

## HARBOUR VISTA HOMEOWNERS' ASSOCIATION, INCORPORATED

### Assessment and Billing Collection Policy

Prompt payment of Assessments by all owners is critical to the financial health of the Association, and to the enhancement of the property values of our homes. Your Board of Directors takes very seriously its obligation under the Declaration of Covenants, Conditions and Restrictions (CC&R's) and the California Civil Code to enforce the members' obligation to pay assessments. The policies and practices outlined herein 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 California Civil Code, the following are the Association's assessment practices and policies:

1. Assessments are billed monthly and are due and payable on the first day of each month. A courtesy billing statement is sent monthly to the billing address on record with the Association. **However, it is the Owner of Record's responsibility to pay each assessment in full each month regardless of the receipt of a statement.** All other assessments, including Special Assessments, are due and payable on the date specified by the Board on the Notice of Assessment which date will not be less than thirty (30) days after the date of notice of the special assessment.
2. Assessments, late charges, interest, and collection costs, including any attorney fees, are the personal obligation of the owner(s) of the property at the time the assessment or other sums are levied, *per Civil Code Sections 5650(a) & 5660.*
3. Assessments not received within **fifteen (15) days** of the stated due date are delinquent and shall be subject to a late charge of **[five] dollars (\$5.00) or [5%], whichever is greater** for each delinquent assessment per unit. Additionally, a reminder "Notice of Past Due Assessment" will be prepared and mailed on the day immediately following the past due date. **A thirty-five-dollar (\$35.00)** charge for the late letter will be made against the delinquent account. Additionally, an **interest charge at the rate of [12%] per annum** will be assessed against any outstanding balance, including delinquent assessments, late charges, and cost of collection, which may include attorney fees.
4. Any payments made shall be first applied to assessments owed, and only after the assessments owed are paid in full, shall such payments be applied to late charges, interest, and collection expenses, including attorney's fees, unless the owner(s) and the Association enter into an agreement providing for payments to be applied in a different manner.
5. If an assessment is not received within sixty days after the assessment becomes delinquent, the Association or its designee, will send a **"Demand Letter"** to the owner(s) as required by *Civil Code Sections 5650(a) & 5660*, by certified and first-class mail, to the mailing address of record advising of the delinquent status of the account and that the account will be turned over to an attorney if not paid within 30 days. Owners have the right to request that the Association participate in some form of internal dispute resolution process ("IDR") and the right to request alternative dispute resolution ("ADR"). The owner will be charged a fee for the Demand Letter. Notwithstanding the provisions of this paragraph, the Association may (i) send a Demand Letter to a delinquent owner at any time when there is an open escrow involving the owner's Unit/Lot, and/or (ii) issue a Demand Letter immediately if any special assessment becomes delinquent.

6. If any owner(s) fail(s) to pay the amounts set forth in the Demand Letter and fails to request IDR and ADR within **thirty (30) days** of the date of that letter, a **Legal Package** will be prepared for the attorney and will include the amount of any delinquent assessments, late charges, interest and/or costs of collection including attorneys' fees may be assessed against the property. The owner(s) will be charged for the fees and costs for the preparation for Legal Package.
7. Pursuant to the Association's Bylaws, the Board may suspend the membership rights and privileges of an owner during the period of time such owner is delinquent in the payment of assessments, as well as the collection costs, late charges, interest, and attorney's fees imposed in connection with the assessment delinquency. Such suspension shall be imposed following the applicable notice and hearing requirements under California law.
8. Any owner(s) who rents the property in question to a third party may be subject to the "assignment of rents" process through the judicial system wherein the Association collects the rents until the debt is repaid.
9. If there is a failure to bring the account current within the parameters specified in California Civil Code, the Board of Directors may resolve to foreclose on the property via the judicial or non-judicial foreclosure process.
10. All owners are entitled to inspect the Association's accounting books and records to verify the amounts owed on their property pursuant to *Corporations Code Section 8333*.
11. In the event it is determined that the owner(s) paid the assessments on time, the owner(s) will not be liable to pay the charges, interest, and costs of collection associated with the collection of those assessments.
12. Owner(s) unable to pay assessments will be entitled to make a written request for a payment plan to be considered by the Board of Directors. Owner(s) may also request to meet with the Board in executive session to discuss a payment plan. The owner may submit a written request to meet with the Board to discuss a payment plan after receiving the Demand Letter. The board "shall" meet with owners in executive session. The meeting must occur within 45 days of the postmark of the request, if the request is mailed within 15 days of the date of the postmark of the notice, unless there is no regularly scheduled board meeting within that period, in which case the board may designate a committee of one or more members to meet with the owner (*Civil Code Section 5650(b)*). The Board will consider payment plan requests on a case-by-case basis and is under no obligation to grant payment plan requests. If the Board agrees to accept a payment plan, a fee will be charged to the owner(s) to administer and monitor the payment plan.
13. Nothing herein limits or otherwise affects the Association's rights to proceed in any lawful manner to collect any delinquent sums owed to the Association.
14. Prior to the release of any lien, or dismissal of any legal action, all assessments, late charges, interest, and legal fees must be paid in full to the Association. Owner shall be responsible for all fees associated with releasing the lien.

15. The delinquent owner(s) will be responsible for all costs of collection, including attorneys' fees, incurred by the Association to collect any delinquent sums *Civil Code Section 5650(b)*.
16. If an owner pays under protest, the owner can **at the same time** pursue dispute resolution AND commence an action in small claims court (amount at issue must not exceed jurisdictional monetary limit), *per Civil Code Section 5658*.

### **Additional Provisions to Conform to Law**

Prior to the recording of a lien, owners that are delinquent will be sent a Demand Letter. The Demand Letter will include an offer by the association to engage in internal dispute resolution upon receipt of a written request within thirty (30) days of the Demand Letter, pursuant to the association's meet and confer program required by *Civil Code Section 5900, et seq.*

Prior to recording of a lien, the Board of Directors will approve the recording of the lien in general session at a regular or special board meeting.

The association may not foreclose unless delinquent assessments are greater than \$1,800 or greater than one year in arrears.

Prior to commencing foreclosure, the association will offer to engage in internal dispute resolution upon receipt of a written request within thirty (30) days of the offer of such internal dispute resolution, pursuant to the association's meet and confer program required by *Civil Code Section 5900, et seq.* and will also offer to engage in formal alternative dispute resolution with a neutral third party pursuant to *Civil Code Section 5925, et seq.*

Prior to commencement of foreclosure, the Board of Directors will approve the foreclosure in executive session and note the approval in the following general minutes of the Association using the assessor's parcel number.

All completed foreclosures shall be subject to a ninety (90) day right of redemption.

### **Fee and Penalty Procedures**

The following charges may be assessed in accordance with the Association's Assessment and Billing Collection Policy:

Late Charge	\$5 or 5%, whichever is greater
Friendly Reminder Notice (Handling Charge)	\$35.00
Demand Letter	\$200.00
Payment Plan Admin. Fee	\$40.00
Legal Package	\$350.00
Returned Check Fee	\$50.00

In addition to the above, if a matter is sent to counsel for legal action, or to a collection service for foreclosure or other action, the owner(s) will be responsible for any attorneys' fees and costs incurred by such action.

**The mailing address for overnight payment of assessments is:  
Pro Branch Delinquency Department  
27051 Towne Centre Drive, Suite 200  
Foothill Ranch, CA 92610**

**IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN  
FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS,  
IT MAY BE SOLD WITHOUT COURT ACTION**

1. All owners are entitled to inspect the Association's accounting books and records to verify their amounts owed pursuant to Corporations Code Section 8333.
2. In the event it is determined that an owner has paid the assessments on time, the owner will not be liable to pay the charges, interest and costs of collection associated with collection of those assessments.
3. Any owner who is unable to pay assessments will be entitled to make a written request for a payment plan to be considered by the Board of Directors. The owner may submit a written request to meet with the Board to discuss a payment plan after receiving the Demand Letter. The board "shall" meet with owners in executive session. The meeting must occur within 45 days of the postmark of the request, if the request is mailed within 15 days of the date of the postmark of the notice, unless there is no regularly scheduled board meeting within that period, in which case the board may designate a committee of one or more members to meet with the owner (*Civil Code Section 5650(b)*). The Board will consider payment plan requests on a case-by-case basis and is under no obligation to grant payment plan requests.
4. An owner is entitled to dispute the assessment debt by submitting a written request for dispute resolution to the association pursuant to the association's "meet and confer" program required in Article 2 (commencing with Section 5900) of Chapter 10.
5. Prior to initiating foreclosure against the owner's separate interest, the owner is entitled to submit a written request for alternative dispute resolution with a neutral third party pursuant to Article 3 (commencing with Section 5925) of Chapter 10, except that binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.
6. Statements will be mailed from Management as a courtesy **AND MAY NOT REFLECT** the collection costs, attorneys' fees or other charges, or payments received by the collection service.
7. 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.
8. All charges listed herein are subject to change upon thirty (30) days' prior written notice.
9. The mailing address for payments of assessments by overnight delivery is:

**Pro Branch Delinquency Department  
27051 TOWNE CENTRE DRIVE, SUITE 200  
FOOTHILL RANCH, CA 92610**

Please note that should an account be referred to a collection service, the collection service will provide the new address for overnight payments.

## 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 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.)

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.)