

Denton County
Juli Luke
County Clerk

Instrument Number: 43113

ERecordings-RP

MEMORANDUM

Recorded On: April 17, 2018 03:29 PM

Number of Pages: 10

" Examined and Charged as Follows: "

Total Recording: \$62.00

***** THIS PAGE IS PART OF THE INSTRUMENT *****

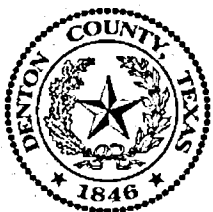
Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 43113
Receipt Number: 20180417000520
Recorded Date/Time: April 17, 2018 03:29 PM
User: Terri B
Station: Station 20

Record and Return To:

eRx



STATE OF TEXAS
COUNTY OF DENTON

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke
County Clerk
Denton County, TX

AFTER RECORDING, PLEASE RETURN TO:

**Judd A. Austin, Jr.
Henry Oddo Austin & Fletcher, P.C.
1700 Pacific Avenue
Suite 2700
Dallas, Texas 75201**

**CERTIFICATE AND MEMORANDUM OF RECORDING OF
DEDICATORY INSTRUMENTS
FOR
BEAVER CREEK HOMEOWNERS ASSOCIATION, INC.**

STATE OF TEXAS §
 §
COUNTY OF DENTON §

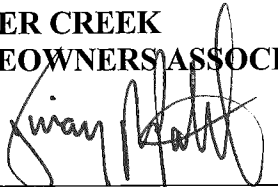
The undersigned, as attorney for Beaver Creek Homeowners Association, Inc., for the purpose of complying with Section 202.006 of the Texas Property Code and to provide public notice of the following dedicatory instrument affecting the owners of property described on Exhibit B attached hereto, hereby states that the dedicatory instrument attached hereto is a true and correct copy of the following:

- ***Collection Policy for Beaver Creek Homeowners Association, Inc. (Exhibit A)***

All persons or entities holding an interest in and to any portion of property described on Exhibit B attached hereto are subject to the foregoing dedicatory instrument. The attached dedicatory instrument replaces and supersedes all previously recorded dedicatory instruments addressing the same or similar subject matter and shall remain in force and effect until revoked, modified or amended by the Board of Directors.

IN WITNESS WHEREOF, Beaver Creek Homeowners Association, Inc. has caused this Certificate and Memorandum of Recording of Dedicatory Instruments to be filed with the Office of the Denton County Clerk.

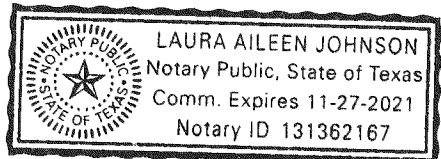
**BEAVER CREEK
HOMEOWNERS ASSOCIATION, INC.**

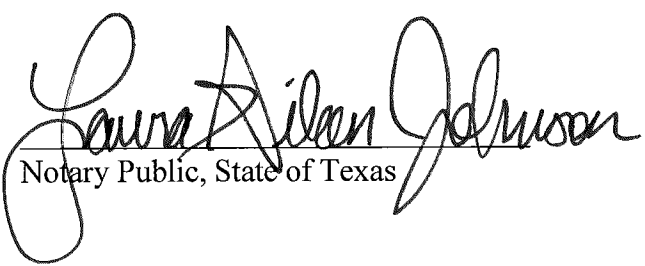
By: 
Its: Attorney

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Vinay B. Patel, attorney for Beaver Creek Homeowners Association, Inc., known to me to be the person whose name is subscribed on the foregoing instrument and acknowledged to me that he executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND AFFIRMED SEAL OF OFFICE on this 17th day of April, 2018.




Notary Public, State of Texas

COLLECTION POLICY FOR BEAVER CREEK HOMEOWNERS ASSOCIATION, INC.

The Beaver Creek Homeowners Association, Inc.'s Board of Directors ("*Board*") hereby adopts this Collection Policy to establish equitable policies and procedures for the collection of Assessments levied pursuant to the Certificate of Formation, Bylaws, Declaration of Covenants, Conditions and Restrictions for Beaver Creek, (collectively referred to as the "*Governing Documents*"). Terms used in this Collection Policy, but not defined, shall have the meaning subscribed to such term in the Declaration.

SECTION 1. DELINQUENCIES, LATE CHARGES AND INTEREST

- 1-A. Due Date. An Owner will timely and fully pay Assessments. Maintenance Assessments are assessed annually and billed quarterly and are due and payable on the first (1st) calendar day of the month (January, April, July, October) of each year, or in such other manner as the Board may designate in its sole and absolute discretion.
- 1-B. Delinquent. Any Assessment that is not fully paid when due is delinquent. When the account of an Owner becomes delinquent, it remains delinquent until paid in full – including collection costs, interest, late fees, and attorneys' fees.
- 1-C. Late Fees & Interest. If Beaver Creek Homeowners Association, Inc. ("*Association*") does not receive full payment of an Assessment on or before the due date for each quarterly assessment as set forth in Section 1-A (above), the Association may levy a late fee of \$25.00 per month until paid in full and bear interest at the rate of the lesser of eighteen percent (18%) or the maximum rate allowed by law.
- 1-D. Liability for Collection Costs. The defaulting Owner is liable to the Association for the charges and costs reasonably related to the collection of the sum due, including, without limitation, title reports, credit reports, certified mail, long distance calls, court costs, filing fees, third party collection fees, and other reasonable costs and attorney's fees incurred by the Association in collecting the delinquency.
- 1-E. Insufficient Funds. The Association may levy a charge of \$30.00 for any check returned to the Association by the bank marked "not sufficient funds" or any other reason.
- 1-F. Waiver. Properly levied collection costs, late fees, and interest may only be waived by a majority of the Board.

SECTION 2. INSTALLMENTS AND ACCELERATION

If an Assessment, other than a regular Assessment, is payable in installments, and if an Owner defaults in the payment of any installment, the Association may declare the entire Assessment in default and accelerate the due date on all remaining installments of the

Assessment. An Assessment, other than a regular Assessment, payable in installments may be accelerated only after the Association gives the Owner at least fifteen (15) days prior notice of the default and the Association's intent to accelerate the unpaid balance if the default is not timely cured. Following acceleration of the indebtedness, the Association has no duty to reinstate the installment program upon partial payment by the Owner.

SECTION 3. PAYMENTS

3-A. Application of Payments. After the Association notifies the Owner of a delinquency and the Owner's liability for late fees or interest, and collection costs, any payment received by the Association shall be applied in the following order, starting with the oldest charge in each category, until that category is fully paid, regardless of the amount of payment, notations on checks, and the date the obligations arose:

- (1) Any delinquent specific assessments;
- (2) Any delinquent special assessments;
- (3) Any delinquent maintenance assessments;
- (4) Any current specific assessments;
- (5) Any current special assessments;
- (6) Any current maintenance assessments;
- (7) any attorney's fees or third party collection costs incurred by the Association associated solely with assessments or any other charged that could provide the basis of foreclosure;
- (8) Any fines assessed by the Association; and
- (9) Any other amount owed to the Association.

3-B. Alternative Payment Schedule. Upon request of an Owner, the Association shall allow such Owner to pay any delinquent Assessment or any other annual or special assessments in three (3) equal payments due on the first day of each of the three (3) months following the date such delinquent assessment was originally due. If the Owner desires a longer term, then the Owner can make such request in writing to the Board. In order to request an Alternative Payment schedule, the delinquent Owner must send written request to the Association within ten (10) business days of the date such assessment is due. If a written request is made in a timely manner, the Association will use best efforts to respond within ten (10) business days of the date such request is received, notify such Owner of (i) the amount of each monthly payment request under the Alternative Payment Schedule, which amount may include interest on the delinquent amounts accruing at the interest rate established in the Declaration (but shall not include any other monetary penalties), and (ii) the dates on which the monthly installments requested under the Alternative Payment Schedule are due. If, at the time the Association receives a payment from an Owner, such Owner is in default under an Alternative Payment Schedule, then the Association may apply such payment in any order determined the Association; provided, however, that, in applying such payment, any fine or penalty assessed by the Association may not be given priority over any other amount owed to the Association. If an Owner fails to make a monthly payment in the full amount required by the Alternative Payment

Schedule, the full amount of the delinquent assessment shall be considered immediately due and payable without the necessity of any further action on the part of the Owner or the Association. In addition, an Owner is not entitled to an Alternative Payment Schedule if the Owner has defaulted on a previous Alternative Payment Schedule in the last two (2) years from the date such Owner defaulted under its obligation with request to such Alternative Payment Schedule.

- 3-C. Form of Payment. The Association may require that payment of delinquent Assessments be made only in the form of cash, cashier's check, or certified funds.
- 3-D. Partial or Conditioned Payment. **The Association may refuse to accept partial payments (i.e., less than the full amount due and payable) and payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments.** The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the Owner's account. If the Association does not accept the payment at that time, it will promptly return or refund the payment to the payer. A payment that is not returned or refunded to the payer within thirty (30) days after being deposited by the Association may be deemed accepted as to payment, but not as to words of limitation or instruction accompanying the payment. The acceptance by the Association of partial payment of delinquent Assessments does not waive the Association's right to pursue or continue pursuing its remedies for payment in full of all outstanding obligations.
- 3-E. Notice of Payment. If the Association receives full payment of a delinquency after recording a notice of assessment lien, the Association will cause a release of notice of assessment lien to be publicly recorded, a copy of which will be sent to the Owner. The Association may require the Owner to prepay the cost of preparing and recording the release.
- 3-F. Correction of Credit Report. If the Association receives full payment of the delinquency after reporting the defaulting Owner to a credit reporting service, the Association will report receipt of payment to the credit reporting service.

SECTION 4. LIABILITY FOR COLLECTION COSTS

The defaulting Owner may be liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, filing fees, third party collection costs, and other reasonable costs and attorney's fees incurred in the collection of the delinquency.

SECTION 5. COLLECTION PROCEDURES

- 5-A. Delegation of Collection Procedures. From time to time, the Association may delegate some or all of the collection procedures, as the Board in its sole discretion deems appropriate, to the Association's Managing Agent or Community Manager, an attorney, or a debt collector.
- 5-B. Delinquency Notices. If the Association has not received full payment of an Assessment by the due date, the Association may send written notice of nonpayment to the defaulting Owner, by hand delivery, first class mail, and/or certified mail, stating the amount delinquent. The Association's delinquency-related correspondence may state that if full payment is not timely received, the Association may pursue any or all of the Association's remedies, at the sole cost and expense of the defaulting Owner.

In addition to or in lieu of the written notice of nonpayment referenced above, the Association must send to the Owner, by certified mail, return receipt requested, written notice in compliance with Texas Property Code Section 209.0064.

- 5-C. Verification of Owner Information. The Association may obtain a title report to determine the names of the Owner(s) and the identity of other lien-holders, including the mortgage company.
- 5-D. Collection Agency. The Association may employ or assign the debt to one or more third party collection agencies.
- 5-E. Notification of Mortgage Lender. The Association may notify the mortgage lender of the default obligations as required by the Governing Documents and/or state law.
- 5-F. Notification of Credit Bureau. The Association may report the defaulting Owner to one or more credit reporting services.
- 5-G. Collection by Attorney. If the Owner's account remains delinquent for a period of ninety (90) days, the Managing Agent or Community Manager of the Association or the Board of the Association shall refer the delinquent account to the Association's attorney for collection. In the event an account is referred to the Association's attorney, the Owner will be liable to the Association for its legal fees and expenses. Upon referral of a delinquent account to the Association's attorney, the Association's attorney will provide the following notices and take the following action unless otherwise directed by the Board:

- (1) **Initial Notice: Preparation of the Initial Notice of Demand for Payment Letter.** If the account is not paid in full within 30 days (unless such notice has previously been provided by the Association, then
 - (2) **Lien Notice: Preparation of the Lien Notice and Demand for Payment Letter and record a Notice of Unpaid Assessment Lien.** If the account is not paid in full within 30 days, then
 - (3) **Final Notice: Preparation of the Final Notice of Demand for Payment Letter and Intent to Foreclose and Notice of Intent to Foreclose to Lender.** If the account is not paid in full within 30 days, then
 - (4) **Enforcement of Lien: Preparation of legal documents to enforce the lien by judicial (Plaintiff's Original Petition) or non-judicial (Application for Expedited Foreclosure) means.**
 - (5) **Foreclosure of Lien: Only upon specific approval by a majority of the Board.**
- 5-H. **Notice of Lien.** The Association's attorney may cause a notice of the Association's Assessment lien against the Owner's home to be publicly recorded. In that event, a copy of the notice will be sent to the defaulting Owner and may also be sent to the Owner's Mortgagee as required by the Governing Documents and/or state law.
- 5-I. **Cancellation of Debt.** If the Board seems the debt to be uncollectible, the Board may elect to cancel the debt on the books of the Association, in which case the Association may report the full amount of the forgiven indebtedness to the Internal Revenue Service as income to the defaulting Owner.

SECTION 6. GENERAL PROVISIONS

- 6-A. **Independent Judgment.** Notwithstanding the contents of this details policy, the officers, directors, Managing Agent or Community Manager, and attorney of the Association may exercise their independent, collective, and respective judgment in applying this Collection Policy.
- 6-B. **Other Rights.** This Collection Policy is in addition to and does not detract from the rights of the Association to collect Assessments under the Governing Documents and the laws of the State of Texas.
- 6-C. **Limitations of Interest.** The Association, and its officers, directors, Managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Governing Documents or any other document or agreement executed or made in connection with this Collection Policy, the Association will not in any event be entitled to receive or collect, as interest, a sum

greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid Assessments, or reimbursed to the Owner if those Assessments are paid in full.

- 6-D. Notices. Unless the Governing Documents, applicable law, or this Collection Policy provide otherwise, any notice or other written communication given to an Owner pursuant to this policy will be deemed delivered to the Owner upon depositing same with the U.S. Postal Service, addressed to the Owner at the most recent address shown on the Association's records, or on personal delivery to the Owner. If the Association's records show that an Owner's property is owned by two (2) or more persons, notice to one co-Owner is deemed notice to all co-Owners. Similarly, notice to one Occupant is deemed notice to all Occupants. Written communications to the Association, pursuant to this Collection Policy, will be deemed given on actual receipt by the Association's president, secretary, managing agent, or attorney.
- 6-E. Amendment of Policy. This Collection Policy may be amended from time to time by the Board.

IT IS FURTHER RESOLVED that this Collection Policy replaces and supersedes in all respects all conflicting provisions and terms as set forth in prior policies and resolutions with respect to the collection of assessments by the Association, and shall remain in force and effect until revoked, modified or amended by the Board.

IN WITNESS WHEREOF, the Board has caused this Collection Policy to be executed by its duly authorized representative as of the 4-11, 2018.

**BEAVER CREEK HOMEOWNERS
ASSOCIATION, INC.**

 _____, President

EXHIBIT B

Those tracts and parcels of real property located in the City of Denton, Denton County, Texas and more particularly described as follows:

- All property subject to the **Declaration of Covenants, Conditions and Restrictions for Beaver Creek, recorded as Instrument No. 20175694 in the Official Public Records of Denton County, Texas; and**
- All lots and tracts of land situated in the **Beaver Creek Phase 1A, an Addition to the City of Denton, Denton County, Texas, according to the Map or Plat thereof recorded in as Instrument No. 20172149, Plat Records Denton County, Texas.**