

The Seasons at Tiara Rado Master Association

Policy 2 Revised and Restated

Delinquency Policy for Collection of Assessments, Fees and Charges, and Covenant Enforcement Fines

Be It Resolved, The Seasons at Tiara Rado Master Association (“Association”) hereby adopts on _____ (date) the following Delinquency Policy for Assessments and procedures to be followed for Collection of Assessments, Fees, and Charges on Delinquent Homeowner Accounts, including Covenant Enforcement Fines. The Policy follows the required guidance of Colorado House Bill 22-1137, signed into law on June 3, 2022, and effective August 9, 2022.

Definitions:

Notice of Delinquency: “Notice of Delinquency” refers to a written notice that an association sends to a homeowner to notify the homeowner of any unpaid assessment, fines, fees or charges that the owner owes the Association. The obligation to make such payments is addressed in Article 14 of the Amended Declaration.

A. Delinquency Policy for Annual or Special Assessments:

Under the portions of the Colorado Common Interest Ownership Act applicable to the Association, the Association has a statutory lien on a Lot for any Assessments levied against that Lot imposed against its Owner from the time each Assessment or fine or late fee becomes due. Such Assessments shall be a charge on and a continuing lien encumbering the Lot against which such Assessment is being made. However, the Association may not foreclose a lien for only fines or attorney fees/costs incurred in addressing covenant violations.

Assessments that are not paid by the due date shall be Delinquent. If an Assessment is not paid within 30 days after the due date, the Assessment may bear interest at the rate of 8% per annum (0.066667 per month) and the Owner’s account will be charged.

If any Owner is in default in paying any Assessment:

- (1) When a payment is delinquent for ten (10) days the Board may contact the owner by First Class Mail, email, or text requesting payment within Fifteen (15) days.
- (2) When the payment is thirty-five (35) days delinquent, the Board will send a Certified Letter Return Receipt Requested and an Email or Text advising the Owner that if the Assessment along with late charges accrued is not paid within Ten (10) days from the date of the letter, an additional late charge will be assessed.
- (3) When the payment is Sixty (60) days delinquent, the Board by recorded vote, may authorize the filing of legal action.
- (4) When a payment is Ninety (90) days delinquent, a lien may be recorded encumbering the Owner’s Lot. If an Owner thereafter fails to pay, the Association

may either foreclose the lien or pursue any other legal remedies available under Colorado Law.

B. Notice Procedures to Homeowners Regarding any Delinquency

1. Prior to taking any action on a delinquency the Association/Manager shall alert the Homeowner in relation to the delinquency.
2. A record of contacts must be kept, including the type of communication and the date and time of the communication attempts.
3. Designated contacts:
 - (a) A homeowner may identify another person to serve as designated contact for the Homeowner.
 - (b) Regardless of designated contact, the Association must also contact the Homeowner as well as the designated contact.
 - (c) The attempted contacts must be in English as well as any other language identified by the Homeowner as a preferred language.
 - (d) The Homeowner and the Designated Contact (if any) must receive the same correspondence and notices anytime communications are sent out.
4. Delinquency notices shall be provided as follows:
 - (a) Certified mail, return receipt requested to both the Owner as well as the designated contact in both English as well as the preferred language, if provided
 - (b) Physically posted at the Homeowners address
 - (c) In addition to the above, the Association/Manager shall also contact the Owner by one of the following means:
 - (1) First Class Mail,
 - (2) Text Message to a cellular number provided by the Homeowner, or
 - (3) Email to an email address provided by the Homeowner.
 - (d) The notice must:
 - (1) Specify if the delinquency concerns unpaid assessments, unpaid fines, fees, charges or both.
 - (2) State that an unpaid assessment may lead to foreclosure of the home or lot.
 - (3) Include a description of the steps the Association must take before the Association may take legal action against the Homeowner, including a description of the Association's cure process in the case of violations and the types of legal action the HOA or Homeowner may take to small claims court, including injunctive matters for which the Association seeks an order requiring the Homeowner to comply with Declaration, Bylaws, Covenants or other Governing Documents of the Association.
 - (4) If a violation of the Covenants, include a description of the steps the Association must take before the Association may take legal action against the Homeowner, including a description of the Association's cure process.

(5)The HOA, on a monthly basis, will send each Homeowner with an outstanding balance owed to the HOA an itemized list of all assessments, fines, fees and charges owed. The HOA cannot assess a fee or charge for providing this statement.

5. The Association will not take legal action to foreclose on a Unit unless it has complied with the provisions of delinquency notices (above), and
 - (a) Has provided the Homeowner an opportunity to enter into a repayment plan pursuant to Section 38-33.3-3163(2) that authorizes the Homeowner to pay the debt in monthly installments over 18 months.
 - (b) The payment plan will allow the Homeowner to determine the amount of the payment so long as it is at least \$25.00 until the balance of the amount owed is less than \$25.00.
 - (c) Within 30 days after the Association has provided a written offer to enter into the payment plan, the Owner must either decline the prepayment plan or if accepting the payment plan, failed to pay at least three of the monthly installments within 15 days of the due date.

6. Miscellaneous items associated with the Collection Process
 - (a) Once the Delinquency notices are provided, the Association/Manager may refer an account to a collection agency or attorney upon approval by a majority of the Board members, which vote may occur in an executive session. However, the subject Homeowner may request and receive the results of the vote.
 - (b) The Association shall not impose late fees or fines on a daily basis.
 - (c) Interest on delinquent accounts is capped at 8% per annum.
 - (d) The Association will not assess a fee or other charge to cover costs incurred for providing the Homeowner a statement of the total amount that Homeowner owes.
 - (e) The Association may not foreclose a lien for only fines or attorney fees/costs incurred in the addressing of underlying covenant violation.
 - (f) The Association may use small claims court to enforce covenants or collect assessments if the amount at issue does not exceed \$7,500 exclusive of interest and costs.
 - (g) Each collection referral, including foreclosure, must be voted on by the board, which may occur in executive session. The Homeowner may request and receive the results of the vote.
 - (h) Attorney Fees shall not be recoverable for anything prior to complying with the above.
 - (i) It is mandated that funds be applied in a certain manner to principal first, then to late fees, fines, and attorney fees.

(j) Any Homeowner that loses a home to a foreclosure if the procedures are not strictly complied with will have an option for civil action against the HOA if the HOA violates any foreclosure laws. The civil action must be filed within 5 years after the violation occurred.

C. Covenant Enforcement Notification Policy Specifics

The Seasons at Tiara Rado HOA Policy No. 7 specifies the Enforcement of the Declaration, ByLaws, Rules and Regulations, and Policies. The procedure to be used for Notices and Delinquencies for Covenant Violations including Policies as mandated by HB 2211-37 is as follows:

1. A "Courtesy Notice" will be sent via email, text or First-Class Mail. Resident needs to respond within 14 days of the date the notice was sent with a plan or remedy to correct the violation(s) to avoid the next steps. The Courtesy Notice will state that a Notice of Violation will be sent if a plan or remedy is not presented and that the Violation Process includes the possibility of fines, collection agencies and legal action. It will also be noted that the Homeowner has the right to request a Hearing before the Board at any time in the process.
2. Following the Courtesy Notice and if a plan or remedy is not presented by the Homeowner, a "First Notice of Violation" will be sent via Certified Mail--Return Receipt Requested, in English and the language identified by the Homeowner as a preferred language. This notice must state the violation, what must occur to cure the violation, and the right of a 30-day cure period for this notice, as well as the possibility of fines, liens and legal action. It will also be noted that the Homeowner has the right to request a Hearing before the Board at any time in the process.
3. The Owner shall have a 30-day period to cure the violation after the First Notice of Violation is sent.
4. If the Owner cures the violation within the first 30-period and sends visual or other evidence of such cure, the violation is deemed cured as of the date the Owner sent the visual evidence.
5. If the Owner does not include evidence, the Association shall as soon as practicable, inspect the property to determine if the violation is cured.
6. If cured, the Master Association will notify the Homeowner of such fact in English, confirming that they will not be fined further on the matter and notifying the Owner of any outstanding fine balance owed.
7. If not cured, the Association will send a "Second Notice of Violation" and the second 30-day process begins again. At the end of the second 30-day process, and if the violation is not cured, then the Association may fine the homeowner again and only then send to legal counsel. All legal costs associated with a violation will be posted

to the owner's account. At this point the process for Delinquency as outlined in Section "A" of this document will proceed. If cured, the Association will notify the Homeowners of such fact, confirming that they will not be fined further regarding the specified matter and notifying the Owner of any outstanding fine balance owed. The Homeowner will be advised of the date when the Executive Board will meet to hear the matter. The violating Member will have the opportunity to attend and be heard at the meeting.

8. Hearings: A hearing conducted under this policy will not be conducted according to any technical rules relating to evidence or witnesses. Any information may be admitted if it is of the sort on which reasonable persons would rely in the conduct of serious personal matters, regardless of any common law or statutory rule which may make evidence improper in civil actions or otherwise.

At the conclusion of the hearing, the Board shall deliberate and may announce its decisions at such time or may take the matter under advisement. All decisions by the Board shall be by a majority vote of a quorum of Directors in attendance and eligible to vote. The Board shall issue a written order including its findings of fact and conclusions. If the Board determines that a violation has occurred, the Board may determine to levy fines and/or pursue any other remedy available at law or in equity as stated in this Policy.

9. Amount of Fines for Covenant, Policy, Rule, or Regulation Violations

(a) After Courtesy Notice if no plan or remedy presented: No fine, but First Notice of Violation will be sent.

(b) After First Notice of Violation a 30 day-cure period with no cure: Minimum of \$50, maximum of \$250 depending on violation

(c) After Second Notice of Violation and 30-day cure period with no cure: Minimum of \$100 and maximum of \$250 and possibility of legal action, which may include legal counsel, collection agency or small claims court.

(d) After the two 30-day cure periods, each subsequent violation of the original complaint (if individual actions) will generate an additional \$250 fine, or each 30-day period (if ongoing violation) will generate another \$250 fine.

(e) The Board may suspend a fine if it finds that after considering the complaint, the violating Member has and continues to make a good faith effort to correct the violation and such effort successfully remedies the violation.

8. Additional Considerations

(a) Public health and safety violations will only be allowed a 72-hour cure period after receiving a Notice of Violation and Notice to Cure. If the violation is not cured within 72 hours, the Association may fine the Homeowner \$50 no more frequently than

every other day and may take legal action against the Homeowner for the violation. Notices must be provided to the Homeowner written in English and in any language that the Homeowner has indicated a preference for in correspondence and notices.

(b) Homeowners are responsible for any fines that may be levied against their Lot due to Covenant non-compliance of their tenants.

(c) Any returned check charges will be the responsibility of the property Owner and added to their account.

Certification: The undersigned, being the Secretary of the Association, certifies that the Board of Directors of the Association adopted the foregoing resolution and in witness thereof, the undersigned has subscribed his/her name:

The Seasons at Tiara Rado Master Homeowners Association

Secretary

Effective Date: _____