

VISTA TASSAJARA HOMEOWNER'S ASSOCIATION 2017 DELINQUENT ASSESSMENT COLLECTION POLICY

The Board is charged with the responsibility to collect assessments to pay for the maintenance and replacement of common area property and other association expenses. The Association is entitled to recover assessments, reasonable collection costs, reasonable attorney's fees, late fees and interest when assessments are not paid on time. There are a number of ways to do this, including court action and foreclosure processes.

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

Thus, it is important to pay your assessments on time.

The Board will not use non-judicial foreclosure to collect fines or penalties but be advised that other remedies are available to collect these as well as any sums not suitable for collection by non-judicial foreclosure. The association intends to comply with requirements of 1367 or 1367.1 of the Civil Code when collecting delinquent assessments. Note additionally:

1. Assessments are due on the 1st day of the first month of each quarter and are considered delinquent at 5:00 p.m. on the 15th day of the first month of each quarter, at which time a late charge of \$10.00 or 10% of the assessment (or special assessment), which ever is greater, will be charged.
2. On or about the 181st day after an assessment payment is due, a 30-day Pre-Lien Notice may be sent by certified mail, to the delinquent record owner(s) at the owners' last mailing address provided to the Association. If the owner(s) have provided a written notice to the Association noting a secondary address, all notices shall be sent to that address also. The notice to owner will include an itemized statement of the total amounts delinquent, including assessments, late charges, interest and costs of collection and all other items specified in Civil Code Section 5675. Owner will also be notified that he or she is entitled to ask to meet with the Board or Board representative(s) pursuant to the Association's internal dispute resolution "meet and confer" program.
3. On or after the 30th day after the Pre-Lien Notice is sent, the Association may record a lien on the property to secure the debt; however, there are limitations affecting commencement of foreclosure at this time (see paragraph 4). On or after any assessment or other amount due becomes delinquent, the Board also has the right to file an action in small claims court to collect the sums due. All discussions related to the owner's situation shall be held in executive session. The decision to file an action in court and/or record a lien shall be made by the Board of Directors in an open meeting, by majority approval. The action shall be recorded in the minutes of the meeting referring to the property by parcel number, not name of owner.
4. If all sums secured by the lien are not paid in full within thirty (30) days after recordation of the lien, and at the point the amount of delinquent regular or special assessments reaches \$1,800.00, not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, or has been delinquent more than 12 months, the Board may vote on the decision to foreclose the lien (which involves recording a Notice of Default and following statutory procedures to foreclose). Again, the decision shall be noted in the minutes of an open meeting (although the discussion on the action, which is disciplinary in nature, may be held in executive session to protect the owner's privacy). A Board vote to approve foreclosure of a lien may not take place less than 30 days prior to any public sale. (Note that the estimated time for foreclosure process from Notice of Default to date of sale is approximately 3-4 months and additional costs continue to accrue as the statutory procedures are followed). All resulting collection fees and costs will be added to the total delinquent amount. Prior to initiating a foreclosure, the Board shall offer the owner and, if so requested by the owner, shall participate, in dispute resolution pursuant to the association's "meet and confer" program or alternative dispute resolution with a neutral third party. The decision to pursue dispute resolution shall be the choice of the owner, except that binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.
5. If the Board votes to foreclose, the Board shall provide notice of its decision by personal service to an owner who occupies the separate interest or to the owner's legal representative. If the owner does

not occupy the separate interest, said notice will be sent by first-class mail, postage prepaid, to the owner at the most current address shown on the books of the Association. In the absence of written notification by the owner to the association of an address off-site, the address of the owner's separate interest may be treated as the owner's mailing address. In addition, statutory procedures including recorded notices regarding foreclosure and sale will be accomplished.

6. If any owner's property is sold at a non-judicial foreclosure sale by the association for failure to pay assessments and related costs, an owner has a right to redeem the property up to 90 days after the sale (essentially meaning the Owner can buy it back by paying the amount of the delinquency, costs of sale, etc.).

7. All charges assessed to the assessment account must be paid in full as a condition to curing and releasing a recorded Lien and other documents of foreclosure. The Association is not required to accept any partial or installment payments, except with execution of a mutually agreeable payment plan.

8. When a payment is made, the owner may request a receipt and the association will provide it. On the receipt, the association shall indicate the date of payment and person who received it. Each payment from an owner shall be applied first to the principal sum owed, then, in descending order, to interest, late fees and collection expenses. An owner may request that the Board consider a payment plan to satisfy a delinquent assessment. The Board will inform owners of the standards for payment plans, to the extent standards have been adopted by the Board. Certain timelines apply as follows: The Board will meet with the owner in executive session within 45 days of the postmark of an owner's request if the request is mailed within 15 days of the date of the postmark of the notice of delinquency (lien), unless there is no regularly scheduled BOD meeting during that period. In that case, the BOD may designate Directors to meet with the owner. Payment plans may incorporate any assessments that accrue during the payment plan period. Payment plans shall not impede an association's ability to record a lien to secure payment of delinquent assessments. Additional late fees shall not accrue during the payment plan period if the owner is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

9. Any check returned by the bank for insufficient funds, stop payment or any other reasons is subject to a charge back to the unit of the amount of the check, an administrative fee, and any bank fees charged to the Association. If the account has been turned over to the Association's agent for collection and a check is returned, the account will be assessed whatever administrative fees the Agent charges.

10. The mailing address for overnight payment of assessments is the same as that for routine assessment payments unless otherwise noted.

An owner of a separate interest has the right to inspect the association's financial books and records to verify the delinquency, per laws related to inspection of HOA records.

At any time the Board may seek legal advice related to enforcement of assessment collections, and is entitled to follow the advice of legal counsel, even if it deviates from the above processes (and so long as it is not in derogation of the statutes relating to assessment collection in HOAs).

THE ABOVE POLICIES ARE CONSISTENT WITH THE ASSOCIATION CC&RS AND CIVIL CODE SECTIONS IN THE DAVIS STIRLING ACT WHICH ARE LISTED BELOW:

CIVIL CODE NUMBER -SUBJECT
5600(a) Levy Of Assessment
5600(b) Imposition Of Assessments Or Fees; Limit On Amounts
5605(a) Assessment Approval Requirements
5605(b) Limits On Regular And Special Assessments
5605(c) Quorum For Voting On Assessments; Approval Requirements
5610 Emergency Exception To Assessment Approval Requirements
5615 Notice Of Assessment Increase
5620 Exemption From Execution By Creditors
5600(b) Limit To Purpose - Re Assessments

5625 Property Tax Value As Basis For Assessments
5650(a) Assessment Debt And Delinquency
5650(b) Delinquent Assessments
5650(c) Exemption From Interest Rate Limitation
4210 Record Notice Of Agent To Receive Payments
5655 Payments – Order Of Application
5658 Payment Under Protest, Small Claims
5660 Pre-Lien Notice Requirements
5665 Payment Plan
5670 Pre-Lien Dispute Resolution
5705(b) Dispute Resolution Offer Required Prior To Foreclosure
5673 Decision To Record Lien
5675 Notice Of Delinquent Assessment
5685(a) LIEN RELEASE
5725(a) Limitations On Authority To Foreclose Liens For Monetary Penalties And Damage To Common Area
5725(b) Monetary Penalty May Not Subject To Nonjudicial Foreclosure
5680 Lien Priority
5735 Assignment Or Pledge
5700(a) Collection Generally
5710(a) Assignment Of Right To Collect Assessments; Enforcement Of Lien; Trustee Sale
5710(c) (1) – (2) Assignment Of Right To Collect Assessments; Enforcement Of Lien; Trustee Sale
5700(b) Provisions Not Limited By Other Statute
5685(b) Lien Release When Lien Recorded In Error
5710(b) Notice Of Default
5690 Procedural Noncompliance
5740 Date Of Application Of Laws
5705(a) Applicability To Debts That Arise On Or After 1/1/06, Procedures
5715(a) Applicability To Debts That Arise On Or After 1/1/06
5720(a) Limitation On Foreclosure
5720(b) Collection On Amounts Less Than \$1800
5705 Decision To Foreclose
5705(c) Decision To Foreclosure Must Be Made By The Board
5705(D) Foreclosure Requirements; Right Of Redemption
5715(b) Right Of Redemption
5715 Right Of Redemption After Trustee Sale
5720(c) (2) – (3) Exceptions To Limitation On Amounts That May Be Foreclosed Upon
5685(c) Reversal Of Late Charges, Fees, Interest, Attorney’s Fees, Cost Of Collections, Costs Imposed For Notice, And Costs For Recordation And Release Of Lien; Dispute Resolution Or Alternative Dispute Resolution
5658 Small Claims Court For Assessments
5730 Statement Of Collection Procedure – Notice To Members
5900 Application Of Article- –IDR/Meet And Confer
5905 Fair, Reasonable, And Expedient Dispute Resolution Procedure Required
5910 Minimum Requirements Of Association Procedure
5915 Default Meet And Confer Procedure
5930 ADR Prerequisite To Enforcement Action