

# Homeowner Association Assessment, Lien, and Collection Policy for \_\_\_\_\_

## Notice to Homeowners

Following is our association's policy as adopted by the Board of Directors on \_\_\_\_\_.

**This notice is required to be distributed to all owners in accordance with California law.**

As you know, the collection of assessments is critical to our association for the enhancement of property values and the financial health of our association. Without these assessments, important invoices such as insurance for the common area, utilities, and maintenance cannot be paid. In addition, unless the association collects all assessments, reserves cannot be accumulated for future anticipated expenditures which can lead to large special assessments. Members (owners) who do not pay their share create a cash flow problem for the association and cause others to pay a disproportionate share of the community financial obligations. Accordingly, the Board of Directors has adopted these policies and procedures which incorporate the requirements of the association's governing documents, the California Civil Code, and the Federal Fair Debt Collection Practices Act. All policies and procedures shall be consistently implemented by the board of Directors which has a legal duty to collect assessments.

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the California Civil Code indicated for further information.

Your Board of Directors takes very seriously its legal obligation under the Declaration of Covenants, Conditions and Restrictions (CC&Rs) and the California Civil Code to enforce the members' obligation to pay assessments. The policies and practices outlined shall remain in effect until such time as they may be changed, modified, or amended by a duly adopted resolution of the Board of Directors. Therefore, pursuant to the CC&Rs and the California Civil Code, following are the Association's assessment, lien, and collection practices and policies:

### Assessments and Foreclosure

Assessments become delinquent \_\_\_\_\_ days after they are due. The failure to pay association assessments may result in the loss of an owner's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure, or without court action, often referred to as non-judicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or nonjudicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and cost of collection, is less than one thousand eight hundred dollars (\$1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than 12 months delinquent, an association may use judicial or non-judicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 4 of the California Civil Code. When using judicial or non-judicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Section 5700 through 5720 of the California Civil Code, inclusive).

In a judicial or non-judicial foreclosure, the Association may recover assessments, reasonable costs of collection, reasonable attorney fees, late charges, and interest. The Association may not use non-judicial foreclosure to collect fines or penalties, except for costs to repair common area damaged by a member or a member's guests, if the governing documents provide for this. (Section 5725 of the California Civil Code)

The Association must comply with the requirements of Article 2 (commencing with Section 5650) of Chapter 8 of Part 5 of Division 4 of the Civil Code when collecting delinquent assessments.

At least 30 days prior to recording a lien on an owner's separate interest, the Association must provide the owner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the Association's records to verify the debt. (Section 5660 of the California Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 5685 of the California Civil Code) The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

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## **Payments**

When an owner makes a payment, the owner may request a receipt, and the Association is required to provide it. On the receipt, the Association must indicate the date of payment and the person who received it. The Association must inform owners of a mailing address for overnight payments. (Section 5655 of the California Civil Code)

An owner may, but is not obligated to pay under protest any disputed charge or sum levied by the Association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the Association as set forth in Article 2 (commencing with Section 5900) of Chapter 10 of Part 5 of the Division 4 of the California Civil Code. In addition, an Association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the California Civil Code: if so requested by the owner. Binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (Section 5685 of the California Civil Code).

The address for payments of assessments by overnight or personal delivery is: 30215 Walford Court, Agoura Hills, CA 91301.

It is the policy of the association to:

1. Assess a \$\_\_\_\_\_ fee for returned checks;
2. Assess a late charge and/or collection charge as follows:
  - Assess a late charge of \$ \_\_\_\_\_ for any regular monthly assessment (due on the first day of each month) not received by the \_\_\_\_ day of the same month.

**Or**

- Assess a late charge equal to 10% of any regular monthly assessment (due on the first day of each month) not received by the \_\_\_\_\_ day of the same month. Billings are a courtesy. If you do not receive a courtesy billing, you should immediately contact the management company to determine your assessment obligation.
3. Assess a late charge of 10% or \$10.00 (whichever is greater) for any special assessment not received within \_\_\_\_\_ days of the due date.
  4. Mail to any owner, delinquent over \_\_\_\_\_ days, a written pre-lien notice (lien warning) that a lien will be recorded against their property, unless all delinquent assessments, including all late charges and costs, are paid within 30 days.
  5. Record a lien against the property of owners after the elapse of the thirty (30) day written notice specified in No 4 above.
  6. Commence to foreclose on the property of a delinquent owner \_\_\_\_\_ days after the recording of a lien.
  7. File a small court lawsuit against an owner for assessments or other charges in arrears over \_\_\_\_\_ days.
  8. Issue fines for violations of the CC&Rs/Rules and Regulations. Unless specified for any violation, the fines shall be:
  9.
 

First Notice of Violation:	\$ _____ fine
Second Notice of Same Violation:	\$ _____ fine
Third Notice of Same Violation:	\$ _____ fine
Fourth Notice of Same Violation:	\$ _____ fine

Health and or safety violations will require immediate compliance.

Violations which are continuing in nature will result in a fine of \$ \_\_\_\_\_ per day after a fourth notice of the same violation has been issued. Owners are entitled to appeal any fine at a hearing before the Board of Directors in accordance with Rules reasonably established by the Board.

10. Any damage done to the common area by an owner or owner's guests or tenants shall be repaired by the association. All costs of repair shall be charged to the applicable owner. If not paid by the owner within \_\_\_\_\_ days, the association shall mail to the owner a written notice that a lien will be recorded against their property unless the full amount is paid within thirty (30) days. If the amount owing is not paid within thirty days, after the recording of a lien, the association shall commence to foreclose.

Please note that collection efforts will result in all collection costs (including legal fees) and interest being charged to owners who fail to pay assessments in accordance with this notice. These costs may be substantial.

Approved by the Board of Directors:

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Director

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Director

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Director

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Director

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Director

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Director

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