

SCANNED

NOTE TO RECORDER: This instrument amends the *Notice of Filing of: Capistrano Homeowners Association, Inc. -- Resolution Adopting Rules Regarding Termination of Water Service for Failure to Pay Maintenance Assessments* which was filed on March 22, 2013 at Book 16009, Pages 682-686 of the Official Public Records of Bexar County, Texas in order to correct a typographical error in the Affiant's name.

**NOTICE OF FILING OF:
CAPISTRANO HOMEOWNERS ASSOCIATION, INC.**

*** **

**RESOLUTION ADOPTING
RULES REGARDING TERMINATION OF WATER SERVICE
FOR FAILURE TO PAY MAINTENANCE ASSESSMENTS**

Date:

GRANTOR: Capistrano Homeowners Association, Inc.

GRANTEE: The Public

Book 16039 Page 1581 6pgs

**STATE OF TEXAS §
 §
COUNTY OF BEXAR §**

KNOW ALL MEN BY THESE PRESENTS:

BEFORE ME, the undersigned authority, on this day personally appeared **Geraldine D. Carlson**, who duly sworn, deposes and says:

"My name is **Geraldine D. Carlson**. I am fully competent in all respects to make this Affidavit, am over the age of eighteen, have never been convicted of a felony, and, have personal knowledge that the facts as stated herein are all true and correct.

I am the Treasurer for the Capistrano Homeowners Association, Inc.

Attached hereto as *Exhibit A* is a true and correct copy of the *Capistrano Homeowners Association, Inc. -- Resolution Adopting Rules Regarding Termination of Water Service for Failure to Pay Maintenance Assessments* which was duly adopted by the Association on the 7th day of March, 2013.

This Resolution is being recorded in the Official Public Records of Real Property of Bexar County, Texas in accordance with TEXAS PROPERTY CODE § 202.006 which provides that all dedicatory instruments of the Association be filed in the real property records of each county in which the property to which the dedicatory instrument relates is located.

The Capistrano Homeowners Regime is wholly located within Bexar County, Texas.

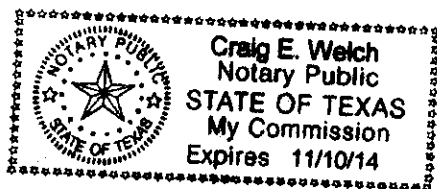
The above is true and correct. Further, Affiant sayeth not."

SIGNED this the 4 day of APRIL, 2013.

Capistrano Homeowners Association, Inc.

By: Geraldine D. Carlson
Geraldine D. Carlson, Treasurer
Treasurer

SWORN TO BEFORE ME by the said **Geraldine D. Carlson, Treasurer** on this the 4 day of APRIL, 2013.



Craig Welch
Notary Public in and for
State of Texas
My commission expires: 11/10/14

After recording return to:
Capistrano Homeowners Association, Inc.
c/o Amy M. McLin, Attorney at Law
2810 Thousand Oaks, PMB #136
San Antonio, Texas 78232

CAPISTRANO HOMEOWNERS ASSOCIATION, INC.

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WHEREAS all property located within the Capistrano Condominium Regime, the CAPISTRANO HOMEOWNERS ASSOCIATION, INC., and Owners are governed by one or more documents which are entitled:

- (1) *Condominium Declaration Capistrano Condominiums Bexar County, Texas* (hereinafter "Condominium Declaration") filed in the Condominium Records of Bexar County, Texas, on or about July 15, 1982; and
- (2) *By-Laws of Capistrano Homeowners Association, Inc.* (hereinafter "By-Laws") which were adopted by the Association on or about July 14, 1982; and

WHEREAS ARTICLE V of the By-Laws, entitled BOARD OF DIRECTORS provides, in part:

"5.2 POWERS AND DUTIES. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of a residential condominium Project. The Board of Directors may do all such acts and things that are not be these By-Laws or by the Condominium Declaration for CAPISTRANO CONDOMINIUMS directed to be exercised and done by the Owners."

"5.3 OTHER POWERS AND DUTIES. The Board of Directors shall have the following duties:

* * *

- a. To administer and enforce the covenants, conditions, restrictions, uses, limitations, obligations and all other provisions set forth in the Condominium Declaration.

* * *

- e. To fix, determine, levy and collect the monthly prorated assessments to be paid by each of the Owners; and by majority vote of the Board to adjust, decrease or increase the amount of the monthly assessments subject to provisions of the Declaration ...

* * *

- n. In general, to carry on the administration and operation of this Association and to do all things, necessary and reasonable, in order to carry out the communal aspect of Condominium ownership."

Exhibit "A"

CAPISTRANO HOMEOWNERS ASSOCIATION, INC.

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WHEREAS ARTICLE IV, entitled MANAGEMENT AND ADMINISTRATION of the Condominium Declaration provides, in part:

“4.1 BY-LAWS. ... The Association shall be managed by a Board of Directors, duly appointed or elected, pursuant to the terms and conditions of the By-Laws. ...”

WHEREAS ARTICLE V, entitled MAINTENANCE ASSESSMENTS of the Declaration provides, in part:

“5.1 ASSESSMENTS FOR COMMON EXPENSES. “All Owners shall be obligated to pay the estimated assessments imposed by the Association to meet the Common Expenses. ...”

WHEREAS TEXAS PROPERTY CODE § 82.102., entitled POWERS OF UNIT OWNERS' ASSOCIATION provides in part:

“(a) Unless otherwise provided by the declaration, the association, acting through its board, may:

* * *

(13) adopt and amend rules regulating the collection of delinquent assessments and the application of payments;

(14) adopt and amend rules regulating the termination of utility service to a unit, the owner of which is delinquent in the payment of an assessment that is used, in whole or in part, to pay the cost of that utility ...”

WHEREAS monthly maintenance assessments paid by the Owners to the Capistrano Homeowners Association, Inc. are partially used to pay for water services for individual units;

WHEREAS most Units located in the Capistrano Condominium Regime have individual water cutoff valves; and

WHEREAS the Board of Directors for the Capistrano Homeowners Association, Inc. desires to adopt rules regulating the termination of utility services to a unit when the Owner(s) are delinquent in the payment of assessments to the Association;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors for the Capistrano Homeowners Association, Inc. hereby authorizes the termination of water services to any Unit whose assessments are delinquent and for which there is an individual water cutoff valve;

CAPISTRANO HOMEOWNERS ASSOCIATION, INC.

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FURTHER, LET IT BE RESOLVED, that the Board of Directors may choose not to turn off water services if it deems other action would be in the best interests of the Association;

FURTHER, LET IT BE RESOLVED, that when the Board of Directors chooses to take the action authorized by this *Resolution*, a letter must be sent to the delinquent Owner(s) by Certified Mail, Return Receipt Requested and First Class Mail, and must advise the Owner that they may avoid the termination of water service if their account is brought current or other arrangements are reached regarding the payment of their account by a specified date which is no less than 30 days from the date of the letter;

FURTHER, LET IT BE RESOLVED that this *Resolution* shall be filed in the Official Public Records of Real Property of Bexar County, Texas; and

FURTHER, LET IT BE RESOLVED that the Board shall publish this *Resolution* to all owners by mailing a true and correct copy by first class mail to all owners at their last known address on file with the Association;

FINALLY, LET IT BE RESOLVED that this *Resolution* will become effective as of April 1, 2013.

APPROVED: Date: March 7, 2013

CAPISTRANO HOMEOWNERS ASSOCIATION, INC.

Tom J. Pohl
President

Dickie S. Harkness
Secretary

Deraldine S. Carlson
Treasurer

Any provision herein which restricts the sale, or use of the described real property because of race is invalid and unenforceable under Federal law
STATE OF TEXAS, COUNTY OF BEXAR
I hereby Certify that this Instrument was FILED In File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Real Property of Bexar County, Texas on:

MAR 22 2013

Doc# 20130056584 Fees: \$32.00
03/22/2013 10:25AM # Pages 5
Filed & Recorded in the Official
Public Records of BEXAR COUNTY
GERARD C. RICKHOFF COUNTY CLERK



Gerard C. Rickhoff
COUNTY CLERK BEXAR COUNTY, TEXAS

Doc# 20130068567 Fees: \$36.00
04/08/2013 12:17PM # Pages 6
Filed & Recorded in the Official
Public Records of BEXAR COUNTY
GERARD C. RICKHOFF COUNTY CLERK

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STATE OF TEXAS, COUNTY OF BEXAR
I hereby Certify that this instrument was FILED in File Number Sequence on
this date and at the time stamped hereon by me and was duly RECORDED
in the Official Public Record of Real Property of Bexar County, Texas on

APR 08 2013



Gerard C. Rickhoff
COUNTY CLERK BEXAR COUNTY, TEXAS