

Carrier Management & Real Estate Services LLC

NOTICE TO ALL HOMEOWNERS

The Colorado legislature has passed a new law that affects all HOA's. HB 13-1276 concerns collection policies on past due assessments, (including fines) and among other details, requires amendments to collection policies in ways such as entry of a payment plan in most circumstances. This law goes into effect on January 1, 2014.

Attached please find a copy of Estes Square Condominium Association's Collection Policy and Procedure that was adopted by the Board of Directors meeting on November 20, 2013. This will be effective January 1, 2014 forward.

Please keep a copy of this policy and procedure with your legal documents.

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**ESTES SQUARE CONDOMINIUM ASSOCIATION, INC.
COLLECTION POLICY AND PROCEDURE**

Adopted November 20, , 2013

The following policy and procedure has been adopted by the Estes Square Condominium Association, Inc. ("Association") pursuant to Colorado statutes, for collection of unpaid assessments. This policy and procedure supersedes and replaces any prior resolution or policy regarding collection of unpaid assessments.

1. **Due Date.** The annual assessment as determined by the Board and as allowed for in the Declaration and Colorado statutes shall be due and payable in monthly installments due on the first day of each month. Assessments or other charges not paid to the Association by the 16th day of each month shall be considered past due and delinquent.
2. **Late Charge and Interest Imposed.** If a monthly assessment is not paid by the 16th day of each month, the Board shall assess a Late Charge equal to ten percent (10%) of the current month's assessment for that month and interest at 12% per annum on the outstanding or past due balance then due the Association.
3. **Returned Check Charges.** In addition to any and all charges imposed under the Declaration, Colorado statutes, or this policy, a twenty dollar (\$20.00) fee or lesser amount deemed appropriate by the Board shall be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever. Such returned check charge shall be due and payable immediately, upon demand. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check charges shall be the obligation of the Owner of the Unit for which payment was tendered to the Association. Returned check charges shall become effective on any instrument tendered to the Association for payment of sums due under the Declaration, Colorado statutes, Rules and Regulations or this policy.
4. **Delinquency Notification.** After an assessment, or other charge due the Association, becomes at least 16 days past due, the Association, which may be performed through its managing agent, shall send a notice to the Owner who is delinquent in payment specifying:
 - a. The total amount due, with an accounting of how the total was determined;
 - b. Whether the Owner is eligible to enter into a Payment Plan as provided in Section 5 below, the minimum terms of such Payment Plan, and instructions for who to contact to enter into a Payment Plan;

- c. The name and contact information to request a copy of the Owner's ledger to verify the amount due; and
 - d. Including the following statement: "ACTION IS REQUIRED TO CURE THIS DELINQUENCY AND FAILURE TO DO SO WITHIN THIRTY (30) DAYS MAY RESULT IN YOUR DELINQUENT ACCOUNT BEING REFERRED TO THE ASSOCIATION'S ATTORNEY, A LAWSUIT BEING FILED AGAINST YOU, THE RECORDING AND FORECLOSURE OF A LIEN AGAINST THE UNIT, OR OTHER REMEDIES AVAILABLE UNDER COLORADO LAW."
5. **Payment Plans.** Prior to referring a delinquent account to the Association's attorney, the Association, which may be performed through its managing agent, must make and document a good faith effort to coordinate with the Owner of the Unit to set up a Payment Plan, unless the Owner has previously entered into a Payment Plan for this delinquency.
- a. The Payment Plan negotiated under this provision must allow the Owner to pay the delinquent amount in equal installments over at least six (6) months while remaining current with the monthly assessments during that six (6) month period.
 - b. Failure to make payment of an installment on the delinquent amount or to remain current with regular assessments as they come due during the six (6) month Payment Plan, constitutes a breach of the Payment Plan and the Association may proceed to refer the account to its attorney for collection action.
 - c. No effort to negotiate a Payment Plan is required prior to referral of a delinquent account to the Association's attorney for any Unit which is not occupied by the Owner and was acquired as a result of default of a security interest encumbering the property, such as Public Trustee foreclosure or deed in lieu of foreclosure, or foreclosure of the Association's lien.
6. **Attorney Fees on Delinquent Accounts.** As an additional expense permitted under the Declaration and Colorado statutes, the Association shall be entitled to recover its reasonable attorneys fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand, and shall be charged as an assessment against the Owner's account.
7. **Application for Payments made to the Association.** All payments received on the account of any Owner shall be applied in the following order: 1) any and all attorneys fees, legal fees and costs incurred for collection of assessments or for Owner's failure to comply with provisions of the Association's Declaration, Bylaws, Articles of Incorporation, or Rules and Regulations, including lien fees, and any collection fees charged by the

Association's managing agent; 2) fines, late charges and interest; 3) returned check charges, and other costs owing or incurred with respect to such Owner pursuant to the Declaration, Colorado statutes, Rules and Regulations, or this policy; and 4) assessments due or to become due with respect to each Owner.

8. **Appointment of a Receiver.** The Board may seek the appointment of a receiver if an Owner becomes delinquent in the payment of assessments. A receiver is a disinterested person, appointed by the court who manages the rental of the property, collects the rent and disburses the rents according to the court's order. The purpose of a receivership for the Association is to obtain payment of current assessments, reduce past due assessments, and prevent the waste and deterioration of the property.
9. **Judicial Foreclosure.** The Board may choose to foreclose on the Association's lien in lieu of or in addition to suing an Owner in county court for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful in obtaining payment, or other circumstances favor such action.
 - a. The Association may only foreclose if the balance owed and secured by its lien equals or exceeds six (6) months' of regular assessments under the Association's budget; and
 - b. The Board has authorized the filing of foreclosure against the specific Unit by a recorded vote taken by any means allowed under its Bylaws and/or Colorado statutes.
10. **Writs of Garnishment.** At any time after obtaining a money judgment against an Owner, the Association, through its attorneys, may file Writs of Garnishment with the appropriate court to attach wages or assets for the benefit of the Association in payment against its judgment.
11. **Waivers.** The Board may grant a waiver of any provision herein upon petition in writing by an Owner showing a personal hardship. Such relief granted an Owner shall be appropriately documented in the files with the name of the persons representing the Board granting the relief and the conditions of the relief as voted upon at a duly constituted meeting of the Board of Directors.
12. **Ongoing Evaluation.** Nothing in this policy shall require the Board to take specific actions at a specific time but the Board shall not take any action in less than the time stated herein for a particular action. The Board has the option and right to continue to evaluate each delinquency on a case by case basis.

**PRESIDENT'S
CERTIFICATION:**

The undersigned, being the President of the Estes Square Condominium Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing policy and procedure was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on November 20, 2013, and in witness thereof, the undersigned has subscribed his/her name.

ESTES SQUARE CONDOMINIUM ASSOCIATION, INC.,
a Colorado nonprofit corporation

By: *Sharon C. Lester*
President