

# DECISION PAPER



July 13, 2017

**Review and Update  
of  
Tahoe Donner Association Board of Directors**

**Administrative Resolution 2017-1  
Assessment Collection, Delinquency and Foreclosure Actions Policy**

**Issue:** The Finance Committee, at the direction of the Board and in accordance with the Association’s commitment to review and update resolutions every five years, has reviewed the Association’s Resolution 2011-3-A, Policies and Procedures Regarding Delinquent Assessment Accounts at Appendix A. A final DRAFT of the revised and updated resolution, entitled Administrative Resolution 2017-1, Assessment Collection, Delinquency and Foreclosure Actions Policy is at Appendix B.

**Background:** Current Resolution 2011-3-A was approved over 7 years ago and provides a statement of policies and procedures pertaining to the collection of annual assessments, a timeline of actions regarding actions to be taken if assessments become delinquent, and defines what constitutes the timely payment of assessments before application of penalties. Since implementation the Davis-Stirling Common Interest Development Act has been reorganized, and in the course of reviewing other resolutions our resolution format used in drafting resolutions that includes cited references for policies and procedures being implemented. The updated DRAFT Resolution 2017-1 reflects adjustments noted below and provides newly retitled resolution.

**Key Provisions/Changes:**

1. Added “WHEREAS” paragraphs that specify the source of authority or regulatory requirement for the establishment of policy or procedures to include footnoted citations in various references.
2. Added a “PURPOSE” section to clearly define reason for the resolution.
3. Added a “RESPONSIBILITY” section to fix responsibility for ensuring for current and future compliance if or when changes occur in law or governing documents.
4. Retitled resolution to reflect scope and terminology of regulatory guidance concerning policies and practices relating to the collection of assessments, enforcement of lien rights, and remedies in case of defaults in payment of assessments.
5. Revised the Appendix to be in sync with existing Davis-Stirling and Governing Documents.
6. Improved readability of Timeliness of Payments and Application of Payments section by using bullets and spacing.

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## Options:

1. Approve updated Resolution and review in 5 years. (Appendix B)
2. Reject updated Resolution and provide further guidance.
3. Revalidate existing Resolution and extend validity 5 years.

**Recommendation:** The Finance Committee and the Resolutions Review Subcommittee recommend that the Board of Directors approve Option 1: Approve updated Resolution and review in 5 years.

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**Prepared By:** Finance Committee, Resolutions Review Subcommittee – Corey Leibow, Michael Eyton-Lloyd, Jim Stang and John Dundas

**Reviewed By:** Michael Salmon, Director of Finance and Accounting

**Board Meeting Date:** July 29, 2017

**General Manager Approval to place on Agenda:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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## APPENDIX A



**TAHOE DONNER ASSOCIATION  
BOARD OF DIRECTORS**

**POLICIES AND PROCEDURES  
REGARDING DELINQUENT ASSESSMENT ACCOUNTS**

**RESOLUTION 2011-3 - A**

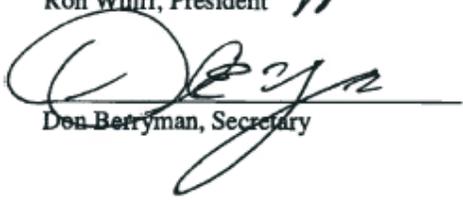
**WHEREAS**, the California Civil and Corporations Codes and the Governing Documents of the Association authorize the Board of Directors to adopt and implement reasonable measures to protect the interests of the Association in the timely collection of assessments duly imposed upon the membership; and,

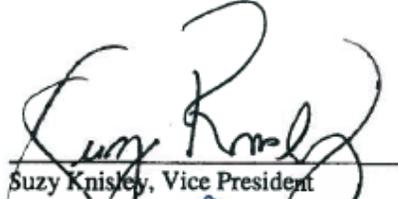
**WHEREAS**, upon review, the Board finds it to be in the best interests of the Association to adopt and implement the policies and procedures reflected in the statement of same proposed herewith, and further finds that it has the requisite authority to do so;

**NOW, THEREFORE, BE IT RESOLVED**, that the attached "Statement of Policies and Procedures Regarding Delinquent Assessment Accounts" is hereby approved and adopted as the policy of the Association, effective March 19, 2011, and that this resolution shall supersede all past policies adopted with reference to the matters stated herein, in their entirety as of said effective date.

**ACCEPTED AND DATED: March 19, 2011**

  
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Ron Wulff, President

  
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Don Berryman, Secretary

  
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Suzy Knisley, Vice President

  
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John Dundas, Treasurer

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## APPENDIX B



### TAHOE DONNER ASSOCIATION BOARD OF DIRECTORS

#### ADMINISTRATIVE RESOLUTION 2017-1

### ASSESSMENT COLLECTION, DELINQUENCY AND FORECLOSURE ACTIONS POLICY

**WHEREAS**, the Davis-Stirling Common Interest Development Act (“Davis-Stirling”)<sup>1</sup> requires Tahoe Donner Association (“the Association”) to make an annual policy statement regarding assessment collection, procedures used in handling delinquent assessments, and the enforcement of lien rights; and,

**WHEREAS**, the Restated Bylaws<sup>2</sup> of the Association requires an annual statement regarding the policies and procedures used to enforce its remedies for defaults in the payment of assessments (regular, special, individual special), including the foreclosing of liens; and,

**WHEREAS**, Davis-Stirling<sup>3</sup> and the Covenants & Restrictions<sup>4</sup> of the Association authorize the Board of Directors to adopt and implement reasonable measures to protect the interests of the Association in the timely collection of assessments duly imposed upon the membership; and,

**WHEREAS**, The Board finds it to be in the best interests of the Association to adopt and implement the procedures reflected in the Appendix entitled “Policies and Procedures Regarding Assessment Collection, Delinquency and Foreclosure Actions”, and finds that it has the authority to do so; and,

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<sup>1</sup> Davis-Stirling, DIVISION 4, PART 5, Chapter 6, ARTICLE 7, §5310(a), (6) and (7); and Chapter 8, ARTICLE 3, §5730 (a) and (b).

<sup>2</sup> Restated Bylaws of Tahoe Donner Association, Article XII, Section 5 (c).

<sup>3</sup> Davis-Stirling, DIVISION 4, PART 5, Chapter 8, ARTICLE 2, §5650 (b).

<sup>4</sup> First Restated Declaration of Covenants and Restrictions of Tahoe Donner, ARTICLE IV, Section 10 (a).

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**WHEREAS**, the following constitutes the policy and procedures regarding the handling and distribution of annual policy statement regarding delinquent assessment accounts of Tahoe Donner Association and supersedes the previously approved policy and procedures (Resolution 2011-3-A);

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Directors of Tahoe Donner Association approves and adopts the Appendix, “Policies and Procedures Regarding Assessment Collection, Delinquency and Foreclosure Actions”, as the required Annual Policy Statement of the Association.

## **PURPOSE**

To establish policy and procedures utilized for dealing with the collection of assessments, the handling of delinquent assessment accounts, and if necessary, foreclosure actions that complies with existing current California Civil Code and Governing Documents.

The appended document will be provided to each homeowner annually with the annual assessment notification and be included in the Annual Budget Report. The mandatory Section 5730 notice required by Davis-Stirling shall be published in the Annual Budget Report.

Should the law or governing documents change, any policies and procedures that conflict with regulatory requirements or a more efficient notification system be utilized, this resolution and appendix will be updated.

## **RESPONSIBILITY**

The Director of Finance & Accounting is responsible for ensuring compliance with the provisions of this Resolution.

## **APPROVAL**

Approval of the Policy regarding Assessment Collection, Delinquent and Foreclosure Actions Policy and any changes, amendments or modifications thereafter, may only be accomplished through Board action at a properly noticed meeting of the Board.

**ACCEPTED AND DATED: July 29, 2017**

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JEFFERY CONNORS, President

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JEFF SCHWERDTFEGER, Vice President

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JEFF BONZON, Treasurer

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JENNIFER JENNINGS, Secretary

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DARIUS BROOKS, Director

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## APPENDIX

### TAHOE DONNER ASSOCIATION

#### Policies and Procedures Regarding Assessment Collection, Delinquency and Foreclosure Actions

Each Property Owner's annual Regular Assessment is due at the beginning of each fiscal year on January 1st, and becomes delinquent on March 1st of the same fiscal year. Special and Special Individual Assessments (Architectural Standards, Covenants and Forestry Assessments, Fines and Inspection Fees) are due thirty (30) days after invoicing and delinquent thirty (30) days thereafter. Delinquent accounts are subject to the following schedule of procedures and charges. **(The actions indicated below will not be taken until at least the date specified, but may occur at a later date due to scheduling considerations.)**

**Interest Amount:** Interest charged will be equal to the maximum allowed by law (currently 12 percent per annum).

#### ANNUAL REGULAR ASSESSMENT

- March 1:** DELINQUENCY FEE (10 PERCENT OF REGULAR ASSESSMENT BALANCE) is charged to the account; also, interest begins to accrue on the delinquent assessment balance.
- April 1:** Notice of pending suspension of membership rights (eligibility for candidacy to serve as a director, to vote in any election, to access the amenities as a member) for failure to pay the assessment and of the member's right to a prior hearing thereon, and notice of intent to record a lien against the member's property to secure amounts owed, is sent to Owner(s) of Record via certified mail.
- April 15:** Assessment Lien recorded against property; The LIEN FEE amount (which may be changed by The Board as part of the annual budget) is charged to the account. If requested, hearing on pending suspension of membership rights must be completed at least five days prior to the suspension's effective date.
- April 20:** Effective date of suspension of membership rights, which shall remain in effect until the account is brought current.
- May 1:** Interest begins accruing on Delinquency Fee.
- June 15:** Delinquent accounts become subject to all appropriate collections/legal recourses, including FORECLOSURE of the assessment lien, to recover amounts owed. All costs and fees related to such actions, including attorneys' fees, become the property owner's obligation.

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**July 1:** Interest begins accruing on Lien Fee.

## **SPECIAL AND SPECIAL INDIVIDUAL ASSESSMENT(S)**

### **Days After Invoicing**

- 60:** DELINQUENCY FEE (10 PERCENT OF ASSESSMENT BALANCE) is charged to the account; also, interest equal to the maximum allowed by law (currently 12 percent per annum) begins to accrue on the delinquent assessment balance.
- 90:** Notice of pending suspension of membership rights (eligibility for candidacy to serve as a director, to vote in any election, to access the amenities as a member) for failure to pay the assessment and of the member's right to a prior hearing thereon, and, if applicable, notice of intent to record a lien against the member's property to secure amounts owed, is sent to Owner(s) of Record via certified mail.
- 105:** If applicable, Assessment Lien recorded against property; The LIEN FEE amount (which may be changed by The Board as part of the annual budget) is charged to the account. If requested, hearing on pending suspension of membership rights must be completed at least five days prior to the suspension's effective date.
- 110:** Approximate effective date of suspension of membership rights, which shall remain in effect until the account is brought current.
- 120:** Interest begins accruing on Delinquency Fee.
- 165:** Delinquent accounts become subject to all appropriate collections/legal recourses, including FORECLOSURE of the assessment lien, to recover amounts owed. All costs and fees related to such actions, including attorneys' fees, become the property owner's obligation.
- 180:** If applicable, interest begins accruing on Lien Fee.

## **TIMELINESS OF PAYMENTS**

In relation to the imposition of penalties, etc., in accordance with this schedule shall be determined by:

- Official USPS postmark date appearing on the envelope in which a payment is received through the mail (private postage meter dates are ignored).
- Any other method of delivery (i.e. hand-delivered payments, overnight services, electronic payments) are considered delivered on date of receipt of payment.
- Send payments to: Tahoe Donner Association, ATTN: Accounting, 11509 Northwoods Blvd, Truckee, CA 96161

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## APPLICATION OF PAYMENTS

It is the Association's policy to apply payments received as follows:

- First, to the oldest unpaid Assessment.
- Second, to the Interest and Penalties (Delinquency Fee, Lien Fee, costs of collection, etc.) related to that oldest unpaid Assessment.
- Next, to the second-oldest Assessment, followed by the Interest and Penalties related to that second-oldest Assessment.

This sequence continues until the most recent Assessment is paid, the Interest and Penalties related to that most recent Assessment are then paid.