

# Carriage Hills Homeowners Association

## ASSESSMENT COLLECTION POLICY

Prompt payment of assessment by all owners is critical to the financial health of the Carriage Hills Homeowners Association (“Association”) and to the enhancement of the property values of our homes. Your Board of Directors takes very seriously its obligation to enforce the members’ obligation to pay assessments pursuant to the Davis-Stirling Common Interest Development Act [Civil Code (“CC”) Section 4000, et seq.; the “Act”] and the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Carriage Hills, recorded on February 22, 1989, (“CC&Rs”). The Board has adopted this Assessment Collection Policy in an effort to discharge that obligation in a fair, consistent and effective manner. The following are the Association’s assessment-collection practices and policies pursuant to CC Section §5310(a) (7).

1. **Due Dates**. Annual assessments shall be paid in equal monthly installments. Assessments are due and payable on the first day of each month. It is the owner’s responsibility to timely pay each assessment regardless of whether a statement is received. All other assessments, including special assessments, are due and payable on the date specified in the notice of assessment.
2. **Obligation to Pay**. Assessments, late charges, interest, reasonable collection costs and reasonable attorneys’ fees, if any, are the personal obligation of the owner of the property at the time the assessment or other sums are levied. [CC&Rs, Art. VI, Sec. 1; CC §5650(a).] Owners shall be responsible for all such amounts unless it is determined that all assessments were paid on time to the Association.
3. **Late Charges**. Unpaid assessments are delinquent **15 days** after they are due. [CC&Rs, Art. VII, Sec. 1; CC §5650 (b)(2).] A late charge of **\$10.00 or 10 percent**, whichever is greater, will be charged for any assessment which is not paid in full within 15 days of the due date. [CC&Rs, Art. VII, Sec. 1; CC §5650 (b)(2).]
4. **Interest**. Interest on the balance due will accrue at the rate of **12 percent per annum** commencing 30 days after the assessment becomes due. [CC&Rs, Art. VII, Sec. 1; CC §5650 (b)(3).]
5. **Payment Under Protest**. If owner disputes the amount of any late charge or other charge, the owner may pay all delinquent amounts in full under protest and send the Association, by certified mail, a written notice that the amount is paid under protest. This notice must be given within 30 days of the recordation of the Notice of Delinquent Assessment. The owner has the right to demand that the matter be resolved through Alternative Dispute Resolution (“ADR”) in accordance with California Civil Code Section 5658. An owner may not demand ADR more than two times in a single calendar year or three times in any five-calendar years.
6. **Application of Payments**. Any payments received will be applied first to assessments owed, and only after the assessments owed are paid in full will the payments be applied to fees and costs of collection, late charges and/or interest. Payments will be applied to assessments so that the oldest assessment arrearages are retired first, unless the payment indicates that it shall be otherwise applied. A late charge may accrue if payment is not sufficient to satisfy all delinquent assessments and the current month’s assessment.

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7. **Delinquency Notice.** If any assessment becomes delinquent, the Association may send a notice regarding the delinquency, and demanding payment thereof, to the owner at his/her address on file with the Association. The owner will be charged a fee for such delinquency notice. If the amount set forth in the delinquency notice is not received before the due date set forth therein, the matter may be turned over to a collection agent or an attorney for further action, including legal action, or the Association may take such other collection action as it deems appropriate.
8. **Pre-Lien Notice.** Prior to recording a lien for delinquent assessments, the Association, its collection agent or attorney will send a pre-lien letter, by certified and first-class mail to the record owner as required by CC Section 5650, to the owner's address of record with the Association. The owner will be charged a fee for such pre-lien letter.
9. **Suspension of Privileges.** Without prejudice to its right to continue with and/or take other collection action, an owner's membership rights, including, but not limited to, voting rights or rights of use and enjoyment of the recreational common areas and common facilities, may be suspended after notice and a hearing pursuant to CC Section 5855. The Association will not deny an owner or occupant physical access to his or her separate interest by way of any such suspension of privileges. (CC §4510.)
10. **Right to Request a Payment Plan.** Owners may submit a written request to meet with the Board to discuss a payment plan. If such request is mailed within 15 days of the postmark of the pre-lien notice, the Board will meet with the owner, in executive session, within 45 days of the postmark of such request, unless there is no regularly scheduled meeting of the Board within that period of time; in which case, the Board may designate a committee of one or more directors to meet with the owner. (CC §5665.) In addition to the foregoing procedure for requesting a payment plan, an owner may negotiate a payment plan with the Association's managing agent, attorney or authorized collection agent. The Board is under no obligation to grant payment plan requests. Payment plans must provide for payment of the delinquent amounts in addition to the amounts which will accrue during the payment period, including any late fees and/or costs related to the administration of the payment plan. Any payment plan must comply with any standards for payment plans adopted by the Association.
11. **Lien.** If an owner to whom a pre-lien letter is sent fails to pay the amounts demanded therein within 30 days from the date such pre-lien letter is mailed, a lien for the amount of any delinquent assessments, late charges, interest and/or costs of collection, including attorney's fees, may be recorded against the owner's property. (CC §5675.) The owner will be charged a fee for such lien. No lien will be recorded unless a majority of the members of the Board of Directors approves the decision to record the lien at an open Board meeting. (CC §5673.)
12. **Notice of Recordation of Lien.** A copy of the lien will be sent to every person whose name is shown as an owner of the property in the Association's records, via certified mail, within 10 calendar days of recordation of the lien, [CC §5675(e).] Any lien recorded by the Association will remain as an encumbrance against the property until the debt secured thereby is satisfied.

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- 13. Dispute Resolution.** Prior to initiating foreclosure of any lien, the Association shall offer to the owner of the property and, if so requested by the owner, shall participate in IDR and/or ADR pursuant to CC Section §5705. The decision to pursue IDR or a particular type of ADR shall be the choice of the owner, except that binding arbitration shall not be available if the Association intends to pursue judicial foreclosure.
- 14. Foreclosure of Lien.** The Association will not seek to foreclosure any lien through judicial or non-judicial foreclosure unless and until the amount of delinquent assessments secured thereby reaches \$1,800.00 or until the assessments are at least 12-months delinquent. [CC §5720 (b)(2).] The decision to initiate foreclosure of any lien shall be made by a majority vote of the Board members in executive session.
- 15. Notice to Owner of Decision to Foreclosure.** If the Board of Directors decides to initiate foreclosure upon a lien, it shall provide notice of such decision to the owner pursuant to CC Section 5705(d). Such notice will be by personal service to an owner who occupies the property or to the owner's legal representative. The Board shall provide written notice to an owner of property who does not occupy the property by first-class mail to 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 property shall be treated as the owner's mailing address. [CC §5705 (d).]
- 16. Money Judgement.** The Association may seek a personal money judgement against the member for all assessments, interest, late charges, as well as costs and attorney's fees as incurred by the Association. Such a judgement may be sought along with judicial foreclosures.
- 17. Release of Lien Upon Satisfaction of Debt.** Prior to recordation of the release of any lien or dismissal of any legal action, all assessments, late charges, interest and costs of collection, including attorneys' fees, must be paid in full to the Association. Within 21 days of full payment to satisfy a lien and after confirmation that such payment has cleared, the Association will record a release of lien and provide a copy thereof to the owner. [CC §5685 (a).]
- 18. Board's Right to Grant Exceptions.** Notwithstanding the foregoing, the Board of Directors may, from time to time, make exceptions or grant extensions of time to a member when, in the sole discretion of the Board, it has been determined that extenuating circumstances exist so as to warrant such exception and/or extension.
- 19. Right to Inspect Records.** An owner is entitled to inspect the Association's accounting books and records to verify the amounts owed pursuant to Article 5 of the Act.
- 20. Association's Address.** Any payments, notices or requests sent to the Association should be sent to the following address:

**Carriage Hills Homeowners Association**  
c/o Association Management & Support Services, Inc.  
14780 Pipeline Avenue  
Chino Hills, CA 91709

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21. **Association's Right to Collect by Any Lawful Means.** Nothing herein limits or otherwise affects the Association's right to proceed in any other lawful manner to collect any delinquent sums owed to the Association. The Association reserves the right to change the amount of any collection fee or charge, without notice, and reserves the right to modify or amend this collection policy at any time.
22. **Attachments.** A statutorily required statement is attached as Exhibit "A" to this policy. (CC §5730.)

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## EXHIBIT "A"

### "NOTICE ASSESSMENTS AND FORECLOSURE"

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 Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

### ASSESSMENTS AND FORECLOSURE

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. This 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 nonjudicial 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 costs 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 nonjudicial 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 Civil Code. When using judicial or nonjudicial 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. (Sections 5700 through 5720 of the Civil Code, inclusive)

In a judicial or nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial 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 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. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 5675 of the Civil Code)

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 Civil Code)

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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 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.

## 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 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 Division 4 of the 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 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's established that the assessment was paid properly on time. (Section 5685 of the Civil Code)

## MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share interest may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exists. (Section 5665 of the Civil Code)

The board must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 5655 of the Civil Code)"