

**DC Ranch Association  
Board Report 9-9-19 #1**

**Subject Matter: Proposed Policy 208 – Collections**

**Background:** Each year, the collection policy is reviewed by legal counsel. This year was no exception to past practice. 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.

This proposed policy's purpose is to define procedures and processes associated with collecting assessments and fees due and payable to DC Ranch Association.

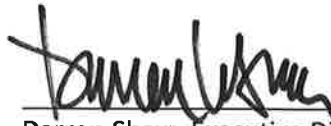
This proposed policy addresses the following:

- 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 proposed policy was reviewed by the Budget and Finance Committee. The Policy Committee presented the proposed policy to the Board at its May 6, 2019 meeting, where it was conditionally approved subject to the 30-day member comment period per Policy 102. It was then brought back to the Board for formal consideration at its June 10, 2019 meeting. Staff asked that the formal approval be tabled for further review of the policy. The matter was tabled.

The proposed policy was reviewed internally to ensure a few of its provisions were in sync with new and upcoming legislation. Additional edits were made based on new legislation, and some wording was reduced. The proposed policy was brought back to the Board at its August 6 board meeting, where it was once again conditionally approved subject to the 30-day member comment period per Policy 102. No comments were received in response to the most recent posting. The Policy Committee endorses the proposed policy as written.

**Recommendation:** Approve the proposed policy as presented.

A handwritten signature in black ink, appearing to read "Darren Shaw", 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: 7/25/2019**

**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.

**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 is to cooperate with Community Council in levying and collecting dues and assessments from the owners (Bylaws/3.18(b)). Legal counsel 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 all owners. The Executive Director works closely with the Director of Financial Operations in this effort.

- The delegation of authority and responsibility of each effort outlined in 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 procedures 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 legal counsel and approved by the Board of Directors. Applicable attorney fees relating to the collection efforts of an account shall be applied to that owner's 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 accounts are deemed to be delinquent by thirty (30) days. The \$15 rebill fee will be charged to the owner's account. Rebill notices are to be processed by the Account Receivable Specialist.

**208.5b 60 Days Past Due:** A one-time late fee equivalent to \$15 shall be charged to the owner's account that is delinquent by sixty (60) days. A rebill notice and \$15 fee shall be sent to all owners whose account is deemed to be delinquent by sixty (60) days (\$30 total). In addition, a letter will be provided to all owners whose account are deemed to be delinquent by sixty (60) days notifying the owners that a "Notice of Claim of Lien" will be filed if the account is not paid in full within thirty (30) days from when the notice is dated. Said notice shall be processed by the Account Receivable Specialist. Pursuant to Arizona Statutes (33-1256) the notice shall contain the following statement in boldfaced font and will be sent by certified mail:

**Your account is delinquent. If you do not bring your account current or make arrangements that are approved by the Association to bring your account current within thirty (30) days after the date of this notice, your account will be turned over to the Association's legal counsel for further collection proceedings, such collection proceedings could include bringing a foreclosure action against your property.**

**208.5c 90 Days Past Due:** At such time an owner's account is deemed to be delinquent by ninety (90) days, the account may be transferred to the Association's legal counsel for further collection efforts. 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 legal counsel.

- If the action is approved, legal counsel shall file a “Notice of Claim of Lien” with Maricopa County for all owners whose accounts are deemed to be delinquent by ninety (90) days. All applicable filing fees to record the lien will be assessed to the owner. In addition to the recording of the “Notice of Claim Lien,” the owner’s privileges such as voting and rental rights will be suspended. This act is to be completed by the Account Receivable Specialist.
- If the action is approved in accordance herewith, and the account exceeds \$1,000, legal counsel shall provide a pre-litigation notice to the owner upon receipt of the file. The pre-litigation notice is to outline each party’s rights, state the amount due and, if applicable, describe the appropriate method of establishing a payment plan. The notice shall specifically address the owner’s right to contest the debt within thirty (30) days, as well as legal counsel’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 notice is to be sent by certified mail.
- If the action is not approved, the Director of Financial Operations is to continue monitoring the account for payment and if applicable, make further recommendations on how to proceed.

**208.5d Expiration of Demand Period, 125 Days Past Due & Account Exceeds \$4,000:** Thirty-five (35) days after the pre-litigation notice is mailed, if payment is not received or a payment plan has not been established and the account exceeds \$4,000, a lawsuit for a personal money judgement may be filed. An employment and asset search may be performed as a part of this function. 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. Legal counsel shall be responsible for this action if such is approved.

**208.5e Expiration of Demand Period, 125 Days Past Due & Account Exceeds \$6,000:** Thirty-five (35) days after the Pre-Litigation Letter is provided, if payment is not received or a payment plan has not been established and the account exceeds \$6,000, a foreclosure action may be filed by Association’s legal counsel. This act shall be approved by the Board of Directors from both the Community Council and Ranch Association. If a consensus cannot be reached, the Community Council Board of Directors shall prevail. The Association’s legal counsel shall be responsible for this action if such is approved. If a personal money judgment was not filed previously, such judgment shall be filed at the time of filing the foreclosure action.

**208.6 Foreclosure Rights:** Per Arizona Statute (33-1256), 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 six (6) 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 six (6) year period.

**208.7a Once Foreclosure Proceedings Begin:** In the event foreclosure proceedings begin the account shall be monitored internally by the Director of Financial Operations. No partial payments will be accepted unless they are part of a structured payment plan.

**208.7b Foreclosure Settlement Process:** In the event the home forecloses, the Board of Directors will seek guidance from its legal counsel regarding the next steps.

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

Approved By: \_\_\_\_\_ Date \_\_\_\_\_  
Board Secretary

Effective Date: \_\_\_\_\_