



Van-Aire Skyport Corporation
P. O. Box 55
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Van-Aire Skyport Corporation Policies and Procedures for Collecting Delinquent Assessments (Effective Date: May 7, 2015)

Van-Aire Skyport Corporation, Inc., (“Van-Aire”) is a residential common interest association of owners that was organized as a non-profit corporation on January 16th, 1970. The corporation is subject to the provisions of the Third Amended By-Laws dated January 21st, 1990 (“By-Laws”), Block 1 and Block 2 Protective Covenants (“Covenants”). Van-Aire is also subject to the terms and provisions of the Colorado Common Interest Ownership Act (“CCIOA”). Under Section 209.5 of CCIOA, Van-Aire is required to adopt written policies and procedures for collecting delinquent assessments.

Under the By-Laws, the Board of Directors (the “Board”) has the delegated power to collect assessments. This power includes the right to impose interest and or late payment charges and to recover attorney fees and other legal costs of collecting and enforcing payment of delinquent assessments. Past due assessments create a statutory lien under CCIOA which automatically attaches to the affected property and which is preserved by recordation of a statement of lien. This statutory lien may be foreclosed in the same manner as any other lien or charged against real property, and the property may be sold at a foreclosure sale in order to satisfy the delinquent assessments. The By-Laws also establish that the assessment obligation is a personal obligation of the owner of the property.

THEREFORE, Van-Aire’s collection remedies include the right to institute a personal civil suit against the owner of the property in order to obtain a judgment for damages against the owner for the amount of the delinquent assessments along with late charges, interest, attorney fees and costs. This statement of policies and procedures for the collection of delinquent assessments has been adopted by the Board effective upon the date specified above.

Van-Aire must operate in a fiscally responsible manner. The ability to provide services, repairs and maintenance could be impaired without insisting on the prompt payment of all assessment obligations levied by Van-Aire. Consequently, the Board has determined that it will vigorously enforce all Van-Aire’s remedies to collect delinquent assessments. These remedies will be applied in a consistent and nondiscriminatory manner.

Standard Billing and Payment Procedures

Annual statements for the preceding year are mailed by December 1st. Quarterly installments of the annual assessments are due and payable on the first day of the first month of each quarter (January 1st, April 1st, July 1st and October 1st). As a courtesy, periodic statements of assessment obligations are either mailed or e-mailed to the members on a quarterly basis. The

payment is considered delinquent if it is not paid on the payment due date. Example: annual assessment is \$700, you have the choice of paying 100% on January 1st or quarterly payments of \$175 due on January 1st, April 1st, July 1st and October 1st.

Late Fees and Other Charges

Under the By-Laws, Van-Aire is entitled to impose late fees as well as interest on all delinquent assessments. In addition, Van-Aire may add amounts to the assessment indebtedness for expenses incurred by Van-Aire for attorney fees, costs and other expenses that relate to the collection process.

A payment will be considered delinquent when payment is received 30 days past the due date at a rate of 8% per annum. The Late Fee will be assessed as of the 1st of each month on the total accumulated past due balance including previously charged late fees.

In the event any payment by check is reversed because the check is returned to Van-Aire unpaid, Van-Aire will impose a return check fee. The current amount of this fee is \$20.00 and a \$15.00 processing fee. In addition to the returned check charge and processing fee, any bank fees charged to the association as a result of a dishonored check shall be charged to the Owner.

Application of Payments

Payments received on delinquent accounts will be applied first to any accumulated and unpaid late charges and delinquent interest accruals then to other charges such as attorney fees. The remaining amount of the payment will be applied against the amount of the delinquent assessment obligation. For example, if the delinquent assessment obligation is \$1,000, and \$200 in late fees and delinquency interest have accrued against the account, a payment of \$1,000 will be applied first to the late fees and accrued interest, thereby leaving only \$800 to be applied against the \$1,000 assessment obligation.

Payment Plan

When initiating any steps to collect past due assessments and other delinquent payments, Van-Aire will attempt to enter into a payment plan with any owner who has not previously entered into a payment plan with Van-Aire. The payment plan will permit the owner to pay off the delinquency in equal installments over a period of six months. Delinquency late payments and or interest will continue to accrue. The owner must also pay all current assessments and other obligations that come due to Van-Aire during the six month period.

If the owner fails to comply with the terms of the payment plan, Van-Aire may immediately commence legal action against the owner or undertake any other remedies available to Van-Aire. For purposes of this policy statement, any references to assessments includes regular and special assessments and any associated fees, charges, late charges, attorney fees, fines and interest that may be due to the association.

Van-Aire is not required to enter into a payment plan in any situation where the owner does not occupy the unit and has acquired title to the unit because of a mortgage or lien foreclosure proceeding.

Notice of Delinquency

Before Van-Aire refers a delinquent account to a collection agency or to an attorney for collection, Van-Aire will send the owner a notice of delinquency specifying the total amount due along with a statement of account. The notice will also state whether the opportunity to enter into a payment plan exists, and if so, will contain instructions for contacting the President or Secretary/Treasurer to enter into a payment plan. The owner may request a copy of the assessment ledger in order to verify the amount that is due.

The notice will specifically explain the action that is required to cure the delinquency. The notice will also provide that the failure to cure the delinquency within thirty (30) days could result in the account being turned over to a collection agency or attorney for further action. This could include the commencement of a lawsuit against the owner or the commencement of a foreclosure lawsuit against the owner's unit or the pursuit of any other remedies that may be available to Van-Aire.

The notice will also explain the method that is used to apply payments received by Van-Aire against delinquent accounts. This includes Van-Aire's right to apply payments first against outstanding late charges and fees, attorney fees and court costs, before applying sums against amounts that are delinquent. The notice will also specify the various collection remedies that are available to Van-Aire under its governing documents and under Colorado law.

Collection Procedures

The first step in the collection procedure involves the preparation, execution and recording of an assessment lien statement. Van-Aire has a very clear statutory lien power under the By-Laws, Covenants, and under the provision of the CCIOA, and the recordation of Van-Aire's lien statement becomes a lien and encumbrance against the affected unit. The Board will direct Van-Aire's Secretary/Treasurer to prepare and record an assessment lien statement in the Adams County real estate records asserting a lien against any unit when an assessment is delinquent by more than 180 days. The lien statement will describe and summarize all assessments which are due and owing as of the date of the lien statement and contain a description of accrued interest and all attorney fees and costs.

Lien Foreclosure

After a lien statement has been recorded and any portion of the assessment obligation described in such statement remains unpaid for a period of 30 days after the date on which the lien statement was recorded, the President or Secretary/Treasurer will be authorized to forward the matter to Van-Aire's attorney for the commencement of a judicial foreclosure proceeding. The lien foreclosure proceeding will be filed in the Adams County District Court and will request the foreclosure and sale of the affected unit in order to satisfy the lien indebtedness. In a judicial foreclosure proceeding, the owner of the affected unit will be personally served with a copy of the district court summons and complaint. Depending upon the location where the affected owner is served, a responsive pleading must be filed within either 20 days for service inside the State of Colorado in order to prevent the entry of a judgment by default and an order of sale. Where the court orders a unit to be sold in a judicial foreclosure proceeding, the sales

proceeds will be utilized to pay the assessment lien and any other liens which are subordinate to the assessment lien. If for whatever reason, Van-Aire is unable to personally serve the complaint, Van-Aire may request permission from the court to serve the complaint by publication or by such other legal means permitted by the court.

Suit for Money Judgment

Under the terms of Van-Aire's By-Laws, Covenants and Collection Policy, Van-Aire also has the right to institute a civil action against the owner of the affected unit seeking a personal judgment against the owner for money damages in the amount of the delinquency along with all late fees, interest, costs and attorney fees. In some instances, Van-Aire May choose to commence the suite for a personal judgment as part of its judicial foreclosure proceedings. In this instance, the complaint in the judicial foreclosure proceeding will also contain a separate claim against the owner for a personal judgment. In other instances, Van-Aire may determine that it is more effective to file a civil action for a personal judgment against the owner and temporarily forego any judicial foreclosure remedy. This election of remedies is a matter which is within the sole discretion of the Board, and decision of this nature will be made on a case by case basis.

Suspension of Voting Rights

Under Van-Aire's By-Laws, Covenants and the CCIOA, Van-Aire has the authority to suspend the voting rights of an owner of a unit who has failed to pay a delinquent assessment. The Board will enforce this authority in all cases. Consequently, when an assessment is delinquent more than 30 days from its due date, the owner of the affected unit will not be permitted to vote on any matters which come before Van-Aire at any regular or special meeting of the owners.

Attorney Fees and Costs

The terms of the CCIOA provide that in any litigation between Van-Aire and an owner, the court may award attorney fees and costs to the prevailing party. This means that if Van-Aire prevails in litigation against an owner, the attorney fees, expenses and court costs incurred by Van-Aire will be awarded as part of any judgment against the owner. This also means that Van-Aire's attorney fees, expenses and court costs will be awarded as part of any assessment lien foreclosure proceedings in which Van-Aire prevails.

Defenses and Survival

Failure of Van-Aire to comply with any provision in this policy shall not be deemed a defense to violation of any By-Law, Covenant, policy, or rule, including non-payment of assessment fees or other charges, late charges, return check charges, attorney fees, and/or costs as described and imposed by Van-Aire. If a court of competent jurisdiction finds a provision of this policy unenforceable, the other provisions shall remain in full force and effect.
