



Agenda Item: Treasurer Function - Fees, Penalties, Interest Charges

A proposed agenda item to be presented by Treasurer for board decision at the 23-Sep-21 board meeting. This item is being presented because board members were tasked to write functions documents.

The intent of this presentation is to explain the processes for implementing association policies regarding fees, penalties, and interest charges.

Motion Title: ***Fees, Penalties, Interest Charges Functions Doc***

Proposed Motion:

Approve the proposed functions document for processing fees, penalties, and interest charges.

Alternate Motion(s):

Approve the proposed functions document for processing fees, penalties, and interest charges with the following changes:

.

Information/Arguments:

The proposed document explains the processes for:

- Levy of Disclosure Fee, including non-secondary charge
- Levy of fees and interest charges for late assessment payment
- Levy of fees and interest charges for violation of CCRs (based upon enforcement policy document)

Additional Information:

Background: 5.6 Treasurer - Fees, Penalties, and Interest Charges

5.6.1. Overview. Fees, penalties, and interest charges are levied against owner accounts to encourage owners to pay their financial obligations in a timely manner and to adhere to the covenants, conditions, restrictions, and easements (CCREs) and other governing documents of the association, and to defray costs to the association. The board of directors set all fees and penalties. The secretary assembles and distributes resale disclosure packages. The treasurer processes (levy, monitor, collect, record, etc.) all fees, penalties, and interest charges.

5.6.2. Authority. Arizona statutes 33-1803, 33-1806, and 44-1201, plus Section 7 of the Declaration are the primary, though not necessarily exclusive, documents that address parameters, timing, discretion, and processing of fees, penalties, and interest charges. The actions and functions, and their timing, to establish and process fees, penalties, and interest charges contained herein. Should there arise any conflict between the policies and functions of this document and those of a superior governing document, the superior document will prevail. Should there arise any conflict between the policies and functions of this document and those of an earlier document of equal authority, the earlier document is hereby superseded.

5.6.3. Definitions. Reserved.

5.6.4. Disclosure Fee.

5.6.4.1. Process. Notification of lot resale is required from the selling owner; however, notification often comes from the title agency when they inquire about debts and charges regarding the lot. Notification from any source triggers the process.

5.6.4.1.1. Inform the Secretary. The treasurer informs the secretary of the sale for the purpose of sending the disclosure package.

5.6.4.1.2. Create Account. The treasurer creates an individual account for the combined lot and lot buyer.

5.6.4.1.3. Determination of Initial or Secondary Ownership. When notified of the sale, the treasurer determines whether this sale is an initial or secondary purchase by the buyer. Responses to inquiries and levies of disclosure fees are consistent with this determination.

5.6.4.1.4. Levy of Fee. When notified of the closing date and the sale is an initial purchase by the buyer, the treasurer levies the disclosure fee against the account with a due date equal to the closing date. (If a secondary purchase, no fee is levied.) No notice needs to be sent if the notification of sale was the inquiry from the title agency.

5.6.5. Assessment-Related Fees and Interest Charges.

5.6.5.1. Late Fee.

5.6.5.1.1. Establishing the Late Fee. The amount of the late fee is normally proposed by the treasurer to the board. The board of directors approves the amount of the late fee. Subsequent to board approval, the treasurer records the fee in conjunction with the annual or current budget and provides a draft announcement regarding the fee to the secretary for publication.

5.6.5.1.2. Process. The treasurer levies the late fee against each account upon the delinquency of the account when the debt of the account exceeds 20% of the most-recent annual assessment. The treasurer records the fee in the ledger immediately. The treasurer notifies the account owner of the levy by mail after allowing generously reasonable time to ensure payment was not made before the delinquency date (if payment was made before the delinquency date, the treasurer deletes the late fee from the ledger). If the account is satisfied within the first quarter (91 days) after the delinquency date or the late fee is discovered to have been levied in error, the treasurer reverses the late fee by recording a credit in the ledger equal to the late fee.

5.6.5.2. Interest Charges.

5.6.5.2.1. Establishing the Interest Charge Rate. The interest rate is set by the CCREs at 18% or a lesser rate if constrained by law. The interest rate can only be changed via amendment of the CCREs. Interest charges can be relieved as part of a special arrangement between the account owner and the board.

5.6.5.2.2. Process. At each quarter (91 days) after delinquency date, the treasurer computes the

interest charge (equal to the account debt multiplied by 0.042245) and levies the interest charges against each account when the debt of the account exceeds 25% of the most-recent annual assessment. The treasurer records the interest charge in the ledger immediately. The treasurer notifies the account owner of the levy by mail after allowing generously reasonable time to ensure payment was not made before the quarter end (if the account is satisfied before the quarter end, the treasurer deletes the interest charge from the ledger). If the account is satisfied within the first quarter (91 days) after the interest charge is levied or the interest charge is discovered to have been levied in error, the treasurer reverses the interest charge fee by recording a credit in the ledger equal to the interest charge.

5.6.5.3. ~~M~~ailing Fee.

5.6.5.3.1. ~~E~~stablishing the Mailing Fee. The mailing fee is applied when it is appropriate to mail documents related to account debt using extraordinary delivery or postal service (includes all service other than first-class postage). The mailing fee is equal to the total delivery/postage expense only. Extraordinary postal and delivery services are appropriate when required by state statute, required by association governing document, when at least four mailed solicitation of action and/or response have gone unanswered, or when otherwise authorized by the board of directors.

5.6.5.3.2. ~~P~~rocess. The treasurer levies the mailing fee against each account immediately after the mailing expense is incurred. The treasurer records the fee in the ledger immediately. The treasurer is not required to notify the account owner of the mailing fee. If the mailing fee is discovered to have been levied in error or the mailing fee is reversed by the board of directors, the treasurer reverses the mailing fee by recording a credit in the ledger equal to the mailing fee.

5.6.5.4. ~~L~~ien Recording Fee.

5.6.5.4.1. ~~E~~stablishing the Lien Recording Fee. The lien recording fee is applied when the lien is recorded with the county recorder. The fee is equal to the recording fee, plus any other costs involved with the recording of the lien (postage, etc.).

5.6.5.4.2. ~~P~~rocess. The treasurer levies the lien recording fee against each account immediately after the expense is incurred. The treasurer records the fee in the ledger immediately. The treasurer is not required to separately notify the account owner of the lien recording fee. If the lien recording fee is discovered to have been levied in error or the lien recording fee is reversed by the board of directors, the treasurer reverses the lien recording fee by recording a credit in the ledger equal to the mailing fee.

5.6.5.5. ~~A~~ttorney/Legal Fees.

5.6.5.5.1. ~~E~~stablishing Attorney/Legal Fees. All reasonable attorney and/or legal expenses for actions directed by the board or by the governing documents for seeking satisfaction of debts shall be the ultimate responsibility of the account owner.

5.6.5.5.2. ~~P~~rocess. Upon receipt of the invoice for legal services, the treasurer will: 1) Issue payment (unless sufficient budgeted funds are unavailable, the treasurer will issue payment promptly; however if budgeted funds are insufficient, the treasurer will initiate action to seek additional budget authority); 2) enter the fee levy into the ledger (entered promptly against the

account, with comments).

5.6.5.6. ~~Other Fees, Charges, and Penalties.~~ Reserved.

5.6.6. Violation of Governing Document Penalties and Fees. All association members have an expectation that all POs will follow the HLR Association By Laws, Conditions, Covenants, Restrictions and Easements (CCR) with Amendments, and Association Rules since they bought into a neighborhood/area with an Association and signed a contract agreeing to abide by the rules stated therein.

5.6.6.1. ~~Establishing the Violation Penalty.~~ The penalty for an uncorrected violation will be based upon 25% of annual assessment at the time the penalty is imposed. The penalty will double after every six-month period. The penalty will be imposed every month until the violation has been corrected or until an alternative satisfaction of the violation (turning account over to collections, legal action, foreclosure, etc.) is taken.

5.6.6.2. ~~Collection of Penalties.~~ The Association may impose a lien for unpaid penalties, associated late charges, along with attorney fees and costs, for violation(s) of a By Laws, CCR and Association Rules. This lien is effective on conveyance of any interest in the subject Lot. The Association may also withhold use of to HLR Common areas and will withhold voting privileges until all penalties/fines have been paid. Furthermore, the Association may, at its discretion, seek through a civil court of appropriate jurisdiction all legal remedies to collect, including but not limited to monetary penalties, reasonable attorney fees and any associated cost.

5.6.6.2.1. ~~Penalty Levy.~~ The treasurer will enter the levy into the ledger against the account in violation.

5.6.6.2.2. Penalty Payment Delinquency, Late Fee, and Interest Charges. If the penalty remains unpaid and becomes delinquent, the treasurer will enter a late fee (same as the assessment late fee) into the ledger against the account in violation. Interest charges for non-payment of penalties will be processed in the same manner as interest charges for late payment of assessments.

5.6.6.3. ~~Penalty Hold/Stop.~~ The monetary violation penalty will stop and be placed on hold once the PO notifies the Board in writing with proof that the violation(s) has been corrected. The BOD or its authorized agent will conduct a follow-up inspection to verify that the violation(s) no longer exist. If the violation has not been corrected, then the monetary penalty will continue to accrue. The BOD will notify the PO in writing the results of the re-inspection on whether the violation(s) has been corrected or not.

5.6.7. ~~Other Fees and Charges.~~ Reserved.

5.6.8. ~~Expiration.~~ These policies and procedures will expire upon the earliest occurrence of any of the following: 1) These policies and procedures are incorporated into the Association Rules and Procedures; 2) These policies and procedures are referenced in the Association Rules and Procedures; 3) These policies and procedures are superseded; or 4) January 1, 2023.
