

RESOLUTION No. 2019-09

**TWIN RIVERS COMMUNITY TRUST AS TRUSTEE
FOR THE TWIN RIVERS HOMEOWNERS ASSOCIATION
AMENDED COLLECTION POLICIES AND PROCEDURES**

WHEREAS, the Trustee has the authority under Paragraph 11 of the Trust Indenture, as currently amended ("the Indenture") to levy annual assessments against each beneficiary and owner in the Twin Rivers Development ("Owner(s)") for a proportionate part of the whole cost of operating the entire Trust and supplying necessary services in connection therewith ("Common Expense Assessment"); and

WHEREAS, the Twin Rivers Homeowners Association ("Association") is the current Trustee for the Trust and is charged with the responsibility of collecting such assessments on a timely basis in order to minimize the delinquent assessment payments and maximize the cash flow of the Trust; and

WHEREAS, the Board of Trustees pursuant to Resolution 1999-08 is empowered by Section 1(c) of the Association Bylaws to act on the Association's behalf with respect to the establishment and collection of Common Expense Assessments to be paid by the Unit Owners; and

NOW, THEREFORE, BE RESOLVED, by the Board that the following policies and procedures be and they hereby are adopted, ratified and confirmed:

1. The Common Expense Assessment is an annual assessment for which the Trustee extends the privilege of permitting Owner(s) to pay in timely, equal monthly installments on the first day of each month, whether or not an Owner has received a monthly statement regarding payment of same.
2. If the Trustee does not receive full and timely payment of a particular common expense installment, including any other permitted charges which may have been imposed, by the 10th day of the month in which same is due, the Trust Administrator shall, promptly prepare and send to the delinquent Unit Owner(s) a reminder letter that the installment should be paid prior to the 10th day of the month in which the installment is due. The reminder letter shall also indicate that the installment and other charges must be paid within thirty (30) days after the initial due date of the delinquent installment or charge to avoid further collection procedures and extra expenses and/or further action. Delinquent assessments shall bear interest up to the annual rate of ten percent (10%) of the monthly amount due in addition to such costs as may be allowable by law from the date that such amount first came due until paid in full. In the event that the Trustee shall incur extra expenses to effectuate collection of said charge(s), the Trustee may add to the aforesaid charge(s) a sum(s) of twenty percent (20%) of the gross amount due, in addition to such costs as may be allowable by law. The Owner(s) shall be responsible for any attorney's fees and costs incurred by the Trustee which are associated with any collection or litigation, either before a mediation, arbitration, alternate dispute resolution, trial or any post trial collection action to effect collection.

3. If the Trustee does not receive full payment of all delinquent assessments and charges within ten (10) days after the initial due date of the delinquent installment or charge, without further direction by and/or authorization of the Board:
 - a) the delinquent Owner(s)' voting rights and non essential privileges, including the privileges of any tenant and/or occupant of the delinquent Owner's unit, (specifically, the right to use the pool and community room) shall be automatically suspended until such Owner(s) tender(s) full payment of all delinquent assessments and charges;
 - b) a letter shall be sent to the delinquent Owner(s) by the Trust Administrator indicating that a Claim of Lien was filed against the Unit and that such nonessential privileges have been suspended and shall remain suspended until full payment is received by the Trust Administrator of all delinquent assessments and charges.
4. If the Trustee does not receive full payment of all delinquent assessments and charges within the foregoing thirty (30) day time period, without further direction by and/or authorization of the Board:
 - a) the balance of the Owner('s)' annual common expense assessment together with interest shall be automatically deemed fully accelerated and immediately due and owing; and
 - b) the Trust Administrator shall notify the Association's attorney in writing of the collection matter, which notice shall include the following information: (i) record name(s) and address of the delinquent Owner (s); (ii) total amount of the arrearages; (iii) copy of deed of record for the Unit; and (iv) categorized breakdown of amounts comprising the total amount. Such notice shall be deemed, and shall serve as, the Board's authorization for the attorney to notify the Unit Owner of the claim pursuant to the Fair Debt Collection Practices Act and to prepare a Claim of Lien which shall be sent to the Trust Administrator to record at the appropriate time in the Office of the Mercer County Clerk.
5. If the Trustee does not receive full payment of all delinquent assessments and charges within ninety (90) days after the initial due date of the delinquent installment or charge, without further direction by and/or authorization of the Board:
 - a) in cases where the total amount owed to the Trustee is within the jurisdiction of the Small Claims Court of Special Civil Part of the Superior Court, Mercer County, the Trust Administrator shall file an action to collect such sum. The Trust Administrator shall send a final demand letter to the delinquent Owner(s) prior to the filing which stipulates that the terms of payment may be negotiated. Court costs and any other fees shall be borne by the owner(s) in every instance.
 - b) in cases where the total amount owed to the Trustee is not within the jurisdiction of the Small Claims Court, the Trust Administrator shall notify the attorney to commence appropriate legal action against the Owner in the appropriate Division of the Superior Court. Such notification shall be considered direction and/or authorization from the Board to commence suit without further notice to the delinquent Owner. Legal action may include, without limitation, an action to foreclose the Association's lien and/or to recover a judgment against the delinquent Owner(s) for all sums due and owing to the Trustee. However, no foreclosure action shall be instituted without the express written approval of the Board.

6. Once an Owner becomes delinquent in the payment of any common expense assessments and/or charges, any amounts paid by the Owner to the Trustee, including any escrow funds held by the Trustee, shall be applied first to attorneys' fees and costs incurred in connection with the preparation of a claim of lien and/or collection, then to accrued interest on the charges owed, then to the principal amount of the most aged common expense assessment and/or other charges, then to current assessments and/or charges.
7. Upon (i) receipt from an Owner of complete payment of all delinquent assessments, accrued interest and/or other charges including, but not limited to attorneys' fees and costs, and (ii) replenishment of all escrow funds utilized by the Trustee for such payments, the Trustee shall so notify the attorney in writing, and if a claim of lien has been filed, the attorney shall prepare a "Satisfaction of Lien" for the Trust Administrator to record.
8. The Board, may, on a case by case basis, grant relief to a delinquent Owner from delinquent common expense assessments and related interest charges, collection costs, attorneys' fees and/or other charges imposed by the Board if, in the sole discretion of the Board, the circumstances merit such relief.
9. To the extent that any one or more provisions of this policy shall be declared illegal, invalid or unenforceable by a Court of competent jurisdiction, all remaining provisions shall remain in effect.
10. The policy established in this resolution shall become effective immediately and shall be applied to those common expense assessment installments due and owing as of January 1, 2000.

BE IT FURTHER RESOLVED that the printing of this Resolution in its entirety in the community newsletter publication, Twin Rivers Spotlight, or its successors or assigns, shall deemed to be proper notice to all residents of the Twin Rivers development, and the said Resolution shall remain on record on the books of the Twin Rivers Community Trust.

Duly approved by the Board of Trustees
at their meeting of July 11, 2019

ATTEST:

Marc Platizky, Secretary