

No. _____

FAIRFIELD VILLAGE COMMUNITY
ASSOCIATION INC.

VS.

DAVID W. HEDNER AND
SUSAN M. HEDNER

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IN THE ____ JUDICIAL DISTRICT COURT
OF HARRIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

Fairfield Village Community Association Inc. (hereinafter referred to as "Plaintiff") files this Plaintiff's Original Petition against David W. Hedner and Susan M. Hedner (hereinafter collectively referred to as "Defendants"), and in support thereof respectfully shows this Court the following:

PARTIES

1. Plaintiff, Fairfield Village Community Association Inc., is a Texas non-profit corporation that is duly organized and existing under the laws of the State of Texas. Plaintiff's principal place of business is in Harris County, Texas. Plaintiff intends for discovery to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

2. Defendant, David W. Hedner, is an individual residing in Harris County, Texas, and is the owner of the property made the basis of this lawsuit. Such Defendant may be served with citation at Defendant's residence at 16003 Pebble Creek Trail, Cypress, Texas 77433 or such other place where Defendant may be found.

3. Defendant, Susan M. Hedner, is an individual residing in Harris County, Texas, and is the owner of the property made the basis of this lawsuit. Such Defendant may be served with

citation at Defendant's residence at 16003 Pebble Creek Trail, Cypress, Texas 77433 or such other place where Defendant may be found.

II.
AUTHORITY FOR ASSESSMENTS

4. Plaintiff is comprised of property owners in the subject community. Defendants own real property in the subject community that is commonly known as 16003 Pebble Creek Trail, Cypress, Texas 77433 (hereinafter referred to as the "Property"), and more particularly described, *to wit*:

Lot 09, Block 01, of Trails of Fairfield, Section 4, an addition in Harris County, Texas, according to the map or plat thereof recorded in the Map Records of Harris County, Texas, under Clerk's Film Code No. 413008, as modified by any supplements thereto or replats thereof.

5. The Property is governed, in part, by an instrument filed of record with the Real Property Records of Harris County, Texas. Such instrument is hereinafter referred to as the "Declaration", and more particularly known as the Fairfield Village Declaration of Covenants, Conditions, and Restrictions, recorded in the Real Property Records of Harris County, Texas, under Clerk's File No. L619441, which expressly reserves the subject lien, along with any amendments, supplements, and annexations thereto, including the Annexation Instruments under Clerk's File Nos. S907514, L623708, M146460, 20080557450, and 20150587876.

6. Defendants are charged with actual and constructive knowledge of the Declaration. The Declaration and/or Texas law provide that property owners in the subject community shall pay assessments to Plaintiff, along with any interest, attorney fees, and other costs of collection that result from a property owners failure to timely pay Plaintiff. The said interest, attorney fees and costs of collection are added to and made a part of the property owners assessment account.

All sums assessed by Plaintiff and not paid by a property owner shall bear interest at the rate provided for in the Declaration or such other rate as allowed by law.

III.
LIEN

7. Pursuant to the Declaration, the past-due assessments, interest, attorneys fees, and cost of collection shall constitute a charge on the land and shall be a continuing lien upon the Property. In this regard, Plaintiff will show that it has a lien upon the Property for unpaid charges.

IV.
NOTICE OF DELINQUENCY

8. Defendants have an unpaid balance due and owing to Plaintiff for assessments and/or related charges. Plaintiff gave Defendants multiple notices of the delinquency and informed Defendants that failure to pay certain delinquent charges to Plaintiff within a given period would result in Plaintiff taking the necessary steps to foreclose upon its lien.

V.
DAMAGES

9. Defendants have failed and refused to pay the sums due and owing to Plaintiff in the amount of at least Three Thousand Eighteen and 57/100 Dollars (\$3,018.57), plus additional assessments, attorney's fees, cost and interest that have accrued and/or that will accrue during the pendency of this matter. All offsets, payments and credits allowed are reflected in the said amount owing to Plaintiff by Defendants. Plaintiff now seeks a judgment for all sums due and owing to it by Defendants and for the establishment and foreclosure of any lien against the Property.

VI.
ATTORNEY FEES

10. In accordance with the Declaration, the Texas Property Code and the Texas Civil Practice and Remedies Code, Plaintiff is entitled to reimbursement from Defendants for its attorney fees and costs incurred in pursuing this action against Defendants. Plaintiff has retained the undersigned attorneys to enforce its rights against Defendants. Therefore, Plaintiff is entitled to an award from Defendants for reasonable and necessary attorney's fees and costs. Additionally, Plaintiff seeks those reasonable and necessary attorney's fees and cost that will likely be incurred in collecting on any judgment awarded in this case. In the event of an attack upon the judgment, Defendants should be required to reimburse Plaintiff for additional attorney's fees and cost that can reasonably be anticipated to be incurred in such an appeal.

VII.
CONDITIONS PRECEDENT

11. All conditions precedent to Plaintiff recovering upon its claims herein have occurred or been waived by Defendants.

VIII.
RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer this Petition and that upon final trial of this cause, Plaintiff have a judgment against Defendants as follows:

- a. delinquent assessments and/or expenses;
- b. post-judgment interest at the maximum rate allowed by the laws of the State of Texas;
- c. for all reasonable and necessary attorney's fees incurred by Plaintiff, including reasonable and necessary fees that are likely to be incurred to collect upon any judgment obtained herein, as well

as reasonable and necessary fees that can be anticipated upon an appeal of such judgment;

- d. for all costs of court incurred by Plaintiff;
- e. for the establishment and foreclosure of Plaintiff's lien against Defendants' property and for an order of sale of Defendants' property; and
- f. for such other and further relief, both general and special, legal and equitable, to which Plaintiff may be justly entitled.

Respectfully submitted,

HOLTTOLLETT, P.C.

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