

VARSITY PARK SOUTH HOMEOWNERS' ASSOCIATION
PROCEDURES FOR COLLECTING ASSESSMENTS IN ARREARS

Assessments are the life blood of the association. If any member doesn't pay, the other owners have to cover the shortfall. Thus, it is important to pay on time. Assessments are based on the annual budget and are used to pay for the association's obligations in the governing documents and association expenses. Delinquencies are subject to collection costs, attorney's fees, late fees and interest. There are various ways to collect assessments including court action and foreclosure processes.

Monthly assessments are due on the first of each month. A late fee of 10% shall be assessed on all Association assessments delinquent over fifteen (15) days. Additional 10% late fees shall be added on the fifteenth (15th), of each month that a balance, of one-half or more of the monthly assessment, remains on an account. Any account more than 30 days late is subject to interest at the rate of 12% per annum. The entire outstanding debt must be paid in full to stop collection action. The Association is not required to accept partial payments once the account becomes delinquent.

Delinquent Association dues, late fees, and unpaid fines may be enforced by the Board of Directors through the commencement of a Small Claims or other civil court action. All costs associated with such action, including reasonable attorney's fees, where necessary, will be borne by the delinquent homeowner.

Pursuant to the Davis-Sterling Common Interest Act of 1984, as amended and found in California Civil Code, Title 6, Common Interest Developments, Sections 5655, 5660, 5685(b), 5690, 5700(a), 5705 and 5725, delinquent assessments may be collected by placing a lien in the amount of such delinquent dues against the delinquent homeowner's home. Should the Board of Directors elect to impose a lien, or pursue a small claims action, for delinquent assessments, the below listed procedures will be followed:

1. A letter mailed, certified mail, advising the members that their assessments are 45 days or more behind and that they have 30 days to bring themselves current or a lien will be filed against their property ***(\$60.00 fee to homeowner)***.
2. If payment in full is not received within 30 days from the date of this letter, and after approval by the Board of Directors in an open session meeting, a lien will be filed against their property and a certified copy will be sent to all recorded owner(s). ***Please note that there is a \$400.00 lien fee when and if a lien is filed against a property.***
3. If no resolution, from the owner(s), is received within 30 days from the recordation date of the lien, the Association may, upon approval by the Board of Directors, proceed with judicial or non-judicial foreclosure or other legal action. All fees incurred by such actions will be charged to the delinquent account. The Board of Directors may approve the filing of small claims action against the recorded owner(s). ***There is a \$375.00 small claims fee, charged to the delinquent account, when such actions are filed, as well as a \$75.00 processing fee. The delinquent owner(s) will also be responsible for any small claims filing fees, service fees and any other fees incurred while attempting to collect the delinquent amount. An interest rate, pursuant to the Association's CC&R's, of 12% per annum will also be charge to the outstanding assessments along with all other fees incurred to collect assessments in arrears.*** Please note that these fees are in addition to the above- mentioned foreclosure fees
4. If no resolution from owner, the property may go to lien sale.

It is the Board of Directors' hope that the above actions will not be necessary.

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 Section 1367.4 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 1366, 1367.1, and 1367.4 of the Civil Code)

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