

COLLECTION POLICY

The Board of Directors of _____ Homeowners Association has an obligation to collect all Association assessments in a timely manner. Based on the Association's CC&Rs and in compliance with the California Civil Code, the following collection policy has been adopted by the Board.

Payment of Assessments

- Statements** The Association is not required to send billing statements to owners. Billing statements are optional and owners are responsible for timely payment of all charges regardless of receipt of a billing statement.
- Payments** Payments are applied to the oldest invoice. Payments on delinquent assessment shall be applied first to assessments owed, then, after the assessments are paid in full, to late charges, interest, collection expenses, and any other charges. However, the Association and the owner can enter into a written agreement providing for funds to be applied in a different manner.
- Receipts** Owners can request a receipt from the Association which shall indicate the date of payment and the person who received it. Any request for a receipt of payment must be submitted directly to the Association's business address (separately from any actual payment).

Time Frame for Collection of Delinquent Assessments

- Due Date** Payment of each monthly installment of the regular assessment is due on the 1st of each month. Payment of each special assessment shall be due and owing on the date stated on the notice of special assessment. This date shall be set at least 30 days after the date of the notice.
- 15 Days Past Due** **Late Fee.** Payment is considered delinquent on the ___th of the month. A late fee of ___% of the installment which came due on the first of the month will be added to the owner's account. In addition, the Association shall be entitled to charge the owner for all reasonable collection costs, including attorneys' fees, incurred in the Association's efforts to collect the delinquent sums.
- Suspension of Privileges.** To the extent authorized in the Association's Bylaws or CC&Rs, the Board may also schedule a hearing to discuss whether the owner's membership privileges should be suspended for the duration of the owner's delinquency. The Association shall use the notice and hearing procedures established for imposing penalties for violations of its governing documents.
- 30 Days Past Due** **Interest.** On the 30th of the month, interest at the rate of ___% will be charged to the entire balance which was due and owing as of the first of the month.

Special Assessments. If a special assessment is payable in installments and an installment payment of that special assessment is delinquent for more than 30 days, the Board may accelerate the due date for all installments so that the entire unpaid balance of the special assessment shall become immediately due and payable. The outstanding balance shall be subject to a late charge and interest as provided above.

Board Authorization to Lien. At any open Board meeting which takes place after an owner's account is 30 days past due, the Board of Directors shall vote whether to record a lien for delinquent assessments against the owner's unit once the account is 45 days past due. Any such vote shall pass by a majority of the Board members present. The vote shall be recorded in the minutes of the meeting. As part of the Board's discussion prior to taking this vote, the delinquent account can be referenced by address or by the owner's name, and the amount owed may be stated.

45 Days Past Due

Payment. The Association may turn the owner's account to a collection agent or lien service. From this point forward, the owner must make all payments to the Association's lien service or other agent. Payments received at other locations will either be returned to the owner or forwarded to the collection agent or lien service for handling.

Pre-Lien Letter. A pre-lien letter is sent to all record owners at their address(es) of record by certified mail informing the owner that the Association shall record a lien against the owner's property if payment of delinquent assessments is not received within 30 days. The pre-lien letter may be sent by the Association or its designee.

Meet and Confer. Before recording a lien, the Board shall offer the delinquent owner and, if requested by the owner, shall participate in a "meet and confer" pursuant to Civil Code Section 5900, *et seq.* and, if one exists, the Association's written "meet and confer" policy.

- 60 Days Past Due **Payment Plan Requests.** An owner may submit a written request to meet with the Board to discuss a payment plan for the debt listed in the pre-lien letter. If the owner's request is mailed within 15 days of the date of the postmark on the Association's pre-lien letter, the Board shall meet with the owner within 45 days of the postmark on the owner's request. If there is no regularly scheduled Board meeting during that period, the Board may instead designate a committee of one or more directors to meet with the owner. The Association shall provide the owner with the standards for payment plans, if any exist. The Association is not obligated to provide a payment plan to any owner.
- 75 Days Past Due **Lien.** A Notice of Delinquent Assessment (lien) is prepared and recorded against the owner's property on behalf of the Association. A copy of the Notice of Delinquent Assessment shall be mailed to the delinquent owner by certified and first class mail.
- 75+ Days Past Due **Dispute Resolution.** Before initiating foreclosure, the Board shall offer the delinquent owner and, if so requested by the owner, shall participate in, both a "meet and confer" pursuant to Civil Code Section 5900, *et seq.*, or alternative dispute resolution pursuant to Civil Code Section 5925, *et seq.* The decision to pursue a "meet and confer" or a particular type of alternative dispute resolution shall be the choice of the owner, except that binding arbitration shall not be available if the Association intends to file a lawsuit for judicial foreclosure. The owner's request must be in writing.
- 105 Days Past Due **Notice of Default.** Notice of Default recorded, commencing the process of foreclosing on the Association's lien.
- 195 Days Past Due **Approval of Foreclosure.** At least 30 days before the foreclosure sale of a delinquent owner's property, the Board of Directors will vote in executive session to approve the sale. The approval will be noted in the minutes of the next open Board meeting, without identification of the homeowner; instead the property may be identified by parcel number. The Board shall not approve any sale to take place before the total amount of delinquent assessments, alone, totals at least \$1,800, or until assessments are at least 12 months delinquent, whichever comes first. The Board shall provide written notice to the owner of any such approval. If the owner lives in the property, notice shall be delivered by personal service. Otherwise notice shall be given by first-class mail, postage prepaid, at the most current address shown on the books of the Association. In the absence of written

notification by the owner to the Association, the address of the owner's separate interest may be treated as the owner's mailing address.

- 195 Days Past Due **Notice of Sale.** Once the Board has approved a sale of the property, a Notice of Trustee Sale will be recorded and published.
- 225 Days Past Due **Foreclosure Sale.** Owner's property sold to highest bidder at a trustee sale.
- Post-Sale **Right of Redemption.** The owner shall have a 90-day right of redemption following the trustee sale.

Miscellaneous

- Delinquent Notices The Association may, but need not, send late notices for delinquent accounts.
- Disclosure After the Board has approved a foreclosure on a particular unit, when discussing in open Board meetings that unit's delinquency or the status of the foreclosure or other collection activity, the Board may only identify the unit by parcel number, not by address or owner name.
- Litigation In lieu of conducting a foreclosure sale against the owner's property, at any point during the collection process the Board may elect to file a lawsuit against the delinquent owner for collection of the delinquencies and/or judicial foreclosure of the Association's assessment lien. All fees and costs associated with the foreclosure or lawsuit shall be charged to the delinquent owner's account.

Payment address The mailing address for payment of assessments by overnight delivery *before* the matter is referred to a lien service or collection agency is:

Once the matter is referred to a lien service or collection agency, all payments must be sent to that service or agency. The owner will be notified of the service or agency's address for overnight payments.

- Payment Collection activity will be terminated and the lien released from the owner's property only after payment in full of the Association's assessments, late fees, interest, reasonable collection costs, and any other amounts subject to lien.
- Insufficient Funds All checks returned for insufficient funds shall result in a charge of \$____.
- Timely payment If it is determined that the owner has paid an assessment on time, the owner will not be liable to pay any charges, interest, or costs of collection associated with collection of such assessment.

Records

Owners may inspect the Association's accounting books and records to verify the amounts owed pursuant to Corporations Code Section 8333 and Civil Code Section 5200, *et seq.* Records for the current fiscal year shall be provided within 10 business days of receipt of a written request. Records for the prior two fiscal years shall be provided within 30 calendar days of receipt of a written request. The owner will be billed for the cost of copying and mailing.

Secondary Address

Upon receipt of a written request by an owner identifying a secondary address for the purpose of assessment collection notices, the Association shall send additional copies of any notices required by this Collection Policy to that secondary address. The owner must mail the notice to the Association in a manner that shall indicate that the Association has received it.