

# **Owner Claims Policy**



201300144983  
MISC 1/4

**OWNER CLAIMS POLICY  
FOR  
THE RENAISSANCE ON TURTLE CREEK CONDOMINIUM ASSOCIATION, INC.  
("Claims Policy")**

In the event of a conflict of interpretation between the provisions set forth in the Declaration, hereinafter defined, of The Renaissance on Turtle Creek Condominium Association, Inc., a Texas non-profit corporation and this Claims Policy, the Declaration shall govern as the conflict relates to the content set forth herein. If the Act, or the TNCL, hereinafter defined, is hereafter amended or changed, this Claims Policy shall be interpreted in a manner which conforms to the provisions of the Act with respect to Owners' rights to maintain actions against the Association. Any capitalized terms not defined herein shall have the meaning as set forth in the Declaration.

**I. DEFINITIONS:**

**"Act."** Chapter 82 of the Texas Property Code, entitled the Uniform Condominium Act, as amended.

**"Association."** The Renaissance on Turtle Creek Condominium Association, Inc., a Texas non-profit corporation, and its successors and assigns, organized under TNCL, and created for the purposes and possessing the rights, powers, authority and obligations set forth in the Governing Documents, whose address for notice purposes is c/o Premier Communities, 3225 Turtle Creek Boulevard, Dallas, Texas 75219, as may be changed by the Association from time to time.

**"Board."** The Board of Directors of the Association.

**"Bylaws."** Those certain Bylaws of The Renaissance on Turtle Creek Condominium Association, Inc., a Texas non-profit corporation recorded together with the Condominium Declaration for the Renaissance on Turtle Creek Condominium on November 25, 2002 under Deed Book 230 at Page 06012 in the Real Property Records of Dallas County, Texas, as may be amended and supplemented.

**"County."** Dallas County, Texas.

**"Declaration."** That certain Condominium Declaration for the Renaissance on Turtle Creek Condominium recorded on November 25, 2002 under Deed Book 230 at Page 06012 in the Real Property Records of Dallas County, Texas, as amended and supplemented.

**"Governmental Authority."** Any and all applicable courts, boards, agencies, commissions, offices or authorities for any governmental entity (federal, state, County, district, municipal, city or otherwise) whether now or hereafter in existence.

**"Governing Documents."** The Declaration, Bylaws, Articles, Regulations, the Act, the TNCL, this Claims Policy, any other policy or rule duly adopted by the Association in accordance with the Governing Documents, as each may amended and any other restrictions filed of record in the County.

**"Owner."** Any Person owning fee title to a Lot, but excluding any Person having an interest in a Lot solely as security for an obligation.

**"Person."** Any individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, estate, trust, unincorporated association and any other legal

entity, including any Governmental Authority and any fiduciary acting in such capacity on behalf of any of the foregoing

"Real Property Records." The records of the office of the county clerk of the County where instruments concerning real property are recorded.

"TNCL." The Texas Nonprofit Corporation Law, as amended from time to time.

## II. DISPUTE RESOLUTION:

- A. Submission to Claims Policy. Owners, acting collectively or individually pursuant to their rights set forth in Section 4.3 of the Declaration, entitled "*Rights of Action by Owners*", under the Act or any other applicable law shall be subject to this policy and the procedures required herein when bringing a Claim against the Association regarding any alleged failure of the Association to comply with the provisions of the Declaration, or any other Governing Document and failure of the Association to perform its duties and responsibilities under the Declaration or any other Governing Document (individually, a "Claim" and collectively, "Claims"). The purpose of this Claims Policy shall be to encourage amicable resolution of disputes brought by Owners against the Association and avoidance of premature or unnecessary costs of litigation by the Association and the Owners. For the purposes of this Claims Policy, "Claimant" shall mean the Owner(s) who bring a Claim against the Association, "Respondent" means the Association and together may be referred to herein as "Parties". This Claims Policy applies to all Claims; however nothing in this Claims Policy shall be interpreted or construed as an attempt by the Association to deny an Owner any right it is otherwise entitled to under the Declaration, the other Governing Documents or any other applicable law.
- B. Exempt Claims. The following Claims ("Exempt Claims") shall be exempt from this Claims Policy: (a) any Claim brought by an Owner falling under the purview of Section 5.1.4 of the Declaration which involves claims against the Association regarding the proper party to bear a maintenance repair or replacement cost or expense as more particularly described in the Declaration; (b) any Claim by an Owner falling under the purview of Section 5.3.4 of the Declaration which involves claims against the Association regarding property damage and loss covered by insurance as more particularly described in the Declaration; (c) an action by an Owner to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Owner's ability to enforce the provisions of the Declaration; and (d) a suit to which an applicable statute of limitations would expire within the notice period of this Claims Policy, unless the Association agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this claims Policy.
- C. MANDATORY PROCEDURES: Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Claims Policy.
1. Claim Notice. Claimant must notify Respondent in writing of the Claim (the "Claim Notice") stating: (a) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (b) the basis of the Claim (i.e. the provision of the Governing Documents or other authority out of which the Claim arises); (c) what Claimant wants Respondent to do or not do to resolve the Claim; and (d) that the Claim Notice is given pursuant to this Claims Policy.

2. **Negotiation.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within five business days after Respondent's receipt of the Claim Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to any property, as may be applicable to take and complete corrective action.
3. **Mediation.** If the Parties negotiate but do not resolve the Claim through negotiation within 120 days from the date of the Claim Notice (or within such other time period as may be mutually agreed to in writing by the Parties), Claimant will have 30 additional days within which to submit the Claim to mediation to a mediator on which the Parties mutually agree. The mediator must be a reputable Person actively engaged in the local commercial and residential real estate industries for a continuous period of not less than ten years; is in no way affiliated, or has had material business dealings with any Owner; and must have at least five years experience serving as a mediator. Further, the mediator shall not be in any way affiliated with the Claimant, have any business dealings with the Claimant or be an Owner. If Claimant does not submit the Claim to mediation within such 30 day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.
4. **Termination of Mediation.** If the Parties do not settle the Claim within 30 days after submission to mediation, or within a time period deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as may be permissible by and pursuant to the Declaration or any other Governing Document, as may be applicable.

### **III. COSTS AND ENFORCEMENT OF RESOLUTION:**

- A. **Allocation of Costs.** Claimant and Respondent shall bear its own costs incurred prior to and during the proceedings described in the Claim Notice, negotiation and mediation sections above, including its attorneys fees. Respondent and Claimant will equally divide the costs, fees and expenses of mediation.

**In the event a Claim against the Association is not settled and proceeds to litigation, the Association must levy a Special Assessment to all Owners to fund the estimated costs of such litigation prior to initiating a judicial or administrative proceeding.** The Association may not use its reserve funds for operating expenses, repair or replacement to fund litigation, unless a portion of the Association's annual budget or a savings account was established and funded from its inception as a litigation reserve fund.

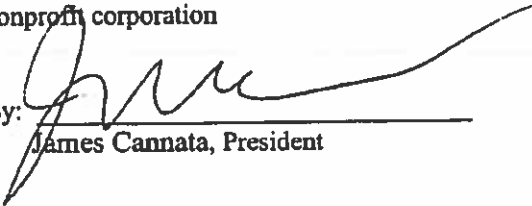
- B. **Enforcement of Resolution.** Any settlement of a Claim through negotiation or mediation will be documented in writing and signed by Claimant and Respondent.
- C. **Authority and Settlement.** The Board, on behalf of the Association and without the consent of Owners, possesses the right, power and authority as set forth in Section 82.102(a)(4) of the Act and Section 7.15 of the Bylaws to negotiate settlement of litigation and may execute any document related thereto, such as settlement agreements and waiver or release of Claims.

IV. MISCELLANEOUS:

- A. Amendments. Notwithstanding any other provision in the Governing Documents to the contrary, this Claims Policy may be amended by the Board in the same manner the Board may amend the Bylaws pursuant to Section 7.11 and Section 13.02 of the Bylaws. Any amendment to this Claim Policy shall become effective upon recordation in the Real Property Records of the County.
- B. Effective Date. This Claims Policy was unanimously adopted by the Board of Directors in that certain written consent entitled Unanimous Consent in Lieu of a Meeting of the Board of Directors of the Association dated May \_\_, 2013 and shall be effective as of the date such policy is recorded in the Real Property Records of the County.

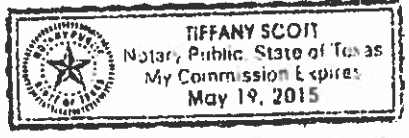
Executed on this 7<sup>th</sup> day of May, 2013

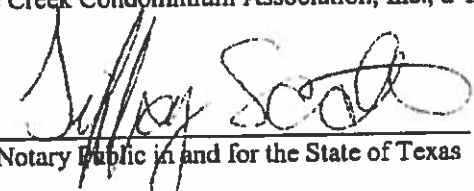
On behalf of the Board of Directors of The Renaissance on Turtle Creek Condominium Association, Inc., a Texas nonprofit corporation

By:   
James Cannata, President

STATE OF TEXAS                   §  
  §  
COUNTY OF DALLAS           §

This instrument was acknowledged before me on the 7<sup>th</sup> day of May, 2013 by James Cannata, President of the Board of Directors of The Renaissance on Turtle Creek Condominium Association, Inc., a Texas nonprofit corporation on behalf of said association.

[SEAL] 

  
Notary Public in and for the State of Texas

My Commission Expires: May 19 2015

Filed and Recorded  
Official Public Records  
John F. Warren, County Clerk  
Dallas County, TEXAS  
05/09/2013 10:43:14 AM  
\$28.00

AFTER RECORDING RETURN TO:

201300144983

The Renaissance on Turtle Creek Condominium Association, Inc.  
c/o Premier Communities  
3225 Turtle Creek Boulevard  
Dallas, Texas 75219