

**MONTCLAIR SECTION 4B TOWNHOUSE
HOMEOWNERS ASSOCIATION, INC.**

POLICY RESOLUTION NO. 2013 - 001

ASSESSMENT COLLECTION POLICY

WHEREAS, the Association (also known as the Nob Hill Forest Townhouse Association) was established as a Virginia property owners' association by the recordation of a Declaration of Covenants, Conditions and Restrictions in the land records of Prince William County, Virginia, at Deed Book 1372, Page 1548, *et seq.*; and,

WHEREAS, Section 55-515A of the *Virginia Property Owners' Association Act*, Va. Code § 55-508, *et seq.* ("Act") charges all lot owners and their tenants, guests and invitees with compliance with the Act, the Declaration, By-Laws and Rules and Regulations of the Association, as amended; and,

WHEREAS, Article IV (*Covenant for Maintenance Assessments*) sets forth an assessment obligation for all lot owners, and Article IV, Sections 6 (*Uniform Rate of Assessment*) and 8 (*Effect of Nonpayment of Assessments: Remedies of the Association*) of the Declaration state that the Association's Board of Directors may collect in the manner which it determines the assessment obligation of the members, and further state that any assessment obligation not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum legal rate of interest; and,

WHEREAS, Article IV, Section 8 and Article VI, Section 1 (*General Provisions - Enforcement*) state that the Association has the right to enforce any term, charge, condition or covenant of the Declaration in law or in equity; and,

WHEREAS, Section 55-513.2 of the Act (Assessments; late fees) authorize the Board of Directors to impose a late fee of not more than five percent (5%) of the amount owing and due for any assessment obligation that is not paid within sixty (60) days of the due date for such assessment payment; and,

WHEREAS, it is the intent of the Board of Directors to revise the Association's existing general assessment collection policy and to approve rules and regulations regarding the assessment collection policy of the Association for the benefit and protection of the Association's lot owners and residents by establishing procedures to ensure consistency of enforcement;

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors adopts the following policy to become effective July 1, 2013.

I. ROUTINE COLLECTIONS

A. All annual assessments will be collected on a lump sum or quarterly basis and shall be due and payable on the first days of January, April, July and October. If a lot owner is in default in payment of any quarterly assessment for more than thirty (30) days, the assessment shall be considered delinquent and the member's right to vote shall be suspended until the account is brought current. Pursuant to Article II, Section 1(b) of the Declaration (*Property Rights - Owners' Rights of Use and Enjoyment, etc.*), the member's right to use the common area/facilities of the Association as well as the common area/facilities of the Montclair Property Owners' Association ("MPOA") shall also be suspended for any period during which any assessment obligation of the lot owner remains unpaid. Prior to imposing any such suspension of the right of use, the Association shall follow the procedure set forth in II.B and II.C below.

B. All special assessments, whether in lump sum or installments, shall be collected (if in installments) on a quarterly basis and shall be due and payable on the first day of each quarter of the assessment year in which the assessment was approved. If applicable, the notice of special assessment shall set forth any other payment arrangements which may differ from the aforementioned schedule, as may be established by the Board of Directors.

C. All documents, correspondence, and notices relating to assessments or charges shall be mailed or delivered to the address which appears on the books of the Association or to such other address as is designated in writing by an owner.

D. Non-receipt of an invoice/payment coupon book shall in no way relieve the owner of the obligation to pay the amount due by the due date.

II. REMEDIES FOR NONPAYMENT OF ASSESSMENTS

A. If payment of the total assessments or charges due, including special assessments, are not received by the managing agent by the thirtieth (30th) day after the due date, the account shall be deemed late and pre-judgment interest of twelve percent (12%) per annum shall be added to the account from the date of delinquency. In addition, if any assessment obligation remains unpaid for a period in excess of sixty (60) days, that obligation shall accrue interest thereafter at the rate of five percent (5%) as a late fee (which shall be in addition to the 12% assessed upon the non-payment within 30 days of the due date). Such charges shall be a part of the continuing lien for assessments as provided for in the Declaration, By-Laws and the Property Owners' Association Act, until all sums due and owing shall have been paid in full.

B. A "Late Notice" shall be sent by the managing agent to lot owners who have not paid assessments or charges, in full, by the thirtieth (30th) day after the due date. The notice shall

advise the owners that their rights to park in the common area parking spaces (including reserved parking spaces) of the Association and use recreational facilities or other services and facilities of both the Association and the MPOA may be suspended if their account remains delinquent for more than sixty (60) days. The notice shall further offer the owners the opportunity to have a hearing before the Board to contest the suspension. The notice shall also warn them that their account will be accelerated and referred to legal counsel if it remains more than sixty (60) days delinquent. If the owner requests a hearing, then a notice of hearing shall be sent to the owner by the management agent, by certified mail, return receipt requested and the owner shall be afforded a hearing before the Board.

C. If an assessment or other charge due and owing is not received within sixty (60) days after it is due, and if a hearing has not been requested by the delinquent owner, the owner's privileges to: (i) to park on the Association's common area property (the private streets and the parking spaces in the community, including the reserved parking spaces for that lot); and, (ii) to use recreational facilities or other services and facilities of the Association and the MPOA shall all be suspended and revoked until the account is paid in full or a satisfactory payment plan is accepted by the Board. Suspension of the parking privilege shall be enforced by towing without prior notice. Notice of such suspension shall be sent to the owner by the management agent by certified mail, return receipt requested not less than seven (7) days prior to the actual effective date for towing. If such notice is necessary, an administrative fee of \$10.00 shall be assessed against the owner's account to recover the cost of the mailing.

D. If payment in full, of any assessment or charge, interest and returned check charge, is not received by the managing agent by the sixtieth (60th) day after the due date, the account may be referred to counsel for the Association and shall thereby be deemed accelerated through to the end of the Association's fiscal year. Counsel for the Association shall mail a demand for payment, notice of acceleration of the annual and/or special assessment for the balance of the fiscal year and lien warning by certified mail to the lot owner at the address listed on the books of the Association.

E. If payment in full, of the amounts due, is not received by counsel or the managing agent within fifteen (15) days after the lien warning letter has been sent by certified mail, a memorandum of lien for the unpaid assessment amount shall be recorded in the land records of the jurisdiction. Non-receipt of a notice shall not prevent the Association from filing a lien within the statutory deadline.

F. If payment in full, of all amounts due, is not received by counsel or the managing agent by the ninetieth (90th) day after a due date, a civil suit may be filed personally against the delinquent lot owner.

G. If an account remains delinquent after the filing of a lien or civil suit or in lieu thereof, counsel for the Association shall take other appropriate legal action to collect the amounts due, unless directed otherwise by the Board of Directors of the Association. The aforementioned time guidelines are advisory only. The Association shall not be bound thereby if in the exercise of its discretion the Board of Directors deems expedited action is required

regarding any particular account.

H. If a lien remains unpaid, a suit to enforce the lien or a public sale to foreclose on the lot may be initiated within thirty-six (36) months of the date the lien is recorded, upon authorization from the Board of Directors.

I. If the Association receives from any owner, in any accounting year, two or more returned checks for payment of assessments, the Board may require all future payments to be made by certified check, cashier's check or money order for the remainder of the fiscal year. Any dishonored check to the Association shall result in the assessment of a Twenty-Five Dollar (\$25.00) returned check against the lot owner's assessment account and shall be included in any assessment action taken against the lot owner (lien or judicial action).

J. The management agent is hereby authorized to charge against an assessment account a \$20.00 replacement fee to cover the issuance of replacement coupons for coupons lost or misplaced by the owner(s).

K. In the event that judicial action is required to collect any unpaid assessment obligation, or the Association elects to foreclose upon its lien, the Association shall be entitled to its reasonable attorneys' fees and costs pursuant to Va. Code Section 55-515B or Va. Code Section 55-516.1.8c, respectively.

L. The Board may grant a waiver of any provision herein, except filing of memoranda of liens beyond the statutory deadline, upon petition, in writing, by a lot owner alleging a personal hardship. Such relief granted a lot owner shall be appropriately documented in the files with the name of the person or persons representing the Board granting the relief and the conditions of the relief.

M. The Board hereby authorizes the managing agent to waive the imposition of interest on payments received by the managing agent after the thirtieth (30th) day after the due date, if, in the judgment of the managing agent, the delinquent lot owner has owned the lot for less than three (3) months at the time of the delinquency and the managing agent determines the delinquency was the result of a misunderstanding of the correct procedures relative to payment of the assessment.

N. Payments received from a lot owner shall be credited in the following order:

1. Charges for attorneys' fees (as awarded by a court) and court costs.
2. All returned check charges or interest accrued, as applicable.
3. The monthly and any special assessment of each lot, applied first to the oldest amount due.

O. In the event that the right to park in the common area parking spaces is suspended for

nonpayment of the assessment obligation, the suspension shall pertain to ALL common parking area parking spaces, including those spaces reserved to the lot as well as guest/visitor spaces. After seven (7) days of the mailing of the notice of suspension (by certified mail, return receipt requested) to the owner's address of record with the Association, the suspension shall be enforced by towing without notice. Such towing shall be at the sole risk and expense of the vehicle owner, and the Association shall under no circumstances be liable for any damage to the vehicle or the costs to repair same.

**MONTCLAIR SECTION 4B TOWNHOUSE
HOMEOWNERS ASSOCIATION, INC.**

POLICY / REGULATORY RESOLUTION NO. 2013 - 001

RESOLUTION ACTION RECORD

Resolution Type: Policy / Regulatory No. 2013 - 001

Pertaining to: Assessment Collection Policy

Duly adopted at a meeting of the Board of Directors of the Montclair Section 4B Townhouse Homeowners Assn., Inc. (Nob Hill Forest Townhouse Assn), held May 16, 2013, 2013.

Motion by: Catherine Kudrick Seconded by: Alice Mellow

VOTE:

		YES	NO	ABSTAIN	ABSENT
<u>Catherine Kudrick</u> , Member		X	_____	_____	_____
<u>Alice Mellow</u> , Member		X	_____	_____	_____
<u>Sharon Thomas</u> , Member		X	_____	_____	_____
<u>Eric Vavro</u> , Member		X	_____	_____	_____
<u>Cynthia R. Pitts</u> , Member		X	_____	_____	_____
Debra Collins				X	

ATTEST:
Catherine Kudrick
Secretary

X
May 16, 2013
Date

Book of Minutes - 2013

Book Resolutions:	Book No.	Page No.
Policy	_____	_____
Regulatory	_____	_____
Special	_____	_____
General	_____	_____

Resolution effective: _____