

**Horizons Village Property Owners Association
Compliance Committee Charter
Adopted Feb 2, 2016**

1. AUTHORITY

The authority of the HVPOA Compliance Committee derives from the Bylaws of HVPOA, Article VII, Section 5: Compliance Committee, and from the HVPOA Covenants, Article IV, Owners Association, Numbers 12 and 13.

2. ORGANIZATION

The Compliance Committee is a permanent operating committee of three members. At the initial meeting of the Board of Directors (“the Board”) each year, a quorum being present, the Board shall appoint three members to the Compliance Committee and designate a Chair. (From Bylaws of HVPOA, Article VII, Section 5: Compliance Committee.)

3. PURPOSE

The Compliance Committee shall have as its sole purpose the adjudication of both the Rules and Regulations as adopted by the Board and the Amended Declaration of Protective Covenants, Conditions, Restrictions, and Affirmative Obligations applicable to all property in the Horizons Village subdivision. (From Bylaws of HVPOA, Article VII, Section 5: Compliance Committee.)

A schedule of charges shall be established by the Board and set forth in the Rules and Regulations of the Association, and this schedule shall be reviewed and amended as necessary.

The assessment of a charge is vested in the Compliance Committee except in those instances where a violation of law has occurred and enforcement thereof is vested in State and County authorities. (From Bylaws of HVPOA, Article VII, Section 5: Compliance Committee)

4. AREAS OF FOCUS

A. Dues

- The collection of quarterly, semi-annual or annual payments every budget year
- The collection of late fees that have incurred during every budget year

B. Feasibility of collection of delinquent dues

- Discussing the problem with the lot owner
- Determining if the lot owner is going into foreclosure
- Determining if the lot owner is going through bankruptcy
 - i) Scan U.S. Bankruptcy Court for the Western District of Virginia to ensure the lot owner is not listed as debtor in an open bankruptcy case.

C. Determining the type of Legal Process most suitable for collecting delinquent dues

- **Assessment Lien.** The HVPOA could file a memorandum of assessment lien in the circuit court of Nelson County. This does not require an attorney and costs only the filing fee (\$21.00). There is no court process, simply filing of the lien. The memo of assessment is a lien on the HV lot only, not on other land owned by the lot owner in

Nelson County. Benefit of filing a lien is that it is quick, inexpensive and has priority over all other liens on the property except the lien of taxes and a deed of trust (mortgage). If the property is sold during the 36 month period following filing, the lien must be paid and released. Downside of filing a property owner's association lien is that it must be enforced by filing suit against the land owner within 36 months (requires a lawyer) and that it will be wiped out by foreclosure of the lot owner's mortgage.

- **Judgment.** Alternatively, the HVPOA could file a warrant in debt in the general district court and obtain a judgment against the lot owner. The filing fee is \$70.00 for two defendants (assuming property is owned by two people). The warrant in debt is served on the lot owner and a hearing date is set. A hearing is held in which both the president or treasurer of the HVPOA and the lot owners are present and the court enters a judgment against the lot owners for payment of the dues, plus fees incurred by the POA. An abstract of the judgment is then filed in the circuit court. It is a lien on the lot owner's property in HV and in all of Nelson County. Benefit of obtaining a judgment is that it is enforceable for 20 years (if property is sold within 20 years, the judgment will be paid), it is a lien on other property in Nelson, and can be enforced in other ways such as by selling personal property, etc. Downside of a judgment lien is that to obtain one is a lengthy process and requires going to court. Typically POAs will hire an attorney to go through this process, but it can be done by the treasurer or the president of the POA appearing in court and testifying to the dues owed. A judgment will be wiped out by foreclosure of a previously filed mortgage (same as a POA lien).

D. Completion of Legal Process

1. See Section 5, Process, below.

5. PROCESS

- A. The Covenants allow for the collection of dues by the employment of liens when necessary. The HVPOA may take action to file a Memorandum of Lien pursuant to Virginia Code §55-516 or obtain a judgment against the lot owner if the annual dues have not been paid by May 15 so long as the lot owner is not the debtor in an open bankruptcy case. HVPOA has the right to obtain a judgment against the lot owner for the amount of dues plus court fees and other association costs.
- B. The Treasurer informs the Board of a delinquent lot owner. The Board instructs the Compliance Committee Chair to check the records of the U.S. Bankruptcy Court for the Western District of Virginia to ensure the lot owner is not the debtor in an open bankruptcy case. If not, the Board then considers the cost to the HVPOA and feasibility of collection of dues should a lien be filed or judgment obtained. If the Board considers the dues to be collectable and the cost to the HVPOA reasonable, it shall then determine whether to file a memorandum of lien or file a warrant in debt to obtain a judgment against the delinquent lot owner. In either case, the Board shall instruct the Compliance Committee to send a certified letter of intent to obtain a judgment or file a memorandum of lien to the lot owner specifying

the amount owed, including dues, late fees, and any appropriate court costs (see Appendix: Sample Letters 1 and 2). The lot owner has 30 days from receipt of the letter to pay dues, fees and costs before the judgment process begins.

- C. If payment is not received within the 30-day period, and the Board has determined to obtain a judgment against the delinquent lot owner, the Board will ask the Compliance Committee Chair to (1) file a warrant in debt against the lot owner with the General District Court of Nelson County, and (2) send a letter to the lot owner notifying them of the filing of a warrant of debt.
1. The president or treasurer will complete the Warrant of Debt, which can be found at <http://www.courts.state.va.us/forms/district/dc412.pdf>. (Instructions are available at <http://www.courts.state.va.us/forms/district/dc402inst.pdf>.)
 2. A representative of the Compliance Committee will take the warrant in debt to the Nelson County General District Court clerk's office.
 3. The Compliance Committee representative should ask the Clerk of the Court to serve the lot owner with a subpoena at least 10 days in advance of the hearing date. The lot owner will be served with the subpoena and warrant, and will be notified of the hearing date. If the lot owner fails to answer the warrant, or fails to appear in court, a judgment may be granted against them by default.
- D. The Compliance Committee will monitor the warrant and hearing process. If HVPOA obtains a judgment against a lot owner, then the following may happen:
1. If the lot owner refuses to pay but has not filed for bankruptcy and has not been foreclosed upon, he or she may still have assets. The Compliance Committee should request an abstract of judgment and file it in the circuit court. (<http://www.courts.state.va.us/forms/circuit/cc1464inst.pdf>) The clerk will complete this form. This creates a lien against any real property the lot owner owns in Nelson County.
 2. If the lot owner makes the payment, the HVPOA must file a release of judgment in the circuit court (<http://www.courts.state.va.us/forms/circuit/cc1463.pdf>). In addition, the Compliance Committee must notify the lot owner (see Appendix: Sample Letter 3) of his or her renewed "good standing" in the Association and the attendant reestablishment of their HVPOA voting rights that were temporarily suspended during the time the dues were in default.
- E. If the Board has determined to file a Memorandum of Assessment Lien against the delinquent lot, it shall instruct the Compliance Committee to file such lien in the Circuit Court of Nelson County. If dues and all penalty and interest are not paid within 36 months of filing such lien, the Board shall consider the cost to the HVPOA of filing suit to enforce its lien, and shall proceed accordingly.

- F. The Compliance Committee will report to the Board any and all results of their actions and make a report to all lot owners at the Annual Meeting.



Appendix: Sample Letter 1:
Letter of Intent to File a Lien or Judgment
To be used as a Template – edit appropriately

Horizons Village Property Owners Association,
Inc. (HVPOA)
P.O. Box 122
Nellysford, Virginia 22958

Date: MM/DD/YYYY

Name: Lot Owner Name(s)

Address: Lot Owner's Physical Address

HVPOA Lot #: X

Dear Lot Owner Name(s):

The financial records for HVPOA show that the dues for Lot # XX are delinquent. All dues for each budget year, regardless of payment schedule, must be paid by May 15 of that budget year. As you may be aware, the HVPOA Covenants and Bylaws, and Virginia law allow for the collection of dues by obtaining a judgment against you in the Nelson County General District Court.

This letter is to inform you that you have 30 days from the date of receipt of this letter to pay the dues and any late fees that have accrued in the amount of \$__. An itemized statement of charges will be provided at your request.

You may submit a written (email is sufficient) request to meet with the board to discuss a payment plan for the debt within the 30 days identified herein. If there is no regularly scheduled board meeting within that period, the board will designate a committee of one or more directors to meet with you. Be advised that the board may charge additional fees to implement a payment plan. In the event you default on the payment plan, HVPOA will file a warrant in debt and seek to obtain a judgment against you. This debt will include all delinquent dues from the time prior to entering into the payment plan and interest, late fees, payment plan handling fees, mailing costs and the court costs

If the above specified payment is not received within 30 days from the date of your receipt of this letter or a payment plan has not been arranged, the Board of Directors will ask the Compliance Committee to file a Warrant in Debt in the General District Court of Nelson County. The charge for filing the lien will be added to the amount of dues owed. In addition, your HVPOA voting privileges will be suspended. If dues and late fees owed are not paid and the HVPOA obtains a judgment against you, the HVPOA will file an abstract of that judgment in the Clerk's Office of the Circuit Court. This will create a lien against any real property you own in Nelson County.

If the dues payments and late fees are paid within 30 days of the date of your receipt of this letter, no judgment procedures will be taken.

Sincerely,
Horizons Village Property Owners Association.



**Appendix: Sample Letter 2:
Notification of Filing a Lien or Judgment
To be used as a Template – edit appropriately**

Horizons Village Property Owners Association,
Inc. (HVPOA)
P.O. Box 122
Nellysford, Virginia 22958

Date: MM/DD/YYYY

Name: Lot Owner Name(s)

Address: Lot Owner's Physical Address

HVPOA Lot #: X

Dear Lot Owner Name(s):

The financial records for HVPOA show that the dues for Lot # X are delinquent. All dues for each budget year, regardless of payment schedule, must be paid by May 15 of that budget year. As you are now aware from our previous letter, the HVPOA Covenants and Bylaws allow for the collection of dues by obtaining a judgment in the Nelson County General District Court.

Since we have neither heard from you nor have we collected the debt you owe HVPOA, this letter is to inform you that the HVPOA has initiated a warrant of debt against you in the amount of \$. This amount is equal to the amount of annual dues for budget year 20XX– 20XX, as well as all late fees, court costs, and mailing costs associated with filing the warrant in debt and obtaining a judgment.

When the sum has been paid, the judgment will be satisfied. At that time, the HVPOA will file an Authorization for Release of Judgment Lien with the General District Court of Nelson County. Additionally, you will be notified that your status in the association has returned to "Member in Good Standing," and your HVPOA voting privileges will be restored.

Sincerely,

Horizons Village Property Owners Association



**Appendix: Sample Letter 3:
Notification of Lot Owners Satisfaction of Debt
To be used as a Template – edit appropriately**

Horizons Village Property Owners Association,
Inc. (HVPOA)
P.O. Box 122
Nellysford, Virginia 22958

Date: MM/DD/YYYY

Name: Lot Owner Name(s)

Address: Lot Owner's Physical Address

HVPOA Lot #: X

Dear Lot Owner Name(s):

This is to inform you that your payment in full has been received by the HVPOA Treasurer for the judgment obtained against you in the General District Court of Nelson County on behalf of the HVPOA.

The HVPOA has filed with the court the Authorization for Release of Judgment Lien. As of now, your status in the association has returned to "Member in Good Standing," and your HVPOA voting privileges have been restored.

Sincerely,

Horizons Village Property Owners Association