

## KINGSWOOD ESTATES HOMEOWNERS' ASSOCIATION ASSESSMENT COLLECTION POLICY

The following is the Assessment Collection Policy of Kingswood Estates Homeowners' Association (the "Association"):

1. *Summary of Association's Assessment Authority Generally.*

a. *Association's Legal Obligation to Levy Assessments on Its Members to Support Association's Operations:* California Civil Code imposes an obligation on common interest development property owner associations to levy regular and special assessments on their members in amounts that are sufficient to perform the Association's obligations under the governing documents. Regular assessment increases typically occur on an annual basis as part of the routine budgeting process of our Association. All regular assessments levied by the Association are due and payable in advance on the first day of January of each year. Regular assessments are delinquent if not paid within 90 days after the due date. In no event shall a special assessment be due and payable earlier than 30 days after the date imposed.

b. *Limitations on Board's Authority to Levy Regular and Special Assessments without Member Approval:* Special assessments can be imposed to fund nonrecurring or extraordinary expenses. The Board, in any fiscal year, has the discretion to increase the regular assessment by up to 20 percent over the amount of the regular assessment imposed during the immediately prior year without obtaining member approval for the increase. Board-imposed special assessments cannot exceed 5 percent of the Association's budgeted gross expenses for the year in which the special assessments are imposed.

c. *Member Approval Requirements for Certain Assessments:* Regular assessment increases and special assessments in excess of the percentage caps above must be approved by the members. The required affirmative vote is a majority of the members who cast secret ballots, when ballots are received from at least 50 percent of all members.

d. *Exception for "Emergency Assessments":* An exception to the member approval requirements exists to respond to an "emergency situation".

2. *Obligation to Notify Members of Regular Assessment Increases and Special Assessments.* Before your Board of Directors can increase the amount of the annual regular assessment or levy and collect a special assessment from the members, the Association must first give all members a notice of the increase in the regular assessment or of the levy of the special assessment

3. *Annual Obligation to Notify Members of the Association's Lien and Assessment Collection Procedures.* The Association is required to provide members with a statement describing the Association's policies and practices in enforcing lien rights or other legal remedies in response to an Owner's default in the payment of Association assessments. That statement of collection policies and practices must be delivered to the members within 30 to 90 days before the end of the Association's fiscal year.

4. *When Do Levied Assessments Become Delinquent?* The Association's Declaration states that regular assessments are delinquent 90 days after the due date.

5. *What Expenses and Fees Can Be Recovered From a Delinquent Owner During the Assessment Collection Process?* Once an assessment becomes delinquent, the Association is entitled to recover the following sums:

- a. The amount of the delinquent assessment;
- b. Reasonable costs incurred to collect the assessment (including reasonable attorney fees);
- c. A late charge not exceeding 10 percent of the amount of the delinquent assessment or \$10.00, whichever is greater;
- d. Interest on all sums (assessments, costs, late charges, and legal fees) at a rate of 12 percent per annum. Interest begins to accrue from the time the assessment becomes delinquent (90 days after the due date).

6. *Regardless of Whether the Association Records a Lien on Your Property During the Collection of Past-Due Assessments, All Owners Have a Personal Obligation to Pay Assessments and Charges.* When the Board pursues collection of past-due assessments it will attempt to collect other fees and charges as allowed by law in addition to the original assessment. The assessment and other permitted costs of collection only become a lien on the owner's separate interest when a Notice of Assessment Lien is recorded in the Office of the Placer County Recorder against the owner's separate interest in the development. Because these assessments and related charges constitute a personal obligation of each owner, the Association has a right to look to the owner, personally, to pay the debt and may pursue collection of that debt in a court action (typically a small claims court proceeding). If an owner becomes delinquent in the payment of his or her assessment obligations and a lien is recorded against the owner's separate interest, the Association is not limited to seeking recovery of the delinquent assessment from the sale of the owner's separate interest in foreclosure. The Association also has the option to pursue other remedies available at law, including the filing of an action against the owner in small claims court. Further, if an owner loses his or her separate interest in a foreclosure proceeding initiated by another lienholder, the Association continues to have the right to maintain an action against the owner personally.

7. *Prerequisites for Recording a Notice of Delinquent Assessment; 30-Day Pre-Lien Notice to the Delinquent Owner.* Before a Notice of Delinquent Assessment can be recorded in the chain of title to the separate interest of a delinquent owner, the Association must send the owner a certified Pre-Lien Notice providing information regarding the sums claimed as being delinquent as set forth in Civil Code section 5660. No lien can be recorded until 30 days after this Pre-Lien Notice has been given.

8. *Application of Payments Made on Account of Delinquent Assessments.* When a delinquent owner makes any payments on account of delinquent assessments and other amounts that are claimed as due and owing, the Association must first apply the payment to reduce the amount of delinquent assessments, and only after the assessment delinquency is paid in full can payments be applied to the fees, collection costs, interest, and other costs. With each payment, the owner can request, and the Association must provide, a receipt indicating the date of the payment and the person to whom the payment was made. The Association must also provide its members with a mailing address for overnight payment of assessments. In the case of your Association, that overnight mailing address is as follows:

1. For delivery by courier service  
Kingswood Estates Homeowners' Association  
8096 North Lake Blvd  
Kings Beach, CA 96143  
or,
2. For United States Postal Service Delivery  
Kingswood Estates Homeowners' Association  
P.O. Box 1215  
Kings Beach, CA 96143

9. *Owner's Right to Dispute Delinquency Amount or to Request a Meeting with the Board.* On receipt of the certified Pre-Lien Notice described in paragraph 7 above, the noticed owner has four possible courses of action that he or she can elect to pursue at this point in the collection process, namely:

a. *Pay the Amounts Claimed as Due and Owing in Full.*

b. *Negotiate a Payment Plan to Retire the Delinquency.* The owner can submit a written request to meet with the Board of Directors to discuss a payment plan for retiring the delinquent assessments. The Board has not adopted standards for payment plans, and the Board generally only enters into payment plans in the event of extreme hardship.

c. *Dispute the Amount Claimed as Due; Request Internal Dispute Resolution (IDR).* The owner has the right to dispute the debt stated in the Pre-Lien Notice by submitting to the Board a written request for dispute resolution under the Association's "meet and confer" program required by Civil Code.

d. *Dispute the Amount Claimed as Due; Request Alternative Dispute Resolution (ADR).* If the owner disputes the debt, he or she can choose to have the dispute resolved by alternative dispute resolution before a neutral third party. The choice of the type of dispute resolution process is up to the requesting owner.

10. *Association's Right to Record a Notice of Delinquent Assessment.* Thirty days after the Association mails to the defaulting owner the certified Pre-Lien of Delinquent Assessment the Association is entitled to record a Notice of Delinquent Assessment. However, before the Association can record the Notice of Delinquent Assessment, the owner of the separate interest that is about to be lien-ed must be offered, and if requested by the owner the Association must participate in, the Association's "meet and confer" program. The Board must vote to record the lien in an open meeting and must record the vote in the minutes of the meeting.

Recording the Notice of Delinquent Assessment creates a lien against the separate interest that is owned by a delinquent owner. Certain penalty assessments may not be collected by the use of lien remedies. As noted above, the Association's agreement to enter into a payment plan for retiring delinquent assessments does not preclude the Association from recording a Notice of Delinquent Assessment while the plan is in progress. For all assessments and other sums that can be collected through the use of lien and foreclosure remedies, the recorded Notice of Delinquent Assessment that begins the lien process must include all of the following information:

- a. The amount of the Assessment and the other sums that have been charged with respect to the separate interest that is being liened;
- b. The legal description of the owner's separate interest;
- c. The name of the record owner(s) of that separate interest, and;
- d. A copy of the itemized statement of the charges owed by the owner that was included in the Association's Pre-Lien Notice.

The Notice of Delinquent Assessment must be mailed by certified mail to every person who is shown as an owner of the separate interest on the Association's records.

If the Notice of Delinquent Assessment that creates the assessment lien is recorded and the owner then pays the amount claimed as being delinquent, the association has 21 days following receipt of payment of all to record a lien release or notice of rescission and to provide the owner with a copy of that lien release or notice.

11. *No Enforcement Action for 30 Days Following Recordation of Notice of Delinquent Assessment.* For a period of 30 days after the recording date of the Notice of Delinquent Assessment, no further action can be taken by the Association to enforce the lien.

12. *Pursuing Collection of Delinquent Assessments in a Court Proceeding.* The Association may choose to sue owners who are delinquent in the payment of Assessment obligations personally.

13. *Consequences of Failing to Follow the Statutorily Mandated Notice and Other Procedures Required Before Lien Recordation.* If it is determined that the Association's lien previously recorded against a separate interest was recorded in error, the Association must, within 21 calendar days, record or cause to be recorded with the County Recorder a lien release or notice of rescission and provide the owner of the separate interest with a declaration that the lien filing and recording was in error and a copy of the lien release or notice of rescission.

14. *Obligation to Record Releases of Assessment Liens After Payment.* Within 21 days after payment of the sums specified in the Association's Notice of Delinquent Assessment, the Association must record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission of the Association's lien and to provide the owner with a copy of that lien release or notice of rescission of the lien.

15. *Refused Payment Charge.* Should a member attempt to make payment of either an assessment or a fine using an instrument drawn on a financial institution which later refuses payment, the member's account shall be charged Fifty Dollars (\$50.00) plus all charges incurred by the Association with its financial institution. All charges levied by the Association's financial institution associated with the refused instrument shall also be added to the member's account. A member's account shall remain delinquent if the member attempts to pay with an instrument which is subsequently refused.

16. *General Collection Procedures.* Late fees, collection costs and interest shall apply as set forth above. The Board will consider either (i) recording a Notice of Delinquent Assessment or

(ii) pursuing a small claims court action for assessments that are more than one year delinquent or more than \$250.00. The Board will evaluate delinquent assessments on an annual basis thereafter to determine, in its business judgment, whether to record a Notice of Delinquent Assessment, pursue a small claims action, or pursue other legal action authorized by law.