

SOUTHWIND VILLAGE COMMUNITY ASSOCIATION  
DELINQUENT ACCOUNT 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 to enforce the members' obligation to pay assessments. The policies and practices outlined 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&Rs and Civil Code Section 1365 (d), the following are the Association's assessment practices and policies:

1. Assessments, late charges, interest and collection costs, including any attorney's fees are both the personal obligation of the owner of the property at the time the assessment or other sums are levied (1367 (a); 1367.1(a)) and a lien against the subject property.
2. Regular monthly assessments are due and payable on the first day of each month. A courtesy billing statement is sent each month 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 whether a statement is received.** All other assessments, including special assessments, are due and payable according to the terms set forth in the notice of special or other assessment.
3. Pursuant to the Declaration and California Civil Code Section 1366 there is hereby levied against any assessment account which is not paid in full as of the 15<sup>th</sup> day of the month (therefore considered delinquent) a late fee in the amount of \$10.00 which Bali Management is authorized and directed to charge to and collect from any delinquent homeowner.
4. The Association's agent is directed to send any homeowner who is more than thirty (30) days late in the payment of regular or special assessment, or other charges authorized by the Association's governing documents, including the costs of collection and any interest, (hereinafter referred to as Assessments) a written notice (herein after referred to as Delinquency Notice), of the late fee and a request for immediate payment, which shall conform to Civil Code requirements. The Delinquency Notice shall state that if the account is not PAID IN FULL within thirty (30) days, a Lien will be recorded.
5. The Association's agent is directed to file a Lien against the delinquent unit as described in the Delinquency Notice if the homeowner's Assessments are not paid in full within thirty (30) days of the date of the Delinquency Notice.
6. The Association's agent is directed to send any homeowner who is more than ninety (90) days late in the payment of Assessments a written notice (herein after referred to as A Final Demand) that if the account is not paid in full within ten (10) days it will be turned over for legal action either in the form of a Small Claims Court action or Superior Court action or to the Association's attorneys for commencement of either judicial or non-judicial foreclosure and the homeowner will be liable for payment of all charges imposed by the Association's attorneys and/or its agents to cover fees and costs charged to the Association; and that the association shall not use the non-judicial foreclosure option to collect fines or penalties but only assessments, reasonable costs of collection, attorney's fees, late charges and interest.
7. All homeowners have the right to request an itemization of the charges on their account and upon written request; Bali Management will provide an itemized list of charges and credits applied, as required by law. All owners are entitled to inspect the Association's books and records to verify amounts owed. (Corporations Code Section 8333)
8. All homeowners have the right, upon presentation of payment, to request and receive a receipt indicating the date, amount and recipient of payment.

SOUTHWIND VILLAGE COMMUNITY ASSOCIATION

DELINQUENT ACCOUNT COLLECTION POLICY

9. Any homeowner may request special consideration and submit a payment plan proposal to be reviewed by the Board of Directors. Such request shall be in writing for consideration at the next Executive Session. Any homeowner may request a meeting with the Board of Directors to discuss a payment plan request. Such meetings shall be held in accordance with Civil Code provisions.
10. Overnight payments will be accepted Monday through Friday at the following address: c/o Bali Management, 385 Van Ness Avenue Ste.105, Torrance, CA 90501.
11. Intermittent, irregular or payments for other than the full balance shall be applied first to the current assessments, second to assessment arrears, third to special assessments, fourth to late charges, fifth to collection and/or legal charges, sixth to penalty or remedial assessments and any extraordinary charges.
12. The Association shall have the right, pursuant to Civil Code Section 1366c3 to charge interest at the rate of 12% per annum for any balance 30 days or more late.
13. The collection practices of the association and its agents are to be governed by state and federal fair debt collection laws and penalties may be imposed for failure to comply with those laws.
14. Fines or penalty assessments shall be levied according to the following schedule, pursuant to the association's governing documents and with appropriate disciplinary hearings required by law:

|                        |   |
|------------------------|---|
| First Violation:       | 0- \$250 and/or such other remedies as deemed appropriate by the Board following the required hearing process.      |
| Second Violation:      | \$50 - \$250 and/or such other remedies as deemed appropriate by the Board following the required hearing process.  |
| Third Violation:       | \$100 - \$250 and/or such other remedies as deemed appropriate by the Board following the required hearing process. |
| Subsequent Violations: | \$250 and/or such other remedies as deemed appropriate by the Board following the required hearing process.         |

15. Collection charges shall include, but not be limited to, the following charges which shall be subject to change without notice to the homeowners:

|   |                           |
|---|---------------------------|
| Delinquency Notice  | \$100                     |
| Lien  | \$300                     |
| Final Demand  | \$125                     |
| Preparation of File for Small Claims, Legal Action or Foreclosure     | \$100                     |
| Initiation of Small Claims Action                                     | \$200                     |
| Preparation of Association Representative for Small Claims Appearance | \$200                     |
| Payment Plan Administration   | \$25/per month            |
| Foreclosure   | Per Attorney Fee Schedule |

## 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 non-judicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or non-judicial 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 non-judicial foreclosure subject to the conditions set forth in Section 1367.4 of the Civil Code. When using judicial or 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, and 1367.4 of the Civil Code)

In a judicial or non-judicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use 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 1367.1 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.

## 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, 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 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 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 1367.1 of the Civil Code)

## MEETINGS 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 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 with the payment plan standards of the association, if they exist. (Section 1367.1 of the Civil Code)

**SUMMARY OF CALIFORNIA CIVIL CODE SECTIONS  
RELATING TO ENFORCEMENT OF GOVERNING DOCUMENTS,  
DAVIS-STIRLING ACT AND CORPORATIONS CODE AS APPLIED TO HOAs  
THROUGH INTERNAL AND ALTERNATIVE DISPUTE RESOLUTION**

**PLEASE TAKE NOTICE: California Civil Code § 1354, § 1363.83 and § 1369.55 address your right to sue the association or another member of the association regarding the enforcement of the governing documents and/or California Law. The following is a summary of the provisions of Civil Code § 1354, § 1363 and § 1369.55, as amended effective January 1, 2005:**

In general, Civil Code § 1354 encourages parties to a dispute involving enforcement of an association's governing documents to submit to a form of alternative dispute resolution (ADR) such as mediation or arbitration prior to filing a lawsuit. The intent of the statute is to promote speedy and cost-effective resolution of such disputes, to better preserve community cohesiveness and to channel CC&R disputes away from our state's court system. Civil Code § 1363.83 sets forth criteria to make an Association's internal dispute resolution process "fair, reasonable and expeditious" and Civil Code § 1363.84 provides for a "default" resolution process which meets those criteria.

**INTERNAL DISPUTE RESOLUTION**

Under Civil Code § 1363.83, to qualify as "fair, reasonable and expeditious" an association's internal dispute resolution procedure must meet the following minimum requirements.

Internal dispute resolution procedures may be invoked by either party to the dispute. A request invoking the procedure shall be in writing, provide for prompt deadlines and shall set forth the maximum time for the Association to act upon a request invoking the procedure. The procedure must provide a means by which the member and the association may explain their positions.

If the procedure is invoked by a member, the association must participate; however, if the procedure is invoked by the Association then the member may elect not to participate. If the member participates but does not agree with the resolution, the member shall have the right of appeal to the Board of Directors.

The resolution of the dispute is binding so long as it does not conflict with the governing documents or applicable law and the resolution is judicially enforceable.

The member may not be charged a fee to participate in the process.

## ALTERNATIVE DISPUTE RESOLUTION

Under Civil Code § 1354, alternative dispute resolution is voluntary and the costs are borne as agreed to by the parties involved.

Any party to a dispute regarding enforcement of the governing documents may initiate the process of ADR by serving a Request for Resolution on another party to the dispute. A Request for Resolution must contain (1) a brief description of the nature of the dispute, (2) a request for ADR, (3) a notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt or the Request will be deemed rejected and (4) a copy of Civil Code § 1369.51 et seq. if the responding party is an owner.

The Request for Resolution may be served by either personal delivery, first-class mail, express mail, facsimile transmission, or other means reasonably calculated to provide the party on whom the request is served actual notice of the Request.

If the Request is accepted, the ADR must be completed with 90 days of receipt of the acceptance, unless otherwise agreed by the parties. Any Request for Resolution sent to the owner of a separate interest must include a copy of Civil Code § 1354 in its entirety.

If a Request for Resolution is served before the end of the applicable statute of limitations, the time limitation is tolled for certain periods specified in Civil Code § 1369.55

Should the association or an individual member wish to file a lawsuit for enforcement of the association's governing documents, the law requires the association or the individual to file with the initial pleading a certificate with the court stating that ADR has been completed prior to the filing of the suit. Failure to file this certificate can be grounds for dismissing the lawsuit. There are limited exceptions to the filing of this required certificate when (1) one of the other parties to the dispute refused ADR prior to the filing of the complaint, (2) preliminary or temporary injunctive relief is necessary, or (3) Preliminary or temporary injunctive relief is necessary.

Furthermore, in any lawsuit to enforce the governing documents, while the prevailing party may be awarded attorney's fees and costs, under Civil Code § 1354 the court may consider any party's refusal to participate in ADR prior to the lawsuit being filed when it determines the amount of the award.

**FAILURE BY ANY MEMBER OF THE ASSOCIATION TO COMPLY WITH THE ALTERNATIVE DISPUTE RESOLUTION REQUIREMENTS OF SECTION 1369.52 OF THE CIVIL CODE MAY RESULT IN THE LOSS OF YOUR RIGHTS TO SUE THE ASSOCIATION OR ANOTHER MEMBER OF THE ASSOCIATION REGARDING ENFORCEMENT OF THE GOVERNING DOCUMENTS OR THE APPLICABLE LAW.**