



**DC Ranch Association
Board Report 5-6-19 #5**

Subject Matter: Proposed Policy 208 – Collections

Background: Each year, the collection policy is reviewed by Attorney Augustus Shaw. This year was no exception to past practice. Attorney Shaw provided an updated policy in table form. This proposed policy attempts to format the information in the Ranch Association policy format. The primary resource for direction regarding assessment collection is Section 33-1807 of the Arizona Revised Statutes. The Association's CC&Rs provide limited guidance at Article 8, Section 8. How collections are handled involves both the Association and Community Council; both organizations must align. Article 8 Section 6 of the CC&Rs provides the following language: Owners shall pay all assessments levied by the Association to the Community Council, which shall collect the assessments on behalf of the Association.

This proposed policy was reviewed by the Budget and Finance Committee. The Policy Committee presents the accompanying proposed policy regarding collections. Its purpose is to define procedures and processes associated with collecting assessments and fees due and payable to DC Ranch Association.

This proposed policy addresses the following:

- When assessments are due and payable
- Late fees and interest
- First notice of delinquency
- Second notice of delinquency
- Liens
- Foreclosures
- Money judgments
- Payment plans

The Policy Committee recommends conditional approval of this proposed policy. At that point it can be posted for 30-day member comment in accordance with Policy 102. It can then be brought back to the Board for formal consideration at its June 10, 2019 regularly scheduled meeting.

Recommendation: Conditionally approve the proposed policy for the required 30-day member comment period cited above.

A handwritten signature in black ink, appearing to read 'Darren Shaw', is written over a horizontal line.

Darren Shaw, Executive Director



**DC Ranch Association
Policy 208
Collection Policy**

Policy 208

Date of Adoption:

Effective Date:

Last Revised: 4-23-2019

208.1 Purpose: The purpose of this policy is to define the procedures and processes associated with collecting owner assessments and fees due and payable to DC Ranch Association.

208.2 Scope: Monthly assessments are due and payable in full on the first day of each month. All other charges including, but not limited to, late fees, interest, collection costs and fines are due as incurred. All assessments, late fees, interest and collections due and payable to the DC Ranch Association, hereinafter "dues", are subject to this policy. If multiple accounts by the same owner are past due, the Accounts Receivable Specialist will combine them for action.

208.3 Responsibility/Authority: While the Community Council shall collect the dues on behalf of the DC Ranch Association (CC&Rs/8.6), the DC Ranch Association Board of Directors are to cooperate with Community Council in levying and collecting dues and assessments from the owners (Bylaws/3.18(b)). The attorney selected to enact such collection efforts shall be chosen collectively by the DC Ranch Association and Community Council.

208.3a Delegation of Authority: The DC Ranch Association Board of Directors delegates some of its responsibilities to the Executive Director, such as the efforts relating to the collection of monetary obligations due and payable to the Association by the owner. The Executive Director works closely with the Director of Financial Operations in this effort.

- The delegation of authority and responsibility of each effort outlined within this policy will be defined if such delegation is required.

208.4 Introduction: DC Ranch Association's mission statement is as follows: To serve all DC Ranch Stakeholders through the professional management and protection of the community's fiscal and environmental assets. DC Ranch Association delivers high quality and consistent operations, landscape, maintenance and security services with an emphasis on customer care and open communication that result in sustained property values and exceptional quality of life.

The implementation of this policy will assist the Board of Directors and staff in their efforts to protect the community's fiscal assets by outlining a procedure for collecting monetary obligations due and payable to the Association by owners.

208.5 Progression of Collection Efforts: The efforts to collect dues are to be completed as described in the following sections. Collection efforts may deviate from such schedule if recommended by the Collection Attorney and approved by the Board of Directors. Applicable attorney fees relating to the collection efforts of an account shall be applied to that account at each step and at time of action.

208.5a 30 Days Past Due: A rebill notice shall be sent to all owners whose account are deemed to be delinquent by thirty (30) days. The rebill notices are to be approved and processed by the account receivable specialist. A one-time fee equivalent to 10% of the assessment owed to DC Ranch Association shall be charged to the owner's account for each monthly assessment that is delinquent by sixty (60) days.

208.5b 60 Days Past Due: A letter will be provided to all owners whose account are deemed to be delinquent by sixty (60) days notifying the owner that a "Notice of Claim of Lien" will be filed if the account is not paid in full within fifteen (15) days of notice. The letter shall be provided and processed by the account receivable specialist.

208.5c 75 Days Past Due: A "Notice of Claim of Lien" shall be recorded with Maricopa County for all owners whose account are deemed to be delinquent by seventy-five (75) days. This is to be approved and processed by the Director of Financial Operations. The \$10 fee charged by Maricopa County to record the lien will be assessed to the owner. In addition to the recording of the "Notice of Claim Lien," the owner's gate access and key fob will be deactivated and privileges such as voting and rental rights will be suspended. This act is to be completed by the account receivable specialist.

208.5d 90 Days Past Due, Account Exceeds \$1,000.00: At such time that an owner account is deemed to be delinquent by at least ninety (90) days and has a delinquent amount equal to, or greater than, \$1,000, the account may be transferred to the Association's Collection Attorney. Otherwise, the account will be monitored and be subject to late fees.

- This act shall be approved by the Executive Director from both the Community Council and Ranch Association. If a consensus cannot be reached, the Community Council Executive Director shall prevail. If the action is approved, the Director of Financial Operations shall be responsible for transferring all necessary information to the attorney.
- The Association's collection attorney shall provide a Demand Letter to the owner upon receipt of the file. The Demand Letter is to outline both party's rights, state the amount due and describe the appropriate method of establishing a payment plan. The letter shall specifically address the owner's right to contest the debt within thirty (30) days and the lawyer's right to proceed with litigation if the account is not paid or a payment plan is not entered within thirty-five (35) days. The letter is sent by certified mail.

208.5e Expiration of Demand Period, 125 Days Past Due: Thirty-five (35) days after the Demand Letter is provided, if payment is not received or a payment plan has not been established, the Collection Attorney will provide a recommendation on the best course of action. The Director of Financial Operations will work closely with the Collection Attorney to receive such options for consideration.

- If at such time the amount due and payable to the Association exceeds \$4,000, the Collection Attorney shall file a Personal Money Judgment and conduct an employment and asset search. This act shall be approved by the Executive Director from both the Community Council and Ranch Association. If a consensus cannot be reached, the Community Council Executive Director shall prevail. The collection attorney shall be responsible for this action if such is approved.
- If at such time the amount due and payable to the Association exceeds \$6,000, the Attorney shall file a Foreclosure Judgment. The DC Ranch Association Board of Directors will address the matter first. If a majority of the Board of Directors are in favor, the item will then be presented to the Community Council Board of Directors for approval. The Community Council Board of Directors decision shall prevail.

208.6 Foreclosure Rights: Per Arizona law, a property cannot be foreclosed upon until the owner is more than one (1) year delinquent or owes more than \$1,200 in dues, whichever occurs first.

208. 7 Foreclosure Judgment: Once a Foreclosure Judgment is obtained, it is good for five (5) years. DC Ranch Association may ask that the Sheriff sell the property right away or may hold onto the Foreclosure Judgment and proceed at any time during the five (5) year period.

208.7a Once Foreclosure Proceedings Begin: In the event foreclosure proceedings begin and the amount due and payable to DC Ranch Association is less than \$5,000, the account shall be monitored internally by the Director of Financial Operations:

- In the event foreclosure proceedings begin and the amount due and payable to DC Ranch Association exceeds \$5,000, a Personal Money Judgment shall be filed by the collection attorney. This act shall be approved by the Executive Directors from both the Community Council and Ranch Association. If a consensus cannot be reached, the Community Council Executive Director shall prevail.

208.7b Foreclosure Settlement Process: In the event the home forecloses, a settlement offer is to be sent to the owner with a thirty (30) day response period. Within such time the owner shall pay in full or establish a payment plan satisfactory to the Association.

- In the event the thirty (30) day settlement period expires without receipt of payment, or establishment of payment plan, the proceeding action shall be governed by the balance of the account per the following:
 - Balance Less than \$2,000: Balance is to be written off by the Accounts Receivable Specialist as approved by the Director of Financial Operations and Ranch Association Executive Director.
 - Balance exceeds \$2,000: An employment and asset search are to be performed by the Attorney as approved by the Director of Financial Operations and Ranch Association Board of Directors.
 - In the event the search does not locate assets, the amount is to be written off by the Accounts Receivable Specialist and as approved by the Executive Directors from both the Community Council and Ranch Association. If a consensus cannot be reached, the Community Council Executive Director shall prevail.
 - In the event the search uncovers assets, a Personal Money Judgment is to be filed and recorded, or wages shall be garnished. This is to be completed by the attorney as approved by the Executive Director from both the Community Council and Ranch Association. If a consensus cannot be reached, the Community Council Executive Director shall prevail.

208.7c Foreclosure Settlement Approval: Foreclosure settlements when requested shall be governed by the amount owed as follows:

- In the event the settlement request, as negotiated with the owner, is 50% or greater than the balance due and payable to the Association, and the total balance due is less than \$7,500 the Executive Directors from both the Community Council and Ranch Association shall approve the settlement request. If a consensus cannot be reached, the Community Council Executive Director shall prevail.
- In the event the settlement request, as negotiated with the owner by the Director of Financial Operations, is less than 50% of the balance due and payable to the Association, and the total balance due is less than \$7,500, DC Ranch Association will address the matter first. If a majority of the Board of Directors are in favor, the item will then be presented to the Community Council Board of Directors for approval. The Community Council Board of Directors decision shall prevail.
- Any settlement request for a balance due and payable that exceeds \$7,500 must garner the approval of the DC Ranch Association and Community Council Board of Directors. The DC Ranch Association Board of Directors will address the matter first. If a majority of the Board of Directors are in favor, the item will then be presented to the Community Council Board of Directors for approval. The Community Council Board of Directors decision shall prevail.

208.8 Allocation of Payments Received: Payments received will be applied in the following order: Unpaid principal, including assessments levied; attorney's fees; related collection fees; and interest fees.

Approved By: _____ Date _____
Board Secretary

Effective Date: _____