

Association of Unit Owners of Mary Savio Medical Plaza at Newtown ("Association")

**RESOLUTION ADOPTING COLLECTION PROCEDURES**

Adopted by the Board of Directors on June 4, 2015

WHEREAS, the Board of Directors of the Association of Unit Owners of Mary Savio Medical Plaza at Newtown is charged with the responsibility of collecting assessments for common expenses from the Association members pursuant to the Project's governing documents; and

WHEREAS, from time to time, Association members become delinquent in their payment of the assessments and fail to respond to the demands from the Board to bring their accounts current; and

WHEREAS, the Board deems it to be in the best interests of the Association to adopt a uniform and systematic procedure for dealing with delinquent accounts in a timely manner, and further believes it to be in the best interests of the Association to refer the delinquent accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue; and

WHEREAS, the Board has retained the Association's Collection Attorneys for their experience in representing common interest associations in collections matters; and

WHEREAS, the Board has directed the Association's Collection Attorneys to represent the Association on the terms outlined in this resolution, unless specifically advised otherwise;

NOW THEREFORE, BE IT RESOLVED, the Association's Board of Directors hereby adopts this late fee policy and a delinquency procedure, which may be changed from time to time by a majority vote of the Board, subject to the Declaration of Condominium Property Regime of Mary Savio Medical Plaza at Newtown and the Bylaws of the Association of Unit Owners of Mary Savio Medical Plaza at Newtown and all applicable law.

1. The due date of monthly assessments is the first day of each and every month. There is hereby levied against any Owner who has not paid their annual and/or special assessment in full, as of fifteen (15) days after the due date of said assessment, a late payment fee equal to ten percent (10%) of the amount delinquent. The aforesaid late payment fee shall not be in excess of ten per cent (10%) of the amount delinquent. If said charges, including said late payment fee, are not received within thirty (30) days after said monthly charges are due, an additional late charge equal to ten percent (10%) of the amount delinquent and interest at the rate of one percent (1%) per month calculated from such due

date shall be assessed. The aforesaid additional late payment fee shall not be in excess of ten percent (10%) of the amount delinquent.

2. In addition to any late fees and interest, the delinquent Owner will be charged with all costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the Association for collecting any delinquent assessments against the Unit, which shall be promptly paid by such person or persons on demand to the Association. Costs are to include but not be limited to delinquency letters, postage fees, administrative expenses, attorneys' fees and costs, fines and penalties, court fees and costs, and other miscellaneous expenses related to said collection effort.
3. The Association's Managing Agent is authorized and directed to charge to and collect the annual and/or special assessments, late fees, interest and all other costs (as enumerated in paragraph 2 above), from any delinquent Association member.

BE IT FURTHER RESOLVED, that the Managing Agent is directed to send under the Association's letterhead and in the Board of Director's name, any Association member who is twenty (20) days delinquent in their payment of annual or special assessments, a written notice (hereinafter referred to as the "First Notice"), via certified mail, return receipt requested, and regular mail. This First Notice will provide information stating that the Owner is delinquent in the payment of their assessments, that late fees and interest will be charged according to the Bylaws of the Association, that failure to pay late fees will result in the deduction of late fees from future common expense payments so long as a delinquency continues to exist, and that late fees shall be imposed against any future common expense payment which is less than the full amount owed due to the deduction of unpaid late fees from such payment. If the Owner has not remitted the past due amount on their account, a second written notice will be sent to the Owner via certified mail, return receipt requested, and regular, mail sixty (60) days after the payment due date (hereinafter referred to as the "Second Notice"). If the Owner remains delinquent for seventy-five (75) days, a third and final notice will be sent to the Owner via "certified mail/return receipt requested" and regular mail (hereinafter referred to as the "Final Notice"). The Final Notice will give the Owner an additional fifteen (15) days to remit complete payment on the Owner's unpaid balance. This Final Notice will also provide information that if the Owner fails to remit payment in full, such failure will result in the matter being referred to the Association's Collection Attorneys for appropriate legal action, reporting of the delinquency to three (3) major credit bureaus, and that all attorneys' fees, costs of collection, and filing of liens will be charged to the Owner's account in accordance with the governing documents of the Association. Holders or guarantors of the mortgage on any Unit in the Association shall be sent copies of any delinquency notices to an owner, provided, however, that such notice shall only be required if the mortgage holder or guarantor sends a written request for this information to the Association, stating both its name and address and the Unit number or address of the Unit on which it has (or guarantees) a mortgage. Due to the foregoing requirement to copy mortgage holders, all delinquency notices must be sent

on the Association's letterhead and in the Board of Director's name, to avoid potential violation of the Fair Debt Collection Practices Act.

BE IT FURTHER RESOLVED, that the Managing Agent shall notify the Board of Directors of all Owners who remain delinquent after the deadline of the Final Notice has passed. The Managing Agent will refer said delinquent Owners to the Association's Collection Attorneys for collection action.

BE IT FURTHER RESOLVED, that once a delinquent Owner's account is referred to the Association's Collection Attorneys, the Collection Attorneys shall be authorized to conduct the following actions without further Board authorization, if the delinquent account is not brought current within the time stated, or a satisfactory agreement on a payment plan has not been reached to accomplish bringing the account current:

1. Days 1 & 2 – The Association's Collection Attorneys will commence collections through its Aloha Collect Program, which encompasses the actions detailed in this paragraph and paragraphs 2 through 4 below. The file will be opened, Owner and property information will be verified, and all relevant information input into a database. Initial 30-day demand letter will be sent to the delinquent Owner.
2. Day 31 – If payment in full is received within the 30-day period, once the check clears, the file is closed.  
  
If no payment is received, telephone calls to the delinquent Owner begin and additional demand letters are sent.
3. Day 40 - An employment verification and/or skip trace may be done, if needed. Telephone calls continue and further demand letters are sent.
4. Day 100 – If no payment or progress is made to collect the amounts owed, the debt will be reported to the three major credit bureaus.
5. Day 120 – The account will be removed from the Aloha Collect program, and will return to the Association's Collection Attorneys for further collection action.
6. A Limited Letter Report will be ordered and a lien recorded against the delinquent Owner's property;
7. Once the lien is in place, the Association's Collection Attorneys shall send a final notice with a copy of the lien, providing the Owner with an additional thirty (30) days to respond. Thirty (30) days' prior written notice of intention to foreclose shall also be mailed by certified or registered mail to all persons having any interest in such Unit as shown on the Association's record of ownership, including mortgagees of record; provided that the amount of the delinquency

shall not be disclosed in this thirty (30) day's prior written notice of intention to foreclose.;

8. If no payment is received by the deadline set in the final notice, action may be taken to acquire employment information and/or a skip trace to determine current location of owners (or prior owners), if needed;
9. If employment information is obtained, action may be commenced in the State District Court to secure a personal judgment for the amounts owed, if the debtor currently resides within the State of Hawaii, and the prior written consent of the Board is obtained to commence the action;
10. After a judgment is secured, action will be taken to proceed with garnishment of wages;
11. Foreclosure proceedings may be commenced if the prior written consent of the Board is obtained to commence the action;

BE IT FURTHER RESOLVED, if a delinquent owner requests an installment payment plan to bring the account current, the payment plan must be submitted in writing. The Association's Collection Attorneys shall approve the written payment plan in writing, accordance with the Board's preapproval of:

All payment plans which provide for: (A) Timely payment of all assessments that become due after the date that the payment plan is proposed; and (B) Additional monthly payments of an amount sufficient to cure the default within twelve months of the commencement of the payment plan.

Any payment plan not meeting the above requirements must receive Board authorization before an agreement is made to enter into such a payment plan with the delinquent owner. The Board has the authority to determine the reasonableness of a proposed payment plan under the circumstances and at its discretion. Should the owner(s) default with a payment plan, the Association's Collection Attorneys are authorized to proceed with the next action, without further notice, as set forth above.

BE IT FURTHER RESOLVED, that once a delinquent Owner's account is referred to the Association's Collection Attorneys:

1. All contacts with a delinquent Owner shall be handled through the Association's Collection Attorneys. Neither the Managing Agent nor any Association officer or director shall discuss the collection of the account directly with the Owner after it has been turned over to the Association's Collection Attorneys unless one of the Association's Collection Attorneys is present or has consented to the contact.

2. All sums collected on a delinquent account shall be remitted to the Association in care of the Association's Collection Attorneys until the account has been brought current.
3. When any account is turned over to the Association's Collection Attorneys for collection, the account shall be so marked by the Managing Agent and no payoff quote on the account shall be released to any party including the Owner or an escrow office, except with the consent of the Association's Collection Attorney. All legal fees and costs incurred in the collection of a delinquent account shall be assessed against the delinquent Owner's unit and the delinquent Owner, and shall be collectible as provided in the governing documents of the Association.
4. In the event the Managing Agent is notified of the filing of a petition for relief in bankruptcy, or any other filing in bankruptcy court by a delinquent Owner, the Managing Agent shall immediately cease any communication with the Owner, regardless of whether they are currently delinquent or not, and notify the Association's Collection Attorneys of such filing for further handling. Failure to immediately cease any communication with the Owner which demands payment of any kind, including regular assessments, can result in fines levied against the Association for violation of bankruptcy laws.

This resolution was adopted by the Board of Directors of the Association of Unit Owners of Mary Savio Medical Plaza at Newtown on June 4, 2015, and shall be effective as of July 1, 2015.

BOARD OF DIRECTORS OF THE  
ASSOCIATION OF UNIT OWNERS OF  
MARY SAVIO MEDICAL PLAZA AT NEWTOWN

By 

Its: Secretary