



ASSESSMENT COLLECTION POLICY

LAKE MISSION VIEJO ASSOCIATION

The prompt payment of Assessments by all members of the Lake Mission Viejo Association (“Association”) is critical to the financial health and viability of the Association. The Association is obligated under its recorded Declaration of Covenants, Conditions and Restrictions (“Declaration”) and California law to levy and collect Assessments sufficient to perform its obligations. This Assessment Collection Policy (“Collection Policy”) is utilized by the Association to enforce the prompt payment of Assessments by members; it sets forth the Association’s policies and practices in enforcing lien rights and other legal remedies for a member’s default in the payment of Assessments, pursuant to the Declaration and the California Civil Code.

Unless otherwise provided in this Collection Policy, capitalized terms within this Collection Policy shall have the same meaning as such terms are defined in the Declaration.

1. Assessments, late charges, interest and collection costs, including any attorney’s fees, are the personal obligation of the Owner of the property at the time the Assessment or other sums are levied. ([Cal. Civ. Code § 5650\(a\)](#).)
2. General Assessments (which include Common Assessments and Lakefront Assessments) are levied during the calendar year in equal semi-annual installments, on January 1 and July 1. General Assessments are due and payable on the date which they are levied. A courtesy billing statement may be sent to the billing address on record with the Association. However, it is the Owner of record's responsibility to timely pay each Assessment when due regardless of whether any such billing statement is received.
3. Each General Assessment which is not paid within thirty (30) days from the due date shall be deemed “delinquent”. All other Assessments, including Special Assessments and Reimbursement Assessments, are due and payable on the date specified by the Board on the Notice of Assessment, and shall be delinquent if not paid within thirty (30) days after the due date. An Assessment is considered paid the day payment is received by the Association.
4. Owners may submit secondary addresses to the Association for the purpose of delivery of collection notices, pursuant to [California Civil Code section 5260\(b\)](#).
5. Any payments made shall be first applied to Assessments owed, and only after the Assessments owed are paid in full, shall such payments be applied to late charges, interest, and collection expenses, including attorneys’ fees, unless the Owner and the Association enter into an agreement providing for payments to be applied in a different manner. ([Cal. Civ. Code § 5655\(a\)](#).)

6. Assessments which are delinquent shall be subject to a late charge of five percent (5%) of the delinquent Assessment or five dollars (\$5), whichever is greater. ([Cal. Civ. Code § 5650\(b\).](#))
7. Interest charges at the rate of six percent (6%) per annum will be assessed against any outstanding balance including delinquent Assessments, late charges, and cost of collection, which may include attorneys' fees. Such interest charges shall accrue thirty (30) days after the Assessment becomes due and shall continue to be assessed each month until the account is brought current. ([Cal. Civ. Code § 5650\(b\).](#))
8. If a Special Assessment is payable in installments and an installment payment is delinquent for more than thirty (30) days, all installments will be accelerated and the entire unpaid balance of the Special Assessment shall become immediately due and payable. The remaining balance shall be subject to a late charge and interest as provided above.
9. If an Assessment is delinquent, the Association or its designee may send one or more delinquency notices to the Owner. The Owner may be charged a fee for any such delinquency notice to recover the Association's costs incurred in connection therewith. ([Cal. Civ. Code § 5650\(b\)\(1\).](#)) The Association may also send a pre-lien letter to the Owner as required by [California Civil Code section 5660](#) by certified and first class mail, to the Owner's mailing address of record. The pre-lien letter will advise the Owner of the delinquent status of the account, of the impending collection action, and of the Owner's right to request that the Association participate in some form of internal dispute resolution process ("IDR"). The Owner will be charged a fee for the pre-lien letter to recover the Association's costs incurred in connection therewith. ([Cal. Civ. Code § 5650\(b\)\(1\).](#)) Notwithstanding the provisions of this paragraph, the Association may (i) send a pre-lien letter to a delinquent Owner at any time when there is an open escrow involving the Owner's property, and/or (ii) issue a pre-lien letter immediately if any Special Assessment becomes delinquent.
10. If an Owner fails to pay the amounts set forth in the pre-lien letter and fails to request IDR within thirty (30) days of the pre-lien letter, the Board will authorize its collection agent to record a "Notice of Delinquent Assessment" (an "Assessment Lien") against the Owner's property for the amount of any delinquent Assessments, late charges, interest and/or costs of collection, including attorneys' fees. The Owner will be charged for the fees and costs of preparing and recording the Assessment Lien, as well as for releasing the Assessment Lien when the account is brought current. The Assessment Lien may be enforced in any manner permitted by law, including, without limitation, judicial or non-judicial foreclosure. ([Cal. Civ. Code § 5700\(a\).](#))
11. Prior to the release of any Assessment Lien, or dismissal of any legal action, all Assessments, late charges, interest, and costs of collection, including attorney's fees, must be paid in full to the Association.
12. Pursuant to the Association's governing documents, the Board may suspend the membership rights and privileges of an Owner during the period of time such Owner is delinquent in the payment of Assessments, as well as the collection costs, late charges, interest and attorney's fees imposed in connection with the Assessment delinquency. Such suspension shall be imposed following the applicable notice and hearing requirements under California law.
13. If a check is returned for insufficient funds, the Owner will be charged a ten dollar (\$10) fee. Post-dated checks will not be accepted.

14. The mailing address for the overnight payment of Assessments is:

LAKE MISSION VIEJO ASSOCIATION
22555 Olympiad Rd
Mission Viejo, CA 92692

Should a delinquent account be referred to a collection service, the collection service will provide the proper address for the overnight payment of Assessments and sums toward the delinquent amount then in collection.

15. The Association has selected a third-party assessment collection vendor (“Vendor”) as its collection agent and foreclosure trustee for delinquent accounts that have been referred by the Association to Vendor for collection.
16. An Owner is entitled to inspect the Association's accounting books and records to verify the amounts owed pursuant to [California Civil Code section 5205](#).
17. If it is determined that an Owner has paid the Assessments on time, the Owner will not be liable to pay the late charges, interest and costs of collection.
18. Any Owner who is unable to pay Assessments will be entitled to make a written request for a payment plan to be considered by the Board of Directors (“Board”). An Owner may also make a written request to meet with the Board in executive session to discuss a payment plan. If the Owner requests to meet with the Board to discuss a payment plan within fifteen (15) days of receiving the pre-lien letter, then the Board shall meet with the owner within forty-five (45) days of the postmark on the Owner's request, unless there is no regularly scheduled Board meeting within that period, in which case the Board may designate a committee of one or more members to meet with the owner. The Board will consider payment plan requests on a case-by-case basis and is under no obligation to grant payment plan requests.
19. An Owner is entitled to dispute the Assessment debt by submitting a written request for dispute resolution to the association pursuant to the association’s “meet and confer” program required in Article 2 (commencing with [Section 5900](#)) of Chapter 10 of the California Civil Code.
20. Prior to initiating foreclosure against the Owner’s property, the Owner is entitled to submit a written request for alternative dispute resolution with a neutral third party pursuant to Article 3 (commencing with [Section 5925](#)) of Chapter 10 of the California Civil Code, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.
21. Statements mailed from the Association’s management office or billing service provider to a delinquent Owner are a courtesy and MAY NOT REFLECT all collection costs, attorneys' fees or other charges, or payments received by the Association’s collection Vendor.

NOTICE OF COLLECTION PROCEDURE

(Pursuant to Cal. Civ. Code § 5730)
LAKE MISSION VIEJO ASSOCIATION

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

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 California 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 California 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. (*Cal. Civ. Code* §§ [5700](#) through [5720](#).)

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 area damaged by a member or a member's guests, if the governing documents provide for this. (*Cal. Civ. Code* § [5725](#).)

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 California 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. (*Cal. Civ. Code* § [5675](#).)

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. ([Cal. Civ. Code § 5660.](#))

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. ([Cal. Civ. Code § 5685.](#))

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, the owner 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. ([Cal. Civ. Code § 5655.](#))

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 California 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 California 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. ([Cal. Civ. Code § 5685.](#))

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share interest 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 exists. ([Cal. Civ. Code § 5665.](#))

The board 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. ([Cal. Civ. Code § 5665.](#))