

ASSESSMENT COLLECTION PROCEDURE

California Civil Code 5730

Prompt payment of assessments by all owners is critical to the financial health of the Association. Accordingly, the Board of Directors takes its obligations under the Declaration of Covenants, Conditions and Restrictions (“CC&R’s”) and the California Civil Code to enforce the members’ obligation to payment assessments very seriously. The Board has adopted this Collection Policy in an effort to discharge that obligation in a fair, consistent, and effective manner. All policies and practices outlined below 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&R’s and applicable sections of the California Civil Code, the following is the Association’s Assessment Collection Policy:

1. Regular monthly assessments are due and payable on the first day of each month. It is the responsibility of the owner of record to pay each assessment in full each month regardless of receipt of a statement. All other assessments, including special assessments, are due and payable on the date specified by the Board in the notice of assessment.

2. Assessments, late charges, interest and reasonable fees and collection costs, including attorney’s fees, are the personal obligation of the owner of the property at the time the assessment or other sums are levied. (Civil Code Sections 5650 – 5660).

3. Payments are posted as of the date received at the Association’s financial business office. Assessments are delinquent if not received within fifteen (15) days after they become due. Delinquent assessments shall be subject to a late charge equal to ten percent (10%) of the unpaid assessment or ten dollars (\$10.00), whichever is greater. Interest on all sums imposed in accordance with this Assessment Collection Policy including the delinquent assessments, reasonable fees and costs of collection and reasonable attorney’s fees shall be at a rate of twelve percent (12%) per year, commencing thirty (30) days after the assessment becomes due (California Civil Code Section 5650(b)).

4. Any payments made shall be first applied to the assessments owed and only after the assessments owed are paid in full, shall payments be applied to late charges, interest, or collection expenses. (Civil Code 5650 – 5660).

5. If the assessment is not paid within thirty (30) days of the due date, the Association will send a certified letter (“Notice of Intent to Lien”) to the delinquent homeowner’s address of record informing the owner of the following:

- (a) a general description of the Association’s lien enforcement procedures and the method of calculation of the amount.
- (b) a statement that the homeowner has the right to inspect Association records pursuant to California Corporations Code 8333.
- (c) The following statement in 14-point boldface type: **“IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.”**
- (d) An itemized statement of charges owed by the homeowner, including items on the statement indicating the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney’s fees, any late charges, and interest, if any.
- (e) a statement that the homeowner will not be liable to pay charges, interest, and collection costs if it is determined the assessment was paid on time to the Association; and

- (f) the homeowner's right to request a meeting with the board of directors to discuss a payment plan.

The letter described in this Paragraph 5 will be sent to the delinquent homeowners at least 30 days prior to recording a lien against the delinquent homeowner's separate interest. The cost of the letter will be billed to the delinquent homeowner's account. All further costs, including reasonable attorneys' fees are also the delinquent homeowner's responsibility. (Civil Code Section 5650(a).

6. A homeowner has fifteen (15) days from the date of the postmark of the Notice of Intent to Lien to dispute the delinquency by submitting to the Board a written explanation of the reason for the dispute. The Board shall respond in writing to the homeowner within fifteen (15) days of the date of the postmark of the owner's letter of dispute.

7. Within fifteen (15) days from the date of the postmark of the Notice of Intent to Lien, a delinquent homeowner may submit a written request to the Association to meet with the Board to discuss a payment plan for the amount set forth in the Notice of Intent to Lien. The Board shall meet with the delinquent homeowner in executive session within forty-five (45) days of the date of the postmark of the request.

8. If the delinquent homeowner fails to pay the amount set forth in the Notice of Intent to Lien (a) within thirty (30) days of the date of the postmark of the Notice of Intent to Lien, or (b) in the event the delinquent homeowner submits a request to meet, as set forth in No. 7 above, within sixty (60) days of the date of the postmark of the Notice of Intent to Lien, then a lien will be recorded against the homeowner's separate interest. The delinquent homeowner will be charged approximately \$450 plus postage for the lien costs associated with preparation and recording of the lien. (Civil Code Sections 5740, 5675, 5685(a) and 5725(a)

9. After recording of the lien, payment must be made in cash, money order or cashiers check. If any delinquent homeowner within thirty (30) days from the date of the recording of the lien, pays the Association, under protest, all amounts required by Civil Code Section 5625 (the amount of the assessments in dispute, late charges, interest, all reasonable fees and costs, including legal fees associated with the preparation and filing of the lien), and the delinquent homeowner has not exceeded the statutory limit on the number of times this procedure is available, the Association will inform the delinquent homeowner that he/she may resolve the dispute by Alternative Dispute Resolution as outlined in Civil Code Section 5965 or by civil action.

10. Nothing herein limits or otherwise affects the Association's right to proceed in any lawful manner to collect any delinquent sums owed to the Association and the Association may turn the matter over to legal counsel at any time.

11. Pursuant to California Civil Code Section 5655: The mailing address for overnight payment of assessments is:

Los Paseos Maintenance Corporation
c/o Tritz Professional Management Services
1525 E. 17th Street, Ste. A
Santa Ana, CA 92705

Notice of Assessments, Foreclosures, And Payment Plans
California Civil Code Section 5730 & 4040(b)

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 NONJUDICIAL FORECLOSURE

Assessments become delinquent 15 days after they are due unless the governing documents provide for a longer time. 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 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 Civil Code Section 5700. 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)

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 is 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 a delinquent assessment. These payment plans must conform with the payment plan standards of the association if they exist. (Section 5665 of the Civil Code)

(b) An association distributing the notice required by this section to an owner of an interest that is described in Section 11212 of the Business and Professions Code that is not otherwise exempt from this section pursuant to subdivision (a) of Section 11211.7 of the Business and Professions Code may delete from the notice described in subdivision (a) the portion regarding meetings and payment plans.