

# CAMPOLINDO HOMEOWNERS ASSOCIATION

## ASSESSMENT COLLECTION POLICY (§1365(e))

**1. Duty to Pay:** It is the Owner(s) of record's responsibility to pay all Assessments in full regardless of whether or not any billing statement was generated by the Association (and/or received by the Owner(s)). No offsets against any Assessment are allowed for any reason, including specifically a claim the Association failed in any duty, obligation and/or power.

**2. Delinquent:** If not paid in full before or on the 30<sup>th</sup> day after the Assessment became due, an Assessment levied pursuant to the governing documents is delinquent.<sup>1</sup> Regular assessments are due on or before the first (1<sup>st</sup>) day of each assessment period. All other Assessments, including Special Assessments, are due on the date(s) specified.

**3. Late Charge:** The Association will impose a late charge (of ten percent (10%) or \$10.00 ~ which ever is larger) on any Assessment that becomes delinquent.<sup>2</sup>

**4. Interest:** The Association will charge interest on all sums due and unpaid at the interest rate (per annum) specified in the CC&Rs: Twelve percent (12%). If the CC&Rs are silent and/or the above is left blank, the Association will charge twelve percent (12%) interest (*simple*) per annum (§1366(e)(3)). For purposes of this Policy, "all sums" means Assessments plus late fees and other costs of collection imposed pursuant to §1366. Interest will commence 30 days after the Assessment became due.

**5. Collection Costs:** As authorized by Civil Code §1366(e)(1), the Association will impose and collect reasonable costs incurred in the collection of any delinquent Assessment, including attorneys' fees.

**6. Collection Efforts:** At all times, the Association has the right at all times to attempt to collect any delinquent Assessment (plus accelerated Assessment amount(s), late charges, attorney's fees, fees, interest and costs of collection (including the cost of service of the Notice of Default and Election to Sell and the cost of service of the decision of the Association's Board to foreclose) by any manner provided by law as the Board, in its sole discretion, deems appropriate. If any Assessment is not paid in full, the Association can and may elect to pursue any legal collection option, including but not limited to a legal action against the Owner(s) personal obligated to pay, a non-judicial foreclosure action, judicial foreclosure, *etc.* Those delinquent Owner(s) are responsible for payment of any and all of the costs of the collection efforts incurred by the Association.<sup>3</sup>

**7. Partial Payments:** Once any Assessment is delinquent, the Association has the right to refuse (or accept) any partial or installment payments from the Owner(s) with a delinquent balance. Should the Association accept any partial payment, this acceptance of a partial payment will not halt the Association's collection efforts; nor does the acceptance of a partial payment act as a waiver of the Owner's default in making timely payment(s) of that Owner's Assessments. Payment in full of all amounts owed by that Owner is required to stop the Association's collection efforts.

**8. Payments Credited:** Regardless of the amount paid and unless otherwise specified in a written agreement, all payments received by the Association will be applied to Assessment balances (oldest first). Once all Assessment balances are paid, payments will be credited to late charges, interest and costs of collection.

**9. Bounced Checks:** The Association shall charge a 'returned check charge' of thirty-five dollars (\$35.00) for all checks returned as "non-negotiable", "insufficient funds" or any other reason. In addition to any 'returned check charge', the Owner who remitted the bounced check shall also reimburse the Association for any bank charges imposed on the Association as a result of that bounced check.

<sup>1</sup> If the Declaration ("CC&Rs") provides a longer time period, the longer time period applies.

<sup>2</sup> If the CC&Rs specifies a smaller late fee, then the late fee amount specified in the CC&Rs shall apply.

<sup>3</sup> Foreclosure will only be commenced after: (a) the delinquent Assessment balance (excluding any accelerated amount), late charges, attorney's fees, fees, interest and costs of collection) is greater than \$1,800.00; and/or (b) the delinquent assessment is more than 12 months delinquent.

**10. Acceleration of Special Assessment Installments:** If a Special Assessment is payable in installments and one of the Special Assessment installments is delinquent, the Board may/can accelerate all remaining installments of that Special Assessment making the entire unpaid balance of the Special Assessment due and payable. The Board will provide notice to the Owner(s) of any decision to accelerate a Special Assessment.

**11. §1367.1 Process the HOA will use to Place a Lien Upon Owner's Separate Interest (Lot/Unit):**

**a. "Collection Costs":** Once the Lien process is started, all collection fees and costs incurred will be added to the total delinquent amount owed by the Owner(s) and the Owner(s) will be responsible for payment of those costs.

**b. Pre-Lien Notice:** If any portion of an Assessment, late charge, interest charge and/or cost of collection remains unpaid over thirty (30) days after its original due date, the Association will prepare and send to the record owner(s) a 'Letter of Intent' to file a Notice of Delinquent Assessment ("Lien") aka a 'Pre-Lien Notice' (Civil Code §1367.1).

**c. "NODA":** If full payment has not been received within thirty (30) days after the Pre-Lien Notice was mailed to the Owner(s) of record, a Lien (aka 'Notice of Delinquent Assessment' // 'NODA') will be prepared and recorded against the delinquent property and the Owner(s) of that property.

**12. Foreclosure:** If full payment has not been received within thirty (30) days after the recordation of the Lien/NODA, the Association may proceed with either non-judicial or judicial foreclosure on that Lien/NODA.<sup>4</sup>

**13. Payment Plans:** The Board may agree to a payment plan for delinquent Assessments. Generally in order to make the Association whole, the payment plan will require payment of all Assessment balances, late charges, interest and any collection costs the Association has incurred. Unless the written payment plan provides otherwise, the existence of a payment plan between an Owner and the Association will not halt or delay the Association's efforts to record a Lien/NODA. (See Item No. 11, above). An Owner who has entered into a payment plan with the Association and then subsequently cancels terminates or otherwise ends the plan is not entitled to any refund of any installments that the Owner made under that plan.

**14. Referral to Collection:** The Board has discretion on when it will refer a delinquent account to collections. However, the Members should be advised that the Board will need to make collection referrals more quickly during hard economic times and/or when the Association's delinquencies are high in order to protect the Association's finances. (See Item No. 7. above regarding partial payments).

**15. Notices:** The Association will mail to (and/or serve upon) the record Owner(s) all of the above-referenced notices as specified or required by law. The Association will use the Owner(s) separate interest address as the Owner's mailing address for notices unless the Owner has provided written notification to the Association that an alternative address is to be used.

**16. Overnight Payments:** The mailing address for overnight payments to the Association for Assessments is the same as for routine Assessment payments unless an alternative payment address has been provided to the Owner(s). Alternative address is 3811 Campolindo Dr. Moraga, CA 94556

**17. Changes:** The Board may revise this Policy, either in general or on a case-by-case basis as needed and any such change shall be effective after the new Policy has been provided to the Association Members.

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<sup>4</sup> Foreclosure will only be commenced after: (a) the delinquent Assessment balance (excluding any accelerated amount), late charges, attorney's fees, fees, interest and costs of collection) is greater than \$1,800.00; and/or (b) the delinquent assessment is more than 12 months delinquent.