

Collection Services Proposals

According to Board Best Practices and Board Rules, **the 2016 AGM agreed that, "the treasurer's report should include the amount of dues in arrears." And at the 2017 AGM, a motion passed to, "collect past dues owed on a lot that sells through transfer title." And the board decided in July, 2009, and April 2015 to, "address delinquent accounts." The board also decided in August 2015 to, "have the Standing ByLaw Committee develop procedures to address delinquent accounts."**

To fulfill the above, 3 local collectors have been solicited, here are their offers...

1.) Mason Yamaki

- Lawyer and associate with Torkildson, Katz, Hetherington, Harris & Knorek Attorneys at Law in Hilo.
- Mister Yamaki expressed no interest in writing up or sending out collection letters.
- PER TMK his services would cost...

- \$100 lien filing fees; $\$100 \times 234 = \$23,400$
- \$1000 per court judgement; $\$1,000 \times 234 = \$234,000$
- \$5000 for foreclosure even if no one shows up. $\$5,000 \times 234 = \$1,170,000$

TOTAL cost to KSECA to collect up to \$150K: up to \$1,427,400

Cost to hire with full legal enforcement could be as high as 10 times the amount collected

2.) Michael Patrick @ Pacific Recovery Service LLC

- Certified and Bonded Collector (per legal requirements for non-attorney Collector - next page)
- **Charges Leilani 38%** of what he collects as payment to him. Money kept in trust and disbursed to Community Association every month.
- **Charges Hawaiian Shores 30%** of what is collected as payment to him.
- Without being an attorney, his ability to collect is limited to sending letters and calling people.

TOTAL cost to KSECA to collect up to \$150K: from \$45,000 to \$57,000

Does not include legal services/in-court enforcement, thus can only collect from those who voluntarily pay.

3.) Association Services, a division of Garbarinolaw LLLC / Mike Garbarino, Attorney

- Offer is to **charge 20%** of amounts collected for KSECA, as payment to him. All other collection costs paid by debtor.
- Has already written up and sent out collection letters in compliance with the law, has the expertise on state and federal fair debt collection laws.
- Has the knowledge and legal ability to efficiently file liens, solicit court judgements and file foreclosures if necessary, to ensure collection.

TOTAL cost to KSECA to collect up to \$150K: \$30,000

Includes legal services/in-court enforcement, but only with advance approval by the KSECA Board of Directors

The KSECA Board of Directors is seeking BEST VALUE

All member input is welcome, please note that any additional proposals must meet the following requirements per state law, and the RFP requirements (next page)...

***Legal Requirements of a Non-Attorney Collector in Hawaii
Per Hawaii Revised Statutes (HRS), chapter 443B***

- (a) No collection agency shall collect or attempt to collect any money or any other forms of indebtedness alleged to be due and owing from any person who resides or does business in this State without first registering under this chapter.
- (b) Registration shall include:
 - (1) Submission of a complete application for registration;
 - (2) Submission of a certificate of good standing or a certificate of authority from the business registration division;
 - (3) Payment of appropriate fees;
 - (4) Filing and maintenance of a bond in the amount prescribed in HRS section 443B-5;
 - (5) Maintenance of a regular active business office in the State; and
 - (6) Designation of a principal collector, as prescribed in HRS section 443B-6.

Any proposal for a non-attorney collection effort must, by law, meet all of the above requirements.

Any/all other proposals submitted to the KSECA Board of Directors by the deadline will be evaluated based on the above criteria, and on the scope of services, and on the total cost to KSECA, to include any/all expenses paid by KSECA.

The award of contracted services will be decided after August 15, 2019, and will be determined on the basis of
BEST VALUE.

**DEADLINE for proposal submission:
August 15, 2019**

Email any proposal by the deadline to: board@kseca.org

Collections Services RFP Requirements

- Work with KSECA bookkeeper (Patti Lightcap) to attain every individual detailed breakdown of 234 different TMKs in arrears by 3 years or more, indicating years, dues owed and late fees owed and provide this information with an invoice mailed to the address on file in KSECA Quickbooks.
- Write up nearly 234 notices with detailed notices of ALL possible legal remedies that can be taken to collect the debt and treat every debtor fairly and in accordance with the state and federal fair debt collection laws and in accordance with KSECA policy. This notice is to be reviewed by the KSECA Board of Directors for approval before being sent out.
- Attain envelopes and postage required to mail out all 234 letters. Attain printing services, and all other necessary components of printing and mailing the notices. Resolve mail items returned by researching and identifying current and correct mailing addresses, and re-send those notices. Keep detailed records of every notice sent, to include copies, when sent, if returned, when re-sent, and any other records necessary for an accurate verification of actions taken, in the event of a legal challenge or necessary audit.
- Keep independent and detailed records of all dues and late fees collected and possible bad debt to be written off, per TMK on record, so that this information can be compared with KSECA's official accounting records (Quickbooks) at the time of transfer, deposit and reconciliation. Maintain the complete confidentiality of these records, as they constitute personal financial information that is confidential by law, and may only be accessed on a "need to know" basis in furtherance of official business.
- Keep track of any payment plan you set up with the debtor. An escrow account is to be used for this. You will be responsible for setting this up appropriately, in compliance with all applicable laws.
- Provide a detailed report at minimum every 3 months to KSECA, with reconciliation and transfer of funds happening at minimum every 3 months.
- If a debtor doesn't respond to a non-returned letter/collection notice within 45 days, you must file a lien with the Bureau of Conveyances on KSECA's behalf. KSECA will be entitled to add a \$90 lien filing fee to the TMK account, as additional funds owed and due to KSECA. You are responsible for correctly filing the lien in accordance with all applicable law.
- Send a certified piece of mail to the debtor informing them of the formal lien filing, and of their rights and remedies. For debtors who pay in response, you are responsible for filing for the removal of the lien.
- Provide all services under a contract containing an indemnification agreement with KSECA, absolving KSECA of any/all liability for any errors or omissions. Designate a principal collector as required by state law, an individual who must be licensed, and on whose behalf a bond is filed with the state, as a guarantee of compliance with federal and state fair debt collections laws. Designate a regular active business office in the state and a means to be reached by a debtor during normal business hours.