

**RESOLUTION
OF THE
BOARD OF DIRECTORS OF
KEHALANI COMMUNITY ASSOCIATION**

ASSESSMENT COLLECTION POLICY

WHEREAS, The Kehalani Community Association Board of Directors met on April 19, 2011 and considered the matter of assessment collections for Kehalani Community Association, Wailuku, Maui, Hawaii; and

Whereas the Association has experienced a substantial and growing delinquency that if permitted to continue could threaten the financial viability of the Association; and

Whereas, Section 8.1 of the Declaration of Covenants, Conditions, and Restrictions for Kehalani ("DCCRs") provides that all assessments are due and payable in advance on the first day of each fiscal year of the Association, unless the Board otherwise decides and whereas the first day of the fiscal year is January 1 and the last day is December 31; and

Whereas the Board permits Association members to pay their yearly assessment in monthly payments so long as their payments are current;

NOW, THEREFORE, upon motion duly made and seconded, the following resolution was adopted:

RESOLVED, assessments due from Association members shall be collected in the following manner:

1. The full amount of Base Assessments and Neighborhood Assessments (as defined in the DCCRs) for a fiscal year shall be due and payable in advance, on the first day of the fiscal year namely, January 1. However, if an Association member is current in his/her payments as of December 31 of the previous fiscal year, then the Association member may pay his/her assessments for the next fiscal year in 12 equal monthly payments, subject to the procedures outlined below.

- (a) Monthly payments are due on the first of each month and delinquent if not received by the 10th. If the payment is not received by the 10th a late charge of \$25.00 will be charged and a collection letter (C1, see attached) will be sent out.
- (b) If by the 10th of the next month there is a delinquency in the account a second collection letter (C2, see attached) will be sent out. The C2 letter will advise that a late charge of \$50 has been added to the account.
- (c) If by the 10th of the following month there is a delinquency in the account a third collection letter (C3, see attached) will be sent out and the member will be advised as follows:

(i) **that the total amount of Base Assessments and Neighborhood Assessments due from the member for the entire fiscal year will be immediately due and payable** in addition to a late charge of \$75.

(ii) that if the total amount due is not paid in full by the end of the month then an additional late charge of \$100 shall be charged and the account will then be forwarded to a collection agency and/or attorney without any further notification.

(iii) that the collection agency and/or attorney is authorized to pursue any and all legal remedies including but not limited to filing suit, advising credit reporting agencies of the delinquency, recording a lien against the real property and instituting judicial or non judicial foreclosure actions.

2. The delinquent Association member shall be responsible for payment of all costs and expenses, including interest at the rate of 10%, late charges, costs and reasonable attorneys fees. With respect to how the Association will apply payments received from Association members to the delinquent

accounts of those members, the Association will follow priority of payment procedures similar to those authorized under Chapters 514A and 514B, Hawaii Revised Statutes, as follows:

(a) APPLICATION OF PAYMENTS

The Association will apply all payments received from Association members in the following order of priority, if applicable:

1. Legal fees and costs.
2. NSF charges for returned checks.
3. Interest.
4. Late fees.
5. Any other outstanding fees or fines.
6. Base Assessments.
7. Neighborhood Assessments.

(b) EFFECT OF APPLICATION OF PAYMENTS

(i) An Association member's failure to pay late fees, legal fees, fines, and interest in full may result in the deduction of those late fees, legal fees, fines, and interest from the owner's future assessment payments, for as long as the owner's delinquency continues to exist. (In other words, the Association will continue to deduct late fees, legal fees, fines, and interest from the Association member's Base and Neighborhood assessment payments for as long as the Association member fails to pay those charges.)

(ii) Late fees may be imposed against the Association member's future assessment payment if that payment is less than the full amount owed because of the deduction of unpaid late fees, legal fees, fines, and interest from the payment.

3. This policy shall become effective immediately and shall be implemented as follows:

(a) Any Association member who is delinquent in his/her payments as of this date, April 19, 2011 and who is still delinquent in his/her payments as of May 10, 2011 shall be sent the C2 letter and if still delinquent on the 10th of June, 2011 shall be sent the C3 letter.

(b) Any Association member who becomes delinquent on the 10th of the May, 2011 or any month thereafter in which a payment is due shall receive the C1 letter and if the delinquency remains on the 10th of the next month shall receive the C2 letter and if the delinquency remains on the 10th of the following month shall receive the C3 letter.

APPROVED AND ACCEPTED, by the Board of Directors this 19th day of April, 2011.

BY:  _____, President