

**POINT LOMA WOODS HOA Collection Policy**  
**Updated November 2006**

Timely payment of regular and special assessment is of critical importance to the Association. A member's failure to pay monthly assessments when due creates a cash-flow problem for the Association and causes those owners who make timely payment of their assessments to bear a disproportionate share of the community's financial obligations. Therefore the Board of Directors has enacted the following policies and procedures concerning the collection of delinquent assessment accounts:

**1. Assessment Due Date:**

All regular assessments shall be due and payable within 30 days of being sent an invoice (typically in July or August). Special assessments shall be due and payable on the due date specified in the notice imposing the assessment. Regular and special assessments shall be delinquent if not paid within 15 days after they became due.

**2. Late Fees:**

If any installment of a regular assessment, or payment of a special assessment, is not made within 15 days after it has become due, a late payment in the amount of \$10.00 shall be imposed and the Association shall be entitled to recover any reasonable collection costs, including attorney fees, that the Association incurs in its efforts to collect the delinquent sums.

**3. Interest Charges:**

If an assessment payment is delinquent for more than 30 days, interest may be imposed on all sums due, including the delinquent assessment, collection charges, and late charges, at an annual percentage rate of 10%.

**4. Lien Policy:**

Prior to filing a lien for delinquent assessment, the Association or its agent shall send a warning letter, via certified mail, to the unit owner when the account is more than 60 days past due. If the delinquent account is not paid-current within thirty (30) days, the Association or its agent may cause to be recorded in the County Recorder's Office a Notice of Delinquent Assessment (assessment lien) concerning all sums that are then delinquent, including the delinquent assessment, late charges, costs and reasonable attorney fees. Recording this notice creates a lien, which is subject to foreclosure, against the delinquent owner's property. Before filing the lien, owners will be given a chance to submit a written request to "meet and confer" with the Board or request dispute resolution.

**5. Enforcement of Lien:**

If the delinquent account is not paid current after the filing of the lien, the Association may enforce the lien in any manner permitted by law, including but not limited to foreclosure or lawsuit for money damages. The association may begin foreclosure when the principle assessment amount exceeds \$1,800 or is more than 12 months delinquent.

**6. Foreclosure Costs:**

If a lawsuit or foreclosure procedure is initiated by the Association to recover assessments, the Association is entitled, by law and by the Declaration of Restrictions, to recover not only the amount in default, plus late charges, but also reasonable costs of collection, including trustee fees, title company charges, and attorney fees.

**7. Reasonable Costs of Collection:**

The Association is entitled to collect all of the following as reasonable costs of collection: interest, late fees, collection expenses, administration fees, attorney's fees, reimbursement assessments or any other amounts due to the Association.

**8. Application of Payments:**

Payments received on delinquent assessments will be applied to the owner's account as follows: payments shall be applied first to the principal delinquent balance. Only after the principle is paid in full shall any payments be applied to interest, late charges, collection expenses, administration fees, attorney fees, reimbursement assessments, or any other amount due to the Association which results in continued delinquencies.

**9. Release of Lien:**

As soon as a delinquent owner has paid in full all delinquent assessments and charges, including attorney fees, the attorney will prepare a Release of Lien which will be recorded in the County Recorder's office of the county in which the lien was recorded. (If payment is made by personal check, the request for the lien release is subject to a waiting period of 10-12 days for the check to clear. No waiting period applies to payments made in cash, cashier's check or money order.)

**10. No Waiver:**

Failure of the Association to strictly enforce this policy is not a waiver of its right to collect delinquent sums.

## **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. The failure to pay association assessment 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 with out court action, often referred to as non-judicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial foreclosure or non judicial foreclosure to enforce that lien if the amount of the delinquent assessment or dues, exclusive of any accelerated assessment, late charges, fees, attorney's fees, interest and costs of collection, is less than one thousand eight hundred dollars (\$1800). For delinquent assessment or dues in excess of one thousand eight hundred dollars (\$1800) or more than 12 months delinquent, an association may use judicial non-judicial foreclosure subject to the conditions set forth in Section 1367.4 of the Civil Code. When using judicial and 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. (Sections 1366, 1367.1, 1367.4 of the Civil Code) In a judicial or non-judicial foreclosure, the association may recover assessments, reasonable cost of collection, reasonable attorney's fees, late charges and interest. The association may not sue non-judicial foreclosure to collect fines or penalties, except for costs to repair common areas damaged by a member or a member's guests, if the governing documents provide for this. (Sections 1366 and 1367.1 of the Civil Code) The association must comply with the requirements of Section 1367.1 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 1267.1 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 1367.1 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 1367.1 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; the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the lien is not paid. Assessments become delinquent 15 days after they are due, unless the governing documents of the association provide for a longer time. (Sections 1366 and 1367.1 of the Civil Code)

### **PAYMENTS**

When an owner makes a payment, he or she 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 1367.1 of the Civil Code). An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 5 (commencing with Section 1368.810) of Chapter 4 of Title 6 of Division 2 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 2 (commencing with Section 1369.510) of Chapter 7 of Title 6 of Division 2 of the Civil Cod, 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 1367.1 of the Civil Code)

### **MEETING AND PAYMENT PLANS**

An owner of a separate interest that is not a timeshare 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 exist. (Section 1367.1 of the Civil Code) The board of the directors 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 to the payment plan standards of the association, if they exist. (Section 1367.1 of the Civil Code)