



# **Policy Memorandum**

**Of**

***Shadow Rock Ranch Property  
Owners Association, Inc.***

**Fees, Charges, and Penalties Policy**

**Policy Memorandum 8-09**

**22 August 2009**

***Version 1.0***



# Fees, Charges, and Penalties Policy SRRPOA, Inc.

## Policy Memorandum #8-09

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## **Fee, Charges, and Penalties SRRPOA, Inc.**

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#### **Administrative Notes**

Note #1. References to gender are intended to be gender non-specific.

Note #2. The Board Secretary is the office of record for the Association policies, Board minutes, posting of material to the website, election materials, certification of officers, and Association legal documents.

Note #3. The Treasurer is the office of record for the Association's tax filing, property liens & foreclosures, incorporation fee payments & collections, resident agent & annual reports to the State of Arizona, Federal Government, and all other budget and financial matters.

Note #4. The SRRPOA and its BoDs, management body, may be referred to as the **Association** and the terms used interchangeably.

## **Fees, Charges, and Penalties SRRPOA, Inc.**

### **1.0 GENERAL**

#### ***1.1 Delinquent Assessments***

Pursuant to the Arizona Revised Statutes (ARS) Title 33-1803, SRRPOA, Inc., Board of Directors may impose reasonable charges for the late payment of assessments. A payment by a member is deemed late if it is unpaid fifteen after its due date, unless the community documents provide for a longer period. Charges for the late payment of assessments are limited to the greater of fifteen dollars or ten per cent of the amount of the unpaid assessment. Any monies paid by a member for an unpaid penalty shall be applied first to the principal amount unpaid and then to the interest accrued.

#### ***1.2 Lien's on Parcels***

Pursuant to the Arizona Revised Statutes (ARS) Title 33-1807, SRRPOA, Inc., may have a lien on a unit for any assessment levied against that unit from the time the assessment becomes due. The association's lien for assessments, for charges for late payment of those assessments, for reasonable collection fees and for reasonable attorney fees and costs incurred with respect to those assessments may be foreclosed in the same manner as a mortgage on real estate but may be foreclosed only if the owner has been delinquent in the payment of monies secured by the lien, excluding reasonable collection fees, reasonable attorney fees and charges for late payment of and costs incurred with respect to those assessments, for a period of one year or in the amount of one thousand two hundred dollars or more, whichever occurs first. Fees, charges, late charges, monetary penalties and interest charged pursuant to section 33-1803, other than charges for late payment of assessments are not enforceable as assessments under this section.

### **1.3 Sale of Parcel Fees**

Pursuant to the Arizona Revised Statutes (ARS) Title 33-1806C, Association members failing to notify the Association of a pending sale may be charged a reasonable fee to compensate the association for the costs incurred in the preparation of a statement furnished by the association pursuant to this section.

## **2.0 POLICY**

### **2.1 General**

It is the policy of SRRPOA Inc., to impose charges for late payment of annual assessments, violations of the declaration, policies, and other corporate documents intended for good order, discipline, enjoyment , and reasonable quality of life by the membership.

### **2.2 Fees and Charges**

Charges to be imposed annually include, but are not limited to:

(1) Penalty Late Fee, not to exceed 10% of base assessment.

(2) Interest Fee, not to exceed 8% per annum of the assessment with penalty late fee.

(3) Attorney Fees, based on attorney billing invoice.

(4) Annual Lien Filing Fee, as determined by the Yavapai County Clerk's Office and the Association.

(5) Recording of Lien Release Fee, as determined by the Yavapai County Clerk's Office and the Association. **Note:** This is normally a one-time fee upon payment of all charges.

### **2.3 Other Fees and Charges**

See paragraph 5.0, Schedule of fees, charges, and penalties.

## **3.0 RESPONSIBILITIES**

### ***3.1 General***

a. The Board of Directors will review this policy from time to time to ensure updating with the ARS, County Code, and other regulatory organization having a potential impact to SRRPOA, Inc., fees, charges, or penalties.

b. The Treasurer and Secretary will advise the Board of Director's in quarterly reports of delinquent owner assessment accounts

c. The Board of Director's upon recommendation from the Treasurer will determine when foreclosure proceedings should be implemented. The Attorney will also be consulted before beginning foreclosure proceedings for his/her opinion and/or recommendation.

### ***3.2 Treasurer***

a. The Treasurer will advise the Board of Director's when an owner assessment account is past due.

b. The Treasurer will keep a separate record of all delinquent accounts using MS Excel or compatible spreadsheet application. Reference is made to APM T-10, dated 1 July 2009.

### ***3.3 Secretary***

a. The Secretary will maintain record copies of all lien and delinquent account correspondence, while maintaining close coordination with the Treasurer for purposes of noting owner "good standing" or "not in good standing" .

b. The Secretary will annotate owner records regarding owner's "not in good standing" with the SRRPOA, Inc. Reference APM S-10, dated 1 July 2009.

## **4.0 ENFORCEMENT OF ADMINISTRATIVE POLICY**

### ***4.1 Specific Administrative Actions***

Individuals found in violation of this policy may be subject to the following administrative procedures by the BoDs:

1. Censorship by the Association.
2. Removal of Association voting privileges.
3. Fines imposed by the Association.
4. Removal from Office, position, or assigned responsibility as decided by the BoDs.
5. Removal of Association benefits and privileges.

### ***4.2 Specific Legal Actions***

Individuals found in violation of this policy are subject to the following legal or criminal procedures by the BoDs:

1. Referral of conduct to the Association attorney for criminal investigation.
2. Referral to law enforcement for criminal investigation.
3. Filing of charges by the BoDs on behalf of the Association with the State's Attorney General.
4. The maximum penalty for each offense shall be a Class 2 misdemeanor as established by the A.R.S.

## **5.0 Schedule of Fees, Charges, and Penalties**

a. Association Fee, Charges and Penalties.

- (1) Penalty Late Fee, not to exceed 10% of base assessment.



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(2) Interest Fee, not to exceed 8% per annum of the assessment with penalty late fee.

(3) Attorney Fees, based on attorney invoice.

(4) Annual Lien Filing Fee, as determined by the Yavapai County Clerk's Office and the Association.

(5) Recording of Lien Release Fee, as determined by the Yavapai County Clerk's Office and the Association. **Note:** This is normally a one-time fee upon payment of all charges.

(6) Returned Check Fee for insufficient funds will be assessed a fee of \$25.00, plus late charges, and any penalties.

(7) Documentation Reproduction Fee for SRRPOA Inc., is \$0.15 per page for documents, plus shipping and handling. **Note:** Shipping cost is actual postage and handling includes flat rate of \$10.00 to: cover cost of supplies, e.g. packaging, taping, labeling, printing; record retrieval; privacy act compliance; and verification/validation of request.

(8) Owner Compliance Fee ARS 33-1806C to compensate the SRRPAO Inc., for the costs incurred in the preparation of a statement furnished by the association pursuant to this section. **Note:** Historically, it has been noted that the SRRPOA has not complied with this section of the statute to include the original developer. It is expected that this section would be utilized should a legal issue arise.

b. Other Fees Paid by the Association under the ARS 10-3122

<u>Document</u>	<u>Fee</u>
Articles of incorporation	\$ 30.00
Application for use of indistinguishable name	\$ 10.00
Application for reserved name	\$ 10.00
Notice of transfer of reserved name	\$ 10.00
Application for registered name	\$ 10.00
Application for renewal of registered name	\$ 10.00

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Agent's statement of resignation	\$ 10.00
Amendment of articles of incorporation	\$ 25.00
Restatement of articles of incorporation with amendment of articles	\$ 25.00
Articles of merger or membership exchange	\$100.00
Articles of dissolution	\$ 25.00
Articles of domestication	\$100.00
Articles of revocation of dissolution	\$ 25.00
Application for reinstatement following administrative dissolution or revocation, in addition to other fees and penalties due	\$ 25.00
Application for authority	\$150.00
Application for withdrawal	\$ 25.00
Annual report	\$ 10.00
Articles of correction	\$ 25.00
Application for certificate of good standing	\$ 10.00
Attorney Fee (Lien & Foreclosure)*	\$ TBD
Lien Filing Fee**	\$ 50.00
Lien Release Fee**	\$ 50.00

\* Fee subject to attorney invoice.

\*\* Fee subject to current Yavapai County charges and Association processing.

## **6.0 References**

- a. Arizona Revised Statutes, Title 10, Chapters 24 – 40, dated 2008 – 2009.
- b. Arizona Revised Statutes, Title 33, Chapters 9 – 18, dated 2008 – 2009.
- c. SRRPOA, Incorporated, Articles of Incorporation (AOI), file date 7 July 2007.
- d. SRRPOA, Incorporated, Bylaws, Revision #1, dated 28 June 2007, Rev 2.0
- e. SRRPOA, Incorporated, Covenants, Conditions & Restrictions (CC&Rs), file date 9 January 1998.
- h. SRRPOA, Policy Memorandum, 1-07, Administrative Policy and Procedures, dated 1 March 2007, Version 1.

### **Authorized By**

SRRPOA BoDs

**Date:** 22 August 2009

### **Approved for Implementation By**



Joanne McClure

President

Board of Directors

## **Attachment #1**

### **Owner Documentation**

A. For planned communities with fewer than fifty units, a member shall mail or deliver to a purchaser within ten days after receipt of a written notice of a pending sale of the unit, and for planned communities with fifty or more units, the association shall mail or deliver to a purchaser within ten days after receipt of a written notice of a pending sale that contains the name and address of the purchaser, all of the following:

1. A copy of the bylaws and the rules of the association. (**Note:** *This item is posted on the SRRPOA Inc. website*)

2. A copy of the declaration. (**Note:** *This item is posted on the SRRPOA Inc. website*)

3. A dated statement containing:

(a) The telephone number and address of a principal contact for the association, which may be an association manager, an association management company, an officer of the association or any other person designated by the board of directors. (**Note:** *This item is posted on the SRRPOA Inc. website and in the Association Newsletter*)

(b) The amount of the common regular assessment and the unpaid common regular assessment, special assessment or other assessment, fee or charge currently due and payable from the selling member. (**Note:** *This information is provided to the escrow agent on arrear accounts.*)

(c) A statement as to whether a portion of the unit is covered by insurance maintained by the association. (**Note:** *The Association does not provide parcel insurance – statement is not applicable (n/a)*)

(d) The total amount of money held by the association as reserves. (**Note:** *This item is posted on the SRRPOA Inc. website, financial statement*)

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(e) If the statement is being furnished by the association, a statement as to whether the records of the association reflect any alterations or improvements to the unit that violate the declaration. The association is not obligated to provide information regarding alterations or improvements that occurred more than six years before the proposed sale. Nothing in this subdivision relieves the seller of a unit from the obligation to disclose alterations or improvements to the unit that violate the declaration, nor precludes the association from taking action against the purchaser of a unit for violations that are apparent at the time of purchase and that are not reflected in the association's records. (**Note: The Association has no responsibility for land use and structures – county codes applies.**)

(f) If the statement is being furnished by the member, a statement as to whether the member has any knowledge of any alterations or improvements to the unit that violate the declaration.

(g) A statement of case names and case numbers for pending litigation with respect to the unit filed by the association against the member or filed by the member against the association. The member shall not be required to disclose information concerning such pending litigation which would violate any applicable rule of attorney-client privilege under Arizona law. (**Note: This information is provided to the escrow agent, when applicable.**)

(h) A statement that provides "I hereby acknowledge that the declaration, bylaws and rules of the association constitute a contract between the association and me (the purchaser). By signing this statement, I acknowledge that I have read and understand the association's contract with me (the purchaser). I also understand that as a matter of Arizona law, if I fail to pay my association assessments, the association may foreclose on my property." The statement shall also include a signature line for the purchaser and shall be returned to the association within fourteen calendar days. (**Note: This information is requested from all new owners.**)

4. A copy of the current operating budget of the association. (**Note: This item is posted on the SRRPOA Inc. website**)

5. A copy of the most recent annual financial report of the association. If the report is more than ten pages, the association may

provide a summary of the report in lieu of the entire report. (**Note:** *This item is posted on the SRRPOA Inc. website*)

6. A copy of the most recent reserve study of the association, if any. (**Note:** *This item, if applicable, is posted on the SRRPOA Inc. website*)

B. A purchaser or seller who is damaged by the failure of the member or the association to disclose the information required by subsection A of this section may pursue all remedies at law or in equity against the member or the association, whichever failed to comply with subsection A of this section, including the recovery of reasonable attorney fees.

C. The association may charge the member a reasonable fee to compensate the association for the costs incurred in the preparation of a statement furnished by the association pursuant to this section. The association shall make available to any interested party the amount of any fee established from time to time by the association.

D. A sale in which a public report is issued pursuant to sections 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt from this section.

E. For purposes of this section, unless the context otherwise requires, "member" means the seller of the unit title and excludes any real estate salesperson or real estate broker who is licensed under Title 32, Chapter 20 and who is acting as a salesperson or broker and also excludes a trustee of a deed of trust who is selling the property in a trustee's sale pursuant to chapter 6.1 of this title.

**Note:** Historically, it has been noted that the SRRPOA has not complied with this section of the statute to include the original developer. It is expected that this section would be utilized should a legal issue arise.

## **Attachment #2**

### ***Example of Delinquent Charges***

The 1<sup>st</sup> year, Parcel Assessment amount \$100.00 deemed delinquent would be calculated as  $\$100 + 10\% = \$10.00$  making the amount due \$110.00. Beginning the 2<sup>nd</sup> year, with lien recording the payment would be calculated as  $\$110.00 + \$50.00$  Document Fee +  $\$50.00$  Lien Fee +  $\$16.80$  applied interest = \$226.80. Should the Parcel remain unpaid through another assessment period the charges would be  $\$110.00$  delinquent amount +  $\$50.00$  Lien Fee +  $\$12.80 = \$172.80$  (interest is not compounded from year to year). Total amount due to bring the example current is \$509.60. Additionally, annual attorney fees and other recording fees with Yavapai County are added to the delinquent amount as incurred. The above example does not take into consideration that regular assessment/fees may increase from year to year. The other fees in the example may be adjusted from time to time as the Board of Directors deems necessary and/or in the Association's interest.

**Note:** These charges are IAW with the allowable \$15.00 or 10%, whichever is greater, under ARS 33-1803.