

SALADO HIDDEN SPRINGS PROPERTY OWNERS ASSOCIATION

ASSESSMENT COLLECTION POLICY

Doc# 00041914

WHEREAS, the Bylaws of Salado Hidden Springs Property Owners Association, the Declaration of Covenants, Conditions and Restrictions for Hidden Springs Section One and the Declarations of Covenants, Conditions and Restrictions for Hidden Springs Section Two, and the Rules and Regulations for Hidden Springs, as each may be amended from time to time (the "Declarations"), provides the authority to the Hidden Springs Property Owners Association (the "Association") to establish orderly procedures to levy assessments against Owners of the lot (herein the "Lot" or "Lots") located within Hidden Springs (the "Development"),

WHEREAS, the Hidden Springs Property Owners Association Board of Directors (the "Board") finds there is a need to establish orderly procedures to levy assessments against Owners of the lot (herein the "Lot" or "Lots") located within Hidden Springs for the collection of and payment of assessments levied against Lots that remain unpaid beyond the prescribed due dates and the application of the payments made by Owners in order to encourage Owners to promptly pay their assessment obligations; and

WHEREAS, pursuant to the Declarations, the Board has the right to enforce the provisions of the Declarations including, without limitation, the right to assess and collect annual and special assessments from the Owners.

NOW, THEREFORE, IT IS RESOLVED that the following procedures and practices are established for the collection of assessments owing and to become owing by Owners in the Development, known as the "Assessment Collection Policy" for the Association in the discharge of its responsibilities regarding collection of assessments against lots and the availability of payment plans to such Lots:

- 1) Policy Objectives. The collection of assessments and application of payments made by Owners pursuant to the Declaration and this Assessment Collection Policy will be governed by the following objectives:
 - a) The Association will pursue collection of all assessments, including regular assessments (sometimes referred to as "annual assessments"), special assessments and individual assessments for a given fiscal year such that should the recovery of amounts owing by a particular Owner require commencement of legal proceedings, those proceedings will be initiated prior to the end of the fiscal year for which the unpaid amounts are due.
 - b) At each step within the collection process, the Board will analyze the facts and circumstances then known concerning a given delinquency to direct collection efforts toward the most expedient course of action.
- 2) Ownership Interests. Pursuant to Article 6, Section 6.01 of the Declarations, the person who is the Owner of a Lot as of the date an assessment becomes due is personally liable for the payment of that assessment. Further, the personal liability for unpaid assessments passes to the successors in title to a Lot only if expressly assumed by them. As used herein, the term "Delinquent Owner" refers to that person who held title to a lot on the date an assessment became due. As used herein, the term "Current Owner" refers to that person who then holds title to a Lot. Unless expressly denoted otherwise, the "Owner" of a Lot refers to the Delinquent Owner or the Current Owner or both, as may be appropriate under the circumstances in question.

SALADO HIDDEN SPRINGS PROPERTY OWNERS ASSOCIATION

ASSESSMENT COLLECTION POLICY

- 3) **Due Dates.** Pursuant to Declarations, the due date for the regular assessment is October 1 of each calendar year.
 - a) The due date for a special assessment or individual assessment shall be stated in the notice of assessment or, if no date is stated, within ten (10) days after notice of the assessment is given. The due date for any assessment shall be collectively referred to in this Assessment Collection Policy as the "Due Date".
 - b) Any assessment payment which is not submitted on or before thirty (30) days past the Due Date is delinquent (the "Delinquency Date").

- 4) **Required Notices and Correspondence.**
 - a) **Late Notice.**

On or after thirty (30) days following the Due Date, the Association will send a reminder (referred to as the "Late Notice") to the Owner reminding the Owner that an assessment(s) is past due and requesting immediate payment. The Late Notice will be sent to the Owner, by registered mail, return receipt requested. The Late Notice will state that the owner's payment is late and list the past due amounts owed. The notice will also include the address and telephone number of a person who may be contacted regarding payment of the amount due, also inform the Owner that if the delinquency is not cured in full, including interest, Late Fees and other charges then owing, within thirty (30) days of the date of the Late Notice, the Association will be proceeding with the collection process as outlined in this Assessment Collection Policy.

- 5) **Interest and Late Fees.**
 - a) In the event any assessment or any portion thereof, is not paid in full by the Delinquency Date, interest on the unpaid amount may be assessed against the Owner at the rate of Eighteen percent (18%) per annum, or the maximum permitted by law, and shall accrue from the Due Date until paid in full. Such interest, as and when it accrues hereunder, will be added to the assessment and, as such, will be subject to recovery in the manner provided herein for assessments.
 - b) Any assessment or portion thereof not received and processed by the Delinquency Date will accrue an automatic non-refundable Twenty-five Dollar (\$25) late fee. A late fee will be charged every 30 days until all outstanding amounts are paid in full. Any late fees, handling charges, court filing fees, attorney fees, interest and any other fees incurred at any time for the collection of past due assessments will be added to the amount due.

- 6) **Handling Charges and Return Check Fees.** In order to recoup for the Association the costs incurred because of the additional administrative expenses associated with collecting delinquent assessments, collection of the following fees and charges are part of the Assessment Collection Policy:
 - a) Any handling charges, administrative fees, collection costs, postage or other

SALADO HIDDEN SPRINGS PROPERTY OWNERS ASSOCIATION

ASSESSMENT COLLECTION POLICY

expenses incurred by the Association in connection with the collection of any assessment or related amount owing beyond the Delinquency Date for such assessment will become due and owing by the Owner.

- b) A charge of Twenty-five Dollar (\$25) per item, along with all bank charges, will become due and payable for any check tendered to the Association which is dishonored by the drawee of such check, the charge being in addition to any other fee or charge which the Association is entitled to recover from an Owner in connection with collection of assessments owing with respect to such Owner's Lot.
 - c) Any fee or charge becoming due and payable pursuant to this Paragraph 6 will be added to the amount then outstanding and is collectible to the same extent and in the same manner as the assessment, the delinquency of which gave rise to the incurrance of such charge, fee or expense.
- 7) Application of Funds Received. All monies received by the Association, regardless of whether an Owner has placed a restrictive notation on the check or other form of payment, or in correspondence accompanying the payment, will be applied to amounts outstanding to the extent of and in the following order:
- a) First, to any delinquent assessment;
 - b) Next, to any current assessment;
 - c) Next, to any attorney's fees or third party collection costs incurred by the Association associated solely with assessments or any other charge that could provide the basis for foreclosure;
 - d) Next, to any attorney's fees incurred by the Association that are not subject to Subsection "c." above;
 - e) Next, to any fines assessed by the Association; and
 - f) Last, to any other amount owed to the Association.
 - g) If, at the time the Association receives a payment from the Current Owner, the Current Owner is in default under a payment plan entered into with the Association:
 - i) The Association is not required to apply the payment in the order of priority specified by Subsections "a.-f." above; and
 - ii) In applying the payment, a fine assessed by the Association may not be given priority over any other amount owed to the Association.
- 8) Ownership Records. All collection notices and communications will be directed to those persons shown by the records of the Association as being the Owner of a Lot for which assessments are due and will be sent to the most recent address of such Owner solely as reflected by the records of the Association. Any notice or communication directed to a person at an address, in both cases reflected by the records of the Association as being the Owner and address for a given Lot, will be valid and effective for all purposes

SALADO HIDDEN SPRINGS PROPERTY OWNERS ASSOCIATION

ASSESSMENT COLLECTION POLICY

pursuant to the Declaration, the Bylaws and this Assessment Collection Policy until such time as there is actual receipt by the Association of written notification of any change in the identity or status of such Owner or its addressor both.

- 9) **Notification of Owner's Representative.** Where the interests of an Owner in a Lot have been handled by a representative or agent of such Owner or where an Owner has otherwise acted so as to put the Association on notice that its interests in a Lot have been and are being handled by a representative or agent, any notice or communication from the Association pursuant to this Assessment Collection Policy will be deemed full and effective for all purposes if given to such representative or agent.
- 10) **Mortgagee Notification.** The Association may, at its option, or as may be required by the Declaration or by law, notify any mortgagee of a lot of the existence and extent of the delinquency of an Owner. The Owner will be informed in writing that its mortgagee has been so notified.
- 11) **Payment Plans.** In order to assist Owners in remedying delinquencies and remaining current on the payment of amounts owed to the Association, Owners may request and then make partial payments to the Association for amounts owed without accruing additional penalties. The Association has adopted a Payment Plan Policy which sets forth the guidelines for such and can be referred to in such instances.
- 12) **Referral to Legal Counsel.** If the delinquency is not cured in full, including all accrued interest and other charges then owing, within thirty (30) days of the date of the Late Notice Letter, or (ii) if the Owner has not entered into a payment plan with the Association, within thirty (30) days of the date of the Late Notice Letter the Board may, as soon as possible thereafter, refer the delinquency to the legal counsel for the Association for the legal action as required by this Assessment Collection Policy. Any attorney's fees and related charges incurred by virtue of legal action taken will become part of the assessment obligation and may be collected as such as provided herein.
- 13) **Legal Action.** Legal counsel for the Association will take the following actions with regard to delinquencies referred to it:
 - a) **Notice of Lien.** If an Owner fails to pay in full any amounts owing, counsel or the Association, will cause to be prepared and executed, and recorded in the Official Public Records of Bell County, a written notice of lien (referred to as the "Notice of Lien") setting forth therein the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot covered by the lien. A copy of the Notice of Lien will be sent to the Owner contemporaneously with the filing of same with the County Clerk's office, together with an additional demand for payment in full of all amounts then outstanding, within thirty (30) days of the date of the transmittal to the Owner of the Notice of Lien.
 - b) **Alternative Collection Courses.** At each step in the collection process the Board, acting with input and recommendations from counsel, will evaluate which course of legal action appears to be in the best interest of the Association for recovery of unpaid assessments. Such legal action may include, but is not limited to, pre-judgment and post-judgment garnishment of rents, bank accounts and other debts

SALADO HIDDEN SPRINGS PROPERTY OWNERS ASSOCIATION

ASSESSMENT COLLECTION POLICY

(to the extent permitted by applicable law), foreclosure of the Association's assessment lien, and/or pursuit of a personal judgment against the Delinquent Owner, including but not limited to pursuit of such in small claims or justice court. Determination at one point to pursue one course of action will in no way limit or impair the right of the Association to initiate action in a different or supplemental direction, provided all procedures and steps called for by the Declaration, the Bylaws and this Assessment Collection Policy are followed.

- c) Demand Letter. As the initial correspondence to a Delinquent Owner, counsel will send a demand letter (the "Demand Letter") to the Owner making formal demand for all outstanding assessments and related charges, adding to the charges the attorney's fees and costs incurred for counsel's services. The Demand Letter will require the Owner to pay in full all amounts demanded within thirty (30) days of the date of the Demand Letter. The Association may skip the Demand Letter process set forth in this subsection b, and proceed with collection procedures set forth below or as may be allowed by law, as may be determined from time to time by the Board of Directors.
 - d) Title Search. If a Delinquent Owner fails to pay the amounts demanded in the initial Demand Letter sent by counsel within thirty (30) days of the date of the Demand Letter, counsel will, upon direction from the Board order a search of the land records to determine current ownership of the lot on which the delinquency exists. If the title report indicates that the Current Owner is other than the Delinquent Owner, counsel will communicate that factor the Association. A determination will then be made by the Board whether to pursue collection of the unpaid assessments from the Delinquent Owner or the Current Owner or both. Based on that determination, the Board will direct counsel to proceed according to this Assessment Collection Policy. Where the title report confirms that the Current Owner is the Delinquent Owner, the Association and counsel will likewise proceed according to this Assessment Collection Policy.
 - e) Judicial Foreclosure or Personal Judgment Suit. When the Board has directed that the collection action to be taken is a suit for personal judgment against the Owner and/or for foreclosure of the assessment lien, upon the expiration of the time period given in the demand letter accompanying the Notice of Lien, or the most recent, demand for payment from counsel as the case may be, the continued delinquency of unpaid assessments owing will be reported to the Board, together with all pertinent facts concerning the delinquency and the ramifications of the proposed foreclosure of the Lot. As soon as practical thereafter, the Board will direct counsel to initiate legal proceedings in a court of competent jurisdiction seeking foreclosure of the assessment lien and/or recovery of a personal judgment against the Current Owner and, where different, the Delinquent Owner, or from the Current Owner only, for all amounts owing arising from the unpaid assessments and the collection thereof, including all attorney's fees and costs.
- 14) Verification of Indebtedness. For so long as the collection of assessments may be subject to the requirements of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) (the "FDCPA") and the Texas Debt Collection Act (Tex. Rev. Civ. Stat., art 5096 et seq.) (the "TDCA"), all communications from legal counsel will include such required notices as are prescribed by the FDCPA and the TDCA. Furthermore, where an Owner

SALADO HIDDEN SPRINGS PROPERTY OWNERS ASSOCIATION

ASSESSMENT COLLECTION POLICY

requests verification of the indebtedness, the Board will, upon notification of the Owner's request, supply such verification before any further collection action is taken with respect to such Owner. The exercise of the collection rights of the Association regarding assessments will in all ways comply with the FDCPA and the TDCA to the extent such acts may apply.

- 15) Compromise of Assessment Obligations. In order to expedite the handling of collection of delinquent assessments owed to the Association, the Board may, at any time, compromise or waive the payment of any assessment, interest, late charge, handling charge, finance charge, legal fee or any other applicable charge. The Association may, at its option, notify the Internal Revenue Service of the waiver or forgiveness of any assessment obligation.
- 16) Credit Bureaus. The Association may also notify any credit bureau of an Owner's delinquency. The Association will notify the Owner that it has filed such a report and will comply with any local, state, or federal laws in connection with the filing of such report.

IT IS FURTHER RESOLVED that this Assessment Collection Policy replaces and supersedes in all respects all prior policies and resolutions to the collection of assessments with respect by the Association and is effective upon adoption hereof, to remain in force and effect until revoked, modified or amended.

This is to certify that the foregoing resolution was adopted by the Board of Directors at a meeting of same on November 11, 2014, and has not been modified, rescinded or revoked.

Date: November 12, 2014 Secretary Sheila J. Brooks



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**Bell County
Shelley Coston
County Clerk
Belton, Texas 76513**

Instrument Number: 2014-00041914

As

Recorded On: November 13, 2014

Recordings

Parties: SALADO HIDDEN SPRINGS PROPERTY OWNERS ASSOC

Billable Pages: 6

To EX PARTE

Number of Pages: 7

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Recordings	31.00
Total Recording:	31.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2014-00041914

Receipt Number: 220486

Recorded Date/Time: November 13, 2014 03:07:33P

User / Station: H Ables - Cash Station 1

Record and Return To:

SHIELA BROOKS

PO BOX 185

SALADO TX 76571



I hereby certify that this instrument was filed on the date and time stamped hereon and was duly recorded in the Real Property Records in Bell County, Texas

Shelley Coston
Bell County Clerk