

0023449

Prepared by:

  
ERIC D. MANN, ESQUIRE

POLICY RESOLUTION

VILLAGE OF BLUE HERON PINES HOMEOWNERS ASSOCIATION, INC.

COLLECTION POLICY

WHEREAS, the Village of Blue Heron Pines Homeowners Association, Inc. is a non-profit corporation of the State of New Jersey and is governed by a Declaration of Covenants, Conditions and Restrictions recorded in the Office of the Recording Officer of Atlantic County on August 2, 1995 in Book 5839 of Deeds, at Page 1; and

WHEREAS, Article IV, Section 1 of the By-Laws states: "The property, affairs and business of the Homeowners Association shall be managed by the Board of Trustees, which shall have all those powers granted to it by the Certificate of Incorporation, the Declaration, these By-Laws and by law"; and

WHEREAS, Article V, Section 1 of the By-Laws specifically bestows upon the Board of Trustees "all of those powers, granted to it or necessarily implied by law or by the Certificate of Incorporation, these By-Laws, or the Declaration"; and

WHEREAS, Article V, Section 1(f) provides the Board of Trustees with the specific power and authority to "adopt, amend, and publish rules and regulations covering the details of the operation and use of the proprietary common property"; and

WHEREAS, Article V, Section 1(i) bestows upon the Board of Trustees the power to "enforce obligations of the members and do

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anything and everything else necessary and proper for the sound management of the homeowners' common property"; and

WHEREAS, Article VI, Section 1 of the By-Laws bestows upon the Board of Trustees "the duty to collect from each member, except associate members, his, her, or their heirs, administrators, successors and assigns, as 'common expense assessments', the proportionate expenses assessed against such member as provided in the Declaration, the Certificate, these By-Laws, and in accordance with applicable law"; and

WHEREAS, the Board of Trustees finds it necessary in order to comply with its fiduciary duty to all members and to enforce those duties and responsibilities particularly set forth in the Declaration, the Certificate of Incorporation and these By-Laws; and

WHEREAS, the Board of Trustees finds it necessary to establish certain rules and regulations regarding the collection of Association assessments and other charges in order to protect the health, safety and welfare of all members;

NOW, THEREFORE, be it resolved on this 16th day of May, 1997 by the Board of Trustees, that the collection policy of the Village of Blue Heron Pines Homeowners Association is adopted as follows:

1. All common expense assessments are due and payable on or before the first (1st) day of each month at an address designated by management and shall be considered delinquent if received thereafter.

2. If payment is not received by the fifteenth (15th) day of the month due, the account shall be deemed late and a late charge of Twenty Five (\$25.00) Dollars will be assessed. This late charge shall automatically be added to the account and thereafter be part of the continuing lien for maintenance fees as provided for in the By-Laws until all sums due, including such late charge, shall have been paid in full. A "late notice" shall be sent to all members who have not paid common expense assessments in full within fifteen (15) days of the due date.

3. The Board of Trustees has determined that collection actions shall commence in the event that any member is delinquent in the payment of any type of assessment due and owing to the Association, which balance is past due in excess of Two Hundred (\$200.00) Dollars. At such time as any member is delinquent as provided above, the managing agent shall issue to the delinquent member a formal notice advising of the delinquency and demanding payment of same. Said notice shall indicate that the Board of Trustees may accelerate the remaining balance of that fiscal year's assessments should payment not be received by the managing agent by the time set forth in the notice, which shall not be less than five (5) days after delivery of notice to the member, nor less than ten (10) days after the mailing of such notice to him or her by registered or certified mail.

4. If payment is not received by the managing agent by the time set forth in the notice to the member, the assistance of legal counsel shall be sought and a lien shall be filed against

the delinquent member for all past due amounts, accelerated charges, counsel fees, late charges and costs.

5. If payment is made and the check is returned for nonsufficient funds, the cost of the returned check shall be assessed against the member.

6. As set forth in the By-Laws, in the event the Board finds it necessary to pursue collections through legal counsel, it may assess a late charge in the amount of ten (10%) percent of the assessment. Additionally, the delinquent assessment plus the late charge shall bear interest from the date the late charge arose at the rate of eighteen (18%) percent per year, or at the maximum rate permitted by law for delinquent real estate taxes, whichever is greater, until paid in full. In the event that the Board shall effectuate collection of said assessments or charges by resort to counsel or other legal action, the Board may add to the assessments or charges the amount of all reasonable counsel fees plus the reasonable costs for the preparation, filing and discharge of the lien, in addition to such other costs of collection as may be allowable by law. Upon receiving notice from the managing agent to proceed with legal collections, legal counsel shall take any and all actions reasonably required to collect the outstanding balances. The managing agent shall keep legal counsel advised of any payments received subsequent to the filing of the lien or other legal action, and shall also advise counsel of any and all negotiations or payment arrangements agreed to with the delinquent member.

7. Each monthly common expense assessment shall be regarded as a separate payment for the calculation of late payment fees. If a member remits timely payment of a common expense assessment for the month following that for which payment was not received, such payment will be regarded as payment for the current month, with payment for the previous month still being considered as outstanding.

8. Any and all payments received by the Association, or its managing agent, shall be applied on a member's account in the following order:

- i. first against fines;
- ii. then against late charges;
- iii. then against filing fees;
- iv. then against counsel fees;
- v. then against other charges;
- vi. then against special assessments; and
- vii. lastly, against common expense assessments.

9. Notwithstanding any of the above, the Association specifically reserves its right and may exercise all rights and remedies available to it at law, in equity and/or pursuant to the governing documents of the Association.

10. This collection policy is intended to supplement the Declaration of Covenants, Conditions and Restrictions, By-Laws, other resolutions, and rules and regulations of the Association. The provisions as set forth in this resolution shall not, nor are they intended to, supersede or invalidate any other provisions

STATE OF NEW JERSEY :  
COUNTY OF Atlantic : ss.

I CERTIFY that on May 16, 1997, Michael A. Lentz personally came before me and this person acknowledged under oath, to my satisfaction, that:

(a) this person is the Secretary of the Village of Blue Heron Pines Homeowners Association, Inc., the corporation named in the attached document;

(b) this person is the attesting witness to the signing of this document by the proper corporate officer who is Thomas J. Kuhar, the President of the corporation;

(c) this document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Trustees;

(d) this person knows the proper seal of the corporation which was affixed to this document; and

(e) this person signed this proof to attest to the truth of these facts.

Sworn to and subscribed before  
me on May 16, 1997.

*Marilyn C. Lamon*

MARLYN C. LAMON  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires October 24, 1998

*Michael A. Lentz*

Michael A. Lentz

Attesting Witness

*JK*

*Record in Books*

POLICY RESOLUTION DATED:

0023449

VILLAGE OF BLUE HERON PINES HOMEOWNERS ASSOCIATION, INC.

Record and Return to:  
SILLS CUMMIS ZUCKERMAN RADIN  
TISCHMAN EPSTEIN & GROSS  
17 Gordon's Alley  
Atlantic City, NJ 08401

ASSESSMENT OF FINES

*Record in Books*

*City of Atlantic City*

RECORDED  
ATLANTIC COUNTY  
97 JUL -1 PM 12:20  
*Michele E. Quinn*  
COUNTY CLERK

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