

**COLLECTION PROCEDURES  
FOR CONDOMINIUM  
ASSOCIATIONS, COMMON  
INTEREST COMMUNITIES,  
AND COOPERATIVE  
ASSOCIATIONS**

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**MICHAEL C. KIM & ASSOCIATES**  
**Attorneys at Law**

**19 South LaSalle Street, Suite 303**  
**Chicago, Illinois 60603**  
**312-419-4000**  
**312-419-4008 (Fax)**  
**[www.mkimlaw.com](http://www.mkimlaw.com)**

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## **I. PREPARING FOR THE COLLECTION PROCESS**

Prior to turning an account over to our office for collection, it is important that the association has followed all proper governance procedures pursuant to the association's governing documents (declaration, by-laws and rules and regulations) and the Illinois Condominium Property Act or Illinois Common Interest Community Association Act, as the case may be.

The foundation of an efficient and effective collection action rests upon the association properly: electing the board of managers/directors (the "Board"); adopting the budget; adopting special assessments, if any; levying fines, if any; charging late fees; imposing or assessing any other lawful charges; and maintaining accurate books and records in support thereof.

The association should retain copies of notices and minutes for all Board meetings at which any action is taken resulting in any sum being assessed or otherwise charged to the unit owners generally or to only an individual unit owner, as the case may be. Likewise, the association should retain copies of notices and minutes for all unit owner meetings at which an election occurs or other action that results in any sum being assessed or otherwise charged to the unit owners generally or to an individual unit owner, as the case may be. Note that ballots and proxies related to ballots should also be retained. Also, the association should retain copies of any notices to unit owners with regard to the budget, special assessments, or other charges to unit owners. The failure of the association to hold a meeting with the proper notice and/or any action taken without the requisite quorum of Board members or unit owners, as the case may be, could impair or even prevent the association's ability to collect a given assessment or charge. Meeting minutes should be certified by the Board Secretary after approval.

In the event that a fine was levied against a unit owner, the association should ensure that it has supporting documentation/evidence of the conduct or circumstance that resulted in the fine. The association must follow the provisions of its governing documents with regard to a breach or violation of said documents. The association must have given the accused unit owner notice of the breach or violation, and have provided that unit owner the opportunity for a hearing. At an open Board meeting, the Board must make a determination that the breach or violation occurred based on the evidence presented, and then impose a reasonable fine, if warranted.

With regard to late fees, the Board should establish a reasonable late fee and procedure for charging such late fee. Notice should be given to all unit owners as to the amount of the late fee and when such late fee will be chargeable to their account. The late fee charge and procedure should be set forth in the association's rules and regulations or adopted written policy.

The association should have certified copies of the declaration, by-laws, and articles of incorporation (if incorporated), and all amendments thereto.

When turning over an account to our office for collection action, we must receive written authorization to proceed. Generally, we prefer that you use our standard Authorization and Direction to Begin Collection Action form for this purpose, a copy of which is attached to this document (pg 18). For your convenience, a fillable electronic PDF version of this form is available on our website ([www.mkimlaw.com](http://www.mkimlaw.com)). Even if you do not utilize our standard form, at a minimum we must be furnished with the following information:

1. Full name(s) of unit owner(s).
2. Address of unit.
3. Address of unit owner(s), if different than the unit.
4. Full name of tenant(s) and other occupant(s), if any.
5. The total amount which is owed.
6. The period for which that amount is owed.
7. An itemized month-to-month recap of the unit owner's account extending back to the last/most recent zero balance. You must provide a copy of the unit owner's account / ledger record. A copy of this ledger will be attached to the statutory notice sent to the unit owner(s).
8. If the ownership of the unit is in trust, the trust name and trust number (if applicable), and the beneficiaries of the trust.
9. Whether the unit has been purchased on contract for deed (or installment purchase contract), and if so, the name(s) and address(es) (if different than the unit) of the purchaser(s).

BY SUBMITTING OUR AUTHORIZATION FORM OR A REQUEST TO BEGIN A COLLECTION MATTER TO US, BY ALTERNATIVE MEANS, THE ASSOCIATION (OR ITS DULY AUTHORIZED AGENT) REPRESENTS AND WARRANTS TO US THOSE STATEMENTS SET FORTH IN APPENDIX B OF THIS DOCUMENT.

Very often we have found that association records do not show the first name(s) of the owner(s), or that the ownership has changed, or that the property is really held in trust, or that the property is really owned by two individuals rather than one (or vice versa). **THUS, UNLESS YOU REQUEST THAT A TRACT BOOK SEARCH NOT BE OBTAINED, WE WILL ORDER ONE. THIS SEARCH IS NECESSARY TO AVOID THE POSSIBILITY OF PROCEEDING AGAINST SOMEONE OTHER THAN THE LEGAL OWNER OF THE UNIT.**

It is important to note that if there is a tenant in the unit, and the association does not want that particular tenant to remain after possession is obtained by the association, then this fact should be indicated at the outset so that the tenant may be named as a party defendant. If the tenant is not named in the complaint, the tenant will not be evicted and the association will take possession subject to the terms of the tenant's lease with the owner.

In summary, before the association turns an account over to our office for collection, the association should have all appropriate documentation verifying that the association has

followed all necessary procedures because such documentation may be required to prove the association's case at trial.

## **II. THE COLLECTION PROCESS**

Upon receipt of the aforementioned information, our office sends a statutory notice to the delinquent unit owner(s) which states that the full amount of the delinquent assessments must be paid within the time set forth in the notice or the owner's (and tenant(s), if desired) right to possession will be terminated. That letter is sent by certified mail. A copy is sent to the association or its managing agent. The notice letter gives the unit owner forty (40) days to make full payment; although state law provides for 30 days, an additional 10 days is included to comply with Federal debt collection law. We direct the unit owner to send the amount claimed in the notice letter to us, but sometimes the unit owner does not comply and may send the payment to the association. IF THE OWNER SENDS PAYMENT TO THE ASSOCIATION, WE SHOULD BE NOTIFIED IMMEDIATELY. FAILURE TO NOTIFY OUR OFFICE MAY RESULT IN AN UNNECESSARY LAWSUIT BEING FILED AGAINST THE UNIT OWNER(S) AND IN EXTRA CHARGES TO THE ASSOCIATION WHICH IT MUST PAY WITHOUT ANY CHARGE BACK TO THE UNIT OWNER.

Sometimes a unit owner may request a payment plan in response to the Notice Letter. If the association is agreeable to a payment plan, we can prepare a standard payment plan agreement for a flat fee, prior to the filing of any eviction action. Note that our authorization form allows the association to indicate its openness to a payment plan up front. A copy of our standard form payment plan can be found as Appendix D of this document. The flat fee does not apply to any custom negotiated payment plan (that is, not the standard payment plan) or for any payment plan negotiated after an eviction case has been filed. Finally, the flat fee does not include our administration of the plan, which would be usually handled by the Association or its managing agent.

In the event that full payment of the amount demanded is not received from the unit owner(s) within the forty (40) day period and upon confirmation with the association, an eviction action will be prepared, filed and placed with the Sheriff for service.

ONCE AN ACCOUNT HAS BEEN TURNED OVER TO OUR OFFICE FOR COLLECTION, NEITHER THE ASSOCIATION NOR ITS PROPERTY MANAGER SHOULD ACCEPT ANY ASSESSMENT PAYMENTS FOR THE TIME PERIOD COVERED BY THE NOTICE LETTER SENT TO US, OR AGREE TO A PAYMENT PLAN, WITHOUT FIRST CONTACTING OUR OFFICE. THE ASSOCIATION MAY, HOWEVER, ACCEPT MONTHLY PAYMENTS FOR THE CURRENT MONTHS NOT COVERED BY THE NOTICE LETTER WITHOUT PREJUDICING COLLECTION OF PAST DUE BALANCES, AS LONG AS THE CHECK OR MONEY ORDER IS "CLEAN" (THAT IS, IT DOES **NOT** SAY IT IS "PAYMENT IN FULL" AND THE LIKE). ONCE WE HAVE RECEIVED AUTHORIZATION TO BEGIN A COLLECTION ACTION, WE WILL CONTINUE WITH EACH STEP OF THE PROCESS UNLESS REQUESTED BY THE BOARD OR MANAGEMENT TO STOP. THEREFORE, IF THE UNIT OWNER MAKES PARTIAL OR FULL PAYMENT OF THE AMOUNTS WHICH ARE THE SUBJECT OF THE COLLECTION ACTION, WE MUST BE NOTIFIED IMMEDIATELY. IN THE EVENT THAT A DELINQUENT OWNER CONTACTS OUR OFFICE, OUR POLICY IS TO ASK

THAT THE OWNER PAY THE FULL ACCOUNT BALANCE CLAIMED BY THE ASSOCIATION IN ITS LEDGER. WE DO NOT ACCEPT SETTLEMENTS OR PAYMENT PLANS WITHOUT THE AUTHORIZATION OF THE ASSOCIATION.

Normally, we advance all court costs and Sheriff's fees on behalf of the association; and these fees and costs will then be billed to the association for reimbursement. However, we may request that the association advance those sums if the cost item is substantial and/or the association has an unpaid balance with this firm. Please note that we require prompt payment of our collection billings or else we may terminate or suspend such services, in which event we will not be responsible for any delay or other adverse effects arising from such suspension or termination.

All attorney's fees and costs billed to the association should be immediately charged back against the delinquent unit owner's account, so that they appear on his or her next assessment/account statement. Although the association's declaration may provide that all attorney's fees and costs can be charged back to the unit owner, a judge has the discretion to award the association an amount less than the actual total of these charges. Only the amount awarded by the judge can be recovered by the association from the unit owner; all other charges must be removed from the unit owner's account. However, this award would not affect the association's obligation to pay the attorney's fees and costs actually incurred--that is, the association would still be responsible to pay us that portion of legal fees and costs not awarded by the judge.

Note that we may request cooperating, local counsel to appear in the outlying County Courts in eviction cases. Local counsel may appear on the original return date and obtain default judgments or agreed judgment orders in uncontested cases if there has been service of process, or may appear to obtain continuances or enter agreed orders in contested cases; however, any contested trial will be handled by an attorney from our office.

IT IS OUR RECOMMENDATION THAT ANY UNIT OWNER ACCOUNT MORE THAN SIXTY (60) DAYS DELINQUENT BE IMMEDIATELY TURNED OVER TO OUR OFFICE FOR COLLECTION ACTION. Such action may guard against cash flow problems and should give the association a better chance to recover money if a mortgage foreclosure is involved. Consequently, if collections have not been initiated well in advance of a mortgagee's foreclosure, the association may not have sufficient time to recover all unpaid assessments by using the eviction process.

### **III. METHODS OF COLLECTION**

#### **EVICTION ACTION**

The most common method of collection for delinquent assessments is the eviction (or forcible entry and detainer) action. In an eviction action, the association files a lawsuit seeking an order for possession of the unit and money damages for unpaid assessments and other lawful charges, plus attorneys' fees and court costs. Money damages may be obtained against the unit owner (personal) or the unit (in rem), depending upon the type of service of process obtained (or not obtained) on the unit owner. Note that the law requires that the enforcement of the judgment for possession be delayed (that is, "stayed") for a minimum of sixty (60) days, although a judge has the power to delay it for up to one hundred eighty (180) days. This stay does not apply to enforcement of the money judgment aspect of the order.

If the unit owner does not satisfy the judgment amount and bring his/her assessment account current during the stay period, the order for possession is placed with the Sheriff to evict the owner and/or occupant(s) and place the association in possession of the unit. The association is then free to rent the unit out until such time as the owner's account is brought current. After obtaining a judgment order, if the unit is occupied by the owner's tenant who has not been named in the eviction action, the tenant will be notified to make future rent payments directly to the association.

The association will need a representative present when the Sheriff performs the physical eviction. Also, the association must arrange for a locksmith to change the locks on the unit as soon as the Sheriff performs and posts the notice of eviction.

While the Forcible Entry & Detainer Act ("FED Act") expressly allows an association to lease a unit for a term, not to exceed 13 months from the expiration of the stay, it is unclear whether the association can lease a unit for a term that ultimately exceeds 13 months from the expiration of the stay, without first obtaining the court's permission to do so. However, if the association rents a unit on a month to month basis, the association probably need not obtain the court's permission to rent that unit for longer than 13 months from the expiration of the stay. Accordingly, we recommend that the association rent a unit on a month to month basis OR for a longer lease term but with a 30 day termination clause.

#### **LIEN AND LIEN FORECLOSURE**

We will prepare and file a lien if requested. To prepare the lien, we will order a tract book (ownership) search which is necessary to assure that the right parties are named and which also provides us with the correct legal description. For condominiums, it should be noted that under the Condominium Property Act the association can include in its lien amount the attorney's fees incurred enforcing the covenants of the condominium instruments, rules and regulations of the Board, or any applicable statute or ordinance. For non-condominium associations, there is no statutory lien, but the association may



have the right under its governing documents to add its attorneys' fees and other expenses to the assessment amount.

To enforce a lien, the association must file a lien foreclosure in which the unit is sold to satisfy the amount of the lien (similar to a mortgage foreclosure). This process is quite long (can exceed one year), involved, and costly. Obviously, the threat of losing one's home is very powerful, for not only is possession lost, but title is lost as well. In other words, the association or other purchaser at the judicial sale would end up owning the unit. A unit without a mortgage or any significant pre-existing lien and with a substantial amount of equity would be the best candidate for a lien foreclosure; however, even in those circumstances, a lien foreclosure takes a significant amount of time and involves significant drawbacks. Furthermore, even though the association would own the unit (if it is the successful bidder at the judicial sale), it would likely be subject to any mortgage lien(s) which the prior owner might have on it, and the mortgage company itself might elect to foreclose on its own lien. If the association were the successful purchaser of the unit at the judicial sale, it may have to subsequently sell the unit to recover cash for the amount owed by the prior unit owner(s). In addition, the association as the successful bidder may also have to redeem unpaid property taxes on the unit or face the possible loss of the unit to a tax certificate holder's petition for a tax deed. Bear in mind, that the purchase or sale of a unit by a condominium association requires approval by a super majority (typically 2/3 or 3/4) of all the unit owners.

#### LAWSUIT FOR DAMAGES ONLY

In the alternative to the above procedures, or if the association's lien or ability to evict is extinguished in or made impractical by a mortgage foreclosure, the association could file suit for breach of contract in order to collect assessments. This remedy can be very time consuming, results only in a money judgment and the likelihood of recovery is often very speculative. Money judgments are not self-enforcing, and thus require post-judgment proceedings unless the unit owner pays the judgment voluntarily. These post-judgment proceedings include garnishments and citations to discover assets, which are also time consuming and require additional court appearances for the attorney and court costs to the association. Lastly, this remedy could be terminated by a bankruptcy filing by the unit owner.

#### COOPERATIVE ASSOCIATIONS

Collection actions for cooperative associations are controlled by the association's governing documents (bylaws, proprietary lease, occupancy agreement, rules and regulations, trust agreements, articles of incorporation, etc.) and the Illinois Forcible Entry and Detainer (eviction) Act. Remedies available to the association may include the right to terminate the lease/occupancy agreement and take possession of the apartment/unit, or take possession of the apartment/unit without terminating the lease/occupancy agreement. Some of the steps and timeframes applicable to condominium and common interest community associations in an eviction lawsuit would not apply to a cooperative association, including but not limited to the time period in which the owner must pay the

delinquent balance to avoid an eviction action as stated in the demand letter. However, because our firm is subject to the Fair Debt Collection Practices Act, any demand letter sent by our firm will provide the owner at least 30 days in which to pay. If the association's documents provide for a shorter time period and the association wants to take advantage of such time period, then the association will have to issue the demand letter itself.

Additionally, the association may "foreclose" its lien (or security interest) on the owner's cooperative interest through a Uniform Commercial Code (or UCC) sale, through which the cooperative interest may be sold at a public or private sale.

The cooperative association may secure its lien interest in the owner's cooperative interest by filing a UCC financing statement with the Illinois Secretary of State. Such UCC financing statement is analogous to the recording of a lien against real property.

## FORECLOSURE AND BANKRUPTCY

### Foreclosures

Upon notice that a unit owner is in a mortgage foreclosure, we will evaluate the situation and send a letter detailing the options available to the association. In a foreclosure, we most frequently will file an appearance and answer, in order to keep track of the progress of the case, docket the important dates and inform the association when to begin to assess the mortgagee (that is, the lender), or other purchaser, as new owner. The mortgage lien is extinguished in the foreclosure proceeding along with the association's lien, and the responsibility for assessments is shifted to the new owner or possessor of the unit commencing with the first day of the month after the date of the judicial foreclosure sale, delivery of the deed in lieu of foreclosure, entry of a judgment in common law strict foreclosure, or taking of possession pursuant to court order. Occasionally, the judicial sale will yield a surplus of proceeds against which the association can seek to recover its pre-sale assessments; however, the association must be prepared to act in a timely manner and to also have been included in the original foreclosure judgment.

The association may not be able to charge back the costs and legal fees attendant with the association's involvement in foreclosure proceedings in the event that the unit owner is not delinquent in payment of assessments or other lawful charges.

The Illinois Condominium Property Act provides that the purchaser of a condominium unit at a judicial foreclosure sale (other than a mortgagee) or a purchaser from a mortgagee shall have the duty to pay up to six months of assessments, plus related legal fees. The six months of assessments are assessments that become due for the six months immediately preceding the institution of a "collection action" by the association (typically an eviction or an action to foreclose the association's lien). To secure the six months of assessments, the Association must initiate the collection action (typically by filing a law suit) before the judicial foreclosure sale date. The legal fees include attorneys' fees and costs incurred related to the collection of the relevant six months of assessments. If the original owner pays those six months of assessments or legal fees at any time, the

purchaser (at the foreclosure sale or from the foreclosing lender) has no duty to pay those amounts.

The Common Interest Community Association Act, which governs non-condominium associations other than master associations, does not presently provide for a similar remedy. However, a common interest community association may arguably have such a remedy available (including assessments and court costs, but excluding attorneys' fees) pursuant to Section 18.5(g-1) of the Illinois Condominium Property Act. Also, a master association arguably does not have a similar remedy under the Illinois Condominium Property Act because Section 18.5(g-1) thereof expressly applies to a "common interest community" and does not mention "master association."

### Bankruptcy

As for bankruptcies, notices received by the association advising that a unit owner has filed bankruptcy should be forwarded to our office immediately. As of the bankruptcy filing date, the association and its agents are enjoined (prohibited) by the federal Bankruptcy Code from further collection action against the unit owner and the bankruptcy estate (which includes the unit), including but not limited to mailing letters or statements to the unit owner for delinquent amounts owed prior to the bankruptcy filing date. Any collection action taken against the unit owner or the unit without first obtaining the Court's permission (lifting or modifying the automatic stay) is punishable by the Bankruptcy Court.

There are two basic types of bankruptcy under which a unit owner may seek relief, commonly referred to as Chapter 13 and Chapter 7 bankruptcy, respectively. Where a unit owner seeks relief under Chapter 13 of the Bankruptcy Code (wage earner plan), our office will prepare and file the necessary claim for the amount of the arrearage as of the date the bankruptcy petition was filed. This assessment arrearage is paid, if at all, to the association by the bankruptcy trustee in accordance with the terms of the plan filed by the debtor (unit owner). Repayment will be spread over a period which varies from twelve (12) to seventy-two (72) months, depending on the plan approved by the court.

If a unit owner files a Chapter 7 bankruptcy (straight bankruptcy or liquidation), he is seeking to eliminate all debts that he has incurred prior to the date the bankruptcy was filed. In a Chapter 7 proceeding, the unit owner/debtor often has "no assets" from which unsecured creditors can recover and also usually has little or no equity in the unit which may "secure" the association's assessment lien (usually the first mortgage holder will take title to the unit, with no proceeds available to satisfy the association's junior assessment lien).

The federal bankruptcy law provides that a unit owner/debtor who files for bankruptcy and thereafter continues to have title interest in the unit, remains personally obligated to pay assessments that accrue after the date on which the bankruptcy petition is filed. If an owner fails to pay assessments which accrue after the filing of the bankruptcy, the association should inform our office so that appropriate steps may be taken, which may

include the filing of a motion to lift or modify the automatic stay so that the association can proceed with appropriate collection action.

In the event that the association is already in possession of a unit pursuant to a judgment order for possession obtained in an eviction action, the bankruptcy filing does not disturb the association's right to possession. Also, a bankruptcy filing subsequent to the entry of a judgment order for possession in favor of the association does not affect the judgment order for possession; however, the association may have to first obtain a bankruptcy court order modifying the automatic stay before actually executing the eviction.

Unfortunately, the association may not be able to charge back the costs and fees attendant with the association's involvement in bankruptcy and foreclosure proceedings unless it is actively pursuing collection of assessments in those proceedings and obtains a court/judicial ruling on its costs and fees in those proceedings.

#### PROBATE

In the event that the association receives notice that a probate case has been filed after the death of a unit owner, we should be contacted immediately to evaluate the circumstances and determine if any action should be taken in the probate case. It may be advantageous for the association to file a claim against the deceased unit owner's estate in the probate case, provided the estate has assets with which any assessment delinquency may be paid. There are time limitations on filing a claim against an estate in probate. If a claim is not filed within the applicable time period, the association may be barred from bringing a claim against the estate and may then be unable to receive payment for unpaid assessments from the estate's assets. Therefore, it is imperative that receipt of notice of a probate case be handled in a timely manner.

## APPENDIX A

### SCHEDULE OF FEES AND COSTS

Our basic attorney's fees and court costs charges and other incidental expenses are currently as follows:

<u>ITEM</u>	<u>CURRENT FEES/COSTS</u>
<u>NOTICE LETTER</u> Preparation of Statutory Notice Letter	\$195.00
<u>PAYMENT PLAN</u> Preparation of Standard Payment Plan in response to Notice Letter, prior to filing eviction action.	\$75.00
<u>LIEN</u> Preparation of lien (excluding cost of tract search, filing and recording costs)	\$225.00
<u>TITLE COMPANY FEES</u> Tract Search	\$75.00 to \$120.00
<u>EVICITION ACTION – UNCONTESTED (DEFAULT) CASES*+</u> If service obtained by Sheriff on original summons (1 court appearance)	\$1,012.50, plus court costs
If service obtained by alias summons or posting (2 or more court appearances)	\$1,600.00 and up, plus court costs
Note: stated amounts include fees only up to judgment. See Eviction/Post- Judgment Activity section below.	
<u>EVICITION ACTION – CONTESTED CASES*+</u> Court appearances and attorney and paralegal time including preparation, telephone calls, correspondence, conferences, research, etc.	\$250.00 per hour/attorney \$175.00 per hour/paralegal
<u>EVICITION/POST – JUDGMENT ACTIVITY*^</u> (In both contested and uncontested cases)	

Telephone calls, correspondence, conferences, filing of eviction order with Sheriff and follow up through eviction, post-eviction activity, etc.

\$250.00 per hour/attorney  
\$175.00 per hour/paralegal

COUNTY CLERK'S FEES (EVICTION ACTION)

Filing Fee

Cook County	\$237.00
DuPage County	\$175.00
Kane County	\$161.00-\$311.00
Lake County	\$156.00-\$306.00
McHenry County	\$131.00-\$241.00
Will County	\$161.00-\$276.00

Alias Summons

Cook County	\$6.00
DuPage County	\$5.00
Lake County	\$5.00
Kane County	\$5.00
McHenry County	\$5.00
Will County	\$5.00

Posting Notice\*\*+

\$6.00 filing fee in Cook

SHERIFF'S FEES (EVICTION ACTION)

Service of Summons

Cook: \$60.00 per defendant;  
DuPage: \$40.00 to \$56.00 for first defendant; \$30.00 per additional defendant if at same address;  
Kane: \$40.00 to \$61.00 for first defendant; \$37.00 per additional defendant;  
Lake: \$26.00 to \$51.00 for first defendant; \$15.00 per additional defendant;  
McHenry: \$31.65 to \$51.65 per defendant;  
Will: \$40.00 to \$79.00; \$10.00 per additional defendant if at same address.

Posting Notice

Cook: \$60.00  
DuPage: \$25.00  
Kane: \$37.00  
Lake, McHenry and Will: same as service of summons

Sheriff's Eviction Fees

Cook: \$60.00;  
DuPage: \$13.00 for certified copy of Order, and \$200.00 fee for service of eviction notice;  
Kane: same as service of summons fee, plus \$88.00 for first hour and \$88.00 for each additional hour;  
Lake: same as service of summons fees;  
McHenry: same as service of summons fee, plus \$92.85 per hour;  
In Cook, Lake, DuPage, and McHenry the Association must provide its own mover; Will: service fee same as service of Summons, plus \$196.00 if Association provides mover or \$446 if Sheriff provides mover. (Client must advance deposit)

Clerk's Eviction Filing Fee

Cook County \$18.00;  
DuPage County \$26.00;  
Kane County \$6.00 per defendant;  
Lake County \$8.00 for first copy, \$15.00 each additional;  
McHenry County \$6.00 per defendant;  
Will County \$4.00 with documentation (\$6.00 without).

LIEN FORECLOSURE

We handle this type of case only on an hourly fee basis at our standard attorney and paralegal hourly billing rates

LAWSUIT FOR DAMAGES ONLY

We handle this type of case only on an hourly fee basis at our standard attorney and paralegal hourly billing rates

FORECLOSURE/BANKRUPTCY

We handle this type of case only on an hourly fee basis at our standard attorney and paralegal hourly billing rates

FEDERAL CLERK'S FEES

Motion for relief from bankruptcy stay \$176.00

- \* Settlement negotiation related attorney and paralegal fees are chargeable to the client, but may not be awarded by the Court.
- \*\* Applies only where a defendant could not be personally served with summons by the Sheriff or special process server.
- + The requirements for effectuating service may vary among different jurisdictions (counties) and even judges (in the same or different jurisdiction). Meeting such requirements will impact the attorneys' fees and court costs in any given case. For example, in Cook County service must be attempted by a special process server prior to serving by positing.
- ^ Not including Post-Judgment collection activity, such as citation to discover assets, wage garnishment, etc.

Note: Court costs (County Clerk and Sheriff's Fees), special process server fees, and title company charges are subject to change by those entities. We cannot control those items but merely pass them on to our client. These figures are based on information and on the circumstances that exist currently and are subject to change without notice. Finally, certain out-of-pocket charges (e.g. special process server fee, title company charges, mileage, tolls, parking, photocopies, facsimile, messenger, overnight courier, telephone charges, and postage) incurred by the association may be sought from the Court but are generally not recoverable as "court costs".



## APPENDIX B

### REPRESENTATIONS BY ASSOCIATION AND AUTHORIZATION TO BEGIN COLLECTION

IN COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT, AND TO ASSIST US IN THE COLLECTION OF DELINQUENT MONETARY CLAIMS, BY EXECUTING OUR FIRM'S AUTHORIZATION TO BEGIN COLLECTION ACTION FORM, OR BY SUBMITTING A COLLECTION MATTER TO US BY ALTERNATIVE MEANS, THE ASSOCIATION (OR ITS DULY AUTHORIZED AGENT) REPRESENTS AND WARRANTS TO US AS FOLLOWS:

1. IF AN ASSESSMENT AMOUNT IS BEING SOUGHT, SUCH ASSESSMENT WAS ADOPTED, AS APPLICABLE, (A) FOR CONDOMINIUM AND NON-CONDOMINIUMS AFTER DISTRIBUTION OF A PROPOSED ANNUAL BUDGET AT LEAST 30 DAYS PRIOR TO ITS ADOPTION BY THE BOARD OF DIRECTORS/MANAGERS AT A MEETING, NOTICE OF WHICH WAS GIVEN TO ALL OWNERS AT LEAST 10 BUT NOT MORE THAN 30 DAYS IN ADVANCE, BY PROPERLY ELECTED MEMBERS OF THE BOARD AND BY A PROPER MAJORITY OF THE BOARD, AND (B)(i) NO PROPER PETITION FOR A MEETING OF OWNERS ON THE BUDGET OR ASSESSMENT WAS DELIVERED TO THE BOARD WITHIN 14 DAYS OF THE BOARD'S ADOPTION OF THE BUDGET OR ASSESSMENT (OR, IF A PROPER PETITION WAS TIMELY DELIVERED, THE BUDGET OR ASSESSMENT WAS RATIFIED BECAUSE A MAJORITY OF THE TOTAL VOTES OF THE UNIT OWNERS DID NOT REJECT IT AT A PROPERLY CALLED MEETING), OR THE PURPOSE OF THE ASSESSMENT WAS FOR EXPENDITURES REQUIRED BY LAW OR DUE TO AN EMERGENCY AS DEFINED IN SECTION 18(a)(8) OF THE ILLINOIS CONDOMINIUM PROPERTY ACT OR SECTION 1-45(e) OF THE ILLINOIS COMMON INTEREST COMMUNITY ASSOCIATION ACT, AND (ii) ANY ASSESSMENT FOR ADDITIONS OR ALTERATIONS EXPENDITURES NOT INCLUDED IN THE ADOPTED ANNUAL BUDGET HAS BEEN APPROVED BY 2/3 OF THE TOTAL VOTES OF ALL THE UNIT OWNERS.

2. IF A LATE CHARGE OR INTEREST IS BEING SOUGHT, SUCH LATE CHARGES AND INTEREST ARE PROVIDED FOR BY THE GOVERNING DOCUMENTS OR RELEVANT STATUTE AND ARE REFLECTED IN DULY ADOPTED RESOLUTIONS OF THE BOARD. NOTE THAT A LATE CHARGE MUST BE REASONABLE IN RELATION TO THE DAMAGE CAUSED TO THE ASSOCIATION BECAUSE OF LATE PAYMENT AND CAN ONLY BE IMPOSED ONCE FOR THE MONTH IN WHICH THE PAYMENT WAS ORIGINALLY LATE.

3. IF A MONETARY FINE IS BEING SOUGHT, SUCH FINE WAS IMPOSED BY THE BOARD AT A DULY NOTICED AND HELD OPEN MEETING AFTER NOTICE WAS GIVEN TO AND AN OPPORTUNITY FOR HEARING WAS AFFORDED TO THE OWNER BEING FINED. NOTE THAT THE FINE MUST BE REASONABLE IN

**RELATION TO THE NATURE OF THE VIOLATION AND HARM CAUSED TO THE ASSOCIATION.**

**4. IF A REPAIR DAMAGE OR OTHER CHARGEBACK IS BEING SOUGHT, SUCH CHARGEBACK IS EXPRESSLY PROVIDED FOR IN THE ASSOCIATION'S GOVERNING DOCUMENTS.**

**5. IF A CHARGE IS RELATED TO MANAGEMENT OR THE MANAGEMENT AGENT, SUCH CHARGE MUST BE RELATED TO THE COLLECTION OF ASSESSMENTS, MUST BE SET FORTH IN THE MANAGEMENT CONTRACT WITH THE ASSOCIATION, AND MUST BE SPECIFICALLY AUTHORIZED BY THE ASSOCIATION'S GOVERNING DOCUMENTS.**

**6. THE ASSOCIATION HAS DOCUMENTATION AND OTHER EVIDENCE TO FULLY SUPPORT AND SUBSTANTIATE ITS CLAIM AND THESE RELATED REPRESENTATIONS AND WARRANTIES.**

If the foregoing statements are not accurate, the association may not be able to successfully prosecute its claim but will still be responsible for the attorney's fees and other costs and consequences of that action.

**NOTICE**

PLEASE COMPLETE, SIGN AND SEND THE AUTHORIZATION TO BEGIN COLLECTION ACTION TO US BY MAIL, FAX OR EMAIL. FOR YOUR CONVENIENCE, A FILLABLE ELECTRONIC PDF VERSION OF THE AUTHORIZATION FORM IS AVAILABLE ON OUR FIRM WEBSITE: [www.mkimlaw.com](http://www.mkimlaw.com).

THE SECOND PAGE OF THE AUTHORIZATION TO BEGIN COLLECTION ACTION IS A VERIFICATION FORM. IN ANTICIPATION THAT A LAWSUIT MAY BE FILED, PLEASE RETURN A SIGNED ORIGINAL VERIFICATION WITH EACH AUTHORIZATION.



**AUTHORIZATION AND DIRECTION TO BEGIN COLLECTION ACTION**

**IMPORTANT: WE WILL RELY ON THIS INFORMATION AS BEING TRUE AND COMPLETE.** If you do not fully understand any of the foregoing, contact Michael C. Kim & Associates at 312-419-4000 before completing and submitting this document. This document must be completed in its entirety. Also, if any change occurs as to any information in this form, please let us know immediately; failure to do so may result in delays that can jeopardize the Association's ability to recover unpaid amounts due from the unit owner.

You are authorized to begin a collection action pursuant to the information set forth below:

1. \_\_\_\_\_  
a) Association Name – Use Exact Corporate Name  
b) Is this a: Condominium  Common Interest Community  or Co-op ?
2. Is the Unit held in trust? Yes  No   
If Yes: \_\_\_\_\_  
Name of the Trust OR the Trustee Bank & Trust Number
3. \_\_\_\_\_  
Owner's or Trust Beneficiary's Full Name – **NO INITIALS**  
\_\_\_\_\_  
Co-Owner's or Trust Beneficiary's Full Name– **NO INITIALS**
4. \_\_\_\_\_  
Unit No. Street Address e-mail address, if known  
\_\_\_\_\_  
City County Zip Code
5. Is the Unit occupied by the Owner(s)? Yes  No   
Unknown Occupant(s)? Yes  No
6. Identify non-owner Occupants of the Unit by Full Name(s) \_\_\_\_\_
7. Does the Association want the non-owner Occupant(s) evicted? Yes  No   
Unless "yes" is indicated, we will not seek to evict the non-owner occupants (e.g. tenant of owner).
8. \_\_\_\_\_  
Owner Address, if different from #4 e-mail address, if known  
\_\_\_\_\_  
City County Zip Code
9. Has the Unit been purchased on contract for deed? Yes  No   
If Yes \_\_\_\_\_  
Contract Purchaser's Full Name(s)
10. The Association is not aware of any bankruptcy filed by the Unit Owner or any tenant. Please check here  if you want us to investigate further.

11. Attached is an itemized month-to-month recap/ledger sheet to show the amount now due.
12.  Please do **not** order a tract book search to verify record ownership. If this item is check marked, we will **not** order a tract book search and the Association assumes the risk, costs and legalfees for incorrect/incomplete ownership information. If you do not check this item, we will obtain a track book search.
13.  Please prepare and record a lien. If you do **not** check this item, we will **not** prepare and record a lien and the Association assumes the risk of loss of priority or other protection of its lien rights.
14. Is the Association willing to accept a payment plan pursuant to terms as set forth in our standard payment plan agreement (a copy of which is included in our Collection Procedures Packet)?  
 Yes  No

If yes, what is the range of monthly payments (in addition to regular monthly charges) the Association is willing to accept? \$\_\_\_\_\_ to \$\_\_\_\_\_

In order to assist and induce the firm of Michael C. Kim and Associates to provide legal services related to the collection of delinquent monetary claims, the Association or its duly authorized agent represents and warrants to Michael C. Kim & Associates as described on Pages 16 and 17 of Michael C. Kim & Associates current Collection Procedures For Condominium Associations, Common Interest Communities and Cooperative Associations, a copy which has been received by the undersigned as agent for the Association.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Authorized Signature  
 Title: \_\_\_\_\_ Phone: \_\_\_\_\_

**CERTIFICATION PAGE**

STATE OF ILLINOIS     )  
COUNTY OF \_\_\_\_\_ )

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in the foregoing instruments are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
TITLE

## **APPENDIX C**

### **COLLECTION PREPARATION CHECKLIST**

#### **Information required to begin collection action:**

- Full name(s) of unit owner(s).
- Address of unit.
- Address of unit owner(s), if different than of unit.
- Full name of tenant(s) and occupants, if any.
- The total amount which is owed.
- The period for which that amount is owed.
- A copy of the unit owner's itemized month-to-month account/ledger record of the extending back to the last zero balance.
- Whether the ownership of the unit is in trust, the trust name and number if available, and the beneficiaries of the trust.
- Whether the unit has been purchased on contract for deed, and if so, the name(s) and address(es) (if different than the unit) of the purchaser(s).
- A copy of the lease between the unit owner(s) and tenant(s), if any.

#### **Information required for trial:**

- Original books of account showing all entries chronologically.
- Certified copies of minutes of board meetings at which budget or assessments were adopted or rules violations hearings were held; and board minutes for rules and regulations establishing late fees, fines or other charges, if any.
- Certified copy of declaration and by-laws and amendments or rules and regulations.
- Other possible items – certified copies of owner's deed and "add-on" amendments; certified copies of rules violation notices or damage repair charge back notice; certified copy of articles of incorporation and any amendments to same.

**APPENDIX D**

**PAYMENT PLAN AGREEMENT**

This Payment Plan Agreement (the "Agreement") is hereby entered into as of \_\_\_\_\_, (the "Effective Date") by the Board of Directors/Managers of \_\_\_\_\_ [Condominium] Association (the "Association") and \_\_\_\_\_ (the "Unit Owner") (collectively, "the Parties").

WHEREAS, Unit Owner is the owner of record of \_\_\_\_\_ (the "Unit") located in the \_\_\_\_\_ [Condominium] Association, \_\_\_\_\_, Illinois;

WHEREAS, the Parties agree that Unit Owner owes Association certain sums for unpaid assessments and other lawful and/or agreed upon charges, plus attorneys' fees and court costs;

WHEREAS, the Association issued or caused to be issued to Unit Owner a Notice to File Suit in Forcible Entry and Detainer dated \_\_\_\_\_ ("Notice Letter") pursuant to Section 5/9-104 of the Illinois Code of Civil Procedure.

WHEREAS, the Parties desire to enter into a payment as embodied in this Agreement.

NOW THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, it is hereby covenanted and agreed by and between that Parties as follows:

1. That Unit Owner shall pay to the Association the sum of \$\_\_\_\_\_ (the "Delinquent Amount") for unpaid assessments, late fees, other agreed upon and/or lawful charges, attorneys' fees and costs for the period of \_\_\_\_\_ through and including \_\_\_\_\_.

2. Beginning \_\_\_\_\_, Unit Owner shall make monthly payments ("Delinquency Payment") in the amount of \$\_\_\_\_\_, which payments shall be applied toward the Delinquent Amount and paid until the Delinquent Amount is paid in full.

3. In addition to the Delinquency Payment, and beginning \_\_\_\_\_, Unit Owner shall pay timely all current regular assessments (currently \$\_\_\_\_\_, but subject to increase per new budget), special assessments, if any, late fees and other lawful and/or agreed upon charges ("Assessment Payment").

4. All payments pursuant to Paragraphs 2 and 3 of this Agreement are due the 1<sup>st</sup> day of each month and must be paid no later than the \_\_\_\_\_ day of the month. If any payments are not received on or before the \_\_\_\_\_ of the month, a late fee will be charged to the Unit's account. In the event that any payments pursuant to this Agreement are not received by the Association on or before the last business day of any given month in which payment is due, Unit Owner shall be in default of this Agreement and the Association shall be entitled to pursue its remedies as provided in Paragraph 6 of this Agreement.

5. All payments pursuant this Agreement must be in certified funds (cashier's check, certified check, money order, etc.). Payments by personal check are not acceptable.

6. In the event that Unit Owner fails to make payments pursuant to Paragraphs 2 through and 5 of this Agreement, the Association shall, without further notice, be entitled to file a forcible entry and detainer lawsuit pursuant to the Notice Letter, the receipt of which Unit Owner hereby acknowledges.

7. The failure by the Association to require performance of any provision shall not affect the Association's right to require performance at any time thereafter, nor shall a waiver of any particular breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

8. This Agreement may be signed in counterparts for the convenience of the parties.

ASSOCIATION:

UNIT OWNER:

Board of Directors/Managers of  
\_\_\_\_\_  
[Condominium] Association

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_