

**ASSOCIATION OF UNIT OWNERS
OF NORTH PARK LOFTS CONDOMINIUM**

RESOLUTION NO. 2005-02

Resolution of The Board of Directors

WHEREAS, "Declaration" is the *Declaration of Unit Ownership for North Park Lofts Condominium* and "Association" is the *Association of Unit Owners of North Park Lofts Condominium*,

WHEREAS, the board of directors had previously approved a collection policy and desires to further clarify the procedures for collection of assessments;

WHEREAS, "assessments," as used in this Resolution, includes all amounts validly assessed against a Unit Owner ("Owner") pursuant to the Declaration, the Association's Bylaws, Rules and Regulations, and any Board of Director Resolution, including, but not limited to common expenses, interest, fees, fines, attorney fees and all collection costs;

WHEREAS, Article 14 of the Declaration and Article 7, of the Bylaws of the Association of Unit Owners of North Park Lofts Condominium ("Bylaws") states that Owners must comply with the Declaration, Bylaws, and Administrative Rules and Regulations;

WHEREAS, Article 14 Section 14 3 of the Declaration; Article 7, Section 7.6, of the Bylaws authorize the Board to enforce provisions of the Declaration, Bylaws and Rules and Regulations, including action to collect unpaid assessments;

WHEREAS, Article 14, Section 14 3 of the Declaration; Article 5, Section 5.6 and Article 7, Section 7.6 of the Bylaws, and the Oregon Condominium Act, chapter 100.405(4)(k) authorizes the Board to establish fines and late charges related to all unpaid assessments as defined above; and the board has previously established a levy of a \$15 late charge for any assessment not paid within ten days of the date of any assessment;

WHEREAS, Article 5, Section 5.6 of the Bylaws provides for interest on past due assessments, including all charges imposed or levied by the Association, at the rate of twelve percent (12%) per annum;

WHEREAS, Article 5, Section 5.6 of the Bylaws and the Oregon Condominium Act provides that all assessments, together with interest, attorney fees and costs of collection shall be a continuing lien upon the unit against which each such assessment is made;

WHEREAS, Article 5, Sections 5.6 and 5.7 of the Bylaws and the Oregon Condominium Act, chapter 100.450, authorizes the Board, on behalf of the Association, to bring suit to foreclose the lien against the unit and/or to bring an action to obtain a money judgment

against an Owner for damages and/or for unpaid assessments;

WHEREAS, Article 7, Section 7.6 of the Bylaws provide that Owners shall be obligated to pay reasonable fees and costs including, but not limited to, attorney fees incurred in connection with efforts to collect delinquent and unpaid assessments, whether or not suit or action is commenced, and/or to enforce the provisions of the Declaration, Bylaws, rules and regulations or the Act;

WHEREAS, from time to time, Owners become delinquent in the payments of their regular monthly and/or special assessments and fail to respond to the demands from the Board to bring their accounts current, and it is imperative assessment payments are timely received;

WHEREAS, the Board of Directors is vested with the authority to, and may, promulgate separate rules and regulations relating to the use, operation, or maintenance of the common elements. Because the unit owners may violate such rules over time, it is imperative that fines be assessed in order to deter such violations and to remedy any damage caused by such behavior;

WHEREAS, the Board deems it in the Association's best interest to adopt a uniform and systematic procedure for the collection of unpaid assessments and fines in a timely manner and to provide adequate notice for violations thereof with an opportunity to be heard. The Board recognizes and believes that it may be in the Association's best interest to refer these delinquent accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue.

NOW BE IT RESOLVED that a late fee of \$15 shall be levied for any assessment, which is not paid in full within ten (10) days of its due date.

NOW, BE IT FURTHER RESOLVED, that the following steps be adopted to provide for the uniform and systematic procedure for the collection of unpaid assessments:

1. If any assessments, and all other amounts validly assessed against an Owner, including, but not limited to common expenses, interest, fees, fines, attorney fees and all collection costs, remain unpaid by an Owner for more than thirty (30) days from the due date for its payment, the Board shall send a notice to the Owner indicating the amount due, including notice of the late fees. *See Exhibits "A."*

2. If any assessment remains unpaid by the Owner for more than sixty (60) days from the due date for its payment, the Board may turn over collection thereof to the Association's attorney ("Attorney"), who shall (a) send a written demand for payment and any notice as required by the federal Fair Debt Collection Practices Act, if applicable; (b) prepare and record a lien against the Owner's unit; (c) notify the Owner within twenty (20) days of recording that the lien has been recorded; and (d) notify any first mortgage on trust deed holder of the Owner's default; if applicable. The lien amount shall include all collection costs to date, attorney's fees and the cost of preparing and/or recording the lien, any notice of lien required by

law, and any notice to a first Mortgage holder, if applicable. The demand for payment shall notify the Owner of the Owner's liability for payment of charges imposed by Attorney to cover fees and costs associated with all collection efforts. The demand for payment shall include all collection costs to date.

3. If any assessment remains unpaid by the Owner thirty (30) days after the date of Attorney's demand, Attorney shall send Owner a ten (10) day demand letter for payment notifying the Owner that if payment is not received that the Association intends to file suit to either obtain a money judgment or foreclose on the lien. The demand shall include the updated amount owing, including all collection costs to date.

4. If any assessment remains unpaid by the Owner ten (10) days after the attorney's ten-day demand letter, the Attorney shall file suit for a money judgment, unless the Board, after recommendation by Attorney, determines that lien foreclosure is advisable under the circumstances. In such cases, the attorney may file suit for a money judgment, for foreclosure, or for both a money judgment and foreclosure, as permitted by applicable law.

5. If the Association is successful in obtaining a money judgment, Attorney shall collect on the judgment in this order, unless the attorney determines other actions or another order of collection is appropriate under the circumstances: (1) file and send a ten (10) day demand to pay judgment; (2) garnish accounts, wages and/or rents; (3) levy against any personal and real property; and (4) levy against the unit. Additional steps may be necessary to determine the availability and location of the judgment debtor's assets. If the Association is successful in a suit to foreclose on the lien, Attorney shall proceed as necessary to complete the foreclosure if so directed by the Board.

NOW, BE IT FURTHER RESOLVED, that all legal fees and costs incurred in the collection of a delinquent account shall be assessed against the delinquent Owner and shall be collected as an assessment as provided in Article 5, Section 5.6 of the Bylaws and the Oregon Condominium Act.

NOW, BE IT FURTHER RESOLVED, that all contacts and/or contracts with the delinquent Owner shall be through Attorney; neither the Board nor any of its agents shall discuss the collection of the account directly with the Owner after it has been turned over to Attorney, unless one of the attorneys is present or has consented to the contact and/or contract.

NOW, BE IT FURTHER RESOLVED, that Attorney shall have the discretion to enter into an installment payment plan with a delinquent Owner in appropriate circumstances. In all cases, any such plan must be secured by a Stipulated Judgment. Any payment plan providing for a down payment of less than the greater of one-third (1/3) of the delinquent balance or twice the current monthly assessment, or a duration in excess of twelve (12) months shall require approval of the Board president.

NOW, BE IT FURTHER RESOLVED, that Attorney, in its initial demand notice, shall communicate to Owner that the account has been turned over to it for collection, and that all payments are to be made to Attorney until the account has been brought current. Attorney


shall deposit all payments in its trust account. All amounts collected shall be disbursed by the Attorney according to the provisions of the Association and Attorney representation agreement.

NOW, BE IT FURTHER RESOLVED, that nothing in this Resolution precludes the Board from taking further action in the collection of unpaid assessments permitted by the Association's governing documents or applicable law, including, but not limited to, adopting or enforcing rules regarding the termination of utility services paid for out of assessments of the association and access to and use of recreational and service facilities available to owners and, after giving notice and an opportunity to be heard, terminate the rights of any owners to receive such benefits or services until the correction of any violation covered by such rule has occurred. If the Association does not turn the delinquent accounts over to its Attorney, the Association, through its Board of Directors, reserves all rights permissible under Oregon law to recover such delinquent accounts.


NOW, BE IT FURTHER RESOLVED, that the Board, may, in its discretion, consult with Attorney and turn over for collection immediately any outstanding account where the Owner files or is the subject of a petition for relief in bankruptcy or a lender has commenced any action for foreclosure of its lien against the unit

NOW, BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to all Owners at their last known address.

ATTEST:



Chairman (President), Board of Directors,
Association of Unit Owners of North Park
Lofts Condominium



Secretary
Association of Unit Owners of North Park
Lofts Condominium

Date: April 21, 2005

EXHIBIT "A"

**SAMPLE DEMAND LETTER TO BE SENT BY BOARD OF DIRECTORS ONCE
ASSESSMENTS ARE 30 DAYS PAST DUE**

[Date]

John Doe
111 S.W. 11th Avenue
Portland, OR 97111

RE: NOTICE OF UNPAID ASSESSMENTS

Dear Mr. Doe:

The records of the Association of Unit Owners of North Park Lofts Condominium show that your assessment account is now past due. Our records reflect the following:

Principal Assessments Due:	\$ _____
Accrued Late Charges:	\$ _____
Accrued Interest:	\$ _____
Total Due:	\$ _____

Demand is hereby made for immediate payment of the balance in full. If you have any questions, please contact the undersigned.

Your prompt payment of the balance due is appreciated.

Sincerely,

Jane Smith
Chairman, Board of Directors