Membership status and the actions that may occur and/or to explain any matter relative to their account. Hearings shall be scheduled to be heard telephonically or other electronic means of communication before the Board of Directors unless the Owners elected to personally appear before the Board.

The Owner must complete and return the **Form** to the Board or Managing Agent, if any, on or by the deadline indicating how they plan to participate concerning the delinquency and the actions that may occur as set forth in the Hearing Notice and if the date set for the hearing is acceptable. The Owner may request one (1) rescheduling due to their unavailability for a specified reason.

D. A Lot Owner is permitted to have their counsel, at the Lot Owner's expense, present at the hearing.

E. Upon receipt of a request for a hearing without counsel present, the Managing Agent, if any, or the Board will direct the Owner by First Class Mail letter to attend the Board of Directors by meeting at a specified time on the scheduled date for the hearing to be conducted if different from the original hearing time and date.

F The Board of Directors or applicable governing body shall, at the hearing proceeding, determine if a Member's right to vote, to use Common Areas, and to request approvals of Exterior House/Lot Modification applications should be suspended and/or what other actions shall occur until the balance due is paid in full. .

Upon the holding of any hearing, the Board or Managing Agent, if any, shall issue in writing, within seven (7) calendar days of the date of the hearing, a **Hearing Results** letter.

G. The "**Demand Notice**" with an included account statement shall be sent to Owners who have not paid their assessments in compliance with the Hearing Results letter. The cost of this Notice will be assessed to the Owner's account as a cost of collections. The Demand Notice shall include the five percent (5%) late fee of the monthly assessments due and bear interest at a rate of eight percent (8%) per annum from the Due Dates and all costs of collection, and shall inform the Lot Owner that the following actions may be taken in the event such actions were not previously taken, if the account is not brought current within ten (10) days: Annual Assessments and Special Assessments that remain outstanding may be accelerated; the full Annual and Special Assessments for the upcoming year may also be considered due in full on January 1 of the upcoming year if the equivalent of two (2) or more assessment payments remain outstanding on December 1 of the current year; the Lot Owner will be liable for the fees and costs, including legal, incurred in collection of the debt; and the actions listed in III.A (1) of this resolution including but not limited to turning the account over to Counsel.

H. Counsel for the Association is authorized to notify the Owner the account has been forwarded to Counsel's office and may record and foreclose on liens, and to file suits on behalf of the Association and take all such other actions necessary to collect all delinquent sums after issuance of the Demand Notice. Counsel for the Association shall add attorneys' fees, cost of collection and court costs to the account of the delinquent Lot Owner.

I. In accordance with the Property Owners' Association Act, as amended, and the Governing Documents, all costs incurred by the Association as a result of any violation of the Declaration, Bylaws, Rules and Regulations or Resolutions by a Lot Owner, their family, employees, guests, agents, invitees or tenants, shall be assessed against such Lot Owner as an assessment. Such costs shall include but not limited to legal or administrative expenses, to include certified mail or regular mail fees, management charges and fees as costs of collection resulting from an Owner's failure to pay assessments when due (regardless of whether suits or liens are filed) or monetary sanctions assessment after appropriate notice pursuant to ADMINISTRATIVE RESOLUTION NO. 2016 DP or from any other default referred to in this paragraph.

K. Disclosure packets, updates – Fees and costs for the preparation and issuance of the disclosure packet required by § 55-509.5, and for such other services as set out in § 55-509.5 and any other mandatory fees or charges currently imposed or incurred by the Association, together with any post-closing fee charged by the Managing Agent, if any, and associated with the purchase, disposition, and maintenance of the lot and to the right of use of common areas, and the status of the account shall be added to the account when assessed.

L. DISHONORED CHECK PAYMENT or ACH: If a check or ACH is not honored, and is returned, and an assessment due is not otherwise received in the applicable time period, the account shall be deemed delinquent and the 5% late fee and interest shall be added to the account. In addition, any bank service fees and a handling charge by the Managing Agent, if any, of Fifty Dollars (\$50.00) will be added to the Owner's account as a cost of collections. Action may also be taken under Section 55-516, and Section 8.01-27.2 et seq., of the Code of Virginia, at the discretion of the Board and in accordance with this resolution.

M. If the Association received from any Owner, in any fiscal year, two or more returned checks (e.g. checks returned for insufficient funds), rejected ACH or electronic debits for insufficient funds, for payment of any sum assessed against the Owner's account, the Board may require all future payments to be made by certified

check or money order. In addition, any handling charges by the Managing Agent, if any, will be added to the account as a cost of collections.

N. Once an account is sixty (60) days delinquent in the payment of any assessments, all ACH or auto debit payment arrangements may be discontinued.

O. For bookkeeping purposes, payments received from a Lot Owner will be credited in the following categorical order, with the oldest portion of each category below being credited before the more recent:

- a. Charges for legal fees, court costs and costs of collections.
- b. All late fees and interest.
- c. Disclosure packet and related requests
- d. Restitution
- e. All other charges incurred by the Association as a result of any violation by an Owner, his family, employees, guests, agents, invitees or lessees of any Regulations or Resolutions.
- f. General Annual Assessments for common expenses, including any Sector, or Sector Special Assessment or Administrative or Special Assessment due, as applicable.

P. The Board may grant a waiver of any provision herein upon petition in writing by an Owner alleging a personal hardship. Such relief granted an Owner shall be appropriately documented in the Association files. Such documentation shall include, without limitation, the basis for taking such action. Generally, late charge waivers will not be considered for Owners who have not mailed their assessment in sufficient time to have been received by the Due Date.

Q. The Board may waive the imposition of late fees on payments received by the Board, after the thirtieth (30th) day of the assessment period, if the delinquent Lot Owner has owned the Lot for less than three (3) months at the time of the delinquency and, in the judgment of the Board, the delinquency was the result of a misunderstanding of the correct procedures relating to payment of the assessment. Such a waiver may be granted only once to any delinquent Lot Owner.

This Resolution expressly supersedes all prior resolutions or processes for assessment collections.

EFFECTIVE: January 1, 2017

GREAT OAK SQUARE HOMEOWNERS' ASSOCIATION, INC

By: 
Stephen M. Kobyly, President

ATTEST:

I, Randolph Hill, Secretary for the Great Oaks Square Homeowners' Association, Inc., hereby attest that the foregoing Policy Resolution No. 2016-03-COLL was adopted at a properly held meeting of the Board of Directors on the 15th day of November, 2016.


Randolph Hill, Secretary

CERTIFICATION OF DISTRIBUTION
OF ADOPTED POLICY RESOLUTION

I hereby certify that a copy of the foregoing Policy Resolution No. 2016-03-COLL was

(1) mailed to all owners of record or

(2) was posted to the community website with notice of the posting by separate communication to the Members.

My certification of these acts is as of this 21st day of December, 2016.


Randolph Hill, Secretary

**GREAT OAKS SQUARE HOMEOWNERS' ASSOCIATION, INC.
RESOLUTIONS ACTION RECORD**

Resolution Type _____ Policy _____ No. 2016-03-COLL


Pertaining to: Relating to Collection of Routine and Delinquent Assessments- Revised

Duly adopted at a meeting of the Board of Directors of Great Oak Square Homeowners Association, Inc., held this 1st Day of November, 2016.

Motion by: Hill Seconded by: Florez

DIRECTOR	OFFICER TITLE	YES	NO	ABSTAIN	ABSENT
Stephen M. Kobily	President	X			
Jose Lara	Vice President	X			
Randolph Hill	Secretary	X			
Larry Hines	Treasurer				X
Nancy Brough	Director				X
Maryann Florez	Director	X			
Jennifer Henderson	Director	X			

ATTEST:


Randolph Hill, Secretary

11/1/16
Date

EFFECTIVE: Jan 1, 2017