

# **Kakela Makai Oceanview Community Association**

## **Board of Directors Policy Resolution**

Approved by the Board of Directors on August 12, 2009

### **Late Fee and Recovery of Funds Due the Association**

#### Purpose:

This policy outlines the existing portions of our governing documents and 421J Hawaii Revised Statutes pertaining to (a) imposing a late fee when an annual common expense payment is delinquent; (b) procedures for assessing and collecting a late fee; (c) procedures for the recovery of funds due the Association; and (d) the interest charge for late payment of funds due the Association.

#### Background:

Chapter 421J Hawaii Revised Statutes, and its implementing regulations, and the Association's documents provide authority to the Board of Directors to impose a late fee for delinquent common expense payment; to establish procedures to collect funds due the Association and to impose interest charges.

#### A. Late Fee for Delinquent Common Expense Payment

1. The common expense assessment for each lot is due on July 1st of each year. A late fee of fifty dollars (\$50.00) shall be assessed for each annual common expense account that is not paid in full as of the thirtieth (30th) day of July and accrue monthly interest at the rate of (10%) ten percent per annum from the due date until paid, per the Association's CC&Rs and Bylaws.
2. Failure to pay late fees or other balances outstanding after 30 days will result in the deduction of the late fee from future common expense payments, so long as a delinquency continues to exist. A late fee shall be imposed against any future common expense payments that are less than the full amount owed due to the deduction of unpaid late fees from such payment.
3. The Association's account manager (currently Hawaiiana Management Company, Ltd.) will follow these procedures in handling delinquent accounts:
  - a. By the 30th of each month, the account manager will send a demand letter to the owner stating the amount of the delinquency; the nature of the delinquency (regular amount due, interest, principal); and the total amount due.

- b. For lots in rental status, unless the delinquent account is paid in full by the 30<sup>th</sup> of the month, the account manager will collect the monthly rental fee directly from the tenant until the account is paid in full.
    - c. The account manager will refer any account that remains delinquent for ninety (90) days to the Association's attorney for collection action.
  - 4. The Association's attorney will follow these procedures in handling delinquent accounts:
    - a. Send a demand letter to the owner(s) within ten (10) days of receipt of delinquency notice from the account manager.
    - b. When the delinquent amount is four (4) months past due, proceed with claim of lien against the lot(s).
    - c. The Board of Directors may direct the attorney, following the claim of lien, to proceed with the foreclosure on the lot(s).

#### B. Collection of Other Funds Due the Association

- 1. Funds due to the Association, for example, stemming from such events as reimbursement for damages and emergency services, are payable within thirty (30) days from the billing date.
- 2. The account manager will follow these procedures in handling delinquent accounts:
  - a. Within fifteen (15) days after the 30-day payment date, send a demand letter. Said letter to include the original amount due; interest charges; and information that legal and/or collection agency services will be used to collect funds due if not paid within thirty (30) days.
  - b. An account not paid in full after 90 days will be referred to a collection agency, small claims court, or the Association's attorney, depending on the amount owed and the circumstances of the case.
  - c. Legal Fee and Administrative Costs
    - (1) The total cost of legal fees and administrative expenses incurred in the collection of a delinquent account shall be added to the account in computing the total amount due.