

NEWINGTON FOREST COMMUNITY ASSOCIATION, INC.

ADMINISTRATIVE RESOLUTION NO. 21

SUPPLEMENT TO ARTICLE IV, SECTION 4.08 OF THE
DECLARATION OF COVENANTS -
PERTAINING TO NON-JUDICIAL FORECLOSURES
(5/24/22)

WHEREAS, Article IV, Section 4.01, of the Bylaws assigns the Board of Directors with “all the powers of the Association except such as are, by the laws of Virginia, the Articles of Incorporation, the Declaration or these Bylaws, conferred upon or reserved to the Members”; and

WHEREAS, the Board deems it necessary to supplement Article IV, Section 4.08, of the Declaration of Covenants.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors will consider using the powers granted to it by the Virginia Property Owners Association Act to pursue a non-judicial foreclosure on a property following the procedures set out below:

1. A property will be considered for non-judicial foreclosure upon recommendation by the Association’s attorneys.
2. Properties under consideration for a non-judicial foreclosure must be two (2) or more years in arrears with assessments and prior legal action taken to collect those delinquent assessments must have proven unsuccessful.
3. After a review of the recommendations received from legal counsel concerning the status of a property under consideration for non-judicial foreclosure, the Board will vote to decide whether a non-judicial foreclosure action will begin.
4. Upon an affirmative vote of the Board to begin the non-judicial foreclosure process, the Association’s attorneys will be directed to send a notice to the property Owner informing them of the Association’s intention to begin a foreclosure. The property Owner will be given 60 days to make payment in full to satisfy the liens and all legal fees and costs to date. Upon receipt of payment in full the foreclosure action will be cancelled.
5. If the Owner does not make payment, and the Board authorizes the law firm to proceed, the law firm will then refer the case to a Trustee and prepare a Deed of Appointment of Trustee for signature by the Board President. Once the Trustee receives the signed Deed of Appointment, it will be recorded in the land records.
6. Once the Deed of Appointment is recorded, the Trustee will then schedule the foreclosure auction and advertise the property for sale in the newspaper. The Trustee will also send letters to the Owners and other lien holders notifying them of the sale, providing them with a copy of the advertisement.

7. Unless the Owner makes payment in order to halt the sale, the Trustee will then sell the property at auction. Once the Deed of Appointment is recorded, the Trustee will schedule the foreclosure auction, and advertise the property for sale in the newspaper. The Trustee will also send letters to the Owners and other lien holders notifying them of the sale, providing them with a copy of the advertisement. After the sale, the Trustee will schedule the settlement, disburse the proceeds (if any) from the sale, and sign over the Deed to the purchaser.
8. The Trustee will file an accounting with Fairfax County within 12 months of the auction date.
9. The Association's attorneys will be responsible for following the requirements for non-judicial foreclosure as outlined in the Virginia Property Owners Association Act.
10. At any time during the non-judicial foreclosure process, up to the auction of the property, the Board of Directors reserves the right to cancel the foreclosure proceedings if accord can be reached with the property Owner regarding payment of past due assessments, legal fees, and costs.
11. In the event that a property is auctioned at a foreclosure sale, legal counsel shall, prior to the sale, consult with the Board of Directors who shall determine whether or not the Association wishes to initiate a bid at the foreclosure sale and the Board shall appoint someone to represent the Association at the foreclosure sale for that purpose.
12. In the event that the Board's representative submits the winning bid at the foreclosure sale, after consultation with legal counsel, the Board's representative (a director or officer) shall execute all necessary instruments and documents required to evidence the conveyance of a lot to the Association.
13. As a matter of policy, the Board of Directors envisions that the Association will only initiate bids at foreclosure sales and acquire title to a lot via foreclosure when conditions warrant such action and only after consultation with the Association's attorneys.