

Newport Hills Community Association 2017 Assessment Collection Policy

The Board of Directors of your Association has the obligation to oversee the collection of all Association regular and special assessments in a timely manner. Based upon the Association's Governing Documents and in compliance with California Civil Code requirements, the Board of Directors has enacted the following policies and procedures concerning the collection of delinquent assessment accounts. All collection costs incurred are charged to the account of the delinquent homeowner, and are subject to change.

Regular Assessment Due Date

First day of each and every Semi-Annual period: January 1st and July 1st. **Association statements are sent to homeowners as a courtesy reminder.** Funds should be made payable to Newport Hills Community Association and mailed to 1900 Port Carlow Place, Newport Beach, California 92660

Special Assessment Due Date

On date specified by Board of Directors in notice imposing the assessment. (Due date: Minimum thirty (30) days after assessment imposed.)

Courtesy Invoices and Homeowner's Responsibility

The Association Semi-Annual Statements are a **courtesy only**. It is the homeowner's responsibility to pay **each Semi-Annual** Assessment in the amount of \$654.50 on the **first day of January and July 2017, regardless of the receipt of the Semi-Annual Statement**. It is also the homeowner's responsibility to provide **written** notice of any changes in the billing address, and/or change(s) in ownership of the property. This written notice(s) needs to be mailed to Newport Hills Community Association, 1900 Port Carlow Place, Newport Beach, California 92660.

Payment Receipts/Overnight Payment Location

Owners can request a receipt from the Association which shall indicate the date of payment and the person who received it. Any request for a receipt of payment must be submitted directly to the Association, 1900 Port Carlow Place, Newport Beach, California 92660.

Overnight payments may be sent to Newport Hills Community Association, 1900 Port Carlow Place, Newport Beach, California 92660. Correspondence and/or payments may also be left in the mail box located in the front of the clubhouse, 1900 Port Carlow Place, Newport Beach, California 92660.

Returned Bank Items

All returned bank items will be subject to a \$25.00 Returned Bank Item Fee. All returned bank items that remain unpaid will be referred to the District Attorney's Office.

At 15 Days Past Due Date

A late charge of **\$10.00 or 10% whichever is greater** will be assessed on the delinquent assessment. The late charge for 2017 will be \$65.45.

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At 30 Days Past Due Date

Interest shall be imposed on all sums due, including assessments, collection costs, and late charges, at an annual rate of 12%. Interest will be applied when turned over to the Attorney for collection.

Special assessments payable in installments which are delinquent more than thirty (30) days will be accelerated and the entire unpaid balance of the special assessment is due and payable immediately. Remaining balance subject to late charges and interest as provided above.

At 45 Days Past Due Date

Pre-lien letter via first class mail and certified mail, to all owners of record itemizing all amounts due, along with a copy of this Assessment collection policy.

Cost of the Pre-Lien notification is \$95.00.

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

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

You have the right to inspect the Association's records pursuant to Civil Code section 5205. You have the right to request a meeting before the Board of Directors to discuss a payment plan. If it is determined that your assessments were paid on time to the Association, you will not be liable to pay the charges, interest, and costs of collection.

Any payments made by you toward the debt set forth in your statement shall first be applied to the assessments owed, and only after assessments owed are paid in full, shall payments be applied to the fees and costs of collection, attorney's fees, late charges or interest.

If it is determined that your assessments were in fact paid on time to the Association, you will not be liable to pay the various charges, interests and costs of collection.

You have the right to request a meeting with the Board of Directors, if you dispute the debt set forth in your statement. To do this you must submit to the Board of Directors a written explanation of the reasons for your dispute. The Board of Directors will respond to you within fifteen (15) days of the postmark of your explanation.

You also have the right to submit a written request to meet with the Board of Directors to discuss a payment plan for the debt set forth in your statement. The Board of Directors will meet with you in executive session within forty-five (45) days of the postmark of your request, if your request is mailed within fifteen (15) days of the date of the postmark of your Pre-Lien Notice.

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Payment Plan Policy

Request by homeowners for payment plans to cure assessment delinquencies will be considered by the Association on a case-by-case basis. There is no guarantee written or implied that a payment plan will be granted. The Association has sole discretion whether to approve a requested payment plan. The submission of a payment plan request to the Association does not delay collection proceedings, does not constitute a waiver by the Association of any default, and does not relieve the owner of the obligation to pay all assessments, late charges, collection costs, and interest when due. The homeowner must submit the request in writing, and not later than fifteen (15) days of receipt of a Pre-Lien letter. The homeowner should describe in the request any circumstances, which the owner wishes the association to consider. The homeowner should also attach to the proposed payment plan a check for the amount of the first payment as proposed in the payment plan. If the owner wishes to submit a payment plan request after the owner has been contacted by the Association's attorney regarding the delinquent account, the request for a payment plan with all attachments should be remitted by the owner directly to the attorney. Owners are reminded that the regular monthly assessment themselves constitute a "payment plan," and the best plan is to pay all assessments when due so the Association will at all times have proper funding to maintain the common area.

Payment Plan Monitoring Fee of **\$10.00** will be due and payable for every month that the payment plan is in effect.

At 75 Days Past Due Date

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

Title search will be conducted, Request for Notice of Sale and a Notice of Delinquent Assessment covering all delinquent sums, late charges, and reasonable collection fees will be recorded in the County of Orange Recorders Office. Recording this notice creates a lien, which is subject to foreclosure, against the delinquent owner's property. A copy of the Lien Notice will be sent via first class mail and certified mail to all owners of record.

Cost of title search is at the current rate charged by the Title Company, cost of the Request for Notice of Sale is \$40.00 and cost of the Notice of Delinquent Assessment is \$350.00.

Foreclosure

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 informal dispute resolution upon receipt of a written request from the homeowner of record within thirty (30) days of the offer of such informal 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 regular minutes of the association without identification of the name of the individual.

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

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At 105 Days Past Due Date

The Association's attorney or trustee will initiate foreclosure proceedings and/or an action for personal judgment. The initial cost to commence foreclosure is \$400.00. The property owner is responsible for this cost and any other additional collection fees. Once a matter is turned over to the Association attorney, you will receive notification from them regarding the amounts owed. At this point, the amount listed on the Association generated assessment statement will not be fully accurate because it will not contain the additional fees and costs. Once legal collection proceedings have begun, all correspondence/payments or telephone communications will be referred to the Association attorney's office.

All costs incurred by the foregoing actions are a charge to the account of the delinquent property owner and are subject to change. Collection proceedings will be terminated only after both Association assessments and all collection and legal fees have been received.

If a lawsuit or foreclosure procedure is initiated by the Association to recover delinquent assessments, or if the Association is forced to defend an action brought by an owner to contest assessments and/or related charges, the Association is entitled, by its CC&Rs and by law (Civil Code Section 5650), to recover from the homeowner not only the amount in default, plus late charges, but also reasonable costs of collection, including title company charges and attorney fees.

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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)**

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. **(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)**

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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, 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 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 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 5665 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 5666 of the Civil Code)**