

RIO VISTA COMMUNITY ASSOCIATION

POLICY AND PROCEDURE FOR COLLECTION OF DELINQUENT ASSESSMENTS, FEES, CHARGES AND COSTS

The Board of Directors at their meeting of November 22, 2005, adopted the following policies and procedures regarding the payment and collection of Delinquent Assessments, Fees, Charges and Costs. An amendment to these policies was approved on October 7, 2015.

Assessments – Assessments subject to this Policy include the monthly regular assessments and any levied special assessments or lienable monetary penalties.

Collection Fees and Costs – The costs of collection of delinquent assessments, including late charges and other costs, and reasonable attorney fees and costs, are included as a charge against a member's assessment account and are included in the amount of any lien recorded against the property and any recovery actions by the Association.

Delinquency – The term “delinquency” shall include any delinquent unpaid regular or special assessments, fees and costs owed on the account.

Partial Payments – If a partial payment is received which is less than the lienable unpaid balance owed on the member's account, including the collection charges, the Association may elect to accept the partial payment. If the partial payment is accepted, it shall not act as a waiver of the Association's right to require payment of all amounts due prior to the Association's obligation to inform the Owner that of any rights to resolve any dispute pursuant to California Civil Code § 5975, civil action, or any other procedure available through the Association.

Payments – Payments received after a delinquent account is assigned to the Association's attorney for collection shall be forwarded by the Association directly to the attorney. If a partial payment is accepted, it shall be credited first to outstanding principal balances on the member's account pursuant to California Civil Code § 5655 and the remaining unpaid balance shall be subject to this Policy.

Payment Plans – The homeowner may request a payment plan. This request must be made within **fifteen (15) days from the postmark date of the pre-lien notice**. The Board of Directors shall meet with/respond to the homeowner within **forty-five (45) days from the postmark date of the homeowner request**. Payment plans may be approved at the sole discretion of the Board of Directors based upon the circumstances of each delinquent account.

Personal Liability – All assessments, late charges, interest, and costs of collection, including attorney fees, are the personal obligation of the Owner of the Property at the time of the assessment or other sums are levied per California Civil Code § 5650(a).

Returned Check Charges – The return check charge shall be \$25 and then increases pursuant to California Civil Code § 1719 and shall be added to the account of any member whose check to the Association is returned dishonored by the member's bank.

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Statements – Monthly statements are a courtesy to the members and not an invoice for payment. Monthly statements may not reflect any or all collection cost incurred on a delinquent account, including attorney or trustee fees and costs which have been charged to the account.

Waiver of Charges – If a member’s account becomes delinquent and the Association is required to incur certain charges due to the member’s delinquency, the Association’s policy is to not waive the delinquent member’s payment to these charges. Other Association Members should not have to pay for the collection charges incurred due to an individual member’s delinquency.

Collection Timeline – The following collection timeline will apply to delinquent accounts.

NON-JUDICIAL FORECLOSURE COLLECTION TIMELINE	
Due Date (All dates applicable following monthly billing.)	1 st Day
Past Due	16 th Day
Late Fee Imposed	16 th Day
Late Reminder	25 th Day
AFTER 30-DAYS	
Finance Charge Imposed	31 st Day
Courtesy Call	31 st Day
Collection Monitoring	31 st Day
Monitoring Fee	31 st Day
Pre-Lien Notice & IDR	35 th Day
Courtesy Call	45 th Day
AFTER 60-DAYS	
Propose on Regular Meeting agenda	30 days after Pre-Lien Notice
Vote to lien in open session	During Regular Meeting
Notate decision in minutes or writing	After Meeting
Record Lien	After Board vote
Send Recorded Copy of Lien via Certified Mail	Within 10 days after recording
Set on Executive Meeting agenda	30 days after recording lien
Vote to foreclose, NOD and NOS	During Executive Session
Notate decision in minutes or writing	After meeting
AFTER 100-DAYS	
15-Day Notice of Intent to Foreclose	
AFTER 120-DAYS	
Record Notice of Default	Assessments must be at least \$1,800 or 12 months’ delinquent
Send Recorded Copy of Notice of Default via Certified Mail	Within 10 days after recording
Personal Service of Recorded Notice of Default	Immediately after recording, serve same as a Summons
AFTER 160-DAYS	
Record Notice of Sale	Must be 90 days after Notice of Default is recorded
Publish and Post Notice of Sale	Must be done 3 weeks prior to sale
Sale Conducted	
Record Certificate of Sale	After Sale
AFTER 185-DAYS	
Mail copy of Certificate of Sale	
AFTER 275-DAYS	
Issue Trustee’s Deed	After 90-day redemption period expires

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In lieu of proceeding to a nonjudicial foreclosure sale against the property, the Board may elect to proceed with a judicial suit for collection of the delinquencies, including judicial foreclosure. All fees and costs associated with the foreclosure or judicial suit for collection shall be charged to the delinquent homeowner's account.

- **Assessment and Foreclosure Notice**

The following notice regarding assessments and foreclosure is required under California Civil Code § 5730 and 4040(b).

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 NONJUDICIAL FORECLOSURE

The failure to pay association assessments may result in the loss of an owner's property without court action, often referred to as nonjudicial foreclosure. When using 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 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. (§§ 5600(a), 5605(a), 5605(c) and 5650(a) of the **Civil Code**)

In a 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 areas damaged by a member or a member's guests, if the governing documents provide for this. (§§ 5600(a), 5605(a), 5605(c) and 5650(a) of the **Civil Code**)

The association must comply with the requirements of § 5650(a) 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. (§ 5650(a) of the **Civil Code**)

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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.

Among these documents, the association must send 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. (§ 5650(a) 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. (§ 5650(a) 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, 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. (§ 5650(a) of the **Civil Code**)

An owner may dispute an assessment debt by giving the board of the association a written explanation and the board must respond within 15 days if certain conditions are met. An owner may pay assessments that are in dispute in full under protest, and then request alternative dispute resolution. (§ 5650(a) of the **Civil Code**)

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (§ 5650(a) of the **Civil Code**)

- **Address for Overnight Payments**

You are hereby notified pursuant to California Civil Code § 5655 that the mailing address for overnight payment of assessments is:

HOA Management Solutions, Inc.
Attention: Rio Vista
1430 Truxtun Avenue
Fifth Floor
Bakersfield, California 93301